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DEBT COLLECTION ACT 2022

DEBT COLLECTION (CLASS LICENCE) ORDER 2023

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In exercise of the powers conferred by section 14 of the Debt Collection Act 2022, the Minister for Home Affairs makes the following Order:

Citation and commencement

1. This Order is the Debt Collection (Class Licence) Order 2023 and comes into operation on 1 December 2023.

Definition

2. In this Order, “class licensee” means a person to whom a class licence by virtue of this Order applies, but does not include the person for the time the class licence is suspended or disapplied under the Act.

Class licence for persons carrying on regulated businesses

3. Unless exempt under section 43 of the Act, a person who —
- (a) carries on a regulated business; and

(b) on or after 1 December 2023, carries out any debt collection activity to collect any debt that is owed to the person in the course of the regulated business,
is authorised by a class licence in connection with the carrying out of the debt collection activity.

Conditions of class licence

4. For the purposes of section 14(1)(b) of the Act, the conditions of the class licence are specified in the Schedule.

THE SCHEDULE

Paragraph 4

CONDITIONS OF CLASS LICENCE

Deployment of debt collectors

1. The class licensee must not deploy an individual as the class licensee's debt collector to collect the debt, if —

- (a) the individual is not the class licensee's employee;
- (b) the class licensee knows or has any reason to believe that the individual —
 - (i) had previously breached any written law (other than the Act), including the Penal Code 1871 and the Protection from Harassment Act 2014, in the course of carrying out any debt collection activity;
 - (ii) had, on or after 1 December 2023, breached the Act or failed to carry out any debt collection activity in compliance with —
 - (A) the Act;
 - (B) paragraph 3;
 - (C) any instruction given by the class licensee or any other class licensee to the individual (in the individual's capacity as the class licensee's debt collector) not to collect or attempt to collect a debt under the circumstances mentioned in paragraph 5(1)(a) or (b); or
 - (D) all the codes of practice that are applicable to the class licensee and relate to the manner in which debt collection activities are to be carried out; and

THE SCHEDULE — *continued*

- (c) the class licensee has any reason to believe that the individual is likely to —
- (i) breach the Act or any other written law, including the Penal Code 1871 and the Protection from Harassment Act 2014, in the course of carrying out any debt collection activity; or
 - (ii) fail to carry out any debt collection activity in compliance with —
 - (A) the Act;
 - (B) paragraph 3;
 - (C) any instruction that may be given by the class licensee to the individual (in the individual’s capacity as the class licensee’s debt collector) not to collect or attempt to collect a debt under the circumstances mentioned in paragraph 5(1)(a) or (b); or
 - (D) all the codes of practice that are applicable to the class licensee and relate to the manner in which debt collection activities are to be carried out.

Requirement to put in place certain measures

2. The class licensee must put in place all such measures, including appropriate training, that are reasonable and necessary to ensure that every debt collector of the class licensee —

- (a) does not breach the Act or any written law, including the Penal Code 1871 and the Protection from Harassment Act 2014, in the course of carrying out any debt collection activity; and
- (b) carries out any debt collection activity for the class licensee in compliance with —
 - (i) the Act;
 - (ii) paragraph 3;
 - (iii) any instruction given by the class licensee to the individual (in the individual’s capacity as the class licensee’s debt collector) not to collect or attempt to collect a debt under the circumstances mentioned in paragraph 5(1)(a) or (b); and
 - (iv) all the codes of practice that are applicable to the class licensee and relate to the manner in which debt collection activities are to be carried out.

THE SCHEDULE — *continued*

Ascertaining identity of debtor

3. Before collecting any debt from any person (called in this paragraph the alleged debtor), the class licensee or debt collector —

- (a) must take all measures that are reasonable and necessary to ascertain that the alleged debtor is the debtor of the debt; and
- (b) where the class licensee or debt collector has a photograph or other similar means of identifying the debtor — must ascertain the identity of the alleged debtor using the photograph or other means before the class licensee or debt collector conducts any debt collection activity.

Keeping of records

4.—(1) The class licensee must keep and maintain —

- (a) proper and accurate records of the measures that the class licensee has put in place for the purposes of complying with paragraph 2; and
- (b) a register that sets out the following information in respect of every debt that the class licensee collects or attempts to collect:
 - (i) the name of the debtor;
 - (ii) the amount of the debt.

(2) The class licensee must —

- (a) keep each record mentioned in sub-paragraph (1)(a) for a period of at least 3 years after the date the record is made; and
- (b) keep each record contained in the register mentioned in sub-paragraph (1)(b) for a period of at least 3 years after the date the record is made.

Prohibition against collecting debt under certain circumstances

5.—(1) A class licensee must not collect or attempt to collect any debt from any person (called in this paragraph the alleged debtor) if —

- (a) the debt is the subject of court proceedings that have commenced but have not concluded, and the alleged debtor has given written notice to the class licensee stating that the debt is the subject of the court proceedings; or
- (b) the alleged debtor has given written notice to the class licensee that the alleged debtor is not the debtor of the debt and another person (called in this paragraph the impersonator) had impersonated the alleged debtor in incurring the debt or had forged the loan document.

THE SCHEDULE — *continued*

(2) A class licensee mentioned in sub-paragraph (1) must ensure that every debt collector of the class licensee must not collect or attempt to collect the debt from the alleged debtor mentioned in that sub-paragraph.

(3) For the purposes of sub-paragraph (1)(a), the written notice mentioned in that sub-paragraph must be given by the alleged debtor to the class licensee in one of the following ways:

- (a) by delivering it personally to the class licensee;
- (b) by prepaid registered post to the last postal address of the class licensee;
- (c) if the class licensee has given consent to corresponding with the alleged debtor by email — by sending it to the last email address of the class licensee.

(4) For the purposes of sub-paragraph (1)(b), the written notice mentioned in that sub-paragraph —

- (a) must state —
 - (i) the alleged debtor is not the debtor of the debt and the impersonator had impersonated the alleged debtor in incurring the debt or had forged the loan document; and
 - (ii) either —
 - (A) a police warning has been issued to the impersonator after investigations into the matter mentioned in sub-paragraph (i) have been completed; or
 - (B) the impersonator has been charged in court for an offence of cheating under section 417, 419 or 420 of the Penal Code 1871 or an offence involving forgery under Chapter 18 of the Penal Code 1871, in respect of the matter mentioned in sub-paragraph (i); and

(b) must be given by the alleged debtor to the class licensee in one of the following ways:

- (i) by delivering it personally to the class licensee;
- (ii) by prepaid registered post to the last postal address of the class licensee;
- (iii) if the class licensee has given consent to corresponding with the alleged debtor by email — by sending it to the last email address of the class licensee.

THE SCHEDULE — *continued*

(5) Despite sub-paragraphs (1)(a) and (2), a class licensee is not prohibited from collecting or attempting to collect the debt from the alleged debtor on or after either of the following dates (whichever is applicable):

- (a) the date on which the class licensee receives legal advice that is given by an advocate and solicitor or a foreign lawyer who is registered under section 36B of the Legal Profession Act 1966, that the debt is not the subject of the court proceedings mentioned in the written notice;
- (b) the date on which the court proceedings are concluded.

(6) Despite sub-paragraphs (1)(b) and (2), where the impersonator has been charged in court for an offence of cheating under section 417, 419 or 420 of the Penal Code 1871) or an offence involving forgery under Chapter 18 of the Penal Code 1871, in respect of the matter mentioned in sub-paragraph (4)(a)(i) and the criminal proceedings are subsequently —

- (a) discontinued and the impersonator has not been issued a police warning in relation to the matter; or
- (b) concluded and the impersonator is not convicted or found guilty of an offence in respect of the matter,

the class licensee is not prohibited from collecting or attempting to collect the debt from the alleged debtor after the discontinuance or conclusion of the criminal proceedings.

(7) For the purposes of this paragraph —

- (a) any court proceedings mentioned in sub-paragraphs (1)(a) and (5)(b) conclude —
 - (i) if the court in those court proceedings has made a decision in relation to the dispute or settlement of the debt mentioned in sub-paragraph (1)(a); and
 - (ii) on the occurrence of either of the following events, whichever is applicable:
 - (A) where an appeal is made against the decision — the withdrawal or determination of the appeal;
 - (B) where no appeal is made against the decision — the expiry of the period for making an appeal in respect of the decision; and

THE SCHEDULE — *continued*

- (b) any criminal proceedings mentioned in sub-paragraph (6) conclude —
- (i) if the court in those criminal proceedings has made a decision in respect of the matter mentioned in sub-paragraph (4)(a)(i); and
 - (ii) on the occurrence of either of the following events, whichever is applicable:
 - (A) where an appeal is made against the decision — the withdrawal or determination of the appeal;
 - (B) where no appeal is made against the decision — the expiry of the period for making an appeal in respect of the decision.

(8) In this paragraph —

“advocate and solicitor” and “foreign lawyer” have the meanings given by section 2(1) of the Legal Profession Act 1966;

“last email address” means —

- (a) an email address of the class licensee at which the alleged debtor corresponds with the class licensee; or
- (b) if there is no such email address — an email address which the class licensee represents to the alleged debtor as the email address to which communications to the class licensee may be sent;

“last postal address” means —

- (a) the postal address of the class licensee at which the alleged debtor corresponds with the class licensee;
- (b) if there is no postal address mentioned in paragraph (a) — a postal address which the class licensee represents to the alleged debtor as the postal address to which communications to the class licensee may be sent; or
- (c) if there is no postal address mentioned in paragraph (a) or (b) — the usual or last known place of residence or business of the class licensee;

“police warning” means a written notice that is issued by a police officer to a person, who is alleged to have committed, or was the subject of investigations into the commission of, a criminal offence, warning the person against engaging in any criminal activity.

Made on 1 November 2023.

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

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