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ONLINE CRIMINAL HARMS ACT 2023

ONLINE CRIMINAL HARMS (RECONSIDERATION APPLICATION AND APPEAL FEE) REGULATIONS 2024

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In exercise of the powers conferred by section 60 of the Online Criminal Harms Act 2023, the Minister for Home Affairs makes the following Regulations:

Citation and commencement

1. These Regulations are the Online Criminal Harms (Reconsideration Application and Appeal Fee) Regulations 2024 and come into operation on 1 February 2024.

Definitions

2.—(1) In these Regulations —

“appellant” means a person making a reconsideration application;

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

“contact address”, for any person, means any of the following nominated by the person for the receiving of documents under these Regulations:

- (a) the person’s residential address, if an individual;
- (b) the address of the person’s place of business;
- (c) an email address;
- (d) the person’s chosen means of notification and chosen means of access to access those documents;

“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; or
- (b) for an entity —
 - (i) the full name of the entity;
 - (ii) the place the entity was incorporated or otherwise formed; and
 - (iii) the Unique Entity Number (UEN) of the entity, if any;

“reconsideration application” means an application for the reconsideration of a Part 2 direction under section 16 of the Act or of a Part 6 order under section 35 of the Act;

“reconsideration authority” means —

- (a) in relation to an application for the reconsideration application of a Part 2 direction — a designated officer; or
- (b) in relation to an application for the reconsideration of a Part 6 order — the competent authority;

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

(2) In these Regulations, “business address”, “chosen means of access”, “chosen means of notification”, “document” and “residential address” have the meanings given by section 45(11) of the Act.

(3) Where the time specified by the reconsideration authority or these Regulations for doing any act expires on a Saturday, Sunday or public holiday, the act is in time if done on the next following working day.

Making reconsideration application

3.—(1) Every reconsideration application —

- (a) must be made online at <https://go.gov.sg/ocha-reconsideration> in the form that is set out for that application on that website;
- (b) must be made within the time delimited by section 16(2)(b) or 35(2)(b) of the Act;
- (c) must state —
 - (i) the identity particulars, address and contact number of the appellant making the reconsideration application;
 - (ii) if the appellant has an authorised representative — the identity particulars, address and contact number of the authorised representative; and
 - (iii) a contact address for the service of documents on the appellant in connection with the reconsideration application; and
- (d) must —
 - (i) state whether the appellant is seeking cancellation or substitution of the Part 2 direction or the Part 6 order, as the case may be; and
 - (ii) contain a concise statement of the grounds for seeking the cancellation or substitution.

(2) However, where strict compliance with the form mentioned in paragraph (1)(a) is not possible, the reconsideration authority 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 reconsideration authority thinks fit.

Powers to ask for further and better particulars

4.—(1) For the purposes of deciding a reconsideration application, the reconsideration authority may request the appellant, or the authorised representative of the appellant, to do all or any of the following as may be necessary to decide on the reconsideration application:

- (a) give additional information to the reconsideration authority within the time specified in the request;
- (b) produce to the reconsideration authority, within the time specified in the request, any document, record or other thing in the custody or under the control of the appellant.

(2) For the purposes of deciding a reconsideration application, the reconsideration authority may also make any inquiries that the reconsideration authority considers necessary.

Failure to comply with time limits, etc.

5.—(1) The reconsideration authority may refuse any reconsideration application —

- (a) that is incomplete or not made in accordance with these Regulations; or
- (b) if the appellant fails to comply with the reconsideration authority's request for information or documents under regulation 4(1).

(2) The reconsideration authority may disregard any information, document, record or other thing given to the reconsideration authority after the expiry of the time limit for the giving of the information, document, record or other thing.

Decision on reconsideration to be notified

6. When the reconsideration authority has made a decision under section 17(1) or 36(1) of the Act (as the case may be) regarding a reconsideration application, the reconsideration authority must without delay give written notice of the decision to the appellant and the recipient of the Part 2 direction or the Part 6 order to which the reconsideration application relates (if the recipient is not the appellant).

Withdrawal of reconsideration application at any time

7. An appellant may withdraw the appellant's reconsideration application at any time before the reconsideration authority makes a decision under section 17(1) or 36(1) of the Act (as the case may be) in respect of the reconsideration application.

Service by reconsideration authority

8. Any document permitted or required to be served by the reconsideration authority in relation to a reconsideration application may be served —

- (a) at or by means of the contact address provided under regulation 3(1)(c)(iii); or
- (b) if there is no effective contact address, by any other means provided by or under section 45 of the Act that applies to the Part 2 direction or Part 6 order (as the case may be) to which the reconsideration application relates.

Fee for appeal to Reviewing Tribunal

9.—(1) A fee of \$200 is prescribed for each appeal to the Reviewing Tribunal under section 18 or 37 of the Act.

(2) The Secretary to the Reviewing Tribunals 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 prescribed under paragraph (1) and payable under rule 12(b) of the Online Criminal Harms (Reviewing Tribunals) Rules 2024 (G.N. No. S 43/2024).

Made on 29 January 2024.

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

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(To be presented to Parliament under section 60(3) of the Online Criminal Harms Act 2023).