

# Consumer Protection (Fair Trading) (Amendment) Bill

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**Bill No. 25/2016.**

*Read the first time on 15 August 2016.*

A BILL

*intituled*

An Act to amend the Consumer Protection (Fair Trading) Act (Chapter 52A of the 2009 Revised Edition) and to make related amendments to the Standards, Productivity and Innovation Board Act (Chapter 303A of the 2002 Revised Edition), and to make an amendment to the Consumer Protection (Fair Trading) (Amendment) Act 2008 (Act 15 of 2008).

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 Consumer Protection (Fair Trading) (Amendment) Act 2016 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 Consumer Protection (Fair Trading) Act (called in this Act the principal Act) is amended —

(a) by deleting the definition of “Chairman” and substituting the following definitions:

10 “Board” means the Standards, Productivity and Innovation Board established by section 3 of the Standards, Productivity and Innovation Board Act (Cap. 303A);

15 “chief executive” means the chief executive of the Board and includes any person acting in that capacity;” and

(b) by deleting the definition of “Panel”.

### Amendment of section 8

20 3. Section 8(10) of the principal Act is amended by deleting the word “Act” and substituting the word “section”.

### Amendment of section 9

4. Section 9 of the principal Act is amended —

(a) by deleting the words “a specified body” in subsection (1) and substituting the words “the Board”;

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

30 “(c) if the Court grants relief under paragraph (a) or (b), make in addition one or more of the accompanying orders mentioned in subsection (4).”;

- (c) by deleting the words “it appears to the Court” in subsection (2)(b) and substituting the words “the Court is satisfied”;
- (d) by deleting the words “is of the opinion that it is” in subsection (3) and substituting the words “considers it”; and
- (e) by deleting subsections (4) to (7) and substituting the following subsections:
- “(4) The accompanying orders for the purposes of subsection (1)(c) are as follows:
- (a) an order that the supplier must periodically publish, at the supplier’s expense, for a specified period that the supplier continues to be a supplier, the details of the declaration or injunction in the form and manner and at the intervals as will secure prompt and adequate publicity for the declaration or injunction against the supplier;
- (b) an order that the supplier must, before any consumer enters into a contract in relation to a consumer transaction with the supplier during a specified period —
- (i) notify the consumer in writing about the declaration or injunction against the supplier; and
- (ii) obtain the consumer’s written acknowledgment of the notice in sub-paragraph (i);
- (c) an order that the supplier must include in every invoice or receipt issued by the supplier to a consumer during a specified period, a statement that the District Court or High Court has granted a declaration or injunction against the supplier;

(d) an order that the supplier must, within 14 days after any of the following events occurring in a specified period, notify the Board in writing:

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(i) a change in the premises or number of premises at which the supplier carries on business as a supplier;

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(ii) a change in the Internet address or number of Internet addresses through which consumer transactions with the supplier may be entered into;

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(iii) the supplier converts from a firm or private company to a limited liability partnership under section 20 or 21 of the Limited Liability Partnerships Act (Cap. 163A), respectively;

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(iv) the supplier undergoes any arrangement, reconstruction or amalgamation under Part VII of the Companies Act (Cap. 50);

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(v) the supplier is subject to receivership under Part VIII of the Companies Act;

(vi) the supplier is subject to judicial management under Part VIIIA of the Companies Act;

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(vii) the supplier is subject to winding up under Part X of the Companies Act;

(viii) any other event prescribed under this Act;

(e) where the supplier is an individual, an order that the individual must inform the Board in writing if a notifiable event occurs in a specified period;

- (f) where the supplier is a partnership that has one or more partners who are individuals, an order that any one or all of those individuals must inform the Board in writing if a notifiable event occurs in a specified period; 5
- (g) an order that the supplier must reimburse the Board for the cost of publishing or causing to be published all or any of the following: 10
- (i) a notice that the Board has commenced an action under subsection (1) against the supplier;
  - (ii) a notice that an interim injunction has been granted against the supplier under subsection (3), and details of the interim injunction; 15
  - (iii) a notice that an injunction, declaration, or both, have been granted against the supplier under subsection (1), and details of the injunction and declaration. 20
- (5) For the purposes of subsection (4)(a) and (g)(ii) and (iii), a reference to the details of a declaration, an injunction or an interim injunction granted against a supplier includes the following: 25
- (a) particulars of the declaration, injunction or interim injunction (as the case may be);
  - (b) the name of the supplier;
  - (c) whether the supplier is subject to any other subsisting declaration or injunction, or both, pursuant to any other action commenced under this section; 30

(d) the address at which the supplier is carrying on the supplier's business;

(e) where the supplier carries on business through the Internet, the Internet address at which the supplier may enter into a consumer transaction with a consumer.

(6) Where the District Court or High Court makes 2 or more accompanying orders mentioned in subsection (4)(a) to (d) against a supplier, the specified period in respect of each of the orders must be the same.

(7) Subject to subsections (8) to (11), a reference to a specified period in subsection (4) is a reference to such period specified by the District Court or High Court, not exceeding 5 years or such other period as the Minister may prescribe in place of the 5 years.

(8) If a supplier fails to comply with an order mentioned in subsection (4)(a) to (d) accompanying a declaration or injunction made under subsection (1), the District Court or High Court which made the declaration or injunction may, on the application of the Board, extend the specified period in the order to such time not exceeding the maximum period specified in subsection (10).

(9) If an individual fails to comply with an order mentioned in subsection (4)(e) or (f) accompanying a declaration or an injunction made under subsection (1), the District Court or High Court which made the declaration or injunction may, on the application of the Board, extend the specified period in the order to such time not exceeding the maximum period specified in subsection (10).

(10) In subsections (8) and (9), the aggregate of the specified period and all extensions of time under each of those provisions must not exceed 10 years after the date on which the accompanying order under

subsection (4) was made, or such other period as the Minister may prescribe in place of the 10 years.

(11) For the purposes of subsections (7) and (10), any period prescribed by the Minister applies to any application made by the Board under subsection (1), (8) or (9) (as the case may be) on or after the date of such prescription. 5

(12) Without prejudice to subsection (8), if a supplier enters into a consumer transaction with a consumer in breach of an accompanying order mentioned in subsection (4)(b), then the consumer may, within 6 months after the date on which the contract was entered into, cancel the contract in accordance with regulations made under section 20(2)(m). 10 15

(13) Subsections (8), (9) and (12) apply despite any proceedings which may be commenced against the supplier or individual (as the case may be) for contempt of court.

(14) If a practice of the supplier has been declared or permanently enjoined by the District Court or High Court as being an unfair practice under this section, the order is, in any other civil proceedings involving the supplier except an appeal from the order, conclusive proof that the practice in question is an unfair practice. 20 25

(15) In this section and section 10, “notifiable event” means an event specified in the Fifth Schedule.”.

## **Repeal and re-enactment of section 10**

5. Section 10 of the principal Act is repealed and the following section substituted therefor: 30

**“Injunction against person from knowingly abetting, aiding, permitting or procuring supplier to engage in unfair practice**

5       **10.**—(1) The District Court or High Court may, on the application of the Board, grant an injunction restraining a person from knowingly abetting, aiding, permitting or procuring a supplier to engage in an unfair practice if —

10           (a) the Court is satisfied that the person has knowingly abetted, aided, permitted or procured the supplier to engage in the unfair practice; or

          (b) the Court is satisfied that, in the event that an injunction is not granted, it is likely that the person will knowingly abet, aid, permit or procure the supplier to engage in the unfair practice.

15       (2) An order under subsection (1)(a) may be made whether or not it appears to the District Court or High Court that the person intends to continue to abet, aid, permit or procure the supplier to engage in the unfair practice.

20       (3) An order under subsection (1)(b) may be made whether or not —

          (a) the person has previously abetted, aided, permitted or procured the supplier to engage in the unfair practice; or

25           (b) there is any likelihood of irreparable harm to any consumer or class of consumers —

                  (i) if the person abets, aids, permits or procures the supplier to engage in the unfair practice; or

                  (ii) if the supplier engages in the unfair practice.

30       (4) Pending the determination of an application by the Board made under subsection (1), the District Court or High Court hearing the application may grant an interim injunction restraining the person from knowingly abetting, aiding, permitting or procuring the supplier to engage in an unfair practice, if the Court considers it desirable to do so.



(5) A District Court or the High Court may grant an interim injunction under subsection (4) whether or not —

(a) it appears to the Court that the person intends to continue to abet, aid, permit or procure the supplier to engage in the unfair practice; 5

(b) the person has previously abetted, aided, permitted or procured the supplier to engage in the unfair practice; or

(c) there is any likelihood of irreparable harm to any consumer or class of consumers — 10

(i) if the person abets, aids, permits or procures the supplier to engage in the unfair practice; or

(ii) if the supplier engages in the unfair practice.

(6) If the District Court or High Court makes an injunction under subsection (1) against a person, the Court may, in addition, order — 15

(a) that the person must publish, at the person's expense, for a specified period the particulars of the injunction in the form and manner and at the intervals as will secure prompt and adequate publicity for the injunction against the person; 20

(b) that the person must reimburse the Board for the cost of publishing or causing to be published all or any of the following:

(i) a notice that the Board has commenced an action under this section against the person; 25

(ii) a notice that an interim injunction has been granted against the person under subsection (4), and details of the interim injunction;

(iii) a notice that an injunction has been granted against the person under subsection (1), and details of the injunction; and 30

(c) where the person is an individual, that the individual must, if a notifiable event occurs in the specified period, inform the Board in writing within 14 days after the event.

5 (7) For the purposes of subsection (6)(b)(ii) and (iii), a reference to the details of an injunction or interim injunction granted against a person includes —

(a) the particulars of the injunction or interim injunction (as the case may be);

10 (b) the name of the person; and

(c) whether the person is subject to any other subsisting injunction pursuant to any other action commenced under this section.

15 (8) Subject to subsection (9), a reference to a specified period in subsection (6)(c) is a reference to such period specified by the District Court or High Court, not exceeding 5 years or such other period as the Minister may prescribe in place of the 5 years.

20 (9) If an individual fails to comply with an order made under subsection (6)(c), the District Court or High Court which made the injunction may, on the application of the Board, extend the specified period mentioned in the order to such time not exceeding 10 years after the date on which the order under subsection (6)(c) was made, or such other period as the Minister may prescribe in place of the 10 years.

25 (10) For the purposes of subsections (8) and (9), any period prescribed by the Minister applies to any application made by the Board under subsection (1) or (9) (as the case may be) on or after the date of such prescription.

30 (11) Subsection (9) applies despite any proceedings which may be commenced against the individual for contempt of court.”.

## **Amendment of section 12**

6. Section 12 of the principal Act is amended —

- (a) by deleting the word “from” wherever it appears in subsections (1) to (4) and substituting in each case the word “after”;
- (b) by deleting the words “specified body” in subsection (3)(b) and substituting the word “Board”; and
- (c) by inserting, immediately after subsection (3), the following subsection:

“(3A) The Board must commence an action under section 10 within 2 years after the date of the occurrence of the last material event on which the action is based.”.

## **Amendment of section 12B**

7. Section 12B(3) of the principal Act is amended by deleting the word “from” and substituting the word “after”.

## **New Parts IIIA and IIIB**

8. The principal Act is amended by inserting, immediately after section 12F, the following Parts:

### **“PART IIIA**

#### **INVESTIGATION POWERS**

#### **Power to investigate**

**12G.—**(1) The Board may conduct an investigation if there are reasonable grounds for suspecting —

- (a) that a supplier has engaged, is engaging or is likely to engage in an unfair practice; or
- (b) that a person —
  - (i) has knowingly abetted, aided, permitted or procured; or

(ii) is knowingly abetting, aiding, permitting or procuring,

a supplier to engage in an unfair practice.

(2) The chief executive may appoint, by name or office —

- 5           (a) any officer or employee of the Board; or  
              (b) any auxiliary police officer,

to be an investigation officer for the purpose of conducting investigations under this Part.

10       (3) Every investigation officer, when exercising any of the investigation officer’s powers under this Act, must —

- (a) declare the investigation officer’s office if the officer is an officer or employee of the Board; and  
              (b) on demand, produce to any person affected by the exercise of that power such identification card as the  
 15           chief executive may issue for this purpose.

(4) It is not an offence for any person to refuse to comply with any request, demand or order of an investigation officer if the investigation officer does not comply with subsection (3).

20       (5) In this section, “auxiliary police officer” means a person appointed as such under Part IX of the Police Force Act (Cap. 235).

### **Power to require documents, articles or information**

25       **12H.**—(1) The Board may, by notice in writing to a supplier mentioned in section 12G(1)(a) or a person mentioned in section 12G(1)(b) (called in this Part the person under investigation), require the person under investigation to produce to the Board a specified document or article, or to provide the Board with specified information, which the Board considers to be relevant to an investigation mentioned in  
 30       section 12G(1).

- (2) A notice under subsection (1) must —
- (a) indicate the purpose for which the specified document or article or specified information is required by the Board; and
  - (b) be accompanied by a copy of the offences under sections 12O to 12R. 5
- (3) The Board may also specify in the notice —
- (a) the time and place at which the specified document or article is to be produced or specified information is to be provided; and 10
  - (b) the manner and form in which the specified document or article or specified information is to be produced or provided.
- (4) The power under this section to require a person under investigation to produce a document includes the power — 15
- (a) if the document is produced —
    - (i) to take copies of, or extracts from, the document; and
    - (ii) to require that person under investigation, or any other person who is a present or past officer of that person under investigation, or is or was at any time employed by that person under investigation, to provide an explanation of the document; or 20
  - (b) if the document is not produced, to require the person under investigation or the other person mentioned in paragraph (a)(ii) to state, to the best of that person's knowledge and belief, where the document is. 25
- (5) In subsection (1), “specified” means —
- (a) specified or described in the notice; or 30
  - (b) falling in a category which is specified or described in the notice.

## **Power to enter premises without warrant**

5       **12I.**—(1) In connection with an investigation under section 12G(1), an investigation officer and such other persons as the Board has authorised in writing to accompany and assist the investigation officer (called in this section an authorised assistant) may enter any premises reasonably suspected of being used by the person under investigation in connection with an unfair practice.

10       (2) An investigation officer or authorised assistant must not enter any premises in the exercise of the powers under this section unless the investigation officer has given the occupier of the premises a written notice which —

      (a) gives at least 2 working days' notice of the intended entry;

15       (b) indicates the subject matter and purpose of the investigation; and

      (c) is accompanied with a copy of the offences under sections 12O to 12R.

20       (3) Subsection (2) does not apply if the investigation officer has taken all such steps as are reasonably practicable to give notice but has not been able to do so.

      (4) Where subsection (3) applies, the power of entry conferred by subsection (1) may be exercised on the production of —

25       (a) evidence of the investigation officer's authorisation and the authorisation of every authorised assistant accompanying the investigation officer; and

      (b) a document containing the information mentioned in subsection (2)(b) and (c).

30       (5) An investigation officer or authorised assistant entering any premises under this section may —

      (a) inspect and search the premises;

      (b) take such photograph or audio or video recording as the investigation officer or authorised assistant thinks

- necessary, of the premises and persons on the premises reasonably believed to be acquainted with the facts and circumstances relevant to the investigation;
- (c) seize and detain any goods found on the premises that the investigation officer or authorised assistant reasonably believes to be relevant to the investigation, and carry out an examination of the goods to ascertain whether the supplier concerned has engaged in any unfair practice under investigation; 5
- (d) bring any equipment which the investigation officer or authorised assistant considers to be necessary; 10
- (e) require any person on the premises —
- (i) to produce any document which the investigation officer or authorised assistant considers relevant to the investigation; 15
- (ii) if the document is produced, to provide an explanation of it; and
- (iii) if the document is not produced, to state, to the best of the person's knowledge and belief, where any such document is to be found; 20
- (f) take copies of, or extracts from, any document that is produced;
- (g) if the investigation officer or authorised assistant considers any information that is stored in any electronic form and is accessible from the premises to be relevant to the investigation, require that information to be produced in a form in which the information — 25
- (i) can be taken away; and
- (ii) is visible and legible; and 30
- (h) take any step which appears to be necessary to preserve or prevent interference with any document which the investigation officer or authorised assistant considers relevant to the investigation.

### **Power to enter premises under warrant**

**12J.**—(1) The court may, on the application of the Board, issue a warrant authorising by name an investigation officer and one or more authorised assistants to take all or any of the actions in subsection (3) in relation to the premises in respect of which any one of the conditions in subsection (2) applies.

(2) The conditions are as follows:

(a) there are reasonable grounds for suspecting that there are on any premises, documents which have not been produced as required by the Board under section 12H or 12I(5)(e);

(b) there are reasonable grounds for suspecting that —

(i) there are on any premises documents which the Board has power under section 12H to require to be produced; and

(ii) if the documents were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed;

(c) there are reasonable grounds for suspecting that —

(i) there are on any premises documents or goods which the Board has power under section 12I to require to be produced or to seize and detain; and

(ii) if notice is given under section 12I(2), the documents or goods would be concealed, removed, tampered with or destroyed;

(d) an investigation officer or an authorised assistant has attempted to enter the premises in the exercise of the investigation officer's or the authorised assistant's powers (as the case may be) under section 12I but has been unable to do so and there are reasonable grounds for suspecting that there are on the premises —



- (i) documents the production of which could have been required under that section; or
- (ii) goods which may be seized and detained under that section.

(3) The actions, in relation to the premises mentioned in subsection (2)(a) to (d), are as follows: 5

- (a) enter those premises using such force as is reasonably necessary for the purpose;
- (b) search any person on those premises if there are reasonable grounds for believing that the person has in the person's possession any document, goods, equipment or article which is relevant to the investigation; 10
- (c) take such photograph or audio or video recording as the named investigation officer or authorised assistant thinks necessary, of the premises and persons on the premises reasonably believed to be acquainted with the facts and circumstances relevant to the investigation; 15
- (d) seize and detain any goods found on the premises that the named investigation officer or authorised assistant reasonably believes to be relevant to the investigation, and examine the goods to ascertain whether the supplier concerned has engaged in any unfair practice under investigation; 20 25
- (e) bring any equipment which the named investigation officer or authorised assistant considers to be necessary;
- (f) search the premises and take copies of, or extracts from, any document appearing to be relevant to the investigation; 30
- (g) take possession of any document found on the premises appearing to be relevant to the investigation if —

- (i) such action appears to be necessary to preserve or prevent interference with the document; or
  - (ii) it is not reasonably practicable to take copies of the document on the premises;
- 5 (h) take any other step which appears to be necessary for the purpose mentioned in paragraph (g)(i);
- (i) require any person on the premises —
  - 10 (i) to produce any document which the named investigation officer or authorised assistant considers relevant to the investigation;
  - (ii) if the document is produced, to provide an explanation of it; and
  - 15 (iii) if the document is not produced, to state, to the best of the person's knowledge and belief, where any such document is to be found;
- (j) if the named investigation officer or authorised assistant considers any information that is stored in any electronic form and is accessible from the premises to be relevant to the investigation, require that information to be produced in a form in which the information —
  - 20 (i) can be taken away; and
  - (ii) is visible and legible;
- 25 (k) remove from those premises for examination any equipment or article which is relevant to the investigation.

30 (4) If the court issues a warrant on the grounds in subsection (2)(b) or (c), the court may also, on the application of the Board, authorise the named investigation officer and any authorised assistant to exercise the power under the warrant in respect of any other document relating to the investigation concerned that the court is satisfied it is reasonable to suspect is on the premises.

(5) If any equipment or article may be removed from any premises for examination under subsection (3)(k), the named investigation officer or authorised assistant may instead allow the equipment or article to be retained on those premises subject to such requirements as the named investigation officer or authorised assistant may impose on the owner or occupier of the premises.

(6) A warrant issued under this section must —

(a) indicate the subject matter and purpose of the investigation; and

(b) be accompanied by a copy of the offences under sections 12O to 12R,

and continues in force for one month beginning on the day on which the warrant is issued, subject to such conditions as may be specified by the court.

(7) The named investigation officer or authorised assistant must, before exercising any power under the warrant against any person, produce the warrant to that person.

(8) If there is no one on the premises when the named investigation officer or authorised assistant intends to execute the warrant, the named investigation officer or authorised assistant must, before executing the warrant —

(a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

(b) if the occupier is so informed, give the occupier or the occupier's legal or other representative a reasonable opportunity to be present when the warrant is executed.

(9) If the named investigation officer or authorised assistant is unable to inform the occupier of the intended entry, the named investigation officer or authorised assistant must, when executing the warrant, leave a copy of the warrant in a prominent place on the premises.

(10) On leaving any premises which the named investigation officer or authorised assistant has entered under a warrant under this section, the named investigation officer or authorised assistant must, if the premises are unoccupied or the occupier is temporarily absent, leave the premises as effectively secured as the named investigation officer or authorised assistant found them.

(11) In this section —

“authorised assistant” means a person named in a warrant issued under subsection (1) to accompany and assist a named investigation officer;

“named investigation officer” means an investigation officer named in a warrant issued under subsection (1);

“occupier”, in relation to any premises, means a person whom the named investigation officer reasonably believes is the occupier of those premises.

### **Post-seizure procedure**

**12K.**—(1) The provisions in subsection (2) apply to the following persons (each called in this section a specified person) under the following circumstances:

- (a) the investigation officer mentioned in section 12I, on taking possession of, seizing or detaining any goods, document or information under section 12I(5);
- (b) the authorised assistant mentioned in section 12I, on taking possession of, seizing or detaining any goods, document or information under section 12I(5);
- (c) the named investigation officer mentioned in section 12J, on taking possession of, seizing or detaining any goods, document or information under section 12J(3) or (4);
- (d) the authorised assistant mentioned in section 12J, on taking possession of, seizing or detaining any goods, document or information under section 12J(3) or (4).

(2) For the purpose of subsection (1), the provisions are —

- (a) the specified person must, at the request of the person from whose possession the document was taken, provide a copy of the document to that person;
- (b) the specified person must inform the following persons of the possession, seizure or detention, as the case may be:
  - (i) the owner of the goods, document or information;
  - (ii) in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which the machine is affixed;
- (c) the specified person must place the goods, document or information in safe custody; and
- (d) unless ordered otherwise by a court, the specified person may retain the goods, document or information until the completion of any proceedings under section 9 or 10 (including proceedings on appeal) in which the goods, document or information retained may be evidence.

### **Power to require evidence as to identity**

**12L.** An investigation officer may require any person whom the investigation officer reasonably believes to have engaged in an unfair practice or to have knowingly abetted, aided, permitted or procured a supplier to engage in an unfair practice, to furnish any evidence establishing, to the satisfaction of the investigation officer, the person's identity and, where the person is an individual, the person's nationality and residential address.

**Power to examine, secure attendance, etc.**

**12M.**—(1) An investigation officer has, for the purposes of this Act, power to do any of the following things in connection with an investigation mentioned in section 12G(1):

5           (a) examine orally any person who appears to be acquainted with any of the facts or circumstances relevant to the investigation —

                  (i) whether before or after any proceedings are commenced under section 9 or 10; and

10           (ii) whether or not the person is to be called as a witness in any proceedings under section 9 or 10;

                  (b) issue a written notice requiring any person within the limits of Singapore, who appears to be acquainted with any of the facts or circumstances relevant to the investigation, to attend before the investigation officer.

(2) The person mentioned in subsection (1)(b) must comply with the written notice mentioned in that provision.

20           (3) A statement made by any person examined under this section must —

                  (a) be reduced to writing;

                  (b) be read over to the person;

25           (c) if the person does not understand English, be interpreted for the person in a language that the person understands; and

                  (d) be signed by the person.

**Self-incrimination and savings for professional legal advisers**

30           **12N.**—(1) A person who is required under any provision of this Act to disclose any information or document to the Board, an investigation officer or any authorised assistant mentioned in

section 12I or 12J is not excused from making the disclosure on the ground that the disclosure of the information or document might tend to incriminate the person.

(2) If a person mentioned in subsection (1) claims, before disclosing any information or document under any provision of this Act to any authorised assistant mentioned in section 12I or 12J, the Board or an investigation officer, that the disclosure might tend to incriminate the person, the information or document disclosed —

(a) is not admissible in evidence against the person in criminal proceedings other than proceedings under Part IIIB; and

(b) is, for the avoidance of doubt, admissible in evidence in civil proceedings, including proceedings under this Act.

(3) Nothing in this Part —

(a) compels a professional legal adviser or a legal counsel in an entity to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to the professional legal adviser or legal counsel in the entity (as the case may be) in that capacity; or

(b) authorises the taking of any such document or other material which is in the possession of the professional legal adviser or legal counsel in an entity.

(4) A professional legal adviser or a legal counsel in an entity who refuses to disclose the information or produce the document or other material mentioned in subsection (3) is nevertheless obliged to give the name and address (if the professional legal adviser or legal counsel in the entity, as the case may be, knows them) of the person to whom, or by or on behalf of whom, that privileged communication was made.

PART IIIB  
OFFENCES

**Refusal to provide information, etc.**

5       **12O.**—(1) Any person who fails to comply with a requirement imposed on him under section 12H, 12I, 12J, 12L or 12M shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

10       (2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it is a defence for the person to prove that —

      (a) the document was not in the person's possession or under the person's control; and

15       (b) it was not reasonably practicable for the person to comply with the requirement.

      (3) If a person is charged with an offence under subsection (1) in respect of a requirement —

      (a) to provide information;

      (b) to provide an explanation of a document; or

20       (c) to state where a document is to be found,

it is a defence for the person to prove that the person had a reasonable excuse for failing to comply with the requirement.

25       (4) Failure to comply with a requirement imposed under section 12H, 12I, 12J, 12L or 12M is not an offence if the person imposing the requirement has failed to act in accordance with that section.

**Destroying or falsifying documents**

**12P.** Any person who, having been required to produce a document under section 12H, 12I, 12J or 12L —

30       (a) intentionally or recklessly destroys or otherwise disposes of, falsifies or conceals the document; or



(b) causes or permits the destruction, disposal, falsification or concealment of the document,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

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### **False or misleading information**

**12Q.**—(1) Any person who provides information to the Board, an investigation officer or an authorised assistant mentioned in section 12I or 12J in connection with an investigation mentioned in section 12G(1) or any offence in this Part, knowing the information to be false or misleading in a material particular or being reckless as to whether the information is false or misleading in a material particular shall be guilty of an offence.

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(2) A person who provides information that is false or misleading in a material particular to another person —

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(a) knowing that the information is to be used for the purpose of providing information to the Board, an investigation officer or an authorised assistant mentioned in section 12I or 12J in connection with any function or duty of the Board or investigation officer under this Act; and

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(b) knowing the information to be false or misleading in a material particular, or being reckless as to whether the information is false or misleading in a material particular,

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shall be guilty of an offence.

(3) A person who is guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

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### **Obstructing officer of Board, etc.**

**12R.** Any person who, without reasonable excuse, obstructs, hinders or impedes —

- (a) any of the Board's members, officers or employees; or
- (b) any investigation officer or authorised assistant mentioned in section 12I or 12J,

in the discharge of their duties or the exercise of their powers under this Act or any regulations made under this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both.

**No costs or damages or other relief arising from seizure recoverable unless seizure without reasonable or probable cause**

**12S.** No person is, in any proceedings before any court in respect of any equipment, goods, article or document seized in the exercise or the purported exercise of any power conferred under this Act, entitled to the costs of the proceedings or to any damages or other relief other than an order for the return of the equipment, goods, article or document or the payment of their value unless the seizure was made without reasonable or probable cause.

**Offences by corporations**

**12T.—(1)** Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of a corporation in relation to a particular conduct, evidence that —

- (a) an officer, employee or agent of the corporation engaged in that conduct within the scope of his actual or apparent authority; and

(b) the officer, employee or agent had that state of mind, is evidence that the corporation had that state of mind.

(2) Where a corporation commits an offence under this Act, a person —

- (a) who is —

- (i) an officer of the corporation; or

- (ii) an individual who is involved in the management of the corporation and is in a position to influence the conduct of the corporation in relation to the commission of the offence; and

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(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the corporation; or
- (iii) knew or ought reasonably to have known that the offence by the corporation (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

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shall be guilty of the same offence as is the corporation, and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the corporation if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the corporation would bear.

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(4) To avoid doubt, this section does not affect the application of —

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- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of the corporation for an offence under this Act, and applies whether or not the corporation is convicted of the offence.

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(6) In this section —

“corporation” includes a limited liability partnership within the meaning of section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

5 “officer”, in relation to a corporation, means any director, partner, chief executive, manager, secretary or other similar officer of the corporation, and includes —

(a) any person purporting to act in any such capacity; and

10 (b) for a corporation whose affairs are managed by its members, any of those members as if the member was a director of the corporation;

“state of mind” of a person includes —

15 (a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

### **Offences by unincorporated associations or partnerships**

20 **12U.—**(1) Where, in a proceeding for an offence under this Act, it is necessary to prove the state of mind of an unincorporated association or a partnership in relation to a particular conduct, evidence that —

25 (a) an employee or agent of the unincorporated association or the partnership engaged in that conduct within the scope of his actual or apparent authority; and

(b) the employee or agent had that state of mind,

is evidence that the unincorporated association or partnership had that state of mind.

30 (2) Where an unincorporated association or a partnership commits an offence under this Act, a person —

(a) who is —

- (i) an officer of the unincorporated association or a member of its governing body;
- (ii) a partner in the partnership; or
- (iii) an individual who is involved in the management of the unincorporated association or partnership and who is in a position to influence the conduct of the unincorporated association or partnership (as the case may be) in relation to the commission of the offence; and

(b) who —

- (i) consented or connived, or conspired with others, to effect the commission of the offence;
- (ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or
- (iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

shall be guilty of the same offence as is the unincorporated association or partnership (as the case may be), and shall be liable on conviction to be punished accordingly.

(3) A person mentioned in subsection (2) may rely on a defence that would be available to the unincorporated association or partnership if it were charged with the offence with which the person is charged and, in doing so, the person bears the same burden of proof that the unincorporated association or partnership would bear.

(4) To avoid doubt, this section does not affect the application of —

- (a) Chapters V and VA of the Penal Code (Cap. 224); or
- (b) the Evidence Act (Cap. 97) or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (1) also does not affect the liability of an unincorporated association or a partnership for an offence under this Act, and applies whether or not the unincorporated association or partnership is convicted of the offence.

(6) In this section —

“officer”, in relation to an unincorporated association (other than a partnership), means the president, the secretary, or any member of the committee of the unincorporated association, and includes —

(a) any person holding a position analogous to that of president, secretary or member of a committee of the unincorporated association; and

(b) any person purporting to act in any such capacity;

“partner” includes a person purporting to act as a partner;

“state of mind” of a person includes —

(a) the knowledge, intention, opinion, belief or purpose of the person; and

(b) the person’s reasons for the intention, opinion, belief or purpose.

### **Composition of offences**

**12V.—**(1) The chief executive or any officer of the Board authorised by the chief executive may compound any offence under this Act that is prescribed as a compoundable offence by collecting from the person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

(a) one half of the amount of the maximum fine that is prescribed for that offence;

(b) \$5,000.

(2) On payment of such sum of money, no further proceedings are to be taken against that person in respect of the offence. 5

(3) All sums collected under this section are to be paid into the Consolidated Fund.

(4) The members, officers and employees of the Board are, in relation to their administration, assessment, collection and enforcement of payment of composition sums under this section, deemed to be public officers for the purposes of the Financial Procedure Act (Cap. 109), and section 20 of that Act applies to these persons even though they are not or were not in the employment of the Government.”. 10

#### **Amendment of section 20**

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9. Section 20(2) of the principal Act is amended —

(a) by deleting the word “and” at the end of paragraph (k); and

(b) by deleting the full-stop at the end of paragraph (l) and substituting a semi-colon, and by inserting immediately thereafter the following paragraphs: 20

“(m) prescribing —

(i) the manner in which notices of cancellation may be properly given under section 9(12);

(ii) the rights and obligations of parties to a contract cancelled under section 9(12), or any other contract entered into for the purposes of the cancelled contract, including the amount or value of any deposit, security, goods or compensation recoverable in an action arising from the cancellation; and 25 30

(iii) the effect of cancellation under section 9(12) on any rights the parties to the contract may otherwise have; and

5 (n) prescribing the offences that may be compounded under section 12V.”.

### **Amendment of Second Schedule**

**10.** The Second Schedule to the principal Act is amended —

10 (a) by inserting, immediately above the Schedule heading “SPECIFIC UNFAIR PRACTICES”, the following words:

“PART 1”;

(b) by inserting, immediately after paragraph 1 of Part 1, the following paragraphs:

15 “1A. Representing that the supplier has a sponsorship, approval or affiliation with respect to the supply of goods or services that the supplier does not have.

1B. Making a false or misleading representation concerning the need for any goods or services.”;

20 (c) by deleting the words “or method of manufacture” in paragraph 2 of Part 1 and substituting the words “, weight, volume, length, capacity or method of manufacture (as the case may be)”;

25 (d) by deleting the words “service has been provided” in paragraph 6 of Part 1 and substituting the words “service has been supplied”;

(e) by deleting paragraph 13 of Part 1 and substituting the following paragraph:

“13. Representing that another supplier will, on the presentment of a voucher to that other supplier —

30 (a) supply certain goods or services; or

(b) supply certain goods or services at a discounted or reduced price,



when the supplier knows or ought to know that, on presentment of the voucher to that other supplier, such goods or services will not be supplied, or will not be supplied at a discounted or reduced price (as the case may be).”;

(f) by inserting, immediately after paragraph 19 of Part 1, the following paragraph: 5

“19A. Making an invitation to a consumer to purchase, or making an offer to sell to a consumer certain goods or services (called in this paragraph the original goods or services) at a certain price and then, with the intention of promoting different goods or services — 10

(a) refusing to show or demonstrate the original goods or services to the consumer;

(b) refusing to take any order for the original goods or services; 15

(c) refusing to supply the original goods or services in a reasonable time; or

(d) showing or demonstrating a defective sample of the original goods.”;

(g) by deleting paragraph 20 of Part 1 and substituting the following paragraphs: 20

“20. Omitting to provide a material fact to a consumer, using small print to conceal a material fact from the consumer or misleading a consumer as to a material fact, in connection with the supply of goods or services. 25

21. Accepting payment or other consideration for the supply of goods or services when the supplier knows or ought to know that the supplier will not be able to supply the goods or services —

(a) within the period specified by the supplier at or before the time at which the payment or other consideration is accepted; or 30

(b) if no period is specified at or before that time, within a reasonable period.

22. Purporting to assert a right to payment for the supply of unsolicited goods or services. 35

23. Sending to a consumer an invoice or document that states the amount of payment for the supply of unsolicited goods or

services which does not contain, as the document's most prominent text, the following (or words to that effect):

“This is not a bill. You are not required to pay any money.”,  
 unless the consumer has expressly acknowledged to the supplier  
 in writing the consumer's intention to accept and pay for such  
 goods or services.

24. Where an applicable agreement has been entered into in writing and a copy of the applicable agreement has not been given to the consumer, refusing to give the consumer a copy of the applicable agreement upon the consumer's request.”; and

(h) by inserting, immediately after paragraph 24 of Part 1, the following Part:

## “PART 2

### INTERPRETATION

1. For the purpose of paragraph 22 of Part 1 —

(a) “unsolicited goods or services” means goods or services that are supplied in relation to a consumer transaction to a consumer who did not request them, but does not include goods or services supplied to a consumer who knows or ought to have known that they were intended for delivery to another person unless it was reasonable to believe that the goods or services, if delivered to that other person, would have been unsolicited goods or services; and

(b) if a consumer is being supplied with goods or services on a continuing basis and there is a material change in the goods or services, or in the supply of the goods or services, the goods or services are to be treated as unsolicited goods or services from the time of the material change unless the consumer consented in writing to the material change.

2. An intention to accept and pay for goods or services (for the purposes of paragraph 23 of Part 1) or a request for goods or services (for the purposes of the definition of “unsolicited goods or services” in paragraph 1(a)) or consent to a material change (for the purposes of paragraph 1(b)) is not to be inferred only from the consumer's —

(a) payment for the goods or services;

- (b) use of, dealing with or disposal of the goods or services;
- (c) request to purchase another similar good or service; or
- (d) inaction.

3.—(1) For the purpose of paragraph 24 of Part 1, “applicable agreement” means an agreement between a supplier and a consumer for the supply of goods or services which expressly provides that — 5

- (a) the goods or services will not be supplied or, in the case of an agreement to supply goods or services over a period of time, will not begin to be supplied, to the consumer until the price, or part of the price, of the goods or services has been paid; and 10
- (b) the price of the goods or services is to be paid by 2 or more instalments. 15

(2) In sub-paragraph (1)(b), any deposit paid by the consumer for the goods or services is treated as an instalment.”.

**Repeal of Third Schedule**

11. The Third Schedule to the principal Act is repealed.

**Amendment of Fourth Schedule**

12. The Fourth Schedule to the principal Act is amended by deleting the word “from” wherever it appears in paragraphs 1, 2 and 3 and substituting in each case the word “after”. 20

**New Fifth Schedule**

13. The principal Act is amended by inserting, immediately after the Fourth Schedule, the following Schedule: 25

“FIFTH SCHEDULE

Section 9(15)

EVENTS TO BE NOTIFIED TO BOARD

- 1. The individual, as a sole proprietor, commences carrying on business as a supplier. 30
- 2. The individual is employed or ceases to be employed by a person who carries on a business as a supplier.

3. The individual becomes or ceases to be —

- (a) a director of a company which carries on a business as a supplier;
- (b) a partner in a partnership or limited partnership which carries on a business as a supplier; or
- 5 (c) a partner or manager of a limited liability partnership which carries on a business as a supplier.

4. The individual becomes or ceases to be, legally or beneficially interested, whether directly or indirectly, in at least 15% of the total voting power or total issued shares in a company which carries on a business as a supplier.”.

## 10 **Related amendments to Standards, Productivity and Innovation Board Act**

**14.** The Standards, Productivity and Innovation Board Act (Cap. 303A) is amended —

15 (a) by deleting the word “and” at the end of paragraph (k) of section 6(1), and by inserting immediately thereafter the following paragraphs:

“(ka) to promote fair trading among suppliers and consumers and to promote measures to enable consumers to make informed purchasing decisions in Singapore;

(kb) to prevent suppliers in Singapore from engaging in unfair practices;

25 (kc) to advise the Government, any public authority or any consumer protection organisation on consumer protection matters generally;

(kd) to administer and enforce the Consumer Protection (Fair Trading) Act (Cap. 52A); and”;

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

“(d) publish or sponsor the publication of educational materials or carry out other educational activities, including conducting

seminars and workshops, on matters relating to productivity and standards;”; and

(c) by deleting the word “and” at the end of paragraph (v) of section 7(2), and by inserting immediately thereafter the following paragraphs: 5

“(va) publish or sponsor the publication of educational materials or carry out other educational activities, including conducting seminars and workshops, on matters relating to fair trading; 10

(vb) support (financially or otherwise) the carrying out by others of the activities mentioned in paragraph (va);

(vc) provide for, develop, administer, promote, coordinate or collaborate with any person (in or outside Singapore) for the purpose of discharging the Board’s functions or duties under this Act; 15

(vd) become a member or an affiliate of any international body, the functions, objects or duties of which are similar to those of the Board under this Act; and”. 20

**Amendment to Consumer Protection (Fair Trading) (Amendment) Act 2008** 25

15. Section 8 of the Consumer Protection (Fair Trading) (Amendment) Act 2008 (Act 15 of 2008) is amended by deleting paragraph (c).

**Saving and transitional provisions**

16.—(1) The principal Act continues to apply in relation to an action which has been commenced by a specified body under section 9 of the principal Act in force immediately before the date of commencement of section 4 of the Consumer Protection (Fair 30

Trading) (Amendment) Act 2016 (called in this section the commencement date) as if this Act has not been enacted.

5 (2) For the purposes of subsection (1), “specified body” has the same meaning as in section 2(1) of the principal Act in force immediately before the commencement date.

10 (3) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Consumer Protection (Fair Trading) Act (Cap. 52A) to enhance consumer protection against unfair practices by —

- (a) enabling the Standards, Productivity and Innovation Board (the Board) to bring an action in a court to apply for a declaration or an injunction, or both against any supplier who engages in unfair practices (an errant supplier);
- (b) enabling the Board to bring an action in a court to apply for an injunction against any person (an abettor) who abets, aids, permits or procures a supplier to engage in an unfair practice;
- (c) empowering the District Court or High Court to make certain accompanying orders when granting an application for a declaration or an injunction against an errant supplier or an abettor;
- (d) removing the requirement for applications for a declaration or an injunction against an errant supplier to be endorsed by an Injunction Proposals Review Panel;
- (e) conferring various investigation powers on the Board;
- (f) creating various offences for non-compliance in the course of investigations by the Board; and
- (g) expanding the list of specific unfair practices in the Second Schedule.

The Bill makes related amendments to the Standards, Productivity and Innovation Board Act (Cap. 303A) to confer on the Board new functions relating to, amongst other things, the administration and enforcement of the

Consumer Protection (Fair Trading) Act and to confer on the Board additional powers to enable the Board to better fulfil its functions.

The Bill also makes an amendment to the Consumer Protection (Fair Trading) (Amendment) Act 2008 (Act 15 of 2008) to delete an amendment to the Consumer Protection (Fair Trading) Act that is obsolete and need not be brought into force.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2(1) —

- (a) to delete the definitions of “Chairman” and “Panel” as a consequence of the abolition of the Injunction Proposals Review Panel (see clause 5); and
- (b) to insert new definitions of “Board” and “chief executive”.

Clause 3 amends section 8(10) to reflect that the function of the “specified body” appointed by the Minister under that provision is now limited to the purposes of section 8 (that is, relating to invitations to enter, and the entering of, voluntary compliance agreements).

Clause 4 amends section 9 —

- (a) to provide that the Board (rather than the specified body) may apply to the court for a declaration that a practice engaged in or about to be engaged in by a supplier is an unfair practice, or an injunction restraining a supplier from engaging in an unfair practice, or both;
- (b) to provide for the accompanying orders that a court may make where such a declaration or injunction is made against a supplier, including —
  - (i) providing for notice of the details of a declaration or an injunction made in respect of the supplier to be published by the supplier during the specified period at such intervals as will secure prompt and adequate publicity;
  - (ii) providing for a supplier in respect of whom a declaration or an injunction is made to, during the specified period, inform a prospective consumer of that fact and obtain the consumer’s written acknowledgment of that notice;
  - (iii) providing for a supplier in respect of whom a declaration or an injunction is made to, during the specified period, include notice of that fact in invoices or receipts issued by the supplier;
  - (iv) providing for notice of certain changes in the supplier’s business, including a change in the way in which the supplier carries on business to be given by the supplier to the Board during the specified period;

- (v) providing for individuals who are suppliers or who are partners that are suppliers to inform the Board, during the specified period, of “notifiable events” (specified in the new Fifth Schedule inserted by clause 13). These “notifiable events” relate generally to when the individual becomes involved with a supplier (as proprietor, partner, director, employee, etc., of the supplier) or ceases to become so involved with the supplier; and
  - (vi) providing for the Board to be reimbursed for costs incurred by the Board in publishing, or causing to be published, notices relating to the commencement of action relating to, or the granting of a declaration, an injunction or an interim injunction under the section;
- (c) to provide that the specified period within which the accompanying orders may have effect is the period specified by the court in the accompanying order but which must not exceed 5 years or such other period as the Minister may prescribe, in place of the 5 years;
  - (d) to provide that if a supplier fails to comply with any of the accompanying orders mentioned in the amended subsection (4)(a) to (d), the Board may apply to the court to extend the specified period but the extended period must not exceed 10 years after the date on which the accompanying order was made or such other period as the Minister may prescribe, in place of the 10 years;
  - (e) to provide that a consumer may cancel a contract with a supplier who has breached an accompanying order requiring the supplier in respect of whom a declaration or an injunction has been made to inform the consumer of that fact and to obtain the consumer’s written acknowledgment of that notice, within 6 months after entering into the contract;
  - (f) to remove the precondition that an application to the court under the amended section 9(1) needs to be endorsed by the Injunction Proposals Review Panel; and
  - (g) to make technical amendments to subsections (2)(b) and (3) to ensure consistency within the section as a whole.

Clause 5 repeals and re-enacts section 10 —

- (a) to abolish the Injunction Proposals Review Panel;
- (b) to provide that the Board may apply to the court for an injunction restraining a person from knowingly abetting, aiding, permitting or procuring a supplier to engage in an unfair practice;



- (c) to provide that the court may, pending the determination of the application, grant an interim injunction restraining the person from knowingly abetting, aiding, permitting or procuring the supplier to engage in an unfair practice;
- (d) to provide for the accompanying orders that a court may make where such an injunction is made against a person including —
  - (i) providing for notice of the particulars of the injunction to be published by the person at intervals as will secure prompt and adequate publicity;
  - (ii) providing the Board to be reimbursed for costs incurred by the Board in publishing, or causing to be published, notices relating to the commencement of action relating to, or the granting of an injunction or an interim injunction under the section; and
  - (iii) providing for individuals who are subject of the injunction to inform the Board, during the specified period, of “notifiable events” (specified in the new Fifth Schedule inserted by clause 13). These “notifiable events” relate generally to when the individual becomes involved with a supplier (as proprietor, partner, director, employee, etc., of the supplier) or ceases to become so involved with the supplier;
- (e) to provide that the specified period within which the accompanying orders may have effect is the period specified by the court in the accompanying order but which must not exceed 5 years or such other period as the Minister may prescribe, in place of the 5 years; and
- (f) to provide that if the individual fails to comply with the accompanying order mentioned in the new section 10(6)(c), the Board may apply to the court to extend the specified period but the extended period must not exceed 10 years after the date on which the accompanying order was made or such other period as the Minister may prescribe, in place of the 10 years.

Clause 6 amends section 12 —

- (a) to provide that the limitation period for an action which may be commenced under new section 10(1) (relating to an injunction against a person from knowingly abetting, aiding, permitting or procuring a supplier to engage in unfair practice) (inserted by clause 5) is 2 years after the date of occurrence of the last material event on which the action is based;
- (b) to make a consequential amendment to subsection (3)(b) to reflect that an action under the amended section 9(1) may be commenced by the Board (instead of the “specified body” appointed under section 8); and

(c) to make technical amendments for greater clarity.

Clause 7 makes a technical amendment to section 12B(3) for greater clarity.

Clause 8 inserts new Parts IIIA and IIIB.

The new Part IIIA (comprising new sections 12G to 12N) sets out the new investigation powers of the Board under the Act.

The new section 12G empowers the Board to conduct an investigation if there are reasonable grounds for suspecting —

- (a) that a supplier has engaged, is engaging or is likely to engage in an unfair practice; or
- (b) that a person —
  - (i) has knowingly abetted, aided, permitted or procured; or
  - (ii) is knowingly abetting, aiding, permitting or procuring, a supplier to engage in an unfair practice.

For the purposes of conducting an investigation under the Part, the chief executive may appoint any officer or employee of the Board, or any auxiliary police officer, to be an investigation officer.

The new section 12H empowers the Board by notice in writing to the person under investigation to produce specified documents or articles and specified information.

The new section 12I empowers an investigation officer and a person authorised by the Board to assist the investigation officer (authorised assistant) to, subject to certain conditions, enter and search any premises reasonably suspected of being used by the person under investigation in connection with an unfair practice, and to gather any goods, document and information that is relevant to the investigation.

The new section 12J provides that a court may, on the application of the Board, issue a warrant authorising an investigation officer and an authorised assistant to enter (using reasonable force as may be necessary) and search any premises reasonably suspected of being used by the person under investigation in connection with an unfair practice, and to gather any goods, document and information that is relevant to the investigation.

The new section 12K sets out the post-seizure procedure to be complied with by the investigation officer and authorised assistant in respect of any goods, document or information seized under the new section 12I or 12J.

The new section 12L empowers an investigation officer to require any person whom the investigation officer suspects to have engaged in an unfair practice or to have knowingly abetted, aided, permitted or procured a supplier to engage in an unfair practice, to provide evidence of the person's identity.

The new section 12M empowers an investigation officer to require any person who may have evidence in connection with an investigation conducted by the Board to attend before the investigation officer for the purposes of facilitating the investigation. Any statement given by the person must be reduced to writing and acknowledged by the person.

The new section 12N provides that a person who is required under the Act to disclose any information or document to the Board, an investigation officer or any authorised assistant is not excused from making the disclosure on the ground that the disclosure of the information or document might tend to incriminate the person. A statement made will not be admissible in evidence against the person in criminal proceedings other than those under Part IIIB, but will be admissible in evidence in civil proceedings, including proceedings under the Act. The new section further provides for legal professional privilege for professional legal advisers, except that a professional legal adviser is obliged to give the name and address of the person to whom or by or on behalf of whom the privileged communication was made.

The new Part IIIB (comprising new sections 12O to 12V) sets out the offences relating to the exercise of powers under the new Part IIIA and related matters.

The new section 12O provides that, subject to certain defences, any person who fails to comply with a requirement imposed on the person under the new section 12H, 12I, 12J, 12L or 12M is guilty of an offence.

The new section 12P provides that any person who destroys, disposes, falsifies or conceals, etc., any document required to be produced under the new section 12H, 12I, 12J or 12L is guilty of an offence.

The new section 12Q provides that any person who intentionally provides any false or misleading information to the Board, an investigation officer or an authorised assistant, whether directly or indirectly, in connection with an investigation is guilty of an offence.

The new section 12R provides that any person who obstructs any of the Board's members, officers or employees, or any investigation officer or authorised assistant in carrying out his duties or in exercising his powers under the Act is guilty of an offence.

The new section 12S provides that a person whose equipment, goods, article or document is properly seized under Part IIIA, is not entitled to any remedy other than an order for the return of the item.

The new section 12T relates to offences by corporations. It deals with how the state of mind of a corporation is to be determined in a proceeding for an offence and provides for the liability for officers of a corporation for an offence committed by the corporation.

The new section 12U relates to offences by unincorporated associations or partnerships. It sets out how the state of mind of an unincorporated association or a

partnership (as the case may be) is to be determined in a proceeding for an offence and provides for the liability for an officer, partner, manager, etc., of an unincorporated association or a partnership (as the case may be) for an offence committed by the unincorporated association or partnership (as the case may be).

The new section 12V empowers the chief executive or any officer of the Board authorised by the chief executive, to compound any offence prescribed as a compoundable offence and provides for related matters.

Clause 9 amends section 20(2) to enable the Minister to —

- (a) make regulations relating to a consumer's right to cancel a contract with a supplier under the new section 9(12), the rights and obligations of the parties to the cancelled contract or any other contract entered into for the purposes of the cancelled contract, and the effect of cancellation of the contract; and
- (b) make regulations to prescribe the offences that may be compounded under section 12V.

Clause 10 amends the Second Schedule —

- (a) to make the following conduct by a supplier in relation to a supply of goods or services to a consumer a specific unfair practice:
  - (i) representing that the supplier has a sponsorship, approval or affiliation with respect to the supply of goods or services that the supplier does not have;
  - (ii) making a false or misleading representation concerning the need for any goods or services;
  - (iii) making certain representations that another supplier will, on the presentment of a voucher to that other supplier, supply certain goods or services, or supply certain goods or services at a discounted or reduced price, when the supplier knows or ought to know this will not happen;
  - (iv) making an invitation to a consumer to purchase or making an offer to sell to a consumer certain goods or services (the original goods or services) at a certain price and then, with the intention of promoting different goods or services, refusing to show or demonstrate, take any order for, etc., the original goods or services;
  - (v) accepting consideration for the supply of goods or services when the supplier knows or ought to know that the supplier will not be able to supply the goods or services within the time specified by the supplier at or before the consideration is

accepted, or if no period is specified by the supplier, within a reasonable period;

- (vi) purporting to assert a right to payment for the supply of unsolicited goods or services;
  - (vii) sending to a consumer an invoice or document stating the amount of payment for the supply of unsolicited goods or services which does not contain as the document's most prominent text words to the effect that the invoice or document is not a bill and that the consumer is not required to pay any money, unless the consumer has expressly acknowledged to the supplier in writing the consumer's intention to accept and pay for such goods or services;
  - (viii) where an applicable agreement (as defined in paragraph 3 of Part 2) has been entered into in writing and a copy of the applicable agreement has not been given to the consumer, refusing to give the consumer a copy of the applicable agreement upon the consumer's request;
- (b) to expand the existing specific unfair practice in paragraph 2 to include the case of a supplier representing that goods are of a particular weight, volume, length or capacity if they are not;
  - (c) to expand the existing specific unfair practice in paragraph 20 to include the case of a supplier omitting to provide a material fact to a consumer in connection with the supply of goods or services;
  - (d) to define "unsolicited goods or services" (used in paragraphs 22 and 23 of Part 1) and "applicable agreement" (used in paragraph 24 of Part 1);
  - (e) to provide that a continuing supply of goods or services to a consumer is to be treated as unsolicited goods or services if there is a material change in the goods or services, unless the consumer consented in writing to the change; and
  - (f) to provide that an intention to accept and pay for goods or services, a request for goods or services, or a consent to a material change in relation to a supply of goods or services, is not to be inferred only from certain specified conduct of the consumer.

Clause 11 repeals the Third Schedule (relating to the constitution and proceedings of the Injunction Proposals Review Panel) as a consequence of the abolition of the Injunction Proposals Review Panel (under clause 5).

Clause 12 makes technical amendments to the Fourth Schedule for greater clarity.

Clause 13 inserts a new Fifth Schedule, which sets out the “notifiable events” mentioned in the new section 9(4)(e) and (f) (inserted by clause 4(e)) and the new section 10(6)(c) (inserted by clause 5).

Clause 14 makes related amendments to the Standards, Productivity and Innovation Board Act —

- (a) to make it a function of the Board to administer and enforce the Consumer Protection (Fair Trading) Act, to prevent suppliers in Singapore from engaging in unfair practices, to promote fair trading amongst suppliers and consumers, to promote measures to enable consumers to make informed purchasing decisions in Singapore and to advise the Government, any public authority or any consumer protection organisation on consumer protection matters generally; and
- (b) to expand the powers of the Board to enable the Board to better perform its functions.

Clause 15 makes an amendment to the Consumer Protection (Fair Trading) (Amendment) Act 2008 (Act 15 of 2008) to delete an amendment to the Consumer Protection (Fair Trading) Act that has become obsolete and need not be brought into force.

Clause 16 is a saving and transitional provision and empowers the Minister to make regulations to prescribe additional provisions of a saving or transitional nature for a period of 2 years after the date of commencement of any provision of the Consumer Protection (Fair Trading) (Amendment) Act 2016.

## EXPENDITURE OF PUBLIC MONEY

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

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