
First published in the Government *Gazette*, Electronic Edition, on 6 July 2022 at 5 pm.

No. S 583

FOREIGN INTERFERENCE (COUNTERMEASURES) ACT 2021

FOREIGN INTERFERENCE (COUNTERMEASURES) (HARMFUL ONLINE COMMUNICATIONS ACTIVITY) REGULATIONS 2022

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

Regulation

1. Citation and commencement
2. Definitions

PART 2

DIRECTIONS

Division 1 — Mandatory message requirements

3. Class 1 must-carry direction
4. Class 2 must-carry direction and linked remedial must-carry direction
5. Class 3 must-carry direction and associated remedial must-carry direction
6. Class 4 must-carry direction
7. How to publish, post, display or include a mandatory message
8. Language, etc., of mandatory message

Division 2 — Other requirements

9. Class 2 access blocking direction: precondition
10. Additional service methods for Part 3 directions, etc.

PART 3

RECONSIDERATION BY MINISTER

11. Making reconsideration application

Regulation

12. Withdrawal of reconsideration application at any time
 13. Fee for section 92 appeal
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In exercise of the powers conferred by section 122 of the Foreign Interference (Countermeasures) Act 2021, the Minister for Home Affairs makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations are the Foreign Interference (Countermeasures) (Harmful Online Communications Activity) Regulations 2022 and come into operation on 7 July 2022.

Definitions

2. In these Regulations, unless the context otherwise requires —

“applicant” means a person making a reconsideration application;

“appropriate form”, in relation to any reconsideration application, means the relevant form that is set out on the website at <https://www.mha.gov.sg/fica/resources>;

“associated remedial must-carry direction” means a remedial must-carry direction given because a Class 2 must-carry direction or Class 3 must-carry direction has not been complied with;

“authorised representative”, for an applicant, includes an advocate and solicitor or other legal representative of the applicant;

“contact address”, for any person, means any of the following nominated by the person for the receiving of documents under Part 3 of these Regulations and sections 23 and 26 of the Act:

- (a) the person’s residential address in Singapore;
- (b) the person’s place of business in Singapore;
- (c) an email address;

“identity particulars” means —

- (a) for an individual —
 - (i) the full name, and the number of the passport or other identity document, of the individual; and
 - (ii) the nationality of the individual; and
- (b) for an entity —
 - (i) the full name of the entity;
 - (ii) the country the entity was incorporated or otherwise formed; and
 - (iii) the Unique Entity Number (UEN) of the entity, where available;

“message” means information —

- (a) whether in the form of text;
- (b) whether in the form of data;
- (c) whether in the form of speech, music or other sounds;
- (d) whether in the form of visual images (animated or otherwise);
- (e) whether in any other form; or
- (f) whether in any combination of forms;

“official language of Singapore” means Malay, Mandarin, Tamil or English;

“online location” means any website, webpage, chatroom or forum, or any other thing that can be seen, heard or otherwise perceived by means of the Internet;

“reconsideration application” means an application to the Minister under section 23(1) or 26(1) of the Act to reconsider the following:

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- (a) for an application under section 23(1) of the Act —
 - (i) an authorisation under section 20(1), 21(1) or 22(1)(b) of the Act made by the Minister; and
 - (ii) any Part 3 direction that is specified in that authorisation and given by the competent authority to the applicant;
 - (b) for an application under section 26(1) of the Act — a declaration under section 24 or 25(1)(b) of the Act of an online location as a proscribed online location.

PART 2

DIRECTIONS

Division 1 — Mandatory message requirements

Class 1 must-carry direction

3.—(1) For the purposes of section 32(2)(b) of the Act, a Class 1 must-carry direction given to a person mentioned in section 32(4)(a) or (b) of the Act may require a mandatory message about any covered information or material identified in the direction —

- (a) to be specially communicated or distributed so as to be published in Singapore and in a way specified in the direction —
 - (i) to a particular person or end-user specified in the Class 1 must-carry direction;
 - (ii) to a class or description of persons specified in the Class 1 must-carry direction; or
 - (iii) to persons in both sub-paragraphs (i) and (ii); and
- (b) to be generally communicated or distributed so as to be published in Singapore in a way specified in the direction —
 - (i) by publishing it on an online location specified in the Class 1 must-carry direction;

(ii) by publishing it in a newspaper or other printed publication of Singapore specified in the Class 1 must-carry direction; or

(iii) by publishing it in both sub-paragraphs (i) and (ii).

(2) Without limiting paragraph (1), a mandatory message about any covered information or material identified in a Class 1 must-carry direction given to a person mentioned in section 32(4)(a) or (b) of the Act must be communicated or distributed directly in connection with any message which is or has been posted or provided by the person —

(a) on a social media service or relevant electronic service; or

(b) using an internet access service.

Class 2 must-carry direction and linked remedial must-carry direction

4.—(1) For the purposes of section 32(2)(b) of the Act, a Class 2 must-carry direction given to a provider of a social media service or relevant electronic service may require a mandatory message about the covered information or material identified in the direction to be generally communicated or distributed using the social media service or relevant electronic service in a way specified in the direction —

(a) to all end-users in Singapore who access the covered information or material by means of that service at any time after a time specified in the Class 2 must-carry direction;

(b) to all end-users in Singapore that the provider knows had accessed the covered information or material by means of that social media service or relevant electronic service at any time before the specified time mentioned in sub-paragraph (a); or

(c) to both classes of end-users in Singapore in sub-paragraphs (a) and (b).

(2) Paragraph (1) applies, with the necessary modifications, to a recipient of an associated remedial must-carry direction due to failing to comply with a Class 2 must-carry direction.

Class 3 must-carry direction and associated remedial must-carry direction

5.—(1) For the purposes of section 32(2)(b) of the Act, a Class 3 must-carry direction may require the recipient of the direction to communicate or distribute so as to be published in Singapore a mandatory message about the covered information or material identified in the direction —

- (a) if the recipient is a provider of a social media service or relevant electronic service — in a way specified in the direction —
 - (i) to all end-users who use that service at any time after a time specified in the Class 3 must-carry direction;
or
 - (ii) to a description of end-users in sub-paragraph (i) as specified in the Class 3 must-carry direction;
- (b) if the recipient is a provider of a telecommunication service who holds a licence under section 5 of the Telecommunications Act 1999 — by transmitting the mandatory message by means of the telecommunications service —
 - (i) to all end-users who use that service at any time after a time specified in the Class 3 must-carry direction;
or
 - (ii) to a description of end-users in sub-paragraph (i) as specified in the Class 3 must-carry direction;
- (c) if the recipient is a person who is authorised by a permit under section 21 of the Newspaper and Printing Presses Act 1974 to publish (for sale or otherwise) a newspaper in Singapore — by publishing the mandatory message in a newspaper or printed publication specified in the Class 3 must-carry direction by a time specified in that direction;
or
- (d) if the recipient is a person who is authorised by a licence under section 8 of the Broadcasting Act 1994 to provide a

licensable broadcasting service in or from Singapore — by broadcasting the mandatory message by a time specified in that direction.

(2) Paragraph (1) applies, with the necessary modifications, to a recipient of an associated remedial must-carry direction due to failing to comply with a Class 3 must-carry direction.

Class 4 must-carry direction

6. For the purposes of section 32(2)(b) of the Act, a Class 4 must-carry direction may require the proprietor of a proscribed online location to communicate or distribute a mandatory message about the covered information or material identified in the direction —

- (a) on the proscribed online location; and
- (b) in a way specified in the direction to all end-users in Singapore who access the proscribed online location at any time after a time specified in the Class 4 must-carry direction.

How to publish, post, display or include a mandatory message

7. For the purposes of section 32(2)(b) of the Act, each mandatory message that is specified in a Class 1, Class 2 or Class 4 must-carry direction or in an associated remedial must-carry direction for a Class 2 must-carry direction must be communicated or distributed as near as is reasonably practicable to the covered information or material identified in the direction as will secure adequate publicity for the fact that the must-carry direction is made in respect of that information or material.

Language, etc., of mandatory message

8.—(1) For the purposes of section 32(2)(b) of the Act, a mandatory message about a covered information or material identified in a must-carry direction, must be made in any, or any combination, of the following languages that is necessary or expedient to counteracting acts of foreign interference by electronic communications activity to which the direction relates:

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- (a) in each language used in the covered information or material;
 - (b) in an official language of Singapore specified in the direction;
 - (c) in an official language of Singapore specified in the direction, if no language is used in the covered information or material.
- (2) For the purposes of section 32(2)(b) of the Act, a mandatory message about a covered information or material identified in a must-carry direction must —
- (a) be in a font size that can be read by an adult with 20/20 vision without the use of any visual aid, unless the mandatory message is an image without text or consists wholly of sounds;
 - (b) for a mandatory message that is an image without text, be clearly legible, prominent and easily distinguishable from any other material with which the mandatory message is displayed; or
 - (c) for a mandatory message that consists wholly of sounds, be a clearly audible announcement, prominent and easily distinguishable from any other material with which the mandatory message is communicated.

Division 2 — Other requirements

Class 2 access blocking direction: precondition

9. A period of 10 days (not counting any Saturday, Sunday and public holiday) starting the date a declaration is made under section 24, 25 or 26 of the Act with respect to an online location, is prescribed for the purposes of section 33(4)(c) of the Act.

Additional service methods for Part 3 directions, etc.

10.—(1) For the purposes of section 121(5)(c) of the Act, the methods in paragraphs (2), (3) and (4) are authorised by these Regulations for the service on a person of —

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- (a) any Part 3 direction addressed to the person; and
 - (b) any document for the purposes of proceedings under Part 3, or an appeal by the person under section 92 of the Act, in connection with the Part 3 direction mentioned in sub-paragraph (a),

provided that the person consents (expressly or impliedly) to service of a document of that method.

(2) If the person is represented by a defined legal representative, a document mentioned in paragraph (1) may be served on the person —

- (a) by giving the document personally to the person's defined legal representative;
- (b) by leaving the document with, or giving it to, someone who —
 - (i) is at the address of the defined legal representative's business address in Singapore; and
 - (ii) is apparently an adult and apparently employed there;
- (c) by sending the document by post to the defined legal representative's business address in Singapore; or
- (d) by sending, if the defined legal representative has —
 - (i) a fax — by faxing to the person the document to the fax number; or
 - (ii) an email address — by emailing to the person the document at that address.

(3) If the person has an account on a social media service or relevant electronic service or has a telephone account, a document mentioned in paragraph (1) may be served on the person by sending the document to the person's —

- (a) instant messaging account;
- (b) telephone account;
- (c) social media account; or

(d) other account on a relevant electronic service.

Illustration

Sending a document addressed to a person by SMS or by mobile chat application to the person's telephone account.

(4) If the person is the proprietor of an online location, and that online location provides a means —

(a) for corresponding with the person (which may include a feedback function) on that online location; or

(b) for the posting of comments, on that online location,

a document mentioned in paragraph (1) may be served on the person by posting an electronic notice of that document on that online location.

(5) In paragraph (2), a “defined legal representative” of a person means an individual who is an advocate and solicitor representing the person for the purposes of proceedings under Part 3, or an appeal by the person under section 92 of the Act, or both.

PART 3

RECONSIDERATION BY MINISTER

Making reconsideration application

11.—(1) Every reconsideration application —

(a) must be in writing and in the appropriate form;

(b) must be made within the time delimited by section 23(2)(b) or 26(2)(b) of the Act;

(c) must state —

(i) the identity particulars of the applicant making the reconsideration application;

(ii) the identity particulars of the applicant's authorised representative, if any; and

(iii) a contact address for the service of documents on the applicant and the applicant's authorised

representative (if any) in connection with reconsideration application;

- (d) must be accompanied by a copy of any of the following decisions that the applicant is seeking a reconsideration of, or identify any of the following decisions if a copy is not available:
- (i) an authorisation by the Minister under section 20(1), 21(1) or 22(1)(b) of the Act pursuant to which a Part 3 direction is given by the competent authority to the applicant;
 - (ii) a declaration by the Minister made under section 24 or 25(1)(b) of the Act in relation to an online location with a Singapore link;
- (e) must —
- (i) state the relief sought, which includes varying or cancelling a Part 3 direction or the declaration by the Minister in relation to an online location, as the case may be;
 - (ii) contain a summary of the grounds of the reconsideration application; and
 - (iii) state the arguments for each ground of the reconsideration application;
- (f) must be accompanied by any documents supporting those arguments; and
- (g) must be signed and dated by the applicant, or on the applicant's behalf by the authorised representative of the applicant.

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

Withdrawal of reconsideration application at any time

12. An applicant may withdraw the applicant's reconsideration application at any time before the Minister makes a decision under section 23(3) or 26(3) of the Act in respect of the application.

Fee for section 92 appeal

13. A fee of \$200 is prescribed for each appeal to the Reviewing Tribunal under section 92 of the Act.

Made on 4 July 2022.

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

[MHA 112/2/00121; AG/LEGIS/SL/111C/2020/1 Vol. 1]

(To be presented to Parliament under section 122(4) of the Foreign Interference (Countermeasures) Act 2021).