

Personal Data Protection (Amendment) Bill 2020

Bill No. /2020.

Read the first time on 2020.

A BILL

i n t i t u l e d

An Act to amend the Personal Data Protection Act 2012 (Act 26 of 2012) and to make consequential and related amendments to certain other Acts.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act is the Personal Data Protection (Amendment) Act 2020 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2(1) of the Personal Data Protection Act 2012 (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “data intermediary”, the following definition:

10 “ “derived personal data” —

(a) means personal data about an individual that is derived by an organisation in the course of business from other personal data about the individual or another individual in the possession or under the control of the organisation; but

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(b) does not include personal data derived by the organisation using any prescribed means or method;” and

20 (b) by deleting the full stop at the end of the definition of “tribunal” and substituting a semi-colon, and by inserting immediately thereafter the following definitions:

25 “ “user activity data”, in relation to an organisation, means personal data about an individual that is created in the course or as a result of the individual’s use of any product or service provided by the organisation;

30 “user-provided data”, in relation to an organisation, means personal data provided by an individual to the organisation.”.

Amendment of section 4

3. Section 4 of the principal Act is amended —

(a) by deleting paragraph (c) of subsection (1) and substituting the following paragraph:

5 “(c) any public agency;”;

(b) by deleting the words “Parts III to VI” in subsections (1) and (6)(a) and (b) and substituting in each case the words “Parts III, IV, V, VI, VIA and VIB”;

10 (c) by deleting the words “Parts III to VI (except for section 24 (protection of personal data) and section 25 (retention of personal data))” in subsection (2) and substituting the words “Parts III, IV, V, VI (except sections 24 and 25) and VIB”; and

15 (d) by deleting the words “Parts III to VI” in subsection (5) and substituting the words “Parts III, IV, V, VI and VIA”.

Amendment of heading to Part III

4. Part III of the principal Act is amended by inserting, immediately after the words “PROTECTION OF” in the Part heading, the words “AND ACCOUNTABILITY FOR”.

Amendment of section 11

5. Section 11 of the principal Act is amended by inserting, immediately after subsection (5), the following subsection:

25 “(5A) Without limiting subsection (5), an organisation is deemed to have satisfied subsection (5) if the organisation makes available the business contact information of any individual mentioned in subsection (3) in any prescribed manner.”.

Amendment of section 15

6. Section 15 of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

30 “(3) Without limiting subsection (2) and subject to subsection (5), an individual (*P*) who provides personal data to

an organisation (*A*) with a view to *P* entering into a contract with *A* is deemed to consent to the following:

- 5 (a) the disclosure of that personal data by *A* to another organisation (*B*), where the disclosure is reasonably necessary for the conclusion of the contract between *P* and *A*;
- (b) the collection and use of that personal data by *B*, where the collection and use is reasonably necessary for the conclusion of the contract between *P* and *A*;
- 10 (c) the disclosure of that personal data by *B* to another organisation where the disclosure is reasonably necessary for the conclusion of the contract between *P* and *A*.

15 (4) Without limiting subsection (2) and subject to subsection (5), an individual (*P*) who enters into a contract with an organisation (*A*) and provides personal data to *A* is deemed to consent to the following:

- 20 (a) the disclosure of that personal data by *A* to another organisation (*B*), where the disclosure is reasonably necessary —
 - (i) for the performance of the contract between *P* and *A*; or
 - (ii) for the conclusion or performance of a contract between *A* and *B* which is entered into at *P*'s request, or if a reasonable person would consider the contract to be in *P*'s interest;
- (b) the collection and use of that personal data by *B*, where the collection and use are reasonably necessary for any purpose mentioned in paragraph (a);
- 30 (c) the disclosure of that personal data by *B* to another organisation where the disclosure is reasonably necessary for any purpose mentioned in paragraph (a).

(5) Subsections (3)(a) and (4)(a) do not affect any obligation under the contract between *P* and *A* that specifies or restricts —

- (a) the personal data provided by *P* that *A* may disclose to another organisation; or
- (b) the purposes for which *A* may disclose the personal data provided by *P* to another organisation.”.

5 **New section 15A**

7. The principal Act is amended by inserting, immediately after section 15, the following section:

“Deemed consent by notification

10 **15A.**—(1) Subject to subsection (2), an individual is deemed to consent to the collection, use or disclosure of personal data about the individual by an organisation if —

- (a) the organisation satisfies the requirements in subsection (3); and
- 15 (b) the individual does not notify the organisation, before the expiry of the period mentioned in subsection (3)(b)(iii), that the individual does not consent to the proposed collection, use or disclosure of the personal data by the organisation.

20 (2) Subsection (1) does not apply to the collection, use or disclosure of personal data about the individual for any prescribed purpose.

(3) For the purposes of subsection (1)(a), the organisation must, before collecting, using or disclosing any personal data about the individual —

- 25 (a) conduct an assessment to determine that the proposed collection, use or disclosure of the personal data is not likely to have an adverse effect on the individual; and
- (b) take reasonable steps to bring the following information to the attention of the individual:
 - 30 (i) the organisation’s intention to collect, use or disclose the personal data;

- (ii) the purpose for which the personal data will be collected, used or disclosed;
 - (iii) a reasonable period within which, and a reasonable manner by which, the individual may notify the organisation that the individual does not consent to the organisation's proposed collection, use or disclosure of the personal data.
- (4) The organisation must, in respect of the assessment mentioned in subsection (3)(a) —
- (a) identify any adverse effect that the proposed collection, use or disclosure of the personal data for the relevant purpose is likely to have on the individual;
 - (b) identify and implement reasonable measures —
 - (i) to eliminate the adverse effect;
 - (ii) to reduce the likelihood that the adverse effect will occur; or
 - (iii) to mitigate the adverse effect; and
 - (c) comply with any other prescribed requirements.”.

Repeal and re-enactment of section 17

8. Section 17 of the principal Act is repealed and the following section substituted therefor:

“Collection, use and disclosure without consent

- 17.—(1) An organisation may —
- (a) collect personal data about an individual, without the consent of the individual or from a source other than the individual, in the circumstances or for the purposes, and subject to any condition, in the First Schedule or Part 1 of the Second Schedule;
 - (b) use personal data about an individual without the consent of the individual, in the circumstances or for

the purposes, and subject to any condition, in the First Schedule or Part 2 of the Second Schedule; or

- (c) disclose personal data about an individual without the consent of the individual, in the circumstances or for the purposes, and subject to any condition, in the First Schedule or Part 3 of the Second Schedule.

(2) Unless otherwise provided under this Act, an organisation may —

- (a) collect personal data about an individual that was disclosed to the organisation in accordance with subsection (1)(c) for purposes consistent with the purpose of that disclosure; or

- (b) use or disclose personal data about an individual that was collected by the organisation in accordance with subsection (1)(a) for purposes consistent with the purpose of that collection.

(3) To avoid doubt, subsection (1)(b) and (c) applies to personal data about an individual in the possession or under the control of an organisation regardless of the circumstances under, or the purpose for, which the organisation collected the personal data.”.

Amendment of section 20

9. Section 20(3) of the principal Act is amended by deleting the words “section 15” in paragraph (a) and substituting the words “section 15 or 15A”.

Amendment of section 21

10. Section 21 of the principal Act is amended —

- (a) by deleting the words “An organisation” in subsection (3) and substituting the words “Subject to subsection (3A), an organisation”;
- (b) by inserting, immediately after subsection (3), the following subsection:

“(3A) Subsection (3)(c) and (d) does not apply to any user activity data about, or any user-provided data from, the individual who made the request despite such data containing personal data about another individual.”;

5 (c) by deleting subsection (4) and substituting the following subsection:

“(4) An organisation must not inform any individual under subsection (1)(b) that the organisation has disclosed personal data about the individual to a prescribed law enforcement agency if the disclosure was made without the consent of the individual under this Act or any other written law.”; and

(d) by inserting, immediately after subsection (5), the following subsections:

15 “(6) Where, by reason of subsection (2) or (3), an organisation does not provide an individual with the individual’s personal data or other information requested under subsection (1), the organisation must, within the prescribed time and in accordance with the prescribed requirements, notify the individual of the rejection.

20 (7) Where an organisation provides an individual, in accordance with subsection (5), with the individual’s personal data or other information requested under subsection (1), the organisation must notify the individual of the exclusion of any personal data or other information so requested under subsection (2) or (3).”.

Repeal and re-enactment of section 24

11. Section 24 of the principal Act is repealed and the following section substituted therefor:

30 **“Protection of personal data**

24. An organisation must protect personal data in its possession or under its control by making reasonable security arrangements to prevent —

- (a) unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks; and
- (b) the loss of any storage medium or device on which personal data is stored.”.

5 **New Part VIA**

12. The principal Act is amended by inserting, immediately after section 26, the following Part:

“PART VIA

NOTIFICATION OF DATA BREACHES

10 **Interpretation of this Part**

26A. In this Part, unless the context otherwise requires —

“affected individual” means any individual to whom any personal data affected by a data breach relates;

“data breach”, in relation to personal data, means —

- 15 (a) the unauthorised access, collection, use, disclosure, copying, modification or disposal of personal data; or
 - (b) the loss of any storage medium or device on which personal data is stored in circumstances where the unauthorised access, collection, use, disclosure, copying, modification or disposal of the personal data is likely to occur.
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Notifiable data breaches

25 **26B.**—(1) A data breach is a notifiable data breach if the data breach —

- (a) results in, or is likely to result in, significant harm to the affected individual; or
- (b) affects not fewer than the minimum number of affected individuals prescribed.

(2) Without limiting subsection (1)(a), a data breach is deemed to be likely to result in significant harm to an individual if the data breach affects any prescribed class of personal data relating to the individual.

5 **Duty to conduct assessment of data breach**

26C.—(1) Subject to subsection (2), where an organisation has reason to believe that a data breach has occurred affecting personal data in its possession or under its control, the organisation must conduct, in a reasonable and expeditious
10 manner, an assessment of whether the data breach is a notifiable data breach.

(2) Where a data intermediary has reason to believe that a data breach has occurred in relation to personal data that the data intermediary is processing on behalf of and for the purposes of
15 another organisation —

- (a) the data intermediary must, without undue delay, notify the other organisation of the occurrence of the data breach; and
- (b) the other organisation must, upon notification by the
20 data intermediary, conduct an assessment of whether the data breach is a notifiable data breach in accordance with subsection (1).

(3) The organisation must carry out the assessment mentioned in subsection (1) in accordance with any prescribed
25 requirements.

Duty to notify occurrence of notifiable data breach

26D.—(1) Where an organisation assesses, in accordance with section 26C, that a data breach is a notifiable data breach, the organisation must notify the Commission as soon as is
30 practicable, but in any case no later than 3 days after the day the organisation makes that assessment.

(2) Subject to subsections (4), (6) and (7), the organisation must also notify, on or after notifying the Commission under

subsection (1), each affected individual to whom significant harm results or is likely to result from a notifiable data breach in any manner that is reasonable in the circumstances.

(3) The notification under subsection (1) or (2) must —

- 5 (a) contain all the information that is prescribed for this purpose; and
- (b) be made in the form and submitted in the manner required by the Commission.

10 (4) Subsection (2) does not apply to an organisation in relation to an affected individual if the organisation takes any action, in accordance with any prescribed requirements, that renders it unlikely that the notifiable data breach will result in significant harm to the affected individual.

15 (5) Without limiting subsection (4), subsection (2) does not apply to an organisation in relation to an affected individual if the organisation had implemented, prior to the occurrence of the notifiable data breach, any technological measure that renders it unlikely that the notifiable data breach will result in significant harm to the affected individual.

20 (6) An organisation must not notify any affected individual in accordance with subsection (2) if —

- (a) a prescribed law enforcement agency so instructs; or
- (b) the Commission so directs.

25 (7) The Commission may, on the written application of an organisation, waive the requirement to notify an affected individual under subsection (2) subject to any conditions that the Commission considers fit.

30 (8) An organisation that notifies the Commission under subsection (1), or an affected individual under subsection (2), is not to be regarded as being in breach of —

- (a) any duty or obligation under any written law or rule of law, or any contract, as to secrecy or other restriction on the disclosure of information; or

(b) any rule of professional conduct applicable to the organisation.

(9) Despite section 4(6)(b), subsections (1) and (2) do not affect any obligation of the organisation under other written law to notify any other person (including any public agency) of the occurrence of a data breach, or to provide any information relating to a data breach.”

New Part VIB

13. The principal Act is amended by inserting, immediately after section 26D, the following Part:

“PART VIB

DATA PORTABILITY

Interpretation and application of this Part

26E.—(1) In this Part, unless the context otherwise requires —

“applicable country” means a country or territory outside Singapore that is prescribed;

“applicable data”, in relation to a porting organisation, means any personal data in the possession or under the control of the porting organisation that is, or belongs to a class of personal data that is, prescribed;

“data porting request” has the meaning given by section 26G(1);

“porting organisation” means an organisation that is, or that belongs to a class of organisation that is, prescribed;

“receiving organisation” means an organisation that receives applicable data from a porting organisation, where the organisation is —

(a) formed or recognised under the law of Singapore or an applicable country; or

(b) resident, or has an office or a place of business, in Singapore or an applicable country;

(2) This Part applies only to applicable data that —

(a) is in electronic form on the date the porting organisation receives a data porting request relating to the applicable data; and

5 (b) was collected or created by the porting organisation within the prescribed period before the date the porting organisation receives the data porting request relating to that applicable data.

10 (3) For the purposes of subsection (2)(b), different periods may be prescribed for different applicable data or porting organisations.

15 (4) This Part applies to applicable data that is the subject of a data porting request regardless of whether the applicable data is stored or processed in, or transmitted from, Singapore or a country or territory other than Singapore.

Purpose of this Part

26F. The purpose of this Part is to —

(a) provide individuals with greater autonomy and control over their personal data; and

20 (b) facilitate the innovative and more intensive use of specified personal data in the possession or under the control of organisations to support the development, enhancement and refinement of products and services provided by other organisations located or operating in
25 Singapore or elsewhere.

Porting of applicable data

30 **26G.**—(1) An individual may give a porting organisation a request (called a data porting request) that the porting organisation transmits to a receiving organisation any applicable data specified in the data porting request.

(2) Subject to subsections (3), (5) and (6), the porting organisation must, upon receiving the data porting request, transmit the applicable data specified in the data porting request

to the receiving organisation in accordance with any requirements prescribed.

(3) Subsection (2) applies only if the following are satisfied:

- 5
- (a) the data porting request satisfies any requirements prescribed;
 - (b) the porting organisation, at the time it receives the data porting request, has an ongoing relationship with the individual.

10 (4) For the purposes of subsection (3)(b), the porting organisation, in determining whether an ongoing relationship with the individual exists, must have regard to any matters prescribed.

15 (5) A porting organisation is not required to transmit any applicable data about an individual under subsection (2) if the data porting request relates to any excluded class of applicable data prescribed.

(6) A porting organisation must not transmit any applicable data about an individual under subsection (2) if —

- 20
- (a) the transmission of the applicable data can reasonably be expected to —
 - (i) threaten the safety, or physical or mental health, of an individual other than the individual to whom the applicable data relates;
 - (ii) cause immediate or grave harm to the safety, or physical or mental health, of the individual to whom the applicable data relates; or
 - (iii) be contrary to the national interest;
 - (b) the receiving organisation to which the applicable data is to be transmitted is, or belongs to a class of organisation that is, prescribed to be an excluded receiving organisation; or
 - (c) the Commission directs the porting organisation not to transmit the applicable data.
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(7) If a porting organisation for any reason does not transmit any applicable data about an individual under subsection (2), the porting organisation must, within the prescribed time and in accordance with the prescribed requirements, notify the individual of the refusal.

(8) To avoid doubt, subsection (2) does not affect any prohibition or restriction on the disclosure of any personal data in the possession or under the control of an organisation under any other written law.

Transmission of personal data under data porting request

26H.—(1) This section applies where giving effect to a data porting request in respect of applicable data about an individual (*P*) under section 26G(2) would transmit personal data about another individual (*T*) to a receiving organisation.

(2) A porting organisation may disclose personal data about *T* to a receiving organisation without *T*'s consent only if the data porting request —

(a) is made in *P*'s personal or domestic capacity; and

(b) relates to *P*'s user activity data or user-provided data.

(3) A receiving organisation which receives from a porting organisation any personal data about *T* under subsection (1) must use that personal data only for the purpose of providing any goods or service to *P*.”.

Amendment of heading to Part VII

14. Part VII of the principal Act is amended by deleting the words “OF PARTS III TO VI” in the Part heading.

Amendment of section 27

15. Section 27 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) If the Commission is of the opinion that any complaint by an individual against an organisation may more appropriately be resolved by mediation, the Commission may, without the consent of the complainant and the organisation, refer the matter to mediation under a mediation scheme.”; and

(b) by inserting, immediately after subsection (2), the following subsections:

“(3) For the purposes of subsection (1), the Commission may establish or approve one or more mediation schemes for the resolution of complaints by individuals against organisations.

(4) The Commission may, with the approval of the Minister, make regulations under section 65 to provide for matters relating to the operations of an operator of a mediation scheme, including —

- (a) the standards or requirements of the services provided under the mediation scheme;
- (b) the fees that the operator may charge for the services provided under the mediation scheme;
- (c) the records that the operator must keep, and the period of retention of those records;
- (d) the reports that the operator must submit to the Commission, and the manner and time for those submissions;
- (e) matters relating to the administration of the mediation scheme; and
- (f) generally to give effect to or for carrying out the purposes of subsections (1) and (3).”.

Amendment of section 28

16. Section 28 of the principal Act is amended —

- (a) by inserting, immediately after the words “personal data” in subsection (1)(a), the words “or other information”;

- (b) by deleting the word “or” at the end of subsection (1)(b);
- (c) by deleting the full stop at the end of paragraph (c) of subsection (1) and substituting the word “; or”, and by inserting immediately thereafter the following paragraphs:

5 “(d) a refusal to transmit any applicable data pursuant to a data porting request under section 26G, or a failure to transmit the applicable data within a reasonable time; or

10 (e) a fee required by an organisation in relation to a data porting request by the complainant under section 26G.”;

- (d) by deleting the word “or” at the end of subsection (2)(b); and

15 (e) by deleting the full stop at the end of paragraph (c) of subsection (2) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

 “(d) confirm the refusal to transmit the applicable data, or direct the organisation to transmit the applicable data, in the manner and within the time specified by the Commission.”.

20 **Amendment of section 29**

17. Section 29 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting the following subsection:

 “(1) The Commission may, if it is satisfied that —

25 (a) an organisation has not complied or is not complying with any provision in Part III, IV, V or VI; or

 (b) a person has not complied or is not complying with any provision in Part IX or IXA,

30 give the organisation or person (as the case may be) any direction that the Commission thinks fit in the circumstances to ensure compliance with that provision.”;

(b) by deleting the words “Parts III to VI, give the organisation” in subsection (2) and substituting the words “any provision of this Act (except Parts II, VIII and X), give the organisation or person (as the case may be)”;

5 (c) by deleting paragraph (d) of subsection (2) and substituting the following paragraph:

“(d) to pay a financial penalty of such amount as the Commission thinks fit, in accordance with subsection (2A).”; and

10 (d) by inserting, immediately after subsection (2), the following subsection:

“(2A) For the purposes of subsection (2)(d), the amount of the financial penalty must not exceed —

15 (a) where the direction is given to an organisation or a person with an annual turnover exceeding \$10 million (as ascertained from the most recent audited accounts of the organisation or person available at the time the direction is given), and the failure to comply that is the subject of the direction occurs on or after the date of commencement of section [17] of the Personal Data Protection (Amendment) Act 2020 — 10% of the annual turnover; or

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(b) in any other case — \$1 million.”.

25 **New section 31A**

18. The principal Act is amended by inserting, immediately after section 31, the following section:

“Voluntary undertakings

30 **31A.**—(1) Without affecting sections 29(1) and (2) and 50(1), where the Commission has reasonable grounds to believe that —

(a) an organisation has not complied, is not complying or is likely not to comply with any provision in Part III, IV, V or VI; or

(b) a person has not complied, is not complying or is likely not to comply with any provision in Part IX or IXA, the organisation or person concerned may give, and the Commission may accept, a written voluntary undertaking.

5 (2) Without limiting the matters to which the voluntary undertaking may relate, the voluntary undertaking may include any of the following undertakings by the organisation or person:

- (a) an undertaking to take specified action within a specified time;
- 10 (b) an undertaking to refrain from taking specified action;
- (c) an undertaking to publicise the voluntary undertaking.

(3) Subject to subsection (4), the Commission may, after accepting the voluntary undertaking and with the agreement of the organisation or person who gave the voluntary undertaking —

- (a) vary the terms of any undertaking included in the voluntary undertaking; or
- (b) include, in the voluntary undertaking, any additional undertaking mentioned in subsection (2).

20 (4) Where an organisation or a person fails to comply with any undertaking in a voluntary undertaking, the Commission may give the organisation or person any direction that the Commission thinks fit in the circumstances to ensure the compliance of the organisation or person with that undertaking.

25 (5) In addition, where an organisation or a person fails to comply with an undertaking mentioned in subsection (2)(c), the Commission may publicise the voluntary undertaking in accordance with the undertaking, and recover the costs and expenses so incurred from the organisation or person as a civil debt due to the Commission.”

New section 32A

19. The principal Act is amended by inserting, immediately after section 32, the following section:

“Preservation of copies of personal data or applicable data

32A.—(1) Where —

(a) an organisation refuses to provide access to personal data requested by an individual under section 21(1)(a);
5 or

(b) a porting organisation refuses to transmit any applicable data about an individual in the possession or under the control of the porting organisation pursuant to a data porting request under section 26G,

10 the organisation or porting organisation (as the case may be) must preserve, for not less than the prescribed period, a copy of the personal data or applicable data concerned, as the case may be.

15 (2) Where a porting organisation transmits any applicable data about an individual in the possession or under the control of the porting organisation pursuant to a data porting request under section 26G, the porting organisation must preserve a copy of that applicable data for not less than the prescribed period.

20 (3) The organisation or porting organisation (as the case may be) must ensure that the copy of the personal data or applicable data (as the case may be) it preserves for the purposes of this section is a complete and accurate copy of the personal data or applicable data concerned.”.

New Part VIIIA

25 **20.** The principal Act is amended by inserting, immediately after section 35, the following Part:

“PART VIIIA

OFFENCES AFFECTING PERSONAL DATA AND
ANONYMISED INFORMATION

30 **Interpretation of this Part**

35A. In this Part, unless the context otherwise requires —

“disclose”, in relation to personal data, includes providing access to personal data;

“gain”, in relation to an individual, means —

- 5
- (a) a gain in property or a supply of services, whether temporary or permanent; or
 - (b) an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of remuneration;

“harm”, in relation to an individual, means —

- 10
- (a) any physical harm; or
 - (b) harassment, alarm or distress caused to the individual;

“loss”, in relation to an individual, means —

- 15
- (a) a loss in property or a supply of services, whether temporary or permanent; or
 - (b) a loss of an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of remuneration,
- 20 but excludes the loss of personal data about the individual;

“Monetary Authority of Singapore” means the Monetary Authority of Singapore established under section 3 of the Monetary Authority of Singapore Act (Cap. 186);

25 “relevant public official” has the meaning given by section 7(5) of the Public Sector (Governance) Act 2018 (Act 5 of 2018);

“Singapore public sector agency” has the meaning given by section 2(1) of the Public Sector (Governance) Act 2018.

Unauthorised disclosure of personal data

30 **35B.**—(1) If —

- (a) an individual discloses, or the individual's conduct causes disclosure of, personal data in the possession or under the control of an organisation or a public agency to another person;
- 5 (b) the disclosure is not authorised by the organisation or public agency, as the case may be; and
- (c) the individual does so —
- (i) knowing that the disclosure is not authorised by the organisation or public agency, as the case may be;
- 10 or
- (ii) reckless as to whether the disclosure is or is not authorised by the organisation or public agency, as the case may be,

15 the individual shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) In proceedings for an offence under subsection (1), it is a defence to the charge for the accused to prove, on a balance of probabilities, any of the following:

- 20 (a) that —
- (i) the personal data in the possession or under the control of an organisation or a public agency (as the case may be) that was disclosed was, at the time of the disclosure, publicly available; and
- 25 (ii) where the personal data was publicly available solely because of an applicable contravention, the accused did not know, and was not reckless as to whether, that was the case;
- (b) the accused disclosed, or caused the disclosure of,
- 30 personal data in the possession or under the control of the organisation or public agency (as the case may be) —

- (i) as permitted or required by or under an Act or other law (apart from this Act);
- (ii) as authorised or required by an order of court; or
- (iii) in the reasonable belief that, and was not reckless as to whether, the accused had the legal right to do so.

(3) In this section —

“applicable contravention” means a contravention of any of the following:

- (a) subsection (1);
- (b) section 35D(1) of this Act;
- (c) section 7(1) or 8(1) of the Public Sector (Governance) Act 2018;
- (d) section 14(1) or 14B(1) of the Monetary Authority of Singapore Act;

“individual” excludes an individual who —

- (a) at the time the individual discloses or causes the disclosure of personal data in the possession or under the control of a Singapore public sector agency, is a relevant public official of any Singapore public sector agency; or
- (b) at the time the individual discloses or causes the disclosure of personal data in the possession or under the control of the Monetary Authority of Singapore, is a director, an officer, an employee, a consultant or an agent of the Monetary Authority of Singapore.

Improper use of personal data

35C.—(1) If —

- (a) an individual makes use of personal data in the possession or under the control of an organisation or a public agency;

- (b) the use is not authorised by the organisation or public agency, as the case may be;
- (c) the individual does so —
- 5 (i) knowing that the use is not authorised by the organisation or public agency, as the case may be; or
- (ii) reckless as to whether the use is or is not authorised by the organisation or public agency, as the case may be; and
- 10 (d) the individual, as a result of that use —
- (i) obtains a gain for himself or another person; or
- (ii) causes harm or a loss to another person,

15 the individual shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

(2) In proceedings for an offence under subsection (1), it is a defence to the charge for the accused to prove, on a balance of probabilities, any of the following:

- (a) that —
- 20 (i) the personal data in the possession or under the control of an organisation or a public agency that was disclosed was, at the time of the disclosure, publicly available; and
- (ii) where the personal data was publicly available
- 25 solely because of an applicable contravention, the accused did not know, and was not reckless as to whether, that was the case;
- (b) the accused used the personal data in the possession or under the control of the organisation or public agency
- 30 (as the case may be) —
- (i) as permitted or required by or under an Act or other law (apart from this Act);

- (ii) as authorised or required by an order of court; or
- (iii) in the reasonable belief that, and was not reckless as to whether, the accused had the legal right to do so.

5 (3) In this section —

“applicable contravention” means a contravention of any of the following:

- (a) section 35B(1) or 35D(1) of this Act;
- 10 (b) section 7(1) or 8(1) of the Public Sector (Governance) Act 2018;
- (c) section 14(1) or 14A(1) of the Monetary Authority of Singapore Act;

“individual” excludes an individual who —

- 15 (a) at the time the individual makes use of personal data in the possession or under the control of a Singapore public sector agency, is a relevant public official of any Singapore public sector agency; or
- (b) at the time the individual makes use of personal data in the possession or under the control of the Monetary Authority of Singapore, is a director, an officer, an employee, a consultant or an agent of the Monetary Authority of Singapore.

Unauthorised re-identification of anonymised information

35D.—(1) If —

- 25 (a) an individual takes any action to re-identify or cause re-identification of the person to whom anonymised information in the possession of or under the control of an organisation or a public agency relates (called in this section the affected person);
- 30 (b) the re-identification is not authorised by the organisation or public agency, as the case may be; and
- (c) the individual does so —

(i) knowing that the re-identification is not authorised by the organisation or public agency, as the case may be; or

5 (ii) reckless as to whether the re-identification is or is not authorised by the organisation or public agency, as the case may be,

the individual shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both.

10 (2) In proceedings for an offence under subsection (1), it is a defence to the charge for the accused to prove, on a balance of probabilities, any of the following:

(a) that —

15 (i) the information on the identity is publicly available; and

(ii) where that information was publicly available solely because of an applicable contravention, the accused did not know, and was not reckless as to whether, that was the case;

20 (b) the action to re-identify or cause re-identification is —

(i) permitted or required by or under an Act or other law (apart from this Act); or

(ii) authorised or required by an order of court;

(c) the accused —

25 (i) reasonably believed that the re-identification was for a specified purpose; and

(ii) notified the Commission or the organisation or public agency (as the case may be) of the re-identification as soon as is practicable;

30 (d) the accused took the action to re-identify or cause re-identification in the reasonable belief that, and was not reckless as to whether, the accused had the legal right to do so, other than for a specified purpose.

(3) In this section —

“applicable contravention” means a contravention of any of the following:

- (a) section 35D(1) of this Act;
- 5 (b) section 8(1) of the Public Sector (Governance) Act 2018;
- (c) section 14B(1) of the Monetary Authority of Singapore Act;

“individual” excludes an individual who —

- 10 (a) at the time the individual takes any action to re-identify or cause re-identification of the affected person, is a relevant public official of any Singapore public sector agency; or
- 15 (b) at the time the individual takes any action to re-identify or cause re-identification of the affected person, is a director, an officer, an employee, a consultant or an agent of the Monetary Authority of Singapore;

“specified purpose” means any prescribed purpose.”.

20 **Amendment of section 36**

21. Section 36(1) of the principal Act is amended by inserting, immediately after the definition of “calling line identity”, the following definition:

“ “checker” means a person mentioned in section 43A(1);”.

25 **Amendment of section 37**

22. Section 37 of the principal Act is amended —

- (a) by deleting subsections (1) and (2) and substituting the following subsections:

30 “(1) Subject to subsection (5), for the purposes of this Part, a specified message is a message where, having regard to the following, it would be concluded that the

purpose, or one of the purposes, of the message is a specified purpose:

- (a) the content of the message;
- (b) the presentational aspects of the message;
- 5 (c) the content that can be obtained using the numbers, URLs or contact information (if any) mentioned in the message;
- (d) if the telephone number from which the message is made is disclosed to the recipient (whether by calling line identity or otherwise), the content (if
- 10 (any) that can be obtained by calling that number.

(2) For the purposes of subsection (1), where the specified purpose relates to information about any goods, services, land, interest in land, business opportunity or investment opportunity, it does not matter whether or

15 not —

- (a) the goods, services, land, interest or opportunity exists; or
- (b) it is lawful to acquire the goods, services, land or interest or take up the opportunity.”; and
- 20

(b) by inserting, immediately after subsection (5), the following subsection:

“(6) In this section, “specified purpose” means a purpose prescribed under section 65.”.

25 **Amendment of section 43**

23. Section 43 of the principal Act is amended —

- (a) by deleting the words “No person shall,” in subsection (1) and substituting the words “Subject to subsection (2), a person must not,”;
- 30 (b) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) A person is deemed to have complied with subsection (1) if the person —

5 (a) before sending a specified message addressed to a Singapore telephone number, is informed by a checker that the Singapore telephone number is not listed in the relevant register; and

 (b) has no reason to believe that, and is not reckless as to whether, the information provided by the checker is false or inaccurate.

10 (3) A person does not contravene subsection (1) if the subscriber or user of the Singapore telephone number to which a specified message is sent —

 (a) gave clear and unambiguous consent to the sending of the specified message to that Singapore telephone number; and

 (b) the consent is evidenced in written or other form so as to be accessible for subsequent reference.”; and

20 (c) by inserting, immediately after the words “this section” in subsection (4), the words “and section 43A”.

New section 43A

24. The principal Act is amended by inserting, immediately after section 43, the following section:

“Duty of checkers

25 **43A.**—(1) This section applies to a person (called the checker) other than the Commission who —

 (a) for reward, provides to another person (*P*) the Commission’s reply to the checker’s application under section 40(2) to confirm whether a Singapore telephone number is listed in the relevant register (called in this section the applicable information) for the purpose of *P*’s compliance with section 43(1); and

30

(b) is not an employee of *P*.

(2) To avoid doubt, subsection (1) also applies to a person who both provides the applicable information to *P* and retains or uses that information for the person's own purposes.

5 (3) A checker must accurately communicate the applicable information to *P* in accordance with any prescribed requirements.

(4) A checker is deemed to have complied with subsection (3) if —

10 (a) the applicable information the checker provides to *P* is in accordance with a reply from the Commission given within the specified period before, on or after the date the applicable information is provided by the checker; and

15 (b) the checker has no reason to believe that, and is not reckless as to whether, the applicable information is false or inaccurate.”.

Amendment of section 44

20 **25.** Section 44 of the principal Act is amended by deleting subsection (2).

Amendment of section 45

26. Section 45 of the principal Act is amended by deleting subsection (2).

New Part IXA

25 **27.** The principal Act is amended by inserting, immediately after section 48, the following Part:

“PART IXA

DICTIONARY ATTACKS AND ADDRESS-HARVESTING
SOFTWARE

Interpretation of this Part

- 5 **48A.**—(1) In this Part, unless the context otherwise requires —
 “address-harvesting software” means software that is
 specifically designed or marketed for use for —
 (a) searching the Internet for telephone numbers; and
 (b) collecting, compiling, capturing or otherwise
 10 harvesting those telephone numbers;
 “applicable message” means a message sent to any telephone
 number;
 “dictionary attack” means the method by which the
 telephone number of a recipient is obtained using an
 15 automated means that generates possible telephone
 numbers by combining numbers into numerous
 permutations;
 “message”, “send”, “sender” and “Singapore telephone
 number” have the meanings given by section 36(1).
 20 (2) For the purposes of the definition of “applicable message”,
 it does not matter —
 (a) whether the telephone number to which the message is
 sent is a Singapore telephone number;
 (b) whether that telephone number exists; or
 25 (c) whether the message reaches its intended destination.

Application of this Part

- 48B.**—(1) This Part applies to any applicable message that has
 a Singapore link.
 (2) For the purposes of subsection (1), an applicable message
 30 has a Singapore link in any of the following circumstances:

- (a) the message originates in Singapore;
- (b) the sender of the message —
 - (i) where the sender is an individual — is physically present in Singapore when the message is sent; or
 - 5 (ii) in any other case —
 - (A) is formed or recognised under the law of Singapore; or
 - (B) has an office or a place of business in Singapore;
- 10 (c) the telephone, mobile telephone or device that is used to access the message is located in Singapore;
- (d) the recipient of the message —
 - (i) where the recipient is an individual — is physically present in Singapore when the message is
 - 15 accessed; or
 - (ii) in any other case — carries on business or activities in Singapore when the message is accessed;
- 20 (e) if the message cannot be delivered because the telephone number has ceased to exist (assuming that the telephone number existed), it is reasonably likely that the message would have been accessed using a telephone, mobile telephone or device located in Singapore.

25 **Prohibition on use of dictionary attacks and address-harvesting software**

48C. A person must not send, cause to be sent, or authorise the sending of an applicable message to any telephone number generated or obtained through the use of —

- 30 (a) a dictionary attack; or
- (b) address-harvesting software.

Defence for employees

5 **48D.**—(1) Subject to subsection (2), in any proceedings for an offence under this Part brought against any employee (*P*) in respect of an act or a conduct alleged to have been done or engaged in (as the case may be) by *P*, it is a defence for *P* to prove that *P* did the act or engaged in the conduct in good faith —

(a) in the course of *P*'s employment; or

10 (b) in accordance with instructions given to *P* by or on behalf of *P*'s employer in the course of *P*'s employment.

(2) Subsection (1) does not apply to an employee who, at the time the act was done or the conduct was engaged in, was an officer and it is proved that —

15 (a) the act was done or the conduct was engaged in with the consent or connivance of that officer; or

(b) the act done or the conduct engaged in was attributable to any neglect on the part of that officer.

20 (3) In subsection (2), “officer” has the meaning given by section 52(5).”.

Amendment of section 50

28. Section 50 of the principal Act is amended —

25 (a) by deleting the words “whether an organisation is not complying with this Act” in subsection (1) and substituting the words “whether or not an organisation or a person is complying with this Act, including a voluntary undertaking given under section 31A(1)”;

(b) by inserting, immediately after paragraph (c) of subsection (3), the following paragraph:

30 “(ca) the Commission accepts a voluntary undertaking given by an organisation or a person under section 31A(1) in relation to the matter;” and

(c) by inserting, immediately after subsection (3), the following subsection:

5 “(3A) To avoid doubt, despite subsection (3)(ca), the Commission may conduct or resume an investigation under this section at any time if an organisation or a person fails to comply with a voluntary undertaking given under section 31A(1) in relation to any matter.”.

Amendment of section 51

29. Section 51 of the principal Act is amended —

10 (a) by deleting subsection (1) and substituting the following subsections:

“(1) A person shall be guilty of an offence if the person —

15 (a) makes a request under section 21(1) to obtain access to personal data about another individual without the authority of that individual;

(b) makes a request under section 22(1) to change personal data about another individual without the authority of that individual; or

20 (c) subject to subsection (1A), gives a porting organisation a data porting request under section 26G(1) to transmit personal data about another individual to a receiving organisation without the authority of that individual.

25 (1A) An individual who gives a porting organisation a data porting request to transmit any user activity data or user-provided data about that individual to a receiving organisation does not commit an offence under subsection (1)(c) merely because the porting organisation, when giving effect to that data porting request under
30 section 26G(2), transmits or may transmit personal data about another individual to the receiving organisation.”;

(b) by deleting the word “or” at the end of paragraph (b) of subsection (3), and by inserting immediately thereafter the following paragraphs:

5 “(ba) without reasonable excuse, neglects or refuses to provide any information or produce any document which the organisation or person is required by or under this Act to provide or produce to the Commission or an inspector;

10 (bb) neglects or refuses to attend before the Commission or an inspector as required by or under this Act; or”; and

(c) by deleting the words “subsection (3)(b) or (c)” in subsection (5) and substituting the words “subsection (3)(b), (ba), (bb) or (c)”.

15 **Amendment of section 65**

30. Section 65(2) of the principal Act is amended —

(a) by inserting, immediately after paragraph (b), the following paragraph:

20 “(ba) the form, manner and procedures relating to notifiable data breaches, including —

(i) the categories of personal data which, if affected by a data breach, are deemed to be likely to result in significant harm to the individual to whom the personal data relates;

25

(ii) the steps and measures that an organisation must take in relation to the investigation and assessment of data breaches; and

30 (iii) the form and manner in which the Commission and affected individuals must be notified of notifiable data breaches;

(bb) the form, manner and procedures relating to data porting requests, including —

- (i) the information and particulars that must be provided for such requests;
 - (ii) the period for and content of a porting organisation's responses to such requests;
 - 5 (iii) the steps that a receiving organisation must take to confirm the accessibility and completeness of any applicable data transmitted by a porting organisation; and
 - 10 (iv) the fees that a porting organisation may charge in respect of such requests;"; and
- (b) by deleting the full stop at the end of paragraph (m) and substituting a semi-colon, and by inserting immediately thereafter the following paragraph:
- 15 “(n) the requirements that checkers must comply with for the purposes of this Act.”.

New First Schedule

31. The principal Act is amended by inserting, immediately after section 68, the following Schedule:

FIRST SCHEDULE

20

Sections 17(1) and 21(4)

COLLECTION, USE AND DISCLOSURE OF PERSONAL DATA WITHOUT CONSENT

PART 1

VITAL INTERESTS OF INDIVIDUALS

25

1. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for any purpose which is clearly in the interests of the individual, if —

- (a) consent for the collection, use or disclosure (as the case may be) cannot be obtained in a timely way; or
- 30 (b) the individual would not reasonably be expected to withhold consent.

2. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary to respond to an emergency that threatens the life, health or safety of the individual or another individual.

3.—(1) Subject to sub-paragraph (2) —

- 5 (a) consent for the collection, use or disclosure (as the case may be) of personal data about an individual cannot be obtained in a timely way; and
- (b) there are reasonable grounds to believe that the health or safety of the individual or another individual will be seriously affected.

10 (2) Where the organisation collects, uses or discloses (as the case may be) personal data about the individual under sub-paragraph (1), the organisation must, as soon as is practicable, notify the individual of the collection, use or disclosure (as the case may be) and the purpose for the collection, use or disclosure, as the case may be.

15 4. The collection, use or disclosure is for the purpose of contacting the next-of-kin or a friend of any injured, ill or deceased individual.

PART 2

MATTERS AFFECTING THE PUBLIC

20 1. The collection, use or disclosure (as the case may be) of personal data about an individual that is publicly available.

 2. The collection, use or disclosure (as the case may be) of personal data about an individual is in the national interest.

 3. The collection, use or disclosure (as the case may be) of personal data about an individual is solely for artistic or literary purposes.

25 4. The collection, use or disclosure (as the case may be) of personal data about an individual is solely for archival or historical purposes, if a reasonable person would not consider the personal data to be too sensitive to the individual to be collected, used or disclosed (as the case may be) at the proposed time.

30 5.—(1) The personal data about an individual is collected, used or disclosed (as the case may be) by a news organisation solely for its news activity.

 (2) In this paragraph —

35 “broadcasting service” has the meaning given by section 2(1) of the Broadcasting Act (Cap. 28);

 “news activity” means —

- (a) the gathering of news, or the preparation or compilation of articles or programmes of or concerning news, observations on news, or current affairs, for the purposes of dissemination to the public or any section of the public; or
- 5 (b) the dissemination, to the public or any section of the public, of any article or programme of or concerning —
- (i) news;
 - (ii) observations on news; or
 - (iii) current affairs;

10 “news organisation” means —

- (a) any organisation —
 - (i) the business of which consists, in whole or in part, of news activity carried out in relation to a relevant broadcasting service, a newswire service or the publication of a newspaper; and
 - (ii) which, if the organisation publishes a newspaper in Singapore within the meaning of section 8(1) of the Newspaper and Printing Presses Act (Cap. 206), is required to be a newspaper company within the meaning of Part III of that Act; or
- (b) any organisation which provides a broadcasting service in or from Singapore and holds a broadcasting licence granted under section 8 of the Broadcasting Act;

25 “newspaper” has the meaning given by section 2(1) of the Newspaper and Printing Presses Act;

“relevant broadcasting service” means any of the following licensable broadcasting services within the meaning of the Broadcasting Act:

- (a) free-to-air nationwide television services;
- (b) free-to-air localised television services;
- 30 (c) free-to-air international television services;
- (d) subscription nationwide television services;
- (e) subscription localised television services;
- (f) subscription international television services;
- (g) special interest television services;
- 35 (h) free-to-air nationwide radio services;

- (i) free-to-air localised radio services;
- (j) free-to-air international radio services;
- (k) subscription nationwide radio services;
- (l) subscription localised radio services;
- 5 (m) subscription international radio services;
- (n) special interest radio services.

PART 3

LEGITIMATE INTERESTS OF ORGANISATIONS

- 1.—(1) Subject to sub-paragraphs (2) and (4) —
- 10 (a) the collection, use or disclosure (as the case may be) of personal data about an individual is in the legitimate interests of the organisation; and
 - (b) the benefit to the public or any section of the public of the collection, use or disclosure (as the case may be) is greater than
15 any adverse effect on the individual.
- (2) For the purposes of sub-paragraph (1), the organisation must —
- (a) conduct an assessment, before collecting, using or disclosing the personal data (as the case may be), to determine whether sub-paragraph (1) is satisfied; and
 - 20 (b) inform the individual, in any reasonable manner, that it is collecting, using or disclosing personal data (as the case may be) in accordance with sub-paragraph (1).
- (3) The assessment mentioned in sub-paragraph (2)(a) must include the following matters:
- 25 (a) the identification of any adverse effect that the proposed disclosure, use or collection (as the case may be) of personal data about an individual is likely to have on the individual;
 - (b) the identification and implementation of any measure to eliminate the adverse effect, unless sub-paragraph (c) or (d) applies;
 - 30 (c) where it is not possible to eliminate the adverse effect, the identification and implementation of any measure to reduce the likelihood that the adverse effect will affect the individual;
 - (d) where it is not possible to eliminate the adverse effect or reduce the likelihood that the adverse effect will affect the individual, the
35 mitigation of the adverse effect.

(4) Sub-paragraph (1) does not apply to the collection, use or disclosure of personal data about an individual for the purpose of sending to that individual or any other individual a message for a specified purpose within the meaning given by section 37(6).

5 (5) In sub-paragraph 1(b), “benefit” includes any economic, social or security benefit to the public or a section of the public.

2. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for evaluative purposes.

10 3. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for any investigation or proceedings, if it is reasonable to expect that seeking the consent of the individual would compromise the availability or accuracy of the personal data.

15 4. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for the organisation to recover a debt owed by the individual to the organisation or for the organisation to pay to the individual a debt owed by the organisation.

5. The collection, use or disclosure (as the case may be) of personal data about an individual is necessary for the provision of legal services by the organisation to another person or for the organisation to obtain legal services.

20 6. The collection, use or disclosure (as the case may be) of personal data about an individual —

(a) is for the purpose of the preparation by a credit bureau of a credit report; or

25 (b) relates to a credit report provided by a credit bureau to a member of the credit bureau in relation to a transaction between the member and the individual.

7. The collection, use or disclosure (as the case may be) of personal data about an individual is —

30 (a) to confer an interest or a benefit on the individual under a private trust or benefit plan; and

(b) to administer that trust or benefit plan, at the request of the settlor or the person establishing the benefit plan, as the case may be.

8. The personal data about an individual —

35 (a) is provided to the organisation by another individual to enable the organisation to provide a service for the personal or domestic purposes of that other individual; and

(b) is collected, used or disclosed (as the case may be) by the organisation solely for the purpose in sub-paragraph (a).

9. The personal data about an individual —

(a) is included in a document produced in the course, and for the purposes, of the individual's employment, business or profession; and

5 (b) is collected, used or disclosed for purposes consistent with the purpose for which the document was produced.

10 10. The personal data about an individual is collected, used or disclosed (as the case may be) by the individual's employer, and the collection, use or disclosure (as the case may be) of the personal data is reasonable for the purpose of managing or terminating an employment relationship between the organisation and the individual.

11.—(1) Subject to the conditions in sub-paragraphs (2) to (5), the personal data about an individual —

15 (a) is collected by the organisation (*X*), being a party or a prospective party to a business asset transaction with another organisation (*Y*), from *Y*;

(b) is used or disclosed by *X* in relation to the business asset transaction with *Y*; or

(c) is disclosed by *Y* to *X* for the purposes of sub-paragraph (a).

20 (2) The personal data mentioned in sub-paragraph (1) must —

(a) be about an employee, a contractor, a customer, a director, an officer or a shareholder of *Y*; and

(b) relate to the part of *Y* or its business assets with which the business asset transaction is concerned.

25 (3) If *X* is a prospective party to a business asset transaction with *Y*—

(a) *X* must collect, and *Y* must disclose, only personal data that is necessary for *X* to determine whether to proceed with the business asset transaction; and

30 (b) *X* and *Y* must have entered into an agreement that requires *X* to use or disclose the personal data solely for purposes related to the business asset transaction.

(4) If *X* enters into the business asset transaction with *Y*, the following conditions apply:

35 (a) *X* must use or disclose the personal data *X* collected from *Y* only for the same purposes for which *Y* would have been permitted to use or disclose the personal data;

- (b) if any personal data *X* collected from *Y* does not relate directly to the part of *Y* or its business assets with which the business asset transaction entered into is concerned, *X* must destroy, or return to *Y*, that personal data;
- 5 (c) the employees, contractors, customers, directors, officers and shareholders whose personal data is disclosed must be notified that —
- (i) the business asset transaction has taken place; and
- (ii) the personal data about them has been disclosed to *X*.
- 10 (5) If a business asset transaction does not proceed or is not completed, *X* must destroy, or return to *Y*, all personal data collected.
- (6) In this paragraph, “business asset transaction” means the purchase, sale, lease, merger or amalgamation or any other acquisition, disposal or financing of an organisation or a portion of an organisation or of any of the
- 15 business or assets of an organisation other than the personal data mentioned in sub-paragraph (1).”.

Repeal of Second, Third and Fourth Schedules and substitution of new Second Schedule

- 20 **32.** The Second, Third and Fourth Schedules to the principal Act are repealed and the following Schedule substituted therefor:

“SECOND SCHEDULE

Sections 17(1) and 21(4)

ADDITIONAL BASES FOR COLLECTION, USE AND DISCLOSURE OF PERSONAL DATA WITHOUT INDIVIDUAL’S CONSENT

25

PART 1

COLLECTION OF PERSONAL DATA

1. The collection of personal data about an individual, if —
- (a) the personal data was disclosed by a public agency; and
- 30 (b) the collection of the personal data by the organisation is consistent with the purpose of the disclosure by the public agency.

PART 2

USE OF PERSONAL DATA

1. The use of personal data about an individual, if —

- (a) the personal data was disclosed by a public agency; and
- 5 (b) the use of the personal data by the organisation is consistent with the purpose of the disclosure by the public agency.

2.—(1) Subject to sub-paragraph (2), the use of personal data about an individual —

- 10 (a) to improve or enhance any goods or services provided by the organisation, or develop new goods or services;
- (b) to improve or enhance the methods or processes, or develop new methods or processes, for the operations of the organisation;
- (c) to learn about and understand the behaviour and preferences of the individual or any other customer of the organisation in relation to the goods or services provided by the organisation;
- 15 (d) to identify goods or services provided by the organisation that may be suitable for the customers of the organisation other than individual customers.

(2) Sub-paragraph (1) applies if, and only if —

- 20 (a) the purpose for which the organisation uses the personal data cannot reasonably be achieved without the use of the personal data in an individually identifiable form; and
- (b) the use of the personal data by the organisation does not have any adverse effect on the individual to whom the personal data relates.

25 3. The use of personal data about an individual for a research purpose (including historical or statistical research), if —

- (a) the research purpose cannot reasonably be accomplished unless the personal data is used in an individually identifiable form;
- 30 (b) the use of the personal data for the research purpose will not have an adverse effect on the individual;
- (c) the results of the research will not be used by the organisation in any way that has an adverse effect on the individual; and
- (d) in the event that the results of the research are published, the organisation must publish the results in a form that does not identify any individual.
- 35

PART 3

DISCLOSURE OF PERSONAL DATA WITHOUT CONSENT

1. The disclosure of personal data about an individual to a public agency, where the disclosure is necessary in the public interest.
- 5 2. The disclosure of personal data about an individual who is a current or former student of an educational institution to a public agency for the purposes of policy formulation or review.
3. The disclosure of personal data about an individual who is a current or former patient of any of the following to a public agency for the purposes of policy formulation or review:
- 10 (a) a healthcare institution licensed under the Private Hospitals and Medical Clinics Act (Cap. 248);
- (b) a licensee under the Healthcare Services Act 2020 (Act 3 of 2020);
- 15 (c) a prescribed healthcare body.
4. The disclosure of personal data about any individual to any officer of a prescribed law enforcement agency, upon production of written authorisation signed by the head or director of that law enforcement agency or a person of a similar rank, certifying that the personal data is necessary
- 20 for the purposes of the functions or duties of the officer.
5. The disclosure of personal data about an individual for a research purpose (including historical or statistical research), if —
- (a) the research purpose cannot reasonably be accomplished unless the personal data is disclosed in an individually identifiable form;
- 25 (b) it is impracticable for the organisation to seek the consent of the individual for the disclosure;
- (c) the disclosure of the personal data for the research purpose will not have an adverse effect on the individual and the benefits to be derived from the disclosure are clearly in the public interest;
- 30 (d) in the event that the results of the research are published, the organisation must publish the results in a form that does not identify any individual.”.

Amendment of Sixth Schedule

35 **33.** Paragraph 1 of the Sixth Schedule to the principal Act is amended —

- (a) by deleting the word “or” at the end of sub-paragraph (d); and

(b) by deleting the full-stop at the end of sub-paragraph (e) and substituting the word “; or”, and by inserting immediately thereafter the following sub-paragraph:

“(f) derived personal data.”.

5 **Amendment of Eighth Schedule**

34. The Eighth Schedule to the principal Act is amended —

(a) by deleting sub-paragraph (e) of paragraph 1 and substituting the following sub-paragraph:

10 “(e) any message, other than a message mentioned in sub-paragraph (d), sent while the sender is in an ongoing relationship with the recipient of the message;” and

(b) by renumbering the existing paragraph 1 as sub-paragraph (1) of that paragraph, and by inserting immediately thereafter the following sub-paragraph:

15 “(2) In sub-paragraph (1)(e), “ongoing relationship” means a relationship, which is on an ongoing basis, between the sender and the recipient of the message, arising from the carrying on or conduct of a business or activity (commercial or otherwise) by the sender.”.

Amendment of Ninth Schedule

20 **35.** The Ninth Schedule to the principal Act is amended by inserting, immediately after paragraph 1, the following paragraph:

“Power to require provision of information, etc.

1A.—(1) For the purposes of an investigation under section 50, the Commission or an inspector may do all or any of the following:

25 (a) require, by written notice, any person whom the Commission or inspector reasonably believes has any information, or any document in the person’s custody or control, that is relevant to the investigation, to furnish that information or document, within the time and manner specified in the written notice;

30 (b) require, by written notice, any person within the limits of Singapore, who appears to be acquainted with the facts or circumstances of the matter, to attend before the Commission or inspector;

(c) examine orally any person who appears to be acquainted with the facts or circumstances of the matter.

5 (2) A person examined under sub-paragraph (1)(c) is bound to state truly the facts and circumstances with which the person is acquainted concerning the matter except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

(3) A statement made by a person examined under sub-paragraph (1)(c) must —

- 10 (a) be reduced to writing;
- (b) be read over to the person;
- (c) if the person does not understand English, be interpreted in a language that the person understands; and
- (d) after correction (if necessary), be signed by the person.”.

Related amendments to Monetary Authority of Singapore Act

15 **36.** [omitted]

Related amendments to Public Sector (Governance) Act 2018

37. [omitted]

Related amendments to Spam Control Act

38. The Spam Control Act (Cap. 311A) is amended —

20 (a) by inserting, immediately after the words “an electronic mail address” in the definition of “electronic address” in section 2, the words “, an instant messaging account”;

(b) by inserting, immediately after the definition of “electronic address” in section 2, the following definitions:

25 ““instant messaging account” means an account of a user of an instant messaging service;

“instant messaging service” means a messaging service that allows a user to exchange messages with other users who are using the service concurrently;”;

30 (c) by inserting, immediately after section 4, the following section:

“Electronic messages sent to instant messaging accounts

4A. For the purposes of this Act —

5 (a) where an electronic message is sent to an instant messaging account; and

(b) the name used to identify, or which is associated with, that instant messaging account is an electronic mail address or a mobile telephone number,

10 the electronic message is not a message sent to the electronic mail address or mobile telephone number (as the case may be) mentioned in paragraph (b).”;

(d) by deleting sub-paragraph (ii) of section 7(2)(b) and substituting the following sub-paragraph:

15 “(ii) an entity —

(A) which is formed or recognised under the law of Singapore; or

(B) which has an office or a place of business in Singapore;”;

20 (e) by repealing section 8 and substituting the following section:

“Application of this Part

8.—(1) Subject to subsection (2), this Part applies to all electronic messages, whether or not they are unsolicited commercial electronic messages.

25 (2) This Part does not apply to any electronic message sent to a mobile telephone number.”;

(f) by deleting the word “Every” in paragraph 3(1) of the Second Schedule and substituting the words “Subject to sub-paragraph (3), every”; and

30 (g) by inserting, immediately after sub-paragraph (2) of paragraph 3 of the Second Schedule, the following sub-paragraph:

“(3) Sub-paragraph (1) does not apply to any unsolicited commercial electronic message that is sent to an instant messaging account.”.

EXPLANATORY STATEMENT

This Bill seeks to

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

Note 1: SK/PDP (Amendment) Bill 2020consol (v1.Consol.10-faired) 12052020