

# Debt Collection Bill

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**Bill No. 18/2022.**

*Read the first time on 1 August 2022.*

## DEBT COLLECTION ACT 2022

(No. of 2022)

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A BILL

*intituled*

An Act to regulate the operation of debt collection businesses and the conduct of certain debt collection activities and to provide for other connected or incidental matters.

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

PART 1  
PRELIMINARY

**Short title and commencement**

1. This Act is the Debt Collection Act 2022 and comes into  
5 operation on a date that the Minister appoints by notification in the  
*Gazette*.

**General interpretation**

2.—(1) In this Act, unless the context otherwise requires —

10 “Assistant Licensing Officer” means a public officer appointed  
under section 3(1)(b);

“authorised officer” means a public officer appointed under  
section 3(3);

“class licence” means a class licence determined under an order  
made under section 14(1);

15 “class licensee” means a person to whom an order under  
section 14(1) applies;

20 “code of practice” means a code of practice issued or approved  
by the Licensing Officer under section 16, and includes any  
such code of practice as amended from time to time under  
that section;

“compliance officer” means an individual appointed under  
section 4(1);

“corporation” has the meaning given by section 4(1) of the  
Companies Act 1967;

25 “debt” means a monetary obligation owed by a debtor;

“debt collection activity” means any activity undertaken in  
Singapore that involves finding the debtor of a debt or  
requesting, demanding or collecting from the debtor money  
due under the debt;

30 “debt collection business” means the business carried on by a  
person of collecting any debt from a debtor —

- (a) on behalf of another person; or
- (b) where the firstmentioned person has acquired the debt;

“debt collector” means an individual who carries out any debt collection activity for or on behalf of another person;

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“entity” means any of the following:

- (a) a corporation registered under section 19 of the Companies Act 1967;
- (b) a sole proprietorship or partnership registered under the Business Names Registration Act 2014;
- (c) a limited liability partnership registered under the Limited Liability Partnerships Act 2005;
- (d) a limited partnership registered under the Limited Partnerships Act 2008;
- (e) an entity having a business or corporate structure as may be prescribed;

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“excluded person” means a person specified in Part 1 of the First Schedule;

“inspecting officer” means the Licensing Officer, an Assistant Licensing Officer, an authorised officer or a police officer;

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“key appointment holder”, in relation to an entity, means any of the following persons:

- (a) where the entity is a corporation —
  - (i) a member of the board of directors or committee or board of trustees or other governing board of the corporation; or
  - (ii) an individual for the time being holding the office of chairperson or chief executive officer of the corporation;
- (b) where the entity is a sole proprietorship — the sole proprietor;

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(c) where the entity is a partnership or limited partnership — a partner of the partnership or limited partnership, as the case may be;

5 (d) where the entity is a limited liability partnership — a partner or manager of the limited liability partnership;

10 (e) any person, other than a person mentioned in paragraph (a), (b), (c) or (d), by whatever name called, who is principally responsible for the management and conduct of the entity’s business activities;

“licence” means a licence granted or renewed under section 8;

“licensee” means a person who is the holder of a licence, but does not include a class licensee;

15 “Licensing Officer” means the public officer appointed under section 3(1)(a);

20 “modification” and “modify”, in relation to the conditions of a licence or the conditions of an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee, include deleting, varying and substituting a condition, and adding a condition;

“police officer” has the meaning given by section 2(1) of the Police Force Act 2004;

“public authority” means —

25 (a) any Ministry, department of the Government or Organ of State; or

(b) any body established or constituted by or under any public Act to perform a public function;

30 “regulated business” means a business specified in Part 2 of the First Schedule.

(2) For the purposes of this Act, any debt that is owed to a person who carries on a regulated business in the course of the regulated

business includes a debt that is owed to the person as a consequence of a merger with, or acquisition of, a regulated business.

(3) For the purposes of this Act, a person (*A*) deploys an individual (*B*) as *A*'s debt collector, if *B* —

- (a) is in the direct employment of, or acting for or by arrangement with, *A*; and 5
- (b) is authorised to carry out any debt collection activity for or on behalf of *A*.

(4) For the purposes of this Act —

- (a) a licensee is not regarded as being granted a licence to carry on a debt collection business or to carry out any debt collection activity in the course of the business, during the period the licensee's licence is suspended under section 22(2)(b) or 24(2); 10
- (b) a class licensee is not regarded as authorised under a class licence to carry out any debt collection activity to collect any debt that is owed to the class licensee in the course of the regulated business carried on by the class licensee, during the period the application of the class licence to that class licensee is suspended under section 22(2)(b) or 24(2); and 15 20
- (c) a licensee and an individual to whom approval is granted by the Licensing Officer under section 20 for the individual to be deployed as a debt collector of the licensee, are not regarded as being so approved during the period the approval is suspended under section 25(2)(c) or 27(2). 25

### **Appointment of officers**

3.—(1) The Minister may, for the purposes of this Act, appoint —

- (a) a public officer as the Licensing Officer; and
- (b) any number of public officers as Assistant Licensing Officers that the Minister considers necessary. 30

(2) The Licensing Officer and Assistant Licensing Officers may be known by the titles that the Minister may determine from time to time.

5 (3) The Licensing Officer may, in relation to any provision of this Act, appoint any public officer to be an authorised officer for the purposes of that provision, either generally or in a particular case.

10 (4) Subject to subsection (5), the Licensing Officer may, with the approval of the Minister, delegate the exercise of all or any of the powers conferred or duties imposed upon the Licensing Officer by any provision of this Act (except the power of delegation conferred by this subsection) to an Assistant Licensing Officer.

15 (5) Any delegation under subsection (4) may be general or in a particular case and may be subject to the conditions or limitations as set out in this Act or as the Licensing Officer may specify; and any reference in the provision of this Act to the Licensing Officer includes a reference to such an Assistant Licensing Officer.

### **Compliance officers**

4.—(1) The Licensing Officer may, with the general or specific approval of the Minister, appoint an individual who —

- 20 (a) is at least 18 years of age;
- (b) is not an employee of a public authority;
- (c) is not a public officer; and
- (d) has suitable qualifications or experience,

25 to be a compliance officer to assist the Licensing Officer or an authorised officer in the exercise of enforcement powers in Division 3 of Part 4 in any particular area in Singapore.

(2) The Licensing Officer may, for any reason that appears to the Licensing Officer to be sufficient, at any time revoke an individual's appointment as a compliance officer.

30 (3) The Licensing Officer must issue to each compliance officer an identification card, which must be carried at all times by the compliance officer when exercising any power under this Act.

(4) A compliance officer whose appointment ceases must return any identification card issued to him or her under subsection (3) to the Licensing Officer.

(5) The Licensing Officer must also issue to each compliance officer, a written authorisation specifying one or more of the powers expressly specified in Division 3 of Part 4 as exercisable by a compliance officer, as what the compliance officer may exercise, and no other powers. 5

(6) The authorisation of the Licensing Officer under subsection (5) issued to a compliance officer may also do all or any of the following: 10

- (a) limit the powers mentioned in subsection (1) that the compliance officer may exercise;
- (b) limit when, and where in the particular area in Singapore, the compliance officer may exercise those powers or any of them; 15
- (c) limit the circumstances in which the compliance officer may exercise those powers or any of them.

(7) To avoid doubt, the Licensing Officer cannot authorise under this section a compliance officer —

- (a) to detain or arrest any individual; 20
- (b) to search any place or individual; or
- (c) to seize any property.

(8) The powers that a compliance officer may be authorised under this section to exercise may be exercised only —

- (a) on production of the identification card issued under subsection (3); 25
- (b) to the extent authorised by the Licensing Officer under subsection (5); and
- (c) as directed (generally or specially) by the Licensing Officer or an authorised officer. 30

(9) A compliance officer who is authorised under subsection (5) to exercise any power expressly specified in that authorisation as

exercisable by a compliance officer is deemed to be a public servant for the purposes of the Penal Code 1871 when exercising that power.

(10) To avoid doubt, a compliance officer does not cease to be acting on the direction of the Licensing Officer or an authorised officer by reason only that the Licensing Officer or authorised officer is not present at all times.

(11) An individual who is appointed as a compliance officer under subsection (1) does not, by virtue only of the appointment, become an agent of the Government.

### **Protection from personal liability**

5. No liability shall lie personally against the Licensing Officer, an Assistant Licensing Officer, an authorised officer, a compliance officer, a police officer or any other person acting under the direction of the Licensing Officer for anything which is done or purported to be done, or omitted to be done, in good faith and with reasonable care in —

- (a) the exercise or purported exercise of any power under this Act; or
- (b) the performance or purported performance of any function under this Act.

## **PART 2**

### **REGULATION OF DEBT COLLECTION BUSINESSES AND DEBT COLLECTION ACTIVITIES RELATING TO REGULATED BUSINESSES**

#### **Regulation of debt collection businesses and debt collection activities relating to regulated businesses**

6.—(1) A person must not, on or after the start date, carry on a debt collection business, or carry out any debt collection activity in the course of the business, unless the person is an entity which is authorised to carry on the debt collection business by a valid licence under this Act.

(2) A person who carries on a regulated business must not, on or after the start date, carry out any debt collection activity to collect any debt that is owed to the person in the course of the regulated business, unless the person is authorised to carry out the debt collection activity under a class licence determined by the Minister under section 14(1). 5

(3) A person must not, on or after the start date, advertise or otherwise hold himself, herself or itself out that the person is carrying on a debt collection business unless the person holds a valid licence under this Act.

(4) Subsections (1) and (3) do not apply to an excluded person. 10

(5) A person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both; but

(b) where the person is a repeat offender — to a fine of not less than \$20,000 and not more than \$100,000 or to imprisonment for a term not exceeding 5 years or to both. 15

(6) In this section, “start date” means the date which falls 3 months after the date of commencement of this section.

### *Division 1 — Licences* 20

#### **Application for or to renew licence**

7.—(1) An application for or to renew a licence must be made to the Licensing Officer in accordance with this section.

(2) An application under subsection (1) must —

(a) be in the form and manner required by the Licensing Officer; 25

(b) be accompanied by a non-refundable application fee (if prescribed) paid in the manner required by the Licensing Officer; and

(c) be accompanied by any information that the Licensing Officer requires to decide on the application. 30

(3) In addition to the requirements under subsection (2), an application to renew a licence must —

5           (a) be made not later than the prescribed time before the date the licence expires (called in this subsection the renewal deadline); and

          (b) if made later than the renewal deadline, be accompanied by a non-refundable late renewal application fee (if prescribed) paid in the manner required by the Licensing Officer.

10       (4) The Licensing Officer or an authorised officer may —

          (a) carry out any inquiry or investigation in relation to an application under subsection (1) that is necessary for a proper consideration by the Licensing Officer of the application; and

15           (b) request that the applicant provide, within a specified time, any additional information that the Licensing Officer requires for a proper consideration of the application.

(5) The Licensing Officer may refuse an application under subsection (1) —

20           (a) that is incomplete or otherwise not made in accordance with this section; or

          (b) if the applicant fails to provide the additional information requested under subsection (4)(b).

25       (6) An applicant who, in an application under subsection (1), makes a statement which the applicant knows to be false in a material particular 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 2 years or to both.

### **Grant or renewal of licence**

30       **8.—**(1) After considering an application for or to renew a licence, the Licensing Officer may —

          (a) on payment of a licence fee or renewal fee (if prescribed), grant or renew the licence, as the case may be; or

(b) refuse (without compensation) to grant or renew the licence, as the case may be.

(2) The Licensing Officer must not grant or renew a licence if the Licensing Officer is satisfied that —

(a) the applicant is not a fit and proper person to hold a licence; or

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(b) a key appointment holder of the applicant is not a fit and proper person to act in that capacity.

(3) In determining whether —

(a) an applicant is a fit and proper person to hold a licence; or

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(b) a key appointment holder of an applicant is a fit and proper person to act in that capacity,

the Licensing Officer may have regard to, and give any weight that the Licensing Officer considers appropriate to, any criteria and requirements that are prescribed.

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(4) To avoid doubt, the Licensing Officer is not confined to consideration of the criteria and requirements prescribed under subsection (3), and may take into account any other matter or evidence that may be relevant.

### **Form and validity of licence**

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**9.—**(1) Every licence is to be in the form that the Licensing Officer determines.

(2) Every licence granted or renewed under this Act continues in force for the period specified in the licence unless it is earlier revoked under section 22(1) or suspended under section 22(2)(b) or 24(2).

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(3) A licence is not transferable or assignable to any person, and a purported transfer or assignment of a licence, or of any rights, benefits or privileges under the licence, is void and of no effect.

## Licence conditions

5 **10.**—(1) In granting or renewing a licence under section 8, the Licensing Officer may impose any condition that the Licensing Officer considers requisite or expedient having regard to the purpose of this Act.

(2) The Licensing Officer may impose —

- (a) conditions generally applicable to all licences;
- (b) conditions specifically applicable to a class of licences; or
- (c) conditions specifically applicable to a particular licence.

10 (3) Without limiting subsection (1), a licence may include conditions —

(a) requiring the licensee to put in place measures to ensure that every debt collector of the licensee carries out any debt collection activity in compliance with —

15 (i) all the conditions of the approval granted under section 20 for the debt collector to be deployed as a debt collector of the licensee;

(ii) all the codes of practice that are applicable to the licensee; and

20 (iii) this Act and any other written law, including the Penal Code 1871 and the Protection from Harassment Act 2014; and

(b) requiring the licensee to undergo and pass any audit that the Licensing Officer may determine for compliance with —

25 (i) the provisions of this Act;

(ii) the conditions of the licence or any approval granted under section 20 for an individual to be deployed as a debt collector of the licensee;

30 (iii) the codes of practice that are applicable to the licensee; and

(iv) any direction given by the Licensing Officer under section 11(4), 21(6), 22(2)(a), 25(2)(b) or 26(5).

(4) For the purpose of subsection (3)(b) —

(a) the audit may be conducted only by —

(i) an authorised officer; or

(ii) any qualified individual or qualified audit team that may be approved by the Licensing Officer for that purpose; and

(b) the Licensing Officer may require the licensee to submit to the Licensing Officer or to the persons conducting the audit any information that the Licensing Officer may specify which pertains to the licensee.

(5) Without limiting subsection (1), the Licensing Officer may grant a renewal of a licence with or without modifying the conditions of the licence, but section 11 does not apply to or in relation to granting a renewal of a licence with modifications to the conditions of the licence.

### **Modification of conditions of licence**

**11.—**(1) The Licensing Officer may modify the conditions of a licence in accordance with this section without compensating the licensee to whom the licence is granted.

(2) Before modifying any condition of a licence, the Licensing Officer must give notice to the licensee —

(a) stating that the Licensing Officer intends to make the modification in the manner as specified in the notice; and

(b) specifying the time (being at least 14 days after the date of service of the notice on the licensee) within which the licensee may make written representations to the Licensing Officer with respect to the proposed modification.

(3) On receiving any written representation mentioned in subsection (2)(b), the Licensing Officer must consider that representation and may —

- (a) reject the representation;
- (b) amend the proposed modification in any manner that the Licensing Officer thinks fit having regard to the representation; or
- 5 (c) withdraw the proposed modification.

(4) Where —

- (a) the Licensing Officer rejects any written representation under subsection (3)(a);
- 10 (b) the Licensing Officer amends any proposed modification to the conditions of the licence under subsection (3)(b); or
- (c) no representation is received by the Licensing Officer within the time specified in subsection (2)(b), or any representation made under that provision is subsequently withdrawn, and the licensee has not given immediate effect
- 15 to the modification,

the Licensing Officer must issue a direction in writing to the licensee in question requiring the licensee, within the time specified by the Licensing Officer, to give effect to the modification as specified in the notice under subsection (2) or as amended by the Licensing Officer,

20 as the case may be.

### **Lapse of licence**

**12.—**(1) Unless expired or earlier revoked under section 22(1), a licence lapses —

- (a) when the licensee ceases to exist; or
- 25 (b) if the licensee is a sole proprietorship of which the sole proprietor is an individual — on the death of the sole proprietor.

(2) No part of any licence fee or renewal fee may be refunded upon the lapse of a licence under this section.

## Register of licensees

13. The Licensing Officer must cause to be kept and maintained a register of licensees, in the form and manner and containing the information that the Licensing Officer thinks fit.

### *Division 2 — Class licences*

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#### **Class licence**

14.—(1) The Minister may, by order in the *Gazette*, determine a class licence that authorises any person who carries on a regulated business to carry out any debt collection activity to collect any debt that is owed to the person in the course of the regulated business —

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(a) for a specified period or indefinitely, or to an extent specified in that order; and

(b) subject to the conditions as may be specified in that order.

(2) To avoid doubt, there may be more than one class licence determined.

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(3) Without limiting subsection (1)(b), an order made under subsection (1) may include conditions —

(a) restricting the manner or method by which a class licensee collects, or attempts to collect, any debt;

(b) prohibiting a class licensee from collecting or attempting to collect any debt from any person unless the class licensee has first ascertained that the person is the debtor of the debt;

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(c) requiring a class licensee to only deploy employees of the class licensee as the class licensee's debt collectors;

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(d) requiring a class licensee to put in place measures to ensure that every debt collector of the class licensee carries out any debt collection activity in compliance with —

(i) all the conditions of the applicable class licence;

(ii) all the codes of practice that are applicable to the class licensee; and

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(iii) this Act and any other written law, including the Penal Code 1871 and the Protection from Harassment Act 2014;

5 (e) restricting a class licensee from continuing to deploy an employee as the class licensee's debt collector, if the employee had previously failed to conduct any debt collection activity in compliance with —

(i) all the conditions of the class licence that are applicable to the class licensee;

10 (ii) all the codes of practice that are applicable to the class licensee; or

(iii) this Act or any other written law, including the Penal Code 1871 and the Protection from Harassment Act 2014; and

15 (f) prohibiting a class licensee from collecting debts which are not owed to the class licensee.

(4) An order under subsection (1) continues in force, unless it is revoked, for the period that may be specified in the order.

20 (5) A class licensee to which an order under subsection (1) applies may carry out any debt collection activity in respect of any debt owed to the class licensee in the course of a regulated business carried on by the class licensee subject to the conditions of the order being complied with.

### **Variation and revocation of class licence**

25 **15.**—(1) Subject to this section, the Minister may, by order in the *Gazette*, vary a class licence determined under an order made under section 14(1) by —

(a) varying or revoking any condition specified in the class licence; or

30 (b) specifying additional conditions of the class licence.

(2) Before varying a class licence determined under an order made under section 14(1) or revoking such an order, the Minister must, unless the Minister considers it impractical or undesirable in the

circumstances of the case, cause to be published, in accordance with subsection (3), a written notice that —

- (a) states that the Minister proposes to vary the class licence or to end the class licence;
- (b) describes the proposed variation or ending; and 5
- (c) invites interested persons to make representations about the proposed variation or ending by a specified date that is at least one month after the date of publication of the notice.

(3) A notice under subsection (2) must be published on the prescribed website or in one or more other forms that are readily accessible by the public. 10

(4) The Minister must, before varying a class licence under subsection (1) or revoking the order, give due consideration to any representations made to the Minister pursuant to the notice given in accordance with subsection (2). 15

### *Division 3 — Codes of practice*

#### **Codes of practice**

**16.—**(1) The Licensing Officer may, with respect to all or any of the matters in subsection (2), from time to time — 20

- (a) issue one or more codes of practice applicable to all licensees or class licensees or a specified class of licensees or class licensees;
- (b) approve as a code of practice applicable to all licensees or class licensees or a specified class of licensees or class licensees any document prepared by a person other than the Licensing Officer, as in force at a particular time or as amended from time to time, if the Licensing Officer considers the document suitable for this purpose; or 25
- (c) amend or revoke any code of practice issued under paragraph (a) or approved under paragraph (b). 30

(2) The matters for the purposes of subsection (1) are —

- (a) the conduct, duties and responsibilities of a licensee;
- (b) the conduct, duties and responsibilities of a class licensee;
- (c) the management, administration and operation of debt collection businesses; and
- (d) the manner in which debt collection activities are to be carried out.

(3) If any provision in any code of practice is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency —

- (a) is to have effect subject to this Act; or
- (b) having regard to this Act, is not to have effect.

(4) Where any code of practice is issued, approved, amended or revoked by the Licensing Officer under subsection (1), the Licensing Officer must —

- (a) publish a notice of the issue, approval, amendment or revocation (as the case may be) of the code of practice on the prescribed website or in one or more other forms that are readily accessible by the public;
- (b) specify in the notice mentioned in paragraph (a), the date of the issue, approval, amendment or revocation, as the case may be; and
- (c) ensure that, so long as the code of practice remains in force, copies of that code of practice are available for inspection, free of charge, by licensees or class licensees to whom the code of practice applies.

(5) No code of practice, no amendment to any code of practice, and no revocation of any code of practice, has any force or effect until the notice mentioned in subsection (4) is published in accordance with that subsection.

(6) A code of practice issued or approved under this section does not have any legislative effect.

(7) Subject to subsection (8), every licensee or class licensee must comply with the codes of practice applicable to the licensee or class licensee, as the case may be.

(8) The Licensing Officer may, either generally or for any time that the Licensing Officer may specify, waive the application of any code of practice or any part of a code of practice issued or approved under this section to any licensee or class licensee.

(9) Any contravention or failure to comply by a licensee or class licensee of or with any code of practice applicable to the licensee or class licensee (as the case may be) does not of itself render the licensee or class licensee (as the case may be) liable to criminal proceedings, but any such contravention may, in any proceedings (criminal or otherwise under this Act) in connection with an offence under this Act, be relied on by any party to those proceedings as tending to establish or negate any liability which is in question in those proceedings.

## PART 3

### DEBT COLLECTORS

#### **Individuals acting as debt collectors**

17.—(1) An individual must not, on or after the start date, act as a debt collector for a person who carries on a debt collection business unless —

- (a) the person is a licensee which is approved to deploy the individual as the licensee’s debt collector under section 20; or
- (b) the person is the individual’s employer and is an excluded person.

(2) An individual must not, on or after the start date, act as a debt collector for a person who carries on a regulated business unless —

- (a) the person is the individual’s employer and is a class licensee; and

(b) the individual is deployed by the person as the person's debt collector in respect of a debt that the person is authorised to collect under a class licence that is applicable to the person.

5 (3) An individual who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; but

10 (b) where the individual is a repeat offender — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

(4) In this section, “start date” means the date which falls 3 months after the date of commencement of this section.

15 **Deployment of individuals to perform debt collection activities by licensees**

**18.—**(1) A licensee must not deploy an individual as the licensee's debt collector unless the Licensing Officer has granted approval under section 20 for the individual to be deployed as a debt collector by the licensee.

20 (2) A licensee who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; but

25 (b) where the licensee is a repeat offender — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

## Application for approval

19.—(1) An application for approval for a licensee to deploy an individual as a debt collector of the licensee must be made jointly by the licensee and the individual to the Licensing Officer in accordance with this section. 5

(2) To avoid doubt —

(a) the Licensing Officer may grant approval for an individual to be deployed as a debt collector of 2 or more licensees; but

(b) each of the licensees mentioned in paragraph (a) must (jointly with the individual) make a separate application under subsection (1) for the Licensing Officer’s approval for the individual to be deployed as a debt collector of that licensee. 10

(3) An application under subsection (1) must — 15

(a) be in the form and manner required by the Licensing Officer;

(b) be accompanied by a non-refundable application fee (if prescribed) paid in the manner required by the Licensing Officer; and 20

(c) be accompanied by any information the Licensing Officer requires to determine the application.

(4) The Licensing Officer or an authorised officer may —

(a) carry out any inquiry or investigation in relation to an application under subsection (1) that is necessary for a proper consideration by the Licensing Officer of the application; and 25

(b) request that the applicants provide, within a specified time, any additional information that the Licensing Officer requires for a proper consideration of the application. 30

(5) The Licensing Officer may refuse an application under subsection (1) —

- (a) that is incomplete or otherwise not made in accordance with this section; or
- (b) if the applicants fail to provide the additional information requested under subsection (4)(b).

## 5 **Grant of approval**

**20.**—(1) After considering an application for approval for an individual to be deployed as a debt collector of a licensee, the Licensing Officer may —

- (a) on payment of a fee (if prescribed), grant the approval; or
- 10 (b) refuse (without compensation) to grant the approval.

(2) The Licensing Officer must not grant approval for an application if the Licensing Officer is satisfied that the individual is not a fit and proper person to be deployed as a debt collector by the licensee.

- 15 (3) In determining whether an individual is a fit and proper person to be deployed as a debt collector by the licensee, the Licensing Officer may have regard to, and give any weight that the Licensing Officer considers appropriate to, any criteria and requirement that is prescribed.

- 20 (4) To avoid doubt, the Licensing Officer is not confined to consideration of the criteria and requirements prescribed under subsection (3) and may take into account any other matter or evidence that may be relevant.

## **Conditions of approval**

- 25 **21.**—(1) In granting any approval under section 20 in respect of an individual, the Licensing Officer may impose any condition on the licensee or the individual (or both) that the Licensing Officer considers requisite or expedient having regard to the purpose of this Act.

- 30 (2) Without limiting subsection (1), an approval granted under section 20 may be subject to conditions —

- (a) requiring the licensee or the individual (or both) to notify the Licensing Officer of any change in the particulars of the individual in respect of whom the approval is granted; and
- (b) requiring the licensee to take reasonable steps to ensure that the individual carries out any debt collection activity in compliance with one or more other conditions imposed under subsection (1). 5
- (3) Subject to subsections (4), (5) and (6), it is lawful for the Licensing Officer to modify the conditions of an approval without compensating the licensee or the individual in respect of whom the approval is granted. 10
- (4) Before modifying any conditions of an approval, the Licensing Officer must give notice to the licensee and the individual in respect of whom the approval is granted, respectively — 15
- (a) stating that the Licensing Officer intends to make the modification in the manner specified in the notice; and
- (b) specifying the time (being at least 14 days after the date of service of the notice on the licensee and the individual or (where the notices are served on the licensee and the individual on different dates) on the later of those dates) within which the licensee and the individual may make their written representations to the Licensing Officer with respect to the proposed modification. 20
- (5) Upon receiving any written representation mentioned in subsection (4)(b), the Licensing Officer must consider that representation and may — 25
- (a) reject the representation;
- (b) amend the proposed modification in any manner that the Licensing Officer thinks fit having regard to the representation; or 30
- (c) withdraw the proposed modification.

(6) Where —

- (a) the Licensing Officer rejects any written representation under subsection (5)(a);
- 5 (b) the Licensing Officer amends any proposed modification to the conditions of the approval under subsection (5)(b); or
- 10 (c) no representation is received by the Licensing Officer within the time specified in subsection (4)(b), or any representation made under that provision is subsequently withdrawn, and the licensee or the individual, or both (as the case may be) have not given immediate effect to the modification,

the Licensing Officer must issue a direction in writing to the licensee, or the individual, or both (as the case may be) requiring the licensee  
15 or the individual, or both (as the case may be), within the time specified by the Licensing Officer, to give effect to the modification as specified in the notice under subsection (4) or as amended by the Licensing Officer, as the case may be.

## PART 4

### ADMINISTRATION AND ENFORCEMENT

#### *Division 1 — Regulatory action against licensees and class licensees*

#### **Regulatory action against licensees and class licensees**

25 **22.—**(1) Subject to section 23, if the Licensing Officer is satisfied that —

- (a) a licensee or class licensee has contravened or not complied with —
  - (i) any condition of its licence or class licence;
  - 30 (ii) any provision of this Act applicable to the licensee or class licensee, the contravention of or non-compliance with which is not an offence under this Act;

- (iii) any provision of a code of practice applicable to the licensee or class licensee;
- (iv) in the case of the licensee — any direction given to the licensee under subsection (2)(a) or section 11(4), 21(6), 25(2)(b) or 26(5); or 5
- (v) in the case of a class licensee — any direction given to the class licensee under subsection (2)(a);
- (b) a licensee or class licensee has gone or is likely to go into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction; 10
- (c) a licensee or class licensee has made any assignment to, or composition with, its creditors or, if a corporation or limited liability partnership, is unable to pay its debts;
- (d) a licensee or class licensee has been convicted of any of the following offences that is committed during the term of the licence or class licence, as the case may be: 15
  - (i) an offence under this Act;
  - (ii) an offence, whether in Singapore or elsewhere, involving dishonesty or the conviction for which involved a finding that the licensee or class licensee had acted dishonestly; 20
  - (iii) an offence specified in the Second Schedule;
- (e) the licence of a licensee had been obtained by fraud or misrepresentation;
- (f) a licensee is no longer a fit and proper person to hold a licence, having regard to the criteria or requirements mentioned in section 8(3) or the matter or evidence mentioned in section 8(4); 25
- (g) a key appointment holder of a licensee is no longer a fit and proper person to act in that capacity, having regard to the criteria or requirements mentioned in section 8(3) or the matter or evidence mentioned in section 8(4); 30

(h) a licensee has ceased to carry on the debt collection business; or

(i) the public interest so requires,

5 the Licensing Officer may (without any compensation) revoke the licensee's licence or disapply the class licence with respect to that class licensee.

(2) However, the Licensing Officer may, in lieu of revoking a licensee's licence or disapplying a class licence with respect to a class licensee under subsection (1), do (without compensation) one or more  
10 of the following:

(a) direct the licensee or class licensee to do, or to refrain from doing, the things that are specified in a direction to rectify any contravention or non-compliance mentioned in subsection (1)(a);

15 (b) suspend the licence or application of the class licence with respect to the class licensee for not more than 6 months;

(c) in the case of a licensee — modify any condition of the licence.

(3) In taking any regulatory action under this section in relation to  
20 the conviction of a licensee or a class licensee for a criminal offence, the Licensing Officer may accept the licensee's or class licensee's conviction as final.

(4) For the purposes of subsection (1)(c) —

25 (a) a corporation is unable to pay its debts if it is deemed to be so unable under section 125(2) of the Insolvency, Restructuring and Dissolution Act 2018; and

(b) a limited liability partnership is unable to pay its debts if it is deemed to be so unable under paragraph 3(2) of the Fifth Schedule to the Limited Liability Partnerships Act 2005.  
30

### **Proceedings for regulatory action against licensees and class licensees**

**23.**—(1) Before exercising any power under section 22, the Licensing Officer must give written notice to the licensee or class licensee concerned —

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- (a) stating that the Licensing Officer intends to take regulatory action against the licensee or class licensee;
- (b) specifying the type of regulatory action in section 22(1) or (2) the Licensing Officer proposes to take, and the ground for taking the regulatory action; and
- (c) specifying the time (being at least 14 days after the date the written notice is served on the licensee or class licensee) within which written representations may be made to the Licensing Officer with respect to the proposed regulatory action.

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(2) The Licensing Officer may decide to take the appropriate regulatory action described in section 22(1) or (2) —

- (a) after considering any written representation made to him or her pursuant to the written notice mentioned in subsection (1); or
- (b) after the time delimited in the written notice under subsection (1)(c) lapses, where no representation is so made or any representation made is subsequently withdrawn.

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(3) Where the Licensing Officer has made any decision under subsection (2) against any licensee or class licensee, the Licensing Officer must serve on the licensee or class licensee a notice of his or her decision.

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(4) Subject to section 37, a decision to revoke a licence or disapply a class licence under section 22(1), or to impose a regulatory action under section 22(2), which is specified in the notice given under subsection (1), takes effect on the date that is immediately after the date on which that notice is given, or on any other date that may be specified in the notice.

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(5) Any suspension or revocation of any licence of any licensee, or any suspension of application or disapplication of a class licence with respect to any class licensee, under section 22 does not affect —

- (a) the enforcement by any person of any right or claim against the licensee or class licensee or the former licensee or former class licensee, as the case may be; or
- (b) the enforcement by the licensee or class licensee or the former licensee or former class licensee (as the case may be) of any right or claim against any person.

### **Immediate suspension of licence or application of class licence**

**24.—**(1) This section applies if —

- (a) a licensee or class licensee is subject to criminal proceedings in respect of —
  - (i) an offence under this Act;
  - (ii) an offence, whether in Singapore or elsewhere, involving dishonesty or the conviction for which involved a finding that the licensee or class licensee (as the case may be) had acted dishonestly; or
  - (iii) an offence specified in the Second Schedule; and
- (b) the Licensing Officer is of the opinion that it is undesirable in the public interest for the licensee to carry on a debt collection business or the class licensee to carry out any debt collection activity mentioned in section 6(2), as the case may be,

and this section applies despite section 23.

(2) The Licensing Officer may (without compensation) —

- (a) in the case of a licensee — serve on the licensee a notice of immediate suspension of the licensee's licence; or

- (b) in the case of a class licensee — serve on the class licensee a notice of immediate suspension of application of the relevant class licence with respect to the class licensee,

which takes immediate effect and remains in force until the Licensing Officer makes an order under subsection (5)(a) or any appeal to the Minister under section 37 against an order under subsection (5)(b) is determined.

(3) The licensee or class licensee must, upon a notice being served under subsection (2) but subject to subsection (5), immediately cease to carry on the debt collection business or carry out the debt collection activity mentioned in section 6(2), as the case may be.

(4) A licensee or class licensee who is served with a notice under subsection (2) may, within 14 days after being served with the notice, apply to the Licensing Officer to review his or her decision under subsection (5).

(5) The Licensing Officer may, on reviewing his or her decision, by order —

- (a) rescind the immediate suspension of the licensee’s licence or the immediate suspension of application of the class licence with respect to the class licensee; or
- (b) refuse to rescind the immediate suspension of the licensee’s licence or the immediate suspension of application of the class licence with respect to the class licensee.

*Division 2 — Regulatory action against approved debt collectors*

**Regulatory action in respect of approved individuals**

**25.—**(1) Subject to section 26, the Licensing Officer may (without compensation) cancel an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee on any of the following grounds:

- (a) any ground that would have entitled the Licensing Officer to refuse an application for approval in respect of the individual;

- (b) the individual is, in the opinion of the Licensing Officer, no longer a fit and proper person to be deployed by the licensee as the licensee's debt collector, having regard to the criteria or requirements mentioned in section 20(3) or the matter or evidence mentioned in section 20(4);
- (c) the approval had been obtained by fraud or misrepresentation;
- (d) the individual has (during the period of approval) been —
- (i) convicted of an offence under this Act;
  - (ii) convicted, whether in Singapore or elsewhere, of an offence involving dishonesty or the conviction for which involved a finding that the individual had acted dishonestly;
  - (iii) convicted of an offence specified in the Second Schedule; or
  - (iv) ordered to be detained under Part 5 of the Criminal Law (Temporary Provisions) Act 1955 or Chapter 2 of Part 2 of the Internal Security Act 1960;
- (e) the licensee or individual has contravened or not complied with —
- (i) any condition of the approval that is applicable to the licensee or individual, as the case may be;
  - (ii) any provision of this Act applicable to the licensee or individual, the contravention of or non-compliance with which is not an offence under this Act; or
  - (iii) any direction issued under subsection (2)(b) or section 26(5).

(2) However, the Licensing Officer may, in lieu of cancelling the approval, do (without compensation) one or more of the following:

- (a) modify any condition of the approval;
- (b) direct the licensee or individual to do, or to refrain from doing, the things that are specified in a direction to rectify

any contravention or non-compliance mentioned in subsection (1)(e);

- (c) suspend the approval in respect of the individual carrying out all or any debt collection activities for not more than 6 months.

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(3) In taking any regulatory action under this section in relation to the conviction of an individual for a criminal offence, the Licensing Officer may accept the individual's conviction as final.

### **Proceedings for regulatory action in respect of approved individuals**

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**26.**—(1) Before exercising any power under section 25, the Licensing Officer must give written notice to the licensee and the individual concerned, respectively —

- (a) stating that the Licensing Officer intends to take regulatory action under section 25;
- (b) specifying the type of regulatory action in section 25(1) or (2) that the Licensing Officer proposes to take, and the ground for taking the regulatory action; and
- (c) specifying the time (being at least 14 days after the date the written notice is served on the licensee and the individual or (where the written notice is served on the licensee and the individual on different dates) the later of those dates) within which written representations may be made to the Licensing Officer with respect to the proposed regulatory action.

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(2) The Licensing Officer may decide to take the appropriate regulatory action described in section 25(1) or (2) —

- (a) after considering any written representation made to him or her pursuant to the written notice mentioned in subsection (1); or
- (b) after the time delimited in the written notice under subsection (1)(c) lapses, where no representation is so made or any representation made is subsequently withdrawn.

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(3) Where the Licensing Officer has made any decision under subsection (2), the Licensing Officer must serve on the licensee and the individual concerned a notice of the Licensing Officer's decision.

5 (4) Subject to section 37, a decision under section 25(1) to cancel an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee, or to impose a regulatory action in section 25(2), which is specified in the notice given under subsection (1), takes effect on the date that is immediately after the date on which that notice is given, or on any other date that may be  
10 specified in the notice.

(5) In the case of the suspension of any approval granted under section 20 for an individual to be deployed as a debt collector of a licensee, the Licensing Officer may (without compensation), in addition to the notice mentioned in subsection (3), issue any direction  
15 to the licensee or the individual, or both, that the Licensing Officer thinks fit.

(6) Without limiting subsection (5), the Licensing Officer may issue a direction to the licensee under that subsection requiring the licensee to —

20 (a) put in place measures, including proper training, to ensure that the licensee's debt collectors understand and comply with this Act and do not conduct debt collection activities in a manner that would contravene other written laws, including the Penal Code 1871 and the Protection from  
25 Harassment Act 2014; or

(b) keep proper records of any matter that relates to the deployment of the licensee's debt collectors.

(7) Any suspension or cancellation of an approval granted under section 20 for an individual to be deployed as a debt collector of a  
30 licensee does not affect —

(a) the enforcement by any person of any right or claim against the individual; or

(b) the enforcement by the individual of any right or claim against any person.

## **Immediate suspension of approval**

**27.—(1)** This section applies if —

- (a) an individual in respect of whom approval has been granted under section 20 for the individual to be deployed as a debt collector of a licensee, is subject to criminal proceedings in respect of —
  - (i) an offence under this Act;
  - (ii) an offence, whether in Singapore or elsewhere, involving dishonesty or the conviction for which involved a finding that the individual had acted dishonestly; or
  - (iii) an offence specified in the Second Schedule; and
- (b) the Licensing Officer is of the opinion that it is undesirable in the public interest for the individual to continue to act as the licensee’s debt collector,

and this section applies despite section 26.

(2) The Licensing Officer may (without compensation) serve on the individual and the licensee which deploys the individual as a debt collector with the Licensing Officer’s approval granted under section 20, a notice of immediate suspension of the approval which takes immediate effect and remains in force until the Licensing Officer makes an order under subsection (6)(a) or any appeal to the Minister under section 37 against an order under subsection (6)(b) is determined.

(3) The individual must, upon a notice being served on him or her under subsection (2) but subject to subsection (6), immediately cease to act as the licensee’s debt collector.

(4) The licensee must, upon a notice being served on it under subsection (2) but subject to subsection (6), immediately cease to deploy the individual as a debt collector.

(5) An individual who is served with a notice under subsection (2) may, within 14 days after being served with the notice, apply to the Licensing Officer to review his or her decision under subsection (6).

(6) The Licensing Officer may, on reviewing his or her decision, by order —

- (a) rescind the immediate suspension of the approval granted under section 20 for the individual to be deployed as a debt collector of the licensee; or
- (b) refuse to rescind the immediate suspension of that approval.

### **Notification of cessation of deployment of debt collectors**

**28.**—(1) A licensee must notify the Licensing Officer of the cessation of the deployment of any individual as a debt collector of the licensee not later than the prescribed time after the cessation of the deployment.

(2) On receipt of a notification made under subsection (1), the Licensing Officer must cancel the approval granted under section 20 for the individual to be deployed by the licensee.

(3) A licensee who contravenes subsection (1) 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 2 years or to both.

### *Division 3 — Enforcement powers*

#### **Purpose for which enforcement powers are exercisable**

**29.**—(1) An inspecting officer may exercise the powers set out in this Division for any of the following purposes:

- (a) to determine compliance with this Act, including whether an offence under this Act has been committed;
- (b) to determine compliance with any condition of a licence or class licence;
- (c) to determine compliance with any direction issued by the Licensing Officer under this Act;
- (d) to determine compliance with any condition of an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee;

- (e) to determine whether information provided to an inspecting officer or a compliance officer under a provision of this Act is correct;
- (f) to investigate whether there is any ground for —
  - (i) taking any regulatory action under section 22 against a licensee or class licensee; or 5
  - (ii) taking any regulatory action under section 25 in respect of an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee. 10

(2) A compliance officer may exercise the powers set out in this Division where specified, but subject to section 4 in respect of the compliance officer; and any reference in this Division to a compliance officer is a reference to a compliance officer who is so authorised. 15

### **Powers of entry, etc., at premises**

**30.**—(1) An inspecting officer or a compliance officer may, in accordance with subsections (3) and (4), enter any premises occupied by a relevant person which the inspecting officer or compliance officer reasonably believes are used for or in connection with the conduct of any debt collection business or regulated business, and do all or any of the following at the premises: 20

- (a) examine any thing or observe any activity conducted in or on the premises;
- (b) make a still or moving image or recording of the premises and any thing in or on the premises; 25
- (c) inspect any document in or on the premises and take extracts from, or make copies of, any such document;
- (d) take into or onto the premises any equipment and material that the inspecting officer or compliance officer requires for the purpose of exercising any power in relation to the premises; 30
- (e) operate electronic equipment in or on the premises;

5 (f) require any individual found in or on the premises to answer any question (to the best of that individual's knowledge, information and belief) and to provide any document or information that the inspecting officer or compliance officer reasonably requires for any of the purposes of section 29(1).

(2) The inspecting officer mentioned in subsection (1) may also, in accordance with subsection (4) —

(a) search the premises and any thing in or on the premises;

10 (b) secure a thing for a period not exceeding 24 hours if the thing is found in or on the premises, where the inspecting officer believes on reasonable grounds that —

15 (i) the thing is evidential material that the inspecting officer reasonably requires for any of the purposes of section 29(1); and

(ii) it is necessary to secure the thing in order to prevent it from being concealed, lost or destroyed before a warrant to seize the thing is obtained; or

20 (c) seize any thing found in or on the premises which the inspecting officer reasonably suspects is as described in paragraph (b)(i).

(3) A compliance officer is not authorised to enter any premises which are not premises mentioned in subsection (1) to exercise any power mentioned in that provision except —

25 (a) with the consent of the occupier; or

(b) under a warrant of a Magistrate's Court or District Court.

(4) An inspecting officer —

30 (a) is not authorised to enter any premises which are not premises mentioned in subsection (1) to exercise any power mentioned in subsection (1) or (2)(a) or (b), except —

(i) with the consent of the occupier; or

(ii) under a warrant of a Magistrate’s Court or District Court; and

(b) is not authorised to seize any thing in or on any premises unless the seizure is made under a warrant of a Magistrate’s Court or District Court. 5

(5) A warrant mentioned in subsection (3) may be issued if a Magistrate’s Court or District Court is satisfied that it is necessary for a compliance officer to enter any premises to exercise any power mentioned in subsection (1) for any of the purposes of section 29(1).

(6) A warrant mentioned in subsection (4) may be issued if a Magistrate’s Court or District Court is satisfied that it is necessary for an inspecting officer to enter any premises to exercise any power mentioned in subsection (1) or (2)(a) or (b) or seize any thing (as the case may be) for any of the purposes of section 29(1). 10

(7) The power under subsection (1)(e) to operate electronic equipment in or on any premises includes the power — 15

(a) to use a disk, tape or other storage device that is in or on the premises and can be used with the equipment or in association with the equipment;

(b) to operate electronic equipment in or on the premises to put the relevant data in documentary form and remove the documents so produced from the premises; and 20

(c) to operate electronic equipment in or on the premises to transfer the relevant data to a disk, tape or other storage device that — 25

(i) is brought to the premises for the exercise of the power; or

(ii) is in or on the premises and the use of which for that purpose has been agreed in writing by the occupier of the premises, 30

and to remove the disk, tape or other storage device from those premises.

(8) The power under subsection (2)(b) to secure any thing which is found during the exercise of enforcement powers in or on any premises includes the power —

(a) to secure the thing by locking it up, placing a guard or any other means; and

(b) to prohibit any person from dealing with the thing.

(9) The power to require an individual to provide any document or information under subsection (1)(f) includes the power —

(a) to require that individual to provide an explanation of the document or information;

(b) if the document or information is not provided, to require that individual to state, to the best of the individual's knowledge and belief, where it is; and

(c) if the information is recorded otherwise than in legible form, to require the information to be made available to the inspecting officer or compliance officer in legible form.

(10) In this section, “relevant person” means —

(a) a person to whom a licence is or was granted;

(b) a person who is or was a class licensee;

(c) an individual who is or was a key appointment holder of a person mentioned in paragraph (a) or (b);

(d) an individual who is or was deployed as a debt collector of a person mentioned in paragraph (a) or (b);

(e) an individual who is or was employed in any capacity (other than as a debt collector) by a person mentioned in paragraph (a) or (b); or

(f) a person whom an inspecting officer or a compliance officer suspects on reasonable grounds has committed an offence under this Act.

### **Powers of investigation**

**31.—**(1) An inspecting officer or a compliance officer may do all or any of the following:

- (a) where the inspecting officer or compliance officer reasonably believes a person to have committed an offence under this Act or contravened any provision of this Act — require that person to provide evidence of that person’s identity; 5
- (b) require any person whom the inspecting officer or compliance officer reasonably believes has —
- (i) any information; or
  - (ii) any document or article in the person’s possession, custody or control, 10
- that the inspecting officer or compliance officer reasonably requires for any of the purposes of section 29(1), to provide, within a reasonable period specified by the inspecting officer or compliance officer, that information or produce that document or article, and to provide an explanation of the information or document; 15
- (c) issue a written notice requiring any person within the limits of Singapore, who appears to be acquainted with the facts or circumstances of a matter that is relevant to any of the purposes of section 29(1), to attend before an inspecting officer or compliance officer; 20
- (d) examine orally any person who appears to be acquainted with the facts or circumstances of a matter that is relevant to any of the purposes of section 29(1) —
- (i) whether before or after that person or anyone else is charged with an offence in connection with the matter; and 25
  - (ii) whether or not that person is to be called as a witness in any inquiry, trial or other proceeding in connection with the matter. 30
- (2) The power to require a person to provide any information, document or article under subsection (1)(b) includes the power —

(a) if the information, document or article is not provided, to require the person to state, to the best of the knowledge and belief of the person, where it is; and

5 (b) if the information is recorded otherwise than in legible form, to require the information to be made available to the inspecting officer or compliance officer in legible form.

(3) Any person examined under this section is bound to state truly what the person knows of the facts and circumstances of the matter, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

10 (4) A statement made by any person examined under this section must —

(a) be reduced to writing;

(b) be read over to the person;

15 (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.

(5) If any person fails to comply with a written notice issued to the person under subsection (1)(c), an inspecting officer or a compliance officer may report the failure to a Magistrate who may then, in the Magistrate's discretion, issue a warrant ordering that person to comply with the written notice.

25 (6) An inspecting officer or a compliance officer may make copies of any document or article produced under subsection (1)(b) for further investigation.

(7) An inspecting officer may take possession of any document or article produced under subsection (1)(b) for further investigation.

### **Application of Criminal Procedure Code 2010**

30 **32.** Sections 370, 371 and 372 of the Criminal Procedure Code 2010 apply, with the necessary modifications, when an inspecting officer seizes any thing under this Division.

### Offences to be arrestable

**33.** Every offence under the following provisions is arrestable for the purposes of the Criminal Procedure Code 2010:

- (a) section 6(5) in respect of a contravention of section 6(1);
- (b) section 17(3).

5

### Offences

**34.—(1)** A person who, without reasonable excuse, fails to do anything required of the person by an inspecting officer or a compliance officer under section 30(1) or 31(1)(a) or (b), or by notice under section 31(1)(c), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

10

(2) A person —

- (a) who intentionally alters, suppresses or destroys any document, information or article which the person has been required by an inspecting officer or a compliance officer under section 30(1)(f) or 31(1)(b) to provide; or
- (b) who, in providing any document, information or article required by an inspecting officer or a compliance officer under section 30(1)(f) or 31(1)(b), makes any statement which the person knows or ought reasonably to know that, or is reckless as to whether, it is false or misleading in a material particular,

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shall be guilty of an offence.

(3) A person guilty of an offence under subsection (2) shall be liable on conviction —

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- (a) to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months or to both; and
- (b) where the person is a repeat offender — to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 2 years or to both.

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(4) In any proceedings for an offence under subsection (1), it is a defence for the accused to prove, on a balance of probabilities, that the person —

5           (a) does not possess the document, information or article required; or

          (b) has taken all reasonable steps available to the person to obtain the document, information or article required and has been unable to obtain it.

10       (5) To avoid doubt, for the purposes of subsection (1), it is a reasonable excuse for a person to refuse or fail to provide any information, produce any document or article or answer any question if doing so might tend to incriminate that person.

### **Composition of offences**

15       **35.—**(1) The Licensing Officer or an authorised officer may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

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

          (b) \$5,000.

(2) On payment of the sum of money under subsection (1), no further proceedings are to be taken against that person in respect of the offence.

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

PART 5  
APPEALS

**Interpretation of this Part**

**36.** In this Part, unless the context otherwise requires —

“appealable decision” means any of the following decisions of the Licensing Officer: 5

- (a) a decision refusing the grant or renewal of a licence under section 8;
- (b) a decision under section 10 imposing a condition in a licensee’s licence; 10
- (c) a modification under section 11 of a condition in a licensee’s licence;
- (d) the issue, approval or amendment of a code of practice applicable to a licensee or class licensee under section 16, in respect of any provision in the code of practice; 15
- (e) a decision refusing the grant of an approval under section 20 for an individual to be deployed as a debt collector of a licensee;
- (f) a decision under section 21(1) imposing a condition in respect of an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee; 20
- (g) a modification under section 21(3) of a condition in respect of an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee; 25
- (h) a decision under section 22(1) to revoke a licence or disapply a class licence;
- (i) a decision under section 22(2) to impose a regulatory action against a licensee or class licensee; 30

- (j) a decision under section 24(5)(b) to refuse to rescind the immediate suspension of a licensee’s licence or immediate suspension of application of a class licence with respect to a class licensee;
- 5 (k) a decision under section 25(1) to cancel an approval granted under section 20 for an individual to be deployed as a debt collector of a licensee;
- (l) a decision under section 25(2) to take regulatory action in respect of an approval granted under  
10 section 20 for an individual to be deployed as a debt collector of a licensee;
- (m) a decision under section 27(6)(b) to refuse to rescind the immediate suspension of an approval granted  
15 under section 20 for an individual to be deployed as a debt collector of a licensee;

“appellant” means any of the following in relation to the following appealable decisions:

- (a) an applicant for the grant or renewal of a licence, where the appealable decision is within paragraph (a) of the definition of “appealable decision”;
- 20 (b) a licensee, where the appealable decision is within paragraph (b) or (c) of the definition of “appealable decision”;
- (c) a licensee or class licensee, where the appealable decision is within paragraph (d) of the definition of  
25 “appealable decision”;
- (d) the applicants for the grant of an approval under section 20 for an individual to be deployed as a debt collector of a licensee, where the appealable decision is within paragraph (e) of the definition of  
30 “appealable decision”;
- (e) the grantees of the grant of an approval under section 20 for an individual to be deployed as a debt collector of a licensee, where the appealable

decision is within paragraph (f) or (g) of the definition of “appealable decision”;

- (f) a licensee or former licensee or a class licensee or former class licensee, where the appealable decision is within paragraph (h), (i) or (j) of the definition of “appealable decision”; 5
- (g) the grantees or former grantees of the grant of an approval under section 20 for an individual to be deployed as a debt collector of a licensee, where the appealable decision is within paragraph (k), (l) or (m) of the definition of “appealable decision”; 10

“Minister of State” means a Minister of State or Senior Minister of State assisting the Minister on matters within the purposes of this Act;

“Parliamentary Secretary” includes a Senior Parliamentary Secretary appointed to assist the Minister in the discharge of the Minister’s duties and functions under this Act; 15

“Second Minister” means the Second Minister to the Minister, if any.

### **Appeal to Minister** 20

**37.—(1)** An appellant who is aggrieved by an appealable decision may appeal to the Minister against the decision in accordance with this section.

(2) An appeal under this section must be in writing and specify the grounds on which it is made, and must be made within 14 days after the date the decision appealed against is served. 25

(3) The Minister may reject an appeal of an appellant who fails to comply with subsection (2).

(4) After considering an appeal, the Minister may —

(a) reject the appeal and confirm the Licensing Officer’s decision; or 30

(b) allow the appeal and substitute or vary the Licensing Officer’s decision.

(5) The Minister's decision on an appeal is final.

(6) Every appellant must be notified of the Minister's decision under subsection (4).

5 (7) An appeal against an appealable decision does not affect the operation of the decision appealed against or prevent the taking of action to implement the decision, and unless otherwise directed by the Minister under this subsection, the decision appealed against must be complied with until the determination of the appeal.

### **Designation of others to hear appeals**

10 **38.** The Minister may designate a Second Minister, Minister of State or Parliamentary Secretary to hear and determine, in the Minister's place, any appeal or a specific appeal under section 37; and any reference in that section to the Minister includes a reference to the  
15 Second Minister, Minister of State or Parliamentary Secretary so designated for that appeal.

## **PART 6**

### **MISCELLANEOUS**

#### **Offences by corporations**

20 **39.—**(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 or her actual or apparent authority; and

25 (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 —

30 (i) an officer of the corporation; or

- (ii) an individual involved in the management of the corporation and in a position to influence the conduct of the corporation 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 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,

shall be guilty of that 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.

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

- (a) Chapters 5 and 5A of the Penal Code 1871; or
- (b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) 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.

(6) In this section —

- “corporation” includes a limited liability partnership;
- “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
- (b) for a corporation whose affairs are managed by its members, any of those members as if the member were a director of the corporation;

5 “reasonable steps”, in relation to the commission of an offence, includes, but is not limited to, any action (if any) of the following kinds as is reasonable in all the circumstances:

(a) action towards —

- 10 (i) assessing the corporation’s compliance with the provision creating the offence; and
- (ii) ensuring that the corporation arranged regular professional assessments of its compliance with the provision;

15 (b) action towards ensuring that the corporation’s employees, agents and contractors are provided with information, training, instruction and supervision appropriate to them to enable them to comply with the provision creating the offence so far as the provision is relevant to them;

20 (c) action towards ensuring that —

- (i) the equipment and other resources; and
- (ii) the structures, work systems and other processes,

25 relevant to compliance with the provision creating the offence are appropriate in all the circumstances;

(d) action towards creating and maintaining a corporate culture that does not direct, encourage, tolerate or lead to non-compliance with the provision creating the offence;

30 “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.

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

**40.**—(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 — 5

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

(b) the employee or agent had that state of mind, 10

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

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

(a) who is — 15

(i) an officer of the unincorporated association or a member of its governing body;

(ii) a partner in the partnership; or

(iii) an individual involved in the management of the unincorporated association or partnership and 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 20

(b) who — 25

(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 30

(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 5 and 5A of the Penal Code 1871; or

(b) the Evidence Act 1893 or any other law or practice regarding the admissibility of evidence.

(5) To avoid doubt, subsection (2) 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;

“reasonable steps” has the meaning given by section 39(6) except that any reference to the corporation is a reference to the unincorporated association or a partnership mentioned in subsection (2);

“state of mind” has the meaning given by section 39(6).

5

### **Jurisdiction of courts**

**41.** Despite the Criminal Procedure Code 2010, a District Court or a Magistrate’s Court has jurisdiction to try any offence under this Act and has the power to impose the full punishment for that offence.

### **Service of documents**

10

**42.—(1)** A document that is permitted or required by this Act to be served on a person may be served as described in this section.

(2) This section does not apply to documents to be served in proceedings in court.

(3) A document permitted or required by this Act to be served on an individual may be served —

15

(a) by giving it to the individual personally;

(b) by sending it by prepaid registered post to the address specified by the individual for the service of documents or, if no address is so specified, the individual’s residential address or business address;

20

(c) by leaving it at the individual’s residential address with an adult apparently resident there, or at the individual’s business address with an adult apparently employed there;

(d) by affixing a copy of the document in a conspicuous place at the individual’s residential address or business address;

25

(e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or

(f) by sending it by email to the individual’s last email address.

30

(4) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served —

5 (a) by giving it to any partner, secretary or other similar officer of the partnership;

(b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;

(c) by sending it by fax to the fax number used at the partnership's business address; or

10 (d) by sending it by email to the partnership's last email address.

(5) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served —

15 (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the registered office or principal office in Singapore of the body corporate or unincorporated association;

20 (c) by sending it by fax to the fax number used at the registered office or principal office in Singapore of the body corporate or unincorporated association; or

25 (d) by sending it by email to the last email address of the body corporate or unincorporated association.

(6) Service of a document takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received — on the day of transmission;

30 (b) if the document is sent by email — at the time that the email becomes capable of being retrieved by the person to whom it is sent; or

(c) if the document is sent by prepaid registered post — 2 days after the day the document was posted (even if it is returned undelivered).

(7) However, service of any document under this Act on a person by email may be effected only with the person’s prior consent (express or implied) to service in that way. 5

(8) In this section —

“business address” means —

(a) in the case of an individual, the individual’s usual or last known place of business in Singapore; or 10

(b) in the case of a partnership (other than a limited liability partnership), the partnership’s principal or last known place of business in Singapore;

“document” includes a notice permitted or required by this Act to be served; 15

“last email address” means the last email address given by the addressee concerned to the person giving or serving the document as the email address for the service of documents under this Act;

“residential address” means an individual’s usual or last known place of residence in Singapore. 20

### **General exemption**

**43.** The Minister may, by order in the *Gazette*, exempt any person or class of persons from all or any of the provisions of this Act, either generally or in a particular case and subject to the conditions that the Minister may impose. 25

### **Amendment of Schedules**

**44.—(1)** The Minister may, by order in the *Gazette*, amend, add to or vary Part 1 of the First Schedule or the Second Schedule.

(2) The Minister may, in an order under subsection (1), make provisions of a saving or transitional nature consequent on the 30

enactment of the order that the Minister may consider necessary or expedient.

(3) All orders made under subsection (1) are to be presented to Parliament as soon as possible after publication in the *Gazette*.

5 **Regulations**

**45.**—(1) The Minister may make regulations necessary or convenient to be prescribed for carrying out or giving effect to this Act.

10 (2) In particular, the Minister may make regulations for any of the following:

- (a) classes of licences;
- (b) the form and manner in which, and the time within which, an application for the grant or renewal of a licence may be made, and the information and evidence required to be provided in connection with such an application;
- 15 (c) the form and manner in which, and the time within which, an application for the Licensing Officer's approval under section 20 for an individual to be deployed as a debt collector of a licensee may be made, and the information and evidence required to be provided in connection with such an application;
- 20 (d) the carrying out of inquiries and investigations of applicants;
- (e) the duties and responsibilities of licensees, including putting in place measures to ensure that their debt collectors comply with their duties and responsibilities;
- 25 (f) the duties and responsibilities of the licensees' debt collectors;
- (g) the duties and responsibilities of class licensees;
- 30 (h) the conduct of the licensees or class licensees, and their debt collectors, in collecting debts;

- (i) restricting the manner or methods by which a licensee or any of its debt collectors, collect, or attempt to collect, any debt;
- (j) prohibiting a licensee or any of its debt collectors, from collecting or attempting to collect any debt from any person unless the licensee or debt collector has first ascertained that the person is the person asserted by the creditor of the debt to be the debtor of that debt; 5
- (k) prohibiting a licensee from recovering, or attempting to recover from any debtor, any remuneration or payment in connection with the collection of a debt, unless — 10
  - (i) the licensee is recovering or attempting to recover on behalf of the creditor of the debt enforcement expenses reasonably incurred by the creditor; and
  - (ii) a term of an agreement between the creditor and the debtor permits the recovery of those expenses; 15
- (l) prohibiting a licensee or class licensee or any of its debt collectors, from collecting or attempting to collect any debt from any person if the debtor has informed the licensee or class licensee (in the prescribed manner) that the debt is in dispute, or the debtor wishes to settle the debt through other means including mediation or court proceedings and has taken the prescribed measures to initiate such means; 20
- (m) prohibiting a licensee from recovering, or attempting to recover, from a person who engaged the licensee to collect a debt, the costs incurred by the licensee in collecting the debt, unless a term of an agreement between the licensee and the person permits the recovery of those costs; 25
- (n) restricting the manner in which, or the arrangement under which, a licensee may charge fees or charges for collecting a debt for a person; 30
- (o) the fees to be paid in respect of —
  - (i) applications for and the grant of a licence;

(ii) applications for the renewal or late renewal of a licence; and

(iii) applications for approval under section 20 for an individual to be deployed as a debt collector of a licensee,

and otherwise in connection with the administration of this Act, and the waiver, reduction or refund of such fees;

(p) the records that must be kept by licensees and the provision by licensees of returns and other information with respect to the debt collection businesses carried on by those licensees;

(q) the records that must be kept by class licensees and the provision by class licensees of returns and other information with respect to debt collection activities carried on by those class licensees;

(r) the procedure for appeals under this Act;

(s) all matters and things required or permitted to be prescribed under or for the purposes of this Act.

(3) Regulations made under this section may —

(a) prescribe the offences under this Act that may be compounded;

(b) provide that any contravention of any provision of the regulations shall be an offence punishable —

(i) with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 12 months or with both; but

(ii) where the person is a repeat offender — with a fine not exceeding \$20,000 or with imprisonment for a term not exceeding 2 years or with both; and

(c) provide for such saving, transitional, and other consequential, incidental and supplemental provisions as are necessary or expedient for the purposes of this Act.

## **Saving and transitional provisions**

**46.—**(1) Despite anything in this Act, every person who —

- (a) immediately before the section 6 start date was carrying on a debt collection business or any debt collection activity in the course of the business; and
- (b) on or after the section 6 start date, would be required under section 6(1) to be authorised to carry on the debt collection business by a licence,

may continue carrying on the debt collection business or the debt collection activity on or after the section 6 start date for the period mentioned in subsection (2), if the person has applied for a licence to carry on a debt collection business before the section 6 start date and the application has not been granted, refused or withdrawn before that date.

(2) For the purposes of subsection (1), the period is a period ending on the happening of the earlier of the following:

- (a) the date on which the Licensing Officer grants a licence to the person;
- (b) the date that the application for licence is finally refused or withdrawn.

(3) Despite anything in this Act, every individual who, immediately before the section 17 start date, was deployed by a person mentioned in subsection (1) (called in this section the principal) as a debt collector of the principal, may continue to be so deployed on or after the section 17 start date for the period mentioned in subsection (4), if the principal has applied for a licence to carry on a debt collection business before the section 17 start date and the application has not been granted, refused or withdrawn before that date.

(4) For the purposes of subsection (3), the period is —

- (a) a period ending on the date that the principal's application for a licence is finally refused or withdrawn; or
- (b) where the Licensing Officer grants a licence to the principal —

- (i) 3 months after the licence is granted to the principal (now also the licensee); or
- (ii) if within the period mentioned in sub-paragraph (i), an application for approval for the licensee to deploy the individual as a debt collector of the licensee is made under section 19 — the period that ends on the happening of the earlier of the following:
  - (A) the date on which the Licensing Officer grants the approval;
  - (B) the date on which the application for approval is finally refused or withdrawn.

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

(6) In this section —

“section 6 start date” means the date mentioned in section 6(6);

“section 17 start date” means the date mentioned in section 17(4).

## FIRST SCHEDULE

Sections 2(1) and 44(1)

## PART 1

## EXCLUDED PERSONS

1. An excluded person is — 5
- (a) any of the following persons, when acting in that capacity:
- (i) the Official Assignee;
  - (ii) the Official Receiver;
  - (iii) a licensed insolvency practitioner;
  - (iv) a regulated legal practitioner; 10
  - (v) a regulated non-practitioner;
- (b) a Joint Law Venture;
- (c) a licensed foreign law practice;
- (d) a Qualifying Foreign Law Practice;
- (e) a Singapore law practice; 15
- (f) a person who purchases a debt or debts through acquiring or merging with a business (other than a debt collection business) in a transaction that includes the transfer of accounts receivable; or
- (g) a person who acquires a debt or debts through the seizure of accounts receivable under a security agreement. 20
2. In paragraph 1 —
- “Joint Law Venture”, “licensed foreign law practice”, “Qualifying Foreign Law Practice”, “regulated legal practitioner”, “regulated non-practitioner” and “Singapore law practice” have the meanings given by section 2(1) of the Legal Profession Act 1966; 25
- “licensed insolvency practitioner”, “Official Assignee” and “Official Receiver” have the meanings given by section 2(1) of the Insolvency, Restructuring and Dissolution Act 2018.

FIRST SCHEDULE — *continued*

## PART 2

## REGULATED BUSINESSES

1. A regulated business is any of the following:

- 5           (a) a banking business conducted by a bank;
- (b) a permitted business conducted by a merchant bank;
- (c) a business of issuing credit cards or charge cards conducted by a  
              licensed credit card or charge card issuer;
- (d) a financing business conducted by a finance company;
- 10           (e) a business of moneylending conducted by a licensed moneylender or  
              an exempt moneylender.

2. In paragraph 1 —

- “bank”, “banking business” and “merchant bank” have the meanings given  
              by section 2(1) of the Banking Act 1970;
- 15           “credit card” and “charge card” have the meanings given by section 56 of the  
              Banking Act 1970;
- “exempt moneylender” has the meaning given by section 2 of the  
              Moneylenders Act 2008;
- 20           “finance company” and “financing business” have the meanings given by  
              section 2 of the Finance Companies Act 1967;
- “licensed credit card or charge card issuer” means a person who is granted a  
              licence to carry on the business of issuing credit cards or charge cards in  
              Singapore under section 57B of the Banking Act 1970;
- 25           “licensed moneylender” means a holder of a licence issued or renewed under  
              the Moneylenders Act 2008;
- “permitted business” has the meaning given by section 55Q of the Banking  
              Act 1970.

## SECOND SCHEDULE

Sections 22(1)(d)(iii), 24(1)(a)(iii),  
25(1)(d)(iii), 27(1)(a)(iii) and 44(1)

1. Any offence under —
    - (a) section 144, 145, 147, 148, 152, 158, 304, 304A, 307, 308, 308A, 323A, 324, 325, 326, 327, 328, 329, 332, 333, 335, 335B, 342, 347, 353, 356, 384, 385, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 399, 402, 435, 436, 440, 459, 460 or 506 of the Penal Code 1871; 5
    - (b) Chapter 5 of the Penal Code 1871 for the abetment of an offence mentioned in this paragraph or paragraph 4, 5, 6, 7 or 8; 10
    - (c) section 300(a), read with section 302(1), of the Penal Code 1871; or
    - (d) section 300(b) or (c), read with section 302(2), of the Penal Code 1871.
  2. Any offence under —
    - (a) section 3, 4, 9, 10, 13, 14, 27A or 33 of the Criminal Law (Temporary Provisions) Act 1955; 15
    - (b) section 17 of the Criminal Law (Temporary Provisions) Act 1955, in respect of any provision mentioned in sub-paragraph (a); or
    - (c) section 20 of the Criminal Law (Temporary Provisions) Act 1955 for the abetment of an offence mentioned in sub-paragraph (a) or (b).
  3. Any offence under — 20
    - (a) section 4, 5, 6, 7, 22, 23, 24, 25, 26 or 27 of the Internal Security Act 1960; or
    - (b) section 39 of the Internal Security Act 1960 for the abetment of an offence mentioned in sub-paragraph (a).
  4. Any offence under section 19, 47 or 49 of the Moneylenders Act 2008. 25
  5. Any offence under section 5, 6, 7, 12 or 13 of the Organised Crime Act 2015.
  6. Any offence under section 3, 4, 5, 6 or 7 of the Protection from Harassment Act 2014.
  7. Any offence under section 14, 16, 18 or 23 of the Societies Act 1966.
  8. An offence under section 3 of the Vandalism Act 1966. 30
-

## EXPLANATORY STATEMENT

This Bill seeks to regulate the operation of debt collection businesses and the conduct of certain debt collection activities in Singapore.

Part 1 introduces the fundamental concepts used in the Bill and provides for the appointment of the Licensing Officer, Assistant Licensing Officers, authorised officers and compliance officers for the purposes of the Bill.

Part 2 sets out the regulatory framework for debt collection businesses and the conduct of debt collection activities by persons carrying on regulated businesses.

Part 3 sets out the regulatory framework for debt collectors.

Part 4 confers powers of enforcement and regulatory action for the proper administration of the Bill.

Part 5 provides for appeals against certain decisions of the Licensing Officer.

Part 6 contains a variety of general provisions including the power to make regulations and saving and transitional arrangements for persons currently carrying on debt collection businesses or carrying out debt collection activities and for existing debt collectors.

### PART 1

#### PRELIMINARY

Clause 1 relates to the short title and commencement.

Clause 2 is a general interpretation provision. The clause contains definitions of terms used in the Bill.

Clause 3 provides for the appointment of the Licensing Officer and Assistant Licensing Officers by the Minister. The clause also empowers the Licensing Officer to appoint public officers as authorised officers.

Clause 4 provides for the appointment of compliance officers by the Licensing Officer with the approval of the Minister. These are outsourced enforcement officers assisting the Licensing Officer in the administration of the Bill. The individuals are not public sector employees but must be at least 18 years old and have suitable qualifications or experience.

Each compliance officer must be issued with an identification card. That identification card must be carried at all times by the compliance officer when exercising powers under the Bill. A compliance officer whose appointment ceases must return to the Licensing Officer any identification card issued.

A compliance officer can only exercise powers expressly conferred on him or her under the Bill, and limited to what the Licensing Officer sets, such as when,

and where in Singapore, and the circumstances in which the compliance officer may exercise all or any of those powers.

Clause 5 provides immunity from suits for acts or omissions of the Licensing Officer, an Assistant Licensing Officer, an authorised officer, a compliance officer, a police officer or any other person acting under the direction of the Licensing Officer, where this is done in good faith and with reasonable care in the exercise or purported exercise of any power under the Bill, or the performance or purported performance of any function under the Bill.

## PART 2

### REGULATION OF DEBT COLLECTION BUSINESSES AND DEBT COLLECTION ACTIVITIES RELATING TO REGULATED BUSINESSES

Clause 6 creates the following offences:

- (a) a person who carries on a debt collection business or debt collection activity in the course of the business but is not an entity which is authorised to carry on the debt collection business by a valid licence under the Bill is guilty of an offence;
- (b) a person who carries out any debt collection activity to collect any debt that is owed to the person in the course of a regulated business carried on by the person but is not authorised to carry out the debt collection activity by a class licence under the Bill is guilty of an offence. The regulated businesses are set out in Part 2 of the First Schedule.

Clause 6 also creates an offence for a person to advertise or otherwise hold out that the person is carrying on a debt collection business, unless the person holds a valid licence under the Bill.

Clause 7 provides for the applications for or to renew a licence. These must be made to the Licensing Officer. The Licensing Officer may refuse to consider an application that is incomplete or not made in accordance with the clause, or if the applicant fails to provide any additional information requested by the Licensing Officer or authorised officer.

Clause 8 deals with the grant and renewal of a licence by the Licensing Officer, and the factors that are to be taken into account when doing so. A fee may be prescribed by regulations for the grant or renewal of a licence.

Clause 9 deals with the form and validity of licences. Every licence granted or renewed is valid for the period specified in the licence unless, following regulatory action under clause 22 or 24, the licence is earlier revoked or suspended.

Clause 10 empowers the Licensing Officer, in granting or renewing a licence to any person, to impose the conditions that the Licensing Officer considers requisite

or expedient having regard to the purpose of the Bill. In particular, the Licensing Officer may impose conditions —

- (a) requiring the licensee to put in place measures, including proper training, to ensure that the licensees' debt collectors understand and comply with (among other things) the Bill and other written laws, including the Penal Code 1871 and the Protection from Harassment Act 2014; and
- (b) requiring the licensee to undergo and pass any audit that the Licensing Officer may determine for compliance with the Bill, the licensee's licence conditions, conditions of any approval granted under clause 20 for the licensee to deploy an individual as the licensee's debt collector, codes of practice applicable to the licensee and directions given by the Licensing Officer to the licensee under the Bill.

Clause 11 empowers the Licensing Officer to add to, delete or modify the conditions of a licence after observing the process prescribed in the clause.

Clause 12 sets out the circumstances in which a licence lapses (other than the expiry of the licence or earlier revocation of the licence under clause 22(1)).

Clause 13 provides for the keeping and maintenance of a register of licensees by the Licensing Officer.

Clauses 14 and 15 deal with another class of regulated persons who are authorised to carry out debt collection activities to collect any debt that is owed to the person in the course of a regulated business carried on by the person. These persons are subject to a class licence determined by the Minister. These persons will be designated, individually or as a class, by the Minister by order in the *Gazette*.

Different class licences may be established according to (for example) the type of regulated business that is carried on by the class licensees.

A class licensee to which such an order applies is authorised to carry out any debt collection activity to collect any debt that is owed to the person in the course of a regulated business carried on by the person if (in so acting) the conditions of the order are complied with.

Clause 15 sets out the due process for varying or revoking an order under clause 14(1).

Clause 16 empowers the Licensing Officer to issue one or more codes of practice applicable to all licensees or class licensees or a specified class of licensees or class licensees, or approve as a code of practice applicable to all licensees or class licensees or a specified class of licensees or class licensees any document prepared by a person other than the Licensing Officer if the Licensing Officer considers the document suitable for this purpose. The Licensing Officer is

also empowered to amend or revoke any code of practice issued or approved. Codes of practice are not subsidiary legislation but non-compliance can give rise to regulatory action under clause 22.

### PART 3

#### DEBT COLLECTORS

Clause 17 creates an offence for an individual to act as a debt collector for a person who carries on a debt collection business unless —

- (a) the person is a licensee which is approved to deploy the individual as the licensee's debt collector under clause 20; or
- (b) the person is his or her employer and is an excluded person. The excluded persons are set out in Part 1 of the First Schedule.

Clause 17 also creates an offence for an individual to act as a debt collector for a person who carries on a regulated business unless —

- (a) the person is the individual's employer and is a class licensee; and
- (b) the individual is deployed by the person as the person's debt collector in respect of a debt that the person is authorised to collect under a class licence that is applicable to the person.

Clause 18 creates an offence for a licensee to deploy an individual as a debt collector of the licensee, unless the Licensing Officer has granted approval under clause 20 for the licensee to deploy the individual to act as a debt collector.

Clause 19 provides for applications for the Licensing Officer's approval to deploy an individual as a licensee's debt collector. An application for the Licensing Officer's approval must be made jointly by the licensee and the individual. To avoid doubt, the Licensing Officer may grant approval for an individual to be deployed as a debt collector of 2 or more licensees, but each of such licensees must (jointly with the individual) make a separate application for the Licensing Officer's approval for the individual to be deployed as a debt collector of that licensee.

Clause 20 deals with the matters that the Licensing Officer must consider when determining whether to grant approval for a licensee to deploy an individual as the licensee's debt collector.

Clause 21 empowers the Licensing Officer, in granting approval for a licensee to deploy an individual as the licensee's debt collector, to impose any condition that the Licensing Officer considers requisite or expedient having regard to the purpose of the Bill. In particular, the Licensing Officer may impose conditions —

- (a) requiring the licensee or the individual (or both) to notify the Licensing Officer of any change in the particulars of the individual in respect of whom the approval is granted; and
- (b) requiring the licensee to take reasonable steps to ensure that the individual carries out any debt collection activity in compliance with one or more other conditions imposed under the clause.

The Licensing Officer is also empowered to modify the conditions of an approval after observing the process prescribed in the clause.

## PART 4

### ADMINISTRATION AND ENFORCEMENT

Clause 22 sets out the various regulatory actions that the Licensing Officer can take against a licensee or class licensee if the Licensing Officer is satisfied that (among other grounds) the licensee or class licensee has contravened or not complied with any of the conditions of its licence or class licence, or any provision of the Bill applicable to the licensee or class licensee.

The Licensing Officer may after observing the prescribed process in clause 23, revoke a licence or disapply a class licence. In lieu of revoking the licence or disapplying the class licence, the Licensing Officer may do one or more of the following:

- (a) direct the licensee or class licensee to do, or to refrain from doing, the things that are specified in a direction;
- (b) suspend the licence or application of the class licence for not more than 6 months;
- (c) in the case of a licensee — modify any condition of the licence.

Clause 23 sets out the processes which must be observed before regulatory action can be taken against a licensee or class licensee.

Clause 24 empowers the Licensing Officer to serve on a licensee a notice of immediate suspension of a licence, or on a class licensee a notice of immediate suspension of application of a class licence with respect to the class licensee, where the licensee or class licensee is subject to criminal proceedings in respect of —

- (a) an offence under the Bill;
- (b) an offence, whether in Singapore or elsewhere, involving dishonesty or the conviction for which involved a finding that the licensee or class licensee had acted dishonestly; or

(c) an offence specified in the Second Schedule,

and the Licensing Officer is of the opinion that it is undesirable in the public interest for the licensee to carry on a debt collection business or the class licensee to carry out any debt collection activity in respect of a regulated business.

The suspension takes immediate effect and remains in force until the Licensing Officer makes an order to rescind the suspension (pursuant to an application by the licensee or class licensee concerned for a review of the decision) or any appeal to the Minister against an order refusing to rescind the suspension is determined. A licensee whose licence has been suspended or a class licensee in respect of whom a class licence is disappplied may, within 14 days after the Licensing Officer has served the notice of immediate suspension, apply to the Licensing Officer to review his or her decision.

Clause 25 provides that the Licensing Officer may after observing the prescribed process in clause 26, cancel the approval granted under clause 20 for a licensee to deploy an individual as the licensee's debt collector on certain specified grounds. In lieu of cancelling the approval, the Licensing Officer can do one or more of the following:

- (a) modify any condition of the approval;
- (b) direct the licensee or individual to do, or to refrain from doing, the things that are specified in a direction;
- (c) suspend the approval in respect of the individual carrying out all or any debt collection activities for not more than 6 months.

Clause 26 sets out the processes which must be observed before regulatory action can be taken in respect of an approval granted under clause 20 for a licensee to deploy an individual as the licensee's debt collector.

Clause 27 empowers the Licensing Officer to serve on a licensee and an individual who has been approved by the Licensing Officer to act as the licensee's debt collector, a notice of immediate suspension of the approval where the individual is subject to criminal proceedings in respect of —

- (a) an offence under the Bill;
- (b) an offence, whether in Singapore or elsewhere, involving dishonesty or the conviction for which involved a finding that the individual had acted dishonestly; or
- (c) an offence specified in the Second Schedule,

and the Licensing Officer is of the opinion that it is undesirable in the public interest for the individual to continue to act as the licensee's debt collector.

The suspension takes immediate effect and remains in force until the Licensing Officer makes an order to rescind the suspension (pursuant to an application by the

individual concerned for a review of the decision) or any appeal to the Minister against an order refusing to rescind the suspension is determined. The individual in respect of whom an approval granted under clause 20 is suspended may, within 14 days after the Licensing Officer has served the notice of immediate suspension, apply to the Licensing Officer to review his or her decision.

Clause 28 makes it an offence for a licensee to fail to notify the Licensing Officer (within the prescribed time) of the cessation of the deployment of any individual as the licensee's debt collector.

Clause 29 provides that the enforcement powers in clauses 30 and 31 may be exercised by an inspecting officer or a compliance officer for any of the following purposes:

- (a) determine compliance with the Bill, including whether an offence under the Bill has been committed;
- (b) determine compliance with any condition of a licence or class licence, any direction given by the Licensing Officer under the Bill or any condition of an approval granted under clause 20 for an individual to be deployed as a debt collector of the licensee;
- (c) determine whether information provided to an inspecting officer or a compliance officer under a provision of the Bill is correct;
- (d) investigate whether there is any ground for taking any regulatory action against a licensee or class licensee, or in respect of an approval granted under clause 20 for an individual to be deployed as a debt collector of the licensee.

Clause 30 deals with powers of entry into premises and other powers following such entry. However, an inspecting officer or a compliance officer is not authorised to enter any premises which are not premises occupied by a relevant person which the inspecting officer or compliance officer reasonably believes are used for or in connection with the conduct of any debt collection business or regulated business, unless the entry is made with the occupier's consent or under a warrant of a Magistrate's Court or District Court. No warrant is needed to enter and search any premises which are premises occupied by a relevant person which the inspecting officer or compliance officer reasonably believes are used for or in connection with the conduct of any debt collection business or regulated business. However, a warrant is needed to seize any thing in or on any premises.

Clause 31 empowers an inspecting officer or a compliance officer to exercise certain powers of investigation. The powers include requiring certain persons to provide information, examining orally certain persons, etc.

Clause 32 applies sections 370, 371 and 372 of the Criminal Procedure Code 2010, with the necessary modifications, in respect to any item which is seized by an inspecting officer under Division 3 of Part 4.

Clause 33 provides that the offences under clause 6(5) (in respect of a contravention of clause 6(1)) (relating to the carrying on of a debt collection business or carrying out of any debt collection activity in the course of such business, without a licence) and clause 17(3) (relating to an individual acting as a debt collector in contravention of clause 17(1) or (2)), are arrestable offences.

Clause 34 makes it an offence for a person to disobey a requirement made by an inspecting officer or a compliance officer or to give false information, etc.

Clause 35 empowers the Licensing Officer or an authorised officer to compound any offence under the Bill that is prescribed as a compoundable offence. The maximum composition sum that may be collected from the person reasonably suspected of having committed the compoundable offence is one half of the amount of the maximum fine that is prescribed for the offence or \$5,000, whichever is the lower.

## PART 5

### APPEALS

Clause 36 sets out definitions connected with appeals against decisions of the Licensing Officer under the Bill. Only certain decisions of the Licensing Officer are defined as appealable.

Clause 37 prescribes an avenue of appeal to the Minister against appealable decisions.

Clause 38 allows the Minister to delegate the hearing of appeals to a Second Minister, Minister of State or Parliamentary Secretary in his or her Ministry.

## PART 6

### MISCELLANEOUS

Clauses 39 and 40 are standard provisions providing for the liability of officers of offenders who are corporations or unincorporated associations or partnerships.

Clause 41 confers on a Magistrate's Court and a District Court jurisdiction to try any offence under the Bill and to punish accordingly despite any limits set under other written law like the Criminal Procedure Code 2010.

Clause 42 deals with the service of documents permitted or required by the Bill to be served on a person. The clause does not deal with service of court documents like summonses, as these are regulated by the Rules of Court or other written law.

Clause 43 empowers the Minister to exempt any person or class of persons from all or any of the provisions of this Act by order in the *Gazette*.

Clause 44 enables the Minister to amend Part 1 of the First Schedule or the Second Schedule by an order in the *Gazette*. The Minister may also make

provisions of a saving or transitional nature in relation to the making of such order. The clause also requires all such orders to be presented to Parliament after their publication.

Clause 45 confers on the Minister the power to make regulations for carrying out or to give effect to the Bill.

Clause 46 contains saving and transitional provisions. The clause also empowers the Minister to prescribe additional provisions of a saving or transitional nature consequent on the coming into force of different clauses in the Bill as the Minister considers necessary or expedient. The amendment may be done by regulations but within a 2-year time limit.

The First Schedule sets out the definitions of certain terms mentioned in clause 2(1) and used in the Bill.

Part 1 of the First Schedule sets out the meaning of “excluded person”.

Part 2 of the First Schedule sets out the meaning of “regulated business”.

The Second Schedule sets out the offences for the purposes of clauses 22, 24, 25, 27 and 44.

## 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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