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REGISTRATION OF CRIMINALS ACT 1949

REGISTRATION OF CRIMINALS (REVIEWING TRIBUNAL) RULES 2023

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In exercise of the powers conferred by section 49 of the Registration of Criminals Act 1949, the Minister for Home Affairs makes the following Rules:

PART 1
PRELIMINARY

Citation and commencement

1. These Rules are the Registration of Criminals (Reviewing Tribunal) Rules 2023 and come into operation on 12 June 2023.

Definitions

2.—(1) In these Rules —

“appeal” means an appeal made under section 40 of the Act against the Registrar’s determination;

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- “appeal proceedings” means proceedings before a Reviewing Tribunal regarding an appeal contained in a notice of appeal;
- “appellant” means an individual who receives the Registrar’s notice and who brings an appeal in accordance with Part 7 of the Act;
- “authorised representative”, for any individual, means an individual who is allowed under rule 11 to represent the individual in an appeal proceedings, whether or not the individual is an advocate and solicitor;
- “contact address”, for any individual, means either of the following nominated by the individual for the receiving of documents under these Rules:
- (a) an address in Singapore;
 - (b) an email address;
- “defence” means a defence to a notice of appeal under rule 18;
- “identity particulars”, for an individual, means —
- (a) the full name, and the number of the passport or other identity document, of the individual; and
 - (b) the nationality of the individual;
- “notice of appeal” has the meaning given by rule 13;
- “parties”, in relation to any appeal proceedings about an appeal, means —
- (a) the appellant in the appeal; and
 - (b) the Registrar,
- and “party” means either of them;
- “Registrar’s determination” means the determination of the Registrar under section 39(1) of the Act that any one or both of the circumstances mentioned in that provision exist;
- “Registrar’s notice” means a notice mentioned in section 39(2) of the Act relating to the Registrar’s determination;

“Secretary” means the Secretary to the Reviewing Tribunals appointed under section 43(2) of the Act;

“working day” means any day except a Saturday, Sunday or public holiday.

(2) Unless the context otherwise requires, a reference to a Reviewing Tribunal in relation to any part of any appeal proceedings is a reference to the Reviewing Tribunal who has cognizance of the appeal which is the subject of the appeal proceedings.

(3) An appeal is decided by a Reviewing Tribunal without an in-person hearing if it is decided on written material and submissions without parties to the appeal proceedings attending in person before the Reviewing Tribunal.

Address for service on Reviewing Tribunal

3. Any appeal or other document to be lodged with, given to or served on a Reviewing Tribunal under these Rules must be addressed to the “Secretary to the Reviewing Tribunals” and sent by email to secretary@rcatribunal.gov.sg.

Appropriate form

4.—(1) In these Rules, “appropriate form”, in relation to any purpose for which a specific form is required to be used, means the relevant form that is set out on the website at <https://eservices.police.gov.sg/content/policehubhome/homepage/Removal-of-DNA-and-identifying-Information.html>.

(2) A requirement in these Rules that a document be in an appropriate form includes a requirement that the document be completed in the English language and in accordance with any directions that may be specified in the appropriate form.

(3) However, where strict compliance with an appropriate form is not possible, the Secretary may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in any other manner that the Secretary thinks fit.

Secretary to Reviewing Tribunals

5.—(1) The duty of the Secretary is —

- (a) to provide administrative and secretarial support to each Reviewing Tribunal in relation to every appeal the Reviewing Tribunal has cognizance of under these Rules; and
- (b) to perform any other duties that are prescribed in these Rules.

(2) The Secretary has to attend at every hearing by a Reviewing Tribunal of an appeal referred to the Reviewing Tribunal under rule 19.

PART 2**EXERCISE OF JURISDICTION****Inquisitorial function**

6.—(1) Where a Reviewing Tribunal considers an appeal made to it against the Registrar's determination, it is the duty of the Reviewing Tribunal —

- (a) to investigate the case; and
- (b) in relation to the Reviewing Tribunal's findings from its investigations — to determine the appeal by applying the same principles as would be applied by a civil court, including principles on an application for judicial review.

(2) To avoid doubt, a Reviewing Tribunal is not under any duty to hear, consider or determine any appeal if it determines the appeal to be frivolous or vexatious and to which section 45(2) of the Act applies.

Non-disclosure if prejudicial to national security, etc.

7.—(1) A Reviewing Tribunal must carry out its functions in such a way as to secure that information is not disclosed to an extent, or in a manner, that is prejudicial to —

- (a) Singapore's national security;

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- (b) the prevention or detection of serious crime;
 - (c) the economic wellbeing of Singapore; or
 - (d) the continued discharge of the functions of any of the intelligence services of Singapore.

(2) A Reviewing Tribunal is not to order any person to disclose any information or document which the Reviewing Tribunal itself would be prohibited from disclosing by virtue of this rule, had the information or document been disclosed or provided to the Reviewing Tribunal by that person.

(3) A Reviewing Tribunal's proceedings, including any in-person hearings, must be conducted in private.

Manner of hearings and consideration

8.—(1) A Reviewing Tribunal is under no duty to hold in-person hearings, and may decide an appeal without an in-person hearing.

(2) A Reviewing Tribunal may hold, at any stage of its consideration, in-person hearings at which a party to the appeal proceedings may make representations, give evidence or call witnesses.

(3) However, any in-person hearing by a Reviewing Tribunal has to be in accordance with these Rules (and not otherwise).

(4) A Reviewing Tribunal may hold separate in-person hearings which —

- (a) the Registrar;
- (b) the appellant; or
- (c) any other individual who is a witness or may be required to attend as a witness in the appeal proceedings,

may be required to attend and at which that individual may make representations, give evidence or call witnesses.

(5) Within a period notified by the Reviewing Tribunal for the purpose of this rule, the appellant, the Registrar or the other individual mentioned in rule 9(1) must inform the Reviewing

Tribunal of any witnesses the appellant, Registrar or individual (as the case may be) intends to call.

(6) No other witnesses may be called without the permission of the Reviewing Tribunal.

Separate hearings, witnesses, etc.

9.—(1) A request for a separate in-person hearing in connection with any appeal proceedings —

(a) may be made in writing by any of the following:

- (i) the appellant;
- (ii) the Registrar;
- (iii) any other individual who is a witness or may be required to attend as a witness in the appeal proceedings; and

(b) must —

- (i) be made no later than 5 working days before the separate in-person hearing sought; and
- (ii) contain the reasons for the request.

(2) Without limiting rule 7 but subject to paragraph (3), a Reviewing Tribunal and the Secretary must not disclose to an appellant or to any other person —

- (a) the fact that the Reviewing Tribunal has held, or proposes to hold, a separate in-person hearing under these Rules;
- (b) any information or document disclosed or provided to the Reviewing Tribunal in the course of that hearing, or the identity of any witness at that hearing; or
- (c) the fact that any information, document, identity or opinion has been disclosed or provided in the circumstances mentioned in sub-paragraph (b).

(3) Subject to rule 7, the Reviewing Tribunal concerned may disclose anything described in paragraph (2) with the consent of —

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- (a) in the case of paragraph (2)(a) — the individual required to attend the separate in-person hearing; or
 - (b) in the case of paragraph (2)(b) or (c) — the witness in question or the person who disclosed or provided the information or document.

Evidence

10.—(1) A Reviewing Tribunal may receive evidence in any form, and may receive evidence that would not be admissible in a court of law.

(2) A Reviewing Tribunal may give directions as to —

- (a) the issues on which it requires evidence;
- (b) the nature of the evidence which it requires to decide the appeal before it; and
- (c) the manner in which the evidence is to be placed before the Reviewing Tribunal.

(3) Without limiting paragraph (2), a Reviewing Tribunal may require a witness to give evidence —

- (a) on oath or affirmation at an in-person hearing;
- (b) by way of affidavit or statutory declaration; or
- (c) by live video link.

(4) A Reviewing Tribunal may do all or any of the following in connection with any appeal proceedings relating to an appeal it has cognizance of:

- (a) summon any party or a party's authorised representative, or any person who is not a party, in Singapore to attend to do one or both of the following:
 - (i) give evidence to the Reviewing Tribunal;
 - (ii) produce to the Reviewing Tribunal any document, record or other thing in the custody or under the control of that party or person;

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- (b) put questions to the parties, their authorised representatives and their witnesses or other person summoned under sub-paragraph (a);
 - (c) procure and receive all the evidence, written or oral, as the Reviewing Tribunal considers necessary or desirable to procure.

Representation

11.—(1) An appellant may be represented by an authorised representative at appeal proceedings.

(2) The leave of the Reviewing Tribunal concerned is required for anyone to represent an appellant as an authorised representative in connection with appeal proceedings unless all of the following are first given to the Secretary or given within the time directed by the Reviewing Tribunal concerned:

- (a) the identity particulars and a contact address in Singapore of the authorised representative;
- (b) evidence of a valid authorisation by the appellant for the person to act as an authorised representative of the appellant in connection with appeal proceedings.

PART 3

STARTING APPEAL

How to start appeal

12.—(1) An appeal under section 40 of the Act against the Registrar's determination must be made to a Reviewing Tribunal by —

- (a) lodging a notice of appeal in accordance with rule 13; and
- (b) paying an administrative fee of \$20 to the Secretary.

(2) The Secretary may, in any case, on any terms and conditions that the Secretary considers fit, reduce, waive or refund, in whole or part, the administrative fee payable under paragraph (1)(b).

Notice of appeal

13.—(1) Every notice of appeal —

(a) must state —

(i) the identity particulars, address and contact number of the appellant making the appeal;

(ii) if the appellant has an authorised representative — the identity particulars, address and contact number of the authorised representative;

(iii) a contact address for the service of documents on the appellant in connection with appeal proceedings before the Reviewing Tribunal; and

(iv) the grounds of appeal;

(b) must contain a succinct presentation of the arguments supporting the grounds of appeal against the Registrar's determination;

(c) must be in the appropriate form;

(d) must be signed and dated by the appellant, or on the appellant's behalf by the authorised representative; and

(e) must be accompanied by —

(i) a copy of the Registrar's notice (including any grounds of the Registrar's determination accompanying the Registrar's notice); and

(ii) any documents supporting the arguments.

(2) An appellant cannot raise or rely on any ground of appeal which is not stated in the notice of appeal during any hearing of the appeal by the Reviewing Tribunal, unless the appellant has permission under rule 16 to amend the appellant's notice of appeal to include that ground.

Appeal number

14.—(1) Upon the Secretary receiving a notice of appeal, the Secretary must do all of the following no later than 7 working days after the day of that receipt:

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- (a) affix to the notice of appeal an official stamp showing the date on which the notice was received;
 - (b) assign a number to the notice of appeal and enter it in a list;
 - (c) inform the appellant of the number assigned under sub-paragraph (b).
- (2) After affixing the official stamp and assigning a number to the notice of appeal, the Secretary must also without delay —
- (a) refer the notice of appeal to a Reviewing Tribunal in accordance with rule 19; and
 - (b) subject to rules 15, 16 and 17, forward a copy of the notice of appeal to the Registrar.

Defective notices of appeal

15. If the Reviewing Tribunal having cognizance of an appeal considers that the notice of appeal —

- (a) is not lodged in accordance with rule 13; or
- (b) is materially incomplete, unduly prolix or lacking in clarity,

the Reviewing Tribunal may, without affecting section 45(2) of the Act, give any directions to the appellant that are necessary to remedy the notice of appeal.

Amendment of notice of appeal

16.—(1) An appellant may, with the permission of the Reviewing Tribunal having cognizance of the appellant's appeal, amend the appellant's notice of appeal.

(2) Where the Reviewing Tribunal grants permission under paragraph (1) —

- (a) the Reviewing Tribunal may do so —
 - (i) on any terms or conditions that the Reviewing Tribunal considers fit to impose; and
 - (ii) with any further or consequential directions that the Reviewing Tribunal considers necessary; and

(b) rule 14(2)(b) applies to the amended notice of appeal accordingly.

(3) Permission to amend a notice of appeal against the Registrar's determination in order to add a new ground of appeal must not be granted unless the Reviewing Tribunal is satisfied that —

- (a) the ground is based on any matter of fact or law which came to light after the notice of appeal was lodged;
- (b) it was not practicable to include the ground in the notice of appeal at the time the notice of appeal was lodged; or
- (c) there are exceptional circumstances to do so.

Withdrawal of appeal

17.—(1) An appellant may, at any time and with the permission of the Reviewing Tribunal, withdraw the appellant's notice of appeal.

(2) Where a Reviewing Tribunal grants permission under paragraph (1), the Reviewing Tribunal may require the Secretary to publish a notice of the withdrawal of the appeal in any manner that will secure adequate publicity for the fact of the withdrawal.

Defence

18.—(1) The Registrar may serve on the Reviewing Tribunal a defence after receiving a copy of the notice of appeal from the Secretary forwarded under rule 14(2)(b).

(2) Subject to paragraph (3), the Registrar must serve the defence on the Reviewing Tribunal no later than 7 working days after the date that the Registrar receives the copy of the notice of appeal (called in this rule the relevant date).

(3) Despite paragraph (2), the Registrar may serve the defence on the Reviewing Tribunal no later than 30 days after the relevant date if the Registrar notifies the Secretary, no later than 7 days after the relevant date, that the Registrar has applied or will be applying to the Minister for the Minister to certify, under section 44(2) of the Act, that —

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- (a) the appellant's identifying information or DNA information in question was taken in relation to an offence under the Foreign Interference (Countermeasures) Act 2021 or the Internal Security Act 1960; and
 - (b) it is in the interests of the security of Singapore to retain the appellant's identifying information or DNA information.
- (4) Any defence to a notice of appeal —
- (a) must cite the number assigned under rule 14(1)(b) to the notice of appeal;
 - (b) must state a contact address for the service of documents on the Registrar in connection with appeal proceedings relating to the notice of appeal;
 - (c) must contain —
 - (i) a succinct presentation of the arguments upon which the Registrar will rely in responding to each ground of appeal in the notice of appeal; or
 - (ii) a copy of a certificate issued by the Minister under section 44(2) of the Act; and
 - (d) must be signed and dated by the Registrar.

PART 4

CONDUCT OF APPEAL PROCEEDINGS

Division 1 — Composition

Referring appeal to Reviewing Tribunal

19.—(1) The Secretary must refer every notice of appeal received to one of the Reviewing Tribunals which the Secretary is of the view is available to hear the appeal contained in the notice of appeal.

(2) Where the Secretary refers a notice of appeal to a Reviewing Tribunal, the Reviewing Tribunal has cognizance of the appeal to which the appeal proceedings relates, without the Secretary informing every party to the appeal proceedings.

Division 2 — Case management

Place and time of hearing

20. Subject to section 44(4) of the Act —

- (a) the Reviewing Tribunal must appoint the times and places for the hearing of every appeal contained in a notice of appeal referred to the Reviewing Tribunal; and
- (b) the Secretary must cause adequate notice of those times and places to be given to every party to the appeal proceedings relating to the notice of appeal.

Consolidation of appeal proceedings

21. Where 2 or more appeal proceedings under these Rules are pending in relation to the same appellant —

- (a) the Reviewing Tribunal having cognizance of the appeals in those appeal proceedings; or
- (b) any of the Reviewing Tribunals having cognizance of any of the appeals in those appeal proceedings,

may, on the request of a party or on its own initiative, direct that the appeal proceedings be consolidated and dealt with by the Reviewing Tribunal together.

Adjournment

22.—(1) A Reviewing Tribunal may adjourn any hearing of an appeal on any ground and may fix a date for a further hearing.

(2) A Reviewing Tribunal may, on the conclusion of a hearing of an appeal, adjourn for any period of time for the purpose of deliberating and considering its decision.

Failure to comply with directions or time limits

23. In considering any appeal, a Reviewing Tribunal may disregard any notice, defence or other submission or document served on the Reviewing Tribunal after the expiry of the time limit for the service of the notice, defence, submission or document imposed by any provision of these Rules or any direction of the Reviewing Tribunal.

Non-attendance of parties

24.—(1) If, at the time appointed for the hearing of persons by a Reviewing Tribunal with regard to an appeal, any party to the appeal proceedings connected with the appeal does not appear, the Reviewing Tribunal may, if satisfied that the party has been duly notified of the hearing, proceed with the hearing and make any decision that it thinks fit for the purposes of section 44(1) of the Act.

(2) This rule does not affect section 45(1) and (2) of the Act.

Decision of Reviewing Tribunal to be notified, etc.

25. When a Reviewing Tribunal has made a decision regarding an appeal referred to it, the Secretary must, within 7 working days, notify the parties in writing, of the Reviewing Tribunal's decision in respect of the appeal.

PART 5**CONFIDENTIAL MATTERS****Requests for confidential treatment of documentary evidence**

26.—(1) A request for the confidential treatment of a document or part of a document, filed or provided in connection with any appeal proceedings started by an appellant —

- (a) must be made in writing by the person who submitted or provided the document, no later than 2 working days after the submission or provision of the document to a Reviewing Tribunal;
- (b) must, where the request relates to part of the document, state the relevant words, figures or passages for which confidentiality is claimed; and
- (c) must contain the reasons for the request and, where the request relates to part of the document, the reasons specific to each part of the document.

(2) The person making the request for the confidential treatment of a document or part of a document filed or provided in connection with any appeal proceedings before a Reviewing Tribunal, must also file

with the Reviewing Tribunal, if the person considers it possible to summarise or redact the material in the document, a non-confidential version of the document in a form which can be served on any party to those appeal proceedings.

(3) No request for confidential treatment will be considered by a Reviewing Tribunal if the request does not comply with paragraphs (1) and (2).

(4) Upon a request under paragraph (1) for the confidential treatment of a document, the Reviewing Tribunal concerned may grant confidential treatment in relation to any document or part thereof, on any terms and conditions that the Reviewing Tribunal considers fit (including changes to the summary or redacting of material in any non-confidential version filed under paragraph (2)), if the Reviewing Tribunal is satisfied that the document or part of the document contains —

- (a) information the disclosure of which would, in its opinion, be prejudicial to —
 - (i) Singapore’s national security;
 - (ii) the prevention or detection of serious crime;
 - (iii) the economic wellbeing of Singapore; or
 - (iv) the continued discharge of the functions of any of the intelligence services of Singapore;
- (b) information relating to the private affairs of an individual the disclosure of which, in the Reviewing Tribunal’s opinion, would or may significantly harm the interests of the individual; or
- (c) commercial information the disclosure of which, in the Reviewing Tribunal’s opinion, would or may significantly harm the legitimate business interests of the undertaking to which it relates.

(5) Despite paragraph (4), the Reviewing Tribunal concerned must grant confidential treatment in relation to any document or part of a document upon a request under paragraph (1) for the confidential

treatment of the document (or part of the document) made by or on behalf of the Registrar.

(6) When a Reviewing Tribunal grants under paragraph (4) or (5) confidential treatment in relation to any document or part of a document in connection with any appeal proceedings, the party making the request for the confidential treatment must —

- (a) in the case where the grant under paragraph (4) is subject to changes to the summary or redacting of material in any non-confidential version of that document filed under paragraph (2) —
 - (i) accordingly change the non-confidential version of that document filed;
 - (ii) file the revised non-confidential version with the Reviewing Tribunal; and
 - (iii) where directed by the Reviewing Tribunal, send to the other party to the appeal proceedings the revised non-confidential version, notifying the other party that it has been redacted or summarised;
- (b) in any other case, and where directed by the Reviewing Tribunal, send to the other party to the appeal proceedings the non-confidential version filed under paragraph (2) (if any), notifying the other party that it has been redacted or summarised.

(7) When a Reviewing Tribunal grants under paragraph (5) confidential treatment in relation to any document or part of a document in connection with any appeal proceedings, the document or part of the document, and the existence of the document or part of the document, must not be disclosed to any person except to the Reviewing Tribunal.

Reliance on confidential material

27. A Reviewing Tribunal may rely on any document or part of a document to which confidential treatment has been granted, for the purposes of —

- (a) considering the notice of appeal against the Registrar's determination; and
- (b) making a decision under section 44(3) of the Act in relation to the Registrar's determination.

Made on 5 June 2023.

PANG KIN KEONG
*Permanent Secretary,
Ministry of Home Affairs,
Singapore.*

[MHA/112/2/025; AG/LEGIS/SL/268/2020/3 Vol. 1]

(To be presented to Parliament under section 49(2) of the Registration of Criminals Act 1949).