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PERSONAL DATA PROTECTION ACT 2012
(ACT 26 OF 2012)

PERSONAL DATA PROTECTION
REGULATIONS 2014

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In exercise of the powers conferred by section 65 of the Personal Data Protection Act 2012, the Minister for Communications and Information hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Personal Data Protection Regulations 2014 and shall come into operation on 2nd July 2014.

PART II

REQUESTS FOR ACCESS TO AND CORRECTION OF PERSONAL DATA

Definitions of this Part

2. In this Part, unless the context otherwise requires —

“applicant” means an individual who makes a request;

“data protection officer”, in relation to an organisation, means an individual designated by the organisation under section 11(3) of the Act or an individual to whom the responsibility of the data protection officer has been delegated under section 11(4) of the Act;

“individual’s personal data” means personal data about the individual;

“request” means a request to an organisation made under section 21(1) or 22(1) of the Act;

“use and disclosure information” means the information specified in section 21(1)(b) of the Act.

How to make request

3.—(1) A request to an organisation must be made in writing and shall include sufficient detail to enable the organisation, with a reasonable effort, to identify —

- (a) the applicant making the request;
 - (b) in relation to a request under section 21(1) of the Act, the personal data and use and disclosure information requested by the applicant; and
 - (c) in relation to a request under section 22 of the Act, the correction requested by the applicant.
- (2) A request must be sent to the organisation —
- (a) in accordance with section 48A of the Interpretation Act (Cap. 1);
 - (b) by sending it to the organisation's data protection officer in accordance with the business contact information provided under section 11(5) of the Act; or
 - (c) in such other manner as is acceptable to the organisation.

Duty to respond to request under section 21(1) of Act

4.—(1) Subject to section 21(2), (3) and (4) of the Act and regulations 6 and 7(3), an organisation must respond to each request to it under section 21(1) of the Act as accurately and completely as necessary and reasonably possible.

(2) The organisation must provide an applicant access to the applicant's personal data requested under section 21(1) of the Act —

- (a) by providing the applicant a copy of the personal data and use and disclosure information in documentary form;
- (b) if sub-paragraph (a) is impracticable in any particular case, by allowing the applicant a reasonable opportunity to examine the personal data and use and disclosure information; or
- (c) in such other form requested by the applicant as is acceptable to the organisation.

Notification of timeframe for response

5. Subject to the requirement to comply with section 21(1) of the Act as soon as reasonably possible or section 22(2) of the Act as soon as practicable, if the organisation is unable to comply with that requirement within 30 days after receiving a request made in accordance with regulation 3, the organisation must within that time inform the applicant in writing of the time by which it will respond to the request.

Refusal to confirm or deny existence, use or disclosure of personal data

6. Subject to section 21(4) of the Act, an organisation, in a response to a request to it under section 21(1) of the Act, may refuse to confirm or may deny —

- (a) the existence of personal data referred to in paragraph 1(h) of the Fifth Schedule to the Act; or
- (b) the use of personal data without consent under paragraph 1(e) of the Third Schedule to the Act or the disclosure of personal data without consent under paragraph 1(f) of the Fourth Schedule to the Act, for any investigation or proceedings, if the investigation or proceedings and related appeals have not been completed.

Fees

7.—(1) Subject to section 28 of the Act, an organisation may charge an applicant who makes a request to it under section 21(1) of the Act a reasonable fee for services provided to the applicant to enable the organisation to respond to the applicant's request.

(2) An organisation must not charge a fee to respond to the applicant's request under section 21(1) of the Act unless the organisation has —

- (a) provided the applicant with a written estimate of the fee; and
- (b) if the organisation wishes to charge a fee that is higher than the written estimate provided under sub-paragraph (a), notified the applicant in writing of the higher fee.

(3) An organisation does not have to respond to an applicant's request under section 21(1) of the Act unless the applicant agrees to pay the following fee:

- (a) where the organisation has notified the applicant of a higher fee under paragraph (2)(b) —
 - (i) if the Commission has reviewed the higher fee under section 28(1) of the Act, the fee allowed by the Commission under section 28(2) of the Act; or
 - (ii) if sub-paragraph (i) does not apply, the higher fee notified under paragraph (2)(b); or
- (b) where sub-paragraph (a) does not apply and the organisation has provided the applicant with an estimated fee under paragraph (2)(a) —
 - (i) if the Commission has reviewed the estimated fee under section 28(1) of the Act, the fee allowed by the Commission under section 28(2) of the Act; or
 - (ii) if sub-paragraph (i) does not apply, the estimated fee provided under paragraph (2)(a).

(4) For the avoidance of doubt, an organisation shall not charge the applicant any fee to comply with its obligations under section 22(2) of the Act.

PART III

TRANSFER OF PERSONAL DATA OUTSIDE SINGAPORE

Definitions of this Part

8. In this Part, unless the context otherwise requires —

“data in transit” means personal data transferred through Singapore in the course of onward transportation to a country or territory outside Singapore, without the personal data being accessed or used by, or disclosed to, any organisation (other than the transferring organisation or an employee of the transferring organisation acting in the course of the employee's employment with the transferring

organisation) while the personal data is in Singapore, except for the purpose of such transportation;

“individual’s personal data” means personal data about that individual;

“recipient”, in relation to personal data transferred from Singapore to a country or territory outside Singapore, means any organisation that receives in a country or territory outside Singapore the personal data transferred to it by or on behalf of the transferring organisation, but does not include —

- (a) the transferring organisation;
- (b) any employee of the transferring organisation acting in the course of the employee’s employment with that organisation;
- (c) any organisation that receives the personal data solely as a network service provider or carrier; or
- (d) any organisation that receives the personal data from a recipient of that personal data;

“transferring organisation” —

- (a) in relation to any personal data transferred from Singapore to a country or territory outside Singapore, means the organisation that transfers the personal data from Singapore to the country or territory outside Singapore; or
- (b) in relation to data in transit, means the organisation that transfers the personal data through Singapore to the country or territory outside Singapore;

“transportation” includes transmission in electronic form.

Requirements for transfer

9.—(1) For the purposes of section 26 of the Act, a transferring organisation must, before transferring an individual’s personal data to a country or territory outside Singapore —

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- (a) take appropriate steps to ensure that the transferring organisation will comply with Parts III to VI of the Act, in respect of the transferred personal data while it remains in the possession or under the control of the transferring organisation; and
 - (b) take appropriate steps to ascertain whether, and to ensure that, the recipient of the personal data in that country or territory outside Singapore (if any) is bound by legally enforceable obligations (in accordance with regulation 10) to provide to the transferred personal data a standard of protection that is at least comparable to the protection under the Act.

(2) A transferring organisation is taken to have satisfied the requirements of paragraph (1)(a) in respect of the transferred personal data while it remains in the possession or under the control of the transferring organisation if the personal data is —

- (a) data in transit; or
- (b) publicly available in Singapore.

(3) A transferring organisation is taken to have satisfied the requirements of paragraph (1)(b) in respect of an individual's personal data which it transfers to a recipient in a country or territory outside Singapore if —

- (a) subject to paragraph (4), the individual consents to the transfer of the personal data to that recipient in that country or territory;
- (b) the transfer of the personal data to the recipient is necessary for the performance of a contract between the individual and the transferring organisation, or to do anything at the individual's request with a view to the individual entering into a contract with the transferring organisation;
- (c) the transfer of the personal data to the recipient is necessary for the conclusion or performance of a contract between the transferring organisation and a third party which is entered into at the individual's request;

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- (d) the transfer of the personal data to the recipient is necessary for the conclusion or performance of a contract between the transferring organisation and a third party if a reasonable person would consider the contract to be in the individual's interest;
 - (e) the transfer of the personal data to the recipient is necessary for the personal data to be used under paragraph 1(a), (b) or (d) of the Third Schedule to the Act or disclosed under paragraph 1(a), (b), (c), (e) or (o) of the Fourth Schedule to the Act, and the transferring organisation has taken reasonable steps to ensure that the personal data so transferred will not be used or disclosed by the recipient for any other purpose;
 - (f) the personal data is data in transit; or
 - (g) the personal data is publicly available in Singapore.
- (4) An individual is not taken to have consented to the transfer of the individual's personal data to a country or territory outside Singapore if —
- (a) the individual was not, before giving his consent, given a reasonable summary in writing of the extent to which the personal data to be transferred to that country or territory will be protected to a standard comparable to the protection under the Act;
 - (b) the transferring organisation required the individual to consent to the transfer as a condition of providing a product or service, unless the transfer is reasonably necessary to provide the product or service to the individual; or
 - (c) the transferring organisation obtained or attempted to obtain the individual's consent for the transfer by providing false or misleading information about the transfer, or by using other deceptive or misleading practices.
- (5) Nothing in this Part prevents an individual from withdrawing any consent given for the transfer of the personal data to a country or territory outside Singapore.

Legally enforceable obligations

10.—(1) For the purposes of regulation 9(1)(b), legally enforceable obligations include obligations imposed on a recipient of personal data under —

- (a) any law;
 - (b) any contract in accordance with paragraph (2);
 - (c) any binding corporate rules in accordance with paragraph (3);
or
 - (d) any other legally binding instrument.
- (2) A contract referred to in paragraph (1)(b) must —
- (a) require the recipient to provide a standard of protection for the personal data transferred to the recipient that is at least comparable to the protection under the Act; and
 - (b) specify the countries and territories to which the personal data may be transferred under the contract.
- (3) The binding corporate rules referred to in paragraph (1)(c) —
- (a) must require every recipient of the transferred personal data that is related to the transferring organisation and does not already satisfy paragraph (1)(a), (b) or (d), to provide a standard of protection for the personal data transferred to the recipient that is at least comparable to the protection under the Act;
 - (b) must specify —
 - (i) the recipients of the transferred personal data to which the binding corporate rules apply;
 - (ii) the countries and territories to which the personal data may be transferred under the binding corporate rules; and
 - (iii) the rights and obligations provided by the binding corporate rules; and
 - (c) may only be used for recipients that are related to the transferring organisation.

(4) For the purposes of paragraph (3)(a) and (c), a recipient of personal data is related to the transferring organisation transferring that data if —

- (a) the recipient, directly or indirectly, controls the transferring organisation;
- (b) the recipient is, directly or indirectly, controlled by the transferring organisation; or
- (c) the recipient and the transferring organisation are, directly or indirectly, under the control of a common person.

PART IV

GENERAL

Exercise of rights under Act in respect of deceased individual

11.—(1) The persons specified in paragraph (2) may exercise all or any of the following rights in relation to section 24 of the Act (protection of personal data) or any provision of the Act relating to the disclosure of personal data, in respect of a deceased individual who has been dead for no longer than 10 years:

- (a) the right to give or withdraw any consent for the purposes of the Act;
- (b) the right to bring an action under section 32 of the Act;
- (c) the right to bring a complaint under the Act.

(2) The following persons are specified for the purposes of paragraph (1):

- (a) a person appointed under the deceased individual's will to exercise the right referred to in paragraph (1) which is to be exercised or a personal representative of the deceased individual, unless the person or personal representative (as the case may be) has renounced the grant of such right; or
- (b) if no person or personal representative referred to in sub-paragraph (a) is able to exercise such right or power, the deceased individual's nearest relative determined in accordance with the First Schedule.

(3) Subject to Part II of the Probate and Administration Act (Cap. 251) (if applicable), the renunciation of the grant of any right under paragraph (1) must be made expressly in writing.

(4) Any notice or other communication to be given under the Act concerning any consent, action or complaint referred to in paragraph (1) may be given to the person who may exercise the right related to that consent, action or complaint under paragraph (1).

(5) This regulation does not —

- (a) enable any person to exercise any right under paragraph (1) if that person is legally incapable of exercising such a right on that person's own behalf; or
- (b) affect the authority of any person under any other law to exercise any right referred to in paragraph (1).

(6) A person does not cease to be a personal representative for the purposes of this regulation merely because that person has completed the administration of the deceased individual's estate.

Symbol of Commission

12. For the purposes of section 61 of the Act, the symbol for use in connection with the activities and affairs of the Commission is as set out in the Second Schedule.

FIRST SCHEDULE

Regulation 11(2)(b)

DETERMINATION OF NEAREST RELATIVE

1. Subject to paragraphs 2 and 3, the nearest relative of a deceased individual is the individual first listed in the following paragraphs, the elder or eldest of 2 or more such individuals described in any paragraph being preferred:

- (a) the deceased individual's spouse at the time of death;
- (b) the deceased individual's child;
- (c) the deceased individual's parent;
- (d) the deceased individual's brother or sister;
- (e) other relation of the deceased individual.

FIRST SCHEDULE — *continued*

2. For the purposes of paragraph 1 —
 - (a) a reference to a deceased individual's child means a legitimate, legitimated or adopted child of the deceased individual;
 - (b) a reference to a deceased individual's brother, sister or relation includes, respectively, a brother, sister or relation of the deceased individual by adoption; and
 - (c) there shall be no distinction between those who are related to a deceased person through the father or the mother of the deceased person.

3. If the individual who is determined in accordance with this Schedule to be the nearest relative of the deceased individual —

- (a) dies;
- (b) is legally incapable of exercising the right referred to in regulation 11(1);
or
- (c) is unable or refuses to make a decision concerning the exercise of the right referred to in regulation 11(1),

the individual who is next in priority to the first-mentioned individual is regarded as the next nearest relative of the deceased individual.

4. For the purposes of this Schedule, an individual shall not be considered to be unable or to have refused to make a decision referred to in paragraph 3(c) merely due to a temporary inability or temporary unavailability to make such a decision.

SECOND SCHEDULE

Regulation 12

SYMBOL OF COMMISSION

SECOND SCHEDULE — *continued*

Made this 15th day of May 2014.

AUBECK KAM
*Permanent Secretary,
Ministry of Communications
and Information,
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