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PERSONAL DATA PROTECTION ACT 2012 (ACT 26 OF 2012)

PERSONAL DATA PROTECTION (ENFORCEMENT) 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 (Enforcement) Regulations 2014 and shall come into operation on 2nd July 2014.

Definitions

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

“applicant” —

(a) in relation to a reconsideration application to the Commission to reconsider a contestable decision, means the organisation or individual aggrieved by that decision and making the reconsideration application; or

(b) in relation to a review application, means the complainant referred to in section 28 of the Act making the review application;

“contestable decision” means any direction or decision referred to in section 31(1)(a) or (b) of the Act;

“reconsideration application” means an application made under section 31(1) of the Act to the Commission for it to reconsider a contestable decision;

“relevant matter” means —

(a) a refusal to provide access to personal data requested by a complainant under section 21 of the Act;

(b) a failure to provide within a reasonable time access to personal data requested by a complainant under section 21 of the Act;

(c) a fee required from a complainant by an organisation in relation to a request by the complainant under section 21 or 22 of the Act;

(d) a refusal to correct personal data in accordance with a request by a complainant under section 22 of the Act; or

(e) a failure to make within a reasonable time a correction of personal data in accordance with a request by a complainant under section 22 of the Act;

“relevant request” means a request under section 21 or 22 of the Act;

“respondent” —

- (a) means the organisation complained against by a complainant, in the case of a reconsideration application made by a complainant regarding a contestable decision made under section 27(2) or 28(2) of the Act;
- (b) means the complainant, in the case of a reconsideration application made by an organisation complained against by that complainant regarding a contestable decision made under section 27(2) or 28(2) of the Act;
- (c) means the organisation in respect of which a contestable decision was made under section 29(1) or (2) of the Act, in the case of a reconsideration application made by an individual aggrieved by that contestable decision;
- (d) means the complainant whose complaint against an organisation results in a contestable decision made under section 29(1) or (2) of the Act against the organisation, in the case of a reconsideration application made by the organisation aggrieved by that contestable decision; or
- (e) means the organisation complained against by a complainant referred to in section 28 of the Act, in the case of a review application made by that complainant;

“review application” means an application made under section 28 of the Act to the Commission for it to conduct a review;

“working day” means any day which is not a Saturday, Sunday or public holiday.

PART II

REVIEW APPLICATIONS

Non-derogation from powers of investigation

3. Nothing in this Part affects the Commission's power to conduct an investigation under section 50(1) of the Act.

Review application

4.—(1) A review application must —

- (a) be submitted to the Commission in accordance with regulation 23;
- (b) state concisely, in the English language —
 - (i) the particulars of the applicant;
 - (ii) the particulars of the relevant request and relevant matter that are the subject of the application;
 - (iii) the facts and circumstances under which the review application arises;
 - (iv) the directions or decisions under section 28(2) of the Act sought; and
 - (v) the applicant's reasons for seeking such directions or decisions;
- (c) be signed by the applicant, or on his behalf by his authorised representative or legal representative; and
- (d) be accompanied by —
 - (i) a copy of the relevant request, if available;
 - (ii) a copy of all the correspondence between the applicant and the respondent relating to the relevant request, if any; and
 - (iii) such statutory declaration or other documents or information to support the facts or particulars contained in the applicant's review application as the Commission may require.

(2) A review application under paragraph (1) may be made in the form provided under regulation 25.

(3) The Commission may, at any time by notice in writing, require an applicant to provide, within such period as may be specified in the notice, a statutory declaration or any other documents or information to support the facts or particulars contained in the applicant's review application.

Summary dismissal of review application

5. The Commission may, at any time, dismiss a review application if —

- (a) the Commission considers that the review application does not disclose a prima facie case for a review to be conducted under section 28(1) of the Act;
- (b) the applicant of the review application has not complied with a direction under section 27(2) of the Act;
- (c) the applicant and respondent have mutually agreed to settle the matter;
- (d) the applicant has commenced legal proceedings against the respondent in respect of a contravention or an alleged contravention of section 21 or 22 of the Act, which is also the subject of the review application;
- (e) the review application is not made in accordance with regulation 4(1) or is materially incomplete;
- (f) the applicant has, without reasonable excuse, failed to comply with the time delimited under regulation 4(3) for the submission of any document or information required under that regulation; or
- (g) the Commission is of the opinion —
 - (i) that the review application is frivolous or vexatious or is not made in good faith; or
 - (ii) that any other circumstances warrant the summary dismissal of the review application.

Notice of review application and response from respondent

6.—(1) Where the Commission is satisfied that a review application discloses a prima facie case for a review to be conducted under section 28(1) of the Act, the Commission must serve on the respondent —

- (a) a copy of the review application and any statutory declaration and accompanying documents or information provided under regulation 4(1)(d) or (3); and
 - (b) a notice requiring the respondent to submit a written response within such period as may be specified in the notice.
- (2) A respondent's response to a review application must —
- (a) state the case number assigned to the review application;
 - (b) be made in the English language;
 - (c) be submitted to the Commission in accordance with regulation 23 within the time delimited by the notice in paragraph (1)(b);
 - (d) contain an explanation of any of the following, according to the relevant matter and relevant request in the review application:
 - (i) the respondent's refusal to provide access to or correct personal data in accordance with the relevant request;
 - (ii) the respondent's failure to provide access to or correct personal data in accordance with the relevant request within a reasonable time;
 - (iii) the fee required from the applicant by the respondent in relation to the relevant request,as the case may be;
 - (e) be signed —
 - (i) if the respondent is an individual, by the respondent, or on his behalf by his authorised representative or legal representative; or

(ii) if the respondent is an organisation other than an individual, by a duly authorised officer of the respondent; and

(f) be accompanied by such statutory declaration or other documents or information to support the facts and particulars in the respondents' response as the Commission may require.

(3) The Commission may, at any time by notice in writing, require a respondent to provide, within such period as may be specified in the notice, any statutory declaration or any other documents or information to support the facts or particulars contained in the respondent's response.

(4) The Commission may, on a written application by the respondent, extend the time delimited by the notice in paragraph (1)(b).

(5) If the respondent does not submit a response to the review application within the time delimited by the notice in paragraph (1)(b) (including any extension under paragraph (4)), the Commission may proceed to make its direction or decision under section 28(2) or 29(1) or (2) of the Act in the absence of such response.

(6) In this regulation, "officer" has the same meaning as in section 52(5) of the Act.

Notice of response and reply from applicant

7.—(1) The Commission may, where it considers it appropriate, serve on the applicant of a review application —

(a) a copy of the response by the respondent under regulation 6(2) to the application and any statutory declaration and accompanying documents or information provided by the respondent under regulation 6(2)(f) or (3); and

(b) a notice inviting the applicant to submit to the Commission, within such period as may be specified in the notice, a written reply to the response as the applicant may wish to offer.

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- (2) An applicant's reply must —
- (a) state the case number assigned to the review application;
 - (b) be made in the English language;
 - (c) be submitted to the Commission in accordance with regulation 23 within the time delimited by the notice in paragraph (1)(b);
 - (d) be signed by the applicant, or on his behalf by his authorised representative or legal representative; and
 - (e) be accompanied by such statutory declaration or other documents or information as the Commission may require.
- (3) The Commission may, at any time by notice in writing, require an applicant to provide, within such time as may be specified in the notice, any statutory declaration or other documents or information to support the facts or particulars contained in the applicant's reply.
- (4) The Commission may, on a written application by the applicant, extend the time delimited by the notice in paragraph (1)(b).
- (5) If the applicant does not submit a reply to the respondent's response within the time delimited by the notice in paragraph (1)(b) (including any extension under paragraph (4)), the Commission may proceed to make its direction or decision under section 28(2) of the Act in the absence of such reply.

Withdrawal of review application

8. An applicant of a review application may, at any time before the Commission has given a notice under regulation 17 to either the applicant or the respondent, withdraw the review application by a notice in writing to the Commission.

Suspension of conduct of review

9. The Commission may, where it thinks fit, suspend the conduct of a review under section 28 of the Act, for such period as the Commission may consider reasonable in the circumstances, if —

- (a) the Commission commences an investigation under section 50(1) of the Act into the conduct of the respondent

in relation to any relevant matter that is the subject of the review application; or

- (b) the Commission is of the opinion that any other circumstances warrant the suspension of the conduct of a review.

Consolidation of review applications

10.—(1) Where 2 or more review applications are pending in relation to the same respondent, or involve the same or similar issues or relevant matters, the Commission may at any time, on the request of the respondent or applicant of any of the review applications or of its own initiative, direct that the review applications or any particular issue or relevant matter raised in the review applications be consolidated and reviewed together.

(2) Before a direction under paragraph (1) is made, all applicants and respondents are entitled to make their submissions on a proposed consolidation of their respective review applications.

(3) Where the Commission decides to consolidate 2 or more review applications together under paragraph (1), the Commission may —

- (a) consider those review applications together;
- (b) permit the applicants or respondents to combine any documents required to be submitted for those review applications;
- (c) issue a combined direction or decision under section 28(2) of the Act for all or any of those review applications; and
- (d) make such other directions as the Commission sees fit for the proper administration of those review applications.

[S 458/2014 wef 02/07/2014]

PART III

RECONSIDERATION APPLICATIONS

Reconsideration application

11.—(1) A reconsideration application —

- (a) may be made in the form provided under regulation 25;

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- (b) must be submitted to the Commission in accordance with regulation 23;
- (c) must state concisely, in the English language —
- (i) the particulars of the applicant;
 - (ii) the particulars of the contestable decision to be reconsidered;
 - (iii) the grounds for making the reconsideration application, in particular, the grounds upon which the applicant contends that the contestable decision was made based on an error of fact or was wrong in law;
 - (iv) the arguments of fact or law supporting each of the grounds; and
 - (v) the decisions under section 31(4)(b) of the Act sought from the Commission and the applicant's reasons for seeking those decisions;
- (d) must be signed —
- (i) if the applicant is an individual, by the applicant, or on his behalf by his authorised representative or legal representative; or
 - (ii) if the applicant is an organisation other than an individual, by a duly authorised officer of the applicant; and
- (e) must be accompanied by —
- (i) a copy of the contestable decision to be reconsidered;
 - (ii) such statutory declaration or other documents or information to support the facts or particulars contained in the applicant's reconsideration application as the Commission may require; and
 - (iii) the appropriate fee specified in the Schedule.
- (2) The Commission may, at any time by notice in writing, require an applicant to provide, within such time as may be specified in the

notice, any statutory declaration or other documents or information to support the facts or particulars contained in the applicant's reconsideration application.

(3) In this regulation, "officer" has the same meaning as in section 52(5) of the Act.

Notice of reconsideration application and response from respondent

12.—(1) Where an applicant makes a reconsideration application in accordance with section 31 of the Act and these Regulations, the Commission must serve on the respondent —

- (a) a copy of the reconsideration application and any accompanying documents or information provided under regulation 11(1)(e) or (2); and
- (b) a notice requiring the respondent to submit a written response within such period as may be specified in the notice.

(2) A respondent's response to a reconsideration application must —

- (a) state the case number assigned to the reconsideration application;
- (b) be made in the English language;
- (c) be submitted to the Commission in accordance with regulation 23 within the time delimited by the period in the notice in paragraph (1)(b);
- (d) be signed by —
 - (i) if the respondent is an individual, the respondent, or on his behalf by his authorised representative or legal representative; or
 - (ii) if the respondent is an organisation other than an individual, a duly authorised officer of the respondent; and
- (e) be accompanied by such statutory declaration or other documents or information as the Commission may require.

(3) The Commission may, at any time by notice in writing, require a respondent to provide, within such time as may be specified in the notice, any statutory declaration or any other documents or information to support the facts or particulars contained in the respondent's response.

(4) The Commission may, on a written application by the respondent, extend the time delimited by the notice in paragraph (1)(b).

(5) If the respondent does not submit a response to the reconsideration application within the time delimited by the notice in paragraph (1)(b) (including any extension under paragraph (4)), the Commission may proceed to make its decision under section 31(4)(b) of the Act in the absence of such response.

(6) In this regulation, "officer" has the same meaning as in section 52(5) of the Act.

Notice of response and reply from applicant

13.—(1) The Commission may, where it considers it appropriate, serve on the applicant of a reconsideration application —

- (a) a copy of the response by the respondent under regulation 12(2) to the application and any statutory declaration and accompanying documents or information provided by the respondent under regulation 12(2)(e) or (3); and
 - (b) a notice inviting the applicant to submit to the Commission, within such period as may be specified in the notice, a written reply to the response as the applicant may wish to offer.
- (2) An applicant's reply must —
- (a) state the case number assigned to the reconsideration application;
 - (b) be made in the English language;
 - (c) be submitted to the Commission in accordance with regulation 23 within the time delimited by the notice in paragraph (1)(b);

(d) be signed —

- (i) if the applicant is an individual, by the applicant, or on his behalf by his authorised representative or legal representative; or
- (ii) if the applicant is an organisation other than an individual, by a duly authorised officer of the applicant; and

(e) be accompanied by such statutory declaration or other documents or information as the Commission may require.

(3) The Commission may, at any time by notice in writing, require an applicant to provide, within such time as may be specified in the notice, any statutory declaration or other documents or information to support the facts or particulars contained in the applicant's reply.

(4) The Commission may, on a written application by the applicant, extend the time delimited by the notice in paragraph (1)(b).

(5) If the applicant does not submit a reply to the respondent's response within the time delimited by the notice in paragraph (1)(b) (including any extension under paragraph (4)), the Commission may proceed to make its decision under section 31(4)(b) of the Act in the absence of such reply.

(6) In this regulation, "officer" has the same meaning as in section 52(5) of the Act.

Withdrawal of reconsideration application

14. An applicant of a reconsideration application may, at any time before the Commission has given a notice under regulation 19 to either the applicant or the respondent and with the permission of the Commission, withdraw the reconsideration application by a notice in writing to the Commission.

Consolidation of reconsideration applications

15.—(1) Where 2 or more reconsideration applications are pending in relation to the same decision of the Commission, or involve the same or similar issues or relevant matters, the Commission may at any time, on the request of the respondent or applicant of any of the

reconsideration applications or of its own initiative, direct that the reconsideration applications or any particular issue or relevant matter raised in the reconsideration applications be consolidated and considered together.

(2) Before a direction under paragraph (1) is made, all applicants and respondents are entitled to make their submissions on a proposed consolidation of their respective reconsideration applications.

(3) Where the Commission decides to consolidate 2 or more reconsideration applications together under paragraph (1), the Commission may —

- (a) consider those reconsideration applications together;
- (b) permit the applicants or respondents to combine any documents required to be submitted for those reconsideration applications;
- (c) issue a combined decision under section 31(4)(b) of the Act for all or any of those reconsideration applications; and
- (d) make such other directions as the Commission sees fit for the proper administration of those reconsideration applications.

[S 458/2014 wef 02/07/2014]

PART IV

DIRECTIONS AND DECISIONS OF COMMISSION

Notice of direction under section 27(2) of Act

16. The Commission must give notice to the complainant and the organisation referred to in section 27(2) of the Act of every direction it makes under that section relating to that complainant and organisation.

Notice of direction or decision under section 28(2) of Act

17. Where the Commission makes a direction or decision under section 28(2) of the Act upon a review application, the Commission —

- (a) must give notice of the decision or direction to the applicant and the respondent of the review application; and

- (b) may publish the direction or decision, or a summary of the direction or decision, on the Commission's website or in such other manner as the Commission may decide.

Notice of direction under section 29(1) or (2) of Act

18.—(1) Where the Commission makes a direction under section 29(1) or (2) of the Act, the Commission must give notice of the direction to —

- (a) the organisation to which that direction was given; and
(b) the complainant whose complaint against the organisation resulted in that direction, if any.

(2) The Commission may also publish the direction referred to in paragraph (1) or a summary of that direction on the Commission's website or in such other manner as the Commission may decide.

Notice of decision under section 31(4)(b) of Act

19.—(1) Where the Commission makes a decision under section 31(4)(b) of the Act after reconsidering a contestable decision, the Commission must give notice of the decision to the applicant and the respondent.

(2) The Commission may also publish the decision referred to in paragraph (1) or a summary of that decision on the Commission's website or in such other manner as the Commission may decide.

PART V

EXERCISE OF POWERS OF INVESTIGATION

Requiring organisation to produce document or information during investigation under section 50 of Act

20.—(1) At any time during a review under section 28 of the Act, or during a reconsideration under section 31 of the Act, the Commission may conduct an investigation under section 50 of the Act to determine whether an organisation that is the subject of the review or reconsideration is or is not complying with the provisions of the Act.

(2) For the purposes of an investigation carried out under section 50 of the Act, the Commission or an inspector may exercise their respective powers set out in the Ninth Schedule to the Act.

List of all things taken to be made and signed

21.—(1) A list of all things taken in the course of any entry to any premises under the Act and of the places in which they are respectively produced or found shall be prepared or caused to be prepared and signed by the officer of the Commission entering the premises.

(2) The occupier of the premises entered or some person in the occupier's behalf shall in every instance be permitted to attend during the entry, and a copy of the list prepared and signed under paragraph (1) shall be delivered to that occupier or person at his request, as soon as practicable.

(3) In this regulation, "officer" means —

- (a) where entry into the premises is pursuant to paragraph 2 of the Ninth Schedule to the Act, an inspector appointed under section 8(1) of the Act; and
- (b) where entry into the premises is pursuant to a warrant issued under paragraph 3 of the Ninth Schedule to the Act, an officer or inspector of the Commission appointed under section 8(1) of the Act and named in the warrant.

PART VI

MISCELLANEOUS

Service of notices or documents

22.—(1) Any notice or document required or authorised to be served on any person by the Commission under the Act or any regulations made under the Act may be served —

- (a) in the case of an individual —
 - (i) by delivering it to the individual personally;

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- (ii) by leaving it with an adult person apparently resident at, or by sending it by ordinary post or pre-paid registered post to, the usual or last known address of the place of residence of the individual;
 - (iii) by leaving it with an adult person apparently employed at, or by sending it by ordinary post or pre-paid registered post to, the usual or last known address of the place of business of the individual;
 - (iv) by affixing a copy of the notice or document in a conspicuous place at the usual or last known address of residence or business of the individual;
 - (v) by sending it by facsimile transmission to the fax number given to the Commission by the individual as the fax number for the service of notices or documents on the individual; or
 - (vi) by sending it by email to the last email address given to the Commission by the individual as the email address for the service of notices or documents on the individual;
- (b) in the case of a partnership other than a limited liability partnership —
- (i) by delivering it to any one of the partners or the secretary or other like officer of the partnership;
 - (ii) by leaving it at, or by sending it by ordinary post or pre-paid registered post to, the principal or last known place of business of the partnership in Singapore;
 - (iii) by sending it by facsimile transmission to the fax number given to the Commission by the partnership as the fax number for the service of notices or documents on the partnership; or
 - (iv) by sending it by email to the last email address given to the Commission by the individual as the email address for the service of notices or documents on the partnership; and

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- (c) in the case of a limited liability partnership or other body corporate, or an unincorporated association —
- (i) by delivering it to the secretary or other like officer of the body corporate or unincorporated association or, in the case of a limited liability partnership, the manager of the limited liability partnership;
 - (ii) by leaving it at, or by sending it by ordinary post or pre-paid registered post to, the registered office or principal office of the limited liability partnership, body corporate or unincorporated association in Singapore;
 - (iii) by sending it by facsimile transmission to the fax number given to the Commission by the limited liability partnership, body corporate or unincorporated association in Singapore as the fax number for the service of notices or documents on the limited liability partnership, body corporate or unincorporated association; or
 - (iv) by sending it by email to the last email address given to the Commission by the limited liability partnership, body corporate or unincorporated association as the email address for the service of notice or documents on the limited liability partnership, body corporate or unincorporated association.

(2) Where any notice or document required or authorised to be served on any person by the Commission under the Act or these Regulations is —

- (a) served personally in accordance with paragraph (1), the notice or document shall be deemed to have been duly served on the day of delivery;
- (b) sent by ordinary post in accordance with paragraph (1), the notice or document shall be deemed to have been duly served on the person to whom it is addressed on the day after it would in the ordinary course of post be delivered, unless it is returned undelivered;

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- (c) sent by pre-paid registered post in accordance with paragraph (1), the notice or document shall be deemed to have been duly served on the person to whom it is addressed 2 days after the day it was posted, whether or not it is returned undelivered;
 - (d) sent by facsimile transmission to a fax number in accordance with paragraph (1), the notice or document shall be deemed to have been duly served on the person to whom it is addressed on the day of the transmission, subject to the receipt on the sending facsimile machine of a notification (by electronic or other means) of a successful transmission to the facsimile machine for that fax number; or
 - (e) sent by email to an email address in accordance with paragraph (1), the notice or document shall be deemed to have been duly served on the person to whom it is addressed at the time the email becomes capable of being retrieved by the person.
- (3) Despite paragraph (1), the Commission may instead give notice to any person by publishing on the Commission's website and in at least one national daily newspaper, a summary of the notice, indicating that the complete notice may be obtained from the Commission upon the request of such person, if —
- (a) the Commission has taken any of the steps referred to in paragraph (1) to give notice to such person but has been unable to give such notice or in the Commission's opinion there is doubt that it has been able to give such notice; or
 - (b) the Commission is of the view that none of the steps referred to in paragraph (1), if taken, would give the required notice to such person.
- (4) Where paragraph (3) applies, the notice shall be treated as having been given on the date of its publication in accordance with paragraph (3).

Submission of documents or information to Commission

23.—(1) Unless the Commission otherwise directs, any document or information required to be submitted to the Commission under the Act or any regulations made under the Act must be submitted to the Commission —

- (a) by delivering it to an officer of the Commission at the address specified in sub-paragraph (b) or such other address as the Commission may direct;
- (b) by sending it by ordinary post or pre-paid registered post to 460 Alexandra Road, #10-01 PSA Building, Singapore 119963 or such other address as the Commission may direct;
- (c) by sending it by email to info@pdpc.gov.sg or such other email address as the Commission may direct; or
- (d) by serving it in such other manner as the Commission may agree to accept.

(2) Any document submitted to the Commission under the Act or any regulations made under the Act —

- (a) must comply with any directions made by the Commission; and
- (b) if not in the English language, must be accompanied by a translation thereof —
 - (i) certified by a court interpreter; or
 - (ii) verified by the affidavit of a person qualified to translate it.

Commission's website

24. The Commission's website shall be at <http://www.pdpc.gov.sg>.

Forms

25.—(1) The Commission may, from time to time, provide and cause to be published on the Commission's website, such forms as it thinks fit for the purposes of the Act and any regulations made under the Act.

(2) Unless otherwise required, all particulars to be inserted in a form shall be in the English language.

(3) All forms shall be completed in accordance with such directions as may be specified in that form or by the Commission.

(4) The Commission may modify any such form from time to time or in any particular case.

(5) The Commission may refuse to accept any form that is not in compliance with this regulation.

(6) Where strict compliance with a form is not possible, the Commission may allow that form to be complied with in such other manner as it thinks fit.

Time

26.—(1) Where an act is required to be done in accordance with a notice issued under these Regulations before the expiry of a specified period after or from a specified date, the period begins immediately after that date.

(2) Where an act is required to be done in accordance with a notice issued under these Regulations within or not less than a specified period before a specified date, the period ends immediately before that date.

(3) Where the time indicated in a notice issued under these Regulations for doing any act expires on a day other than a working day, the act shall be in time if done on the next working day.

Waiver

27.—(1) The Commission may, with the approval of the Minister, waive any fee or part thereof payable under these Regulations.

(2) A waiver granted under paragraph (1) may be notified in writing to the person concerned, and need not be published in the *Gazette*.

THE SCHEDULE

Regulation 11(1)(e)(iii)

FEES

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| 1. Filing a reconsideration application relating to a direction or decision under section 28(2) of the Act | \$25 |
| 2. Filing any other reconsideration application | \$250 |

Made this 1st day of July 2014.

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

[Y03.002.001.EV30/13; AG/LLRD/SL/227A/2012/11 Vol. 2]