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The following Act was passed by Parliament on 7 October 2026 and assented to by the President on 29 October 2026:—

DIGITAL INFRASTRUCTURE ACT 2026

(No. 25 of 2026)

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REPUBLIC OF SINGAPORE

No. 25 of 2026.

I assent.

LS

THARMAN SHANMUGARATNAM,
President.
29 October 2026.

An Act to provide for the licensing of providers of major foundational digital infrastructure services and operators of data centres in Singapore, and for matters relating thereto, and to make related amendments to the Cybersecurity Act 2018.

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 Digital Infrastructure Act 2026 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

General interpretation

2. In this Act —

"authorised officer" means an individual appointed as such under section 5;

"Authority" means the Info-communications Media Development Authority established by section 3 of the Info-communications Media Development Authority Act 2016;

"business entity" means —

(*a*) a corporation;

(*b*) an unincorporated association;

(*c*) a partnership; or

(*d*) a limited liability partnership registered under the Limited Liability Partnerships Act 2005;

"business trust" has the meaning given by section 2 of the Business Trusts Act 2004;

"carbon dioxide equivalence" has the meaning given by section 2(1) of the Carbon Pricing Act 2018;

"cloud computing service" means a service, delivered from a computer or computer system in Singapore or outside Singapore, that enables on-demand administration of and broad remote access to a scalable and elastic pool of shareable computing resources, including where such resources are distributed across several locations;

"code of practice" means —

(*a*) for the purposes of Part 3, any code of practice issued or approved by the Authority under section 16(1), and includes such code of practice as may be amended from time to time; and

(*b*) for the purposes of Part 4, any code of practice issued or approved by the Authority under section 37(1), and includes such code of practice as may be amended from time to time;

"company" has the meaning given by section 4(1) of the Companies Act 1967;

"computer" means an electronic, magnetic, optical, electrochemical, or other data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device;

"computer program" means data representing instructions or statements that, when executed in a computer, causes the computer to perform a function;

"computer system" means an arrangement of interconnected computers that is designed to perform one or more specific functions, and includes —

(*a*) an information technology system; and

(*b*) an operational technology system such as an industrial control system, a programmable logic controller, a supervisory control and data acquisition system, or a distributed control system;

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

"critical IT load", in relation to a data centre, means the maximum electrical power capacity for which the data centre is designed to supply electrical power to any information technology and network telecommunications equipment

(including computer servers) that provide storage, processing and transport of data, and that are hosted within the data centre;

"cybersecurity", "cybersecurity incident" and "cybersecurity threat" have the meanings given by section 2(1) of the Cybersecurity Act 2018;

"data centre" means a structure, or group of structures, encompassed within a facility in Singapore, that houses —

(*a*) facilities dedicated to the centralised accommodation, interconnection and operation of information technology and network telecommunications equipment (including computer servers), being equipment that provide storage, processing and transport of data; and

(*b*) facilities and infrastructure for power distribution and environmental control in respect of the information technology and network telecommunications equipment mentioned in paragraph (*a*),

and that carries a critical IT load of 3 megawatts (MW) or more;

"data centre facility service" means a service provided in a data centre for the centralised accommodation, interconnection and operation of information technology and network telecommunications equipment (including computer servers) that provide storage, processing and transport of data, together with all facilities and infrastructure for power distribution and environmental control in respect of such equipment, and —

(*a*) includes a service to host, within the data centre, the computers or computer systems of a party other than the party operating the data centre;

(*b*) includes a service provided in a data centre where the service is used solely by the party operating the data

centre to provide a cloud computing service to one or more other parties unrelated to itself; and

(*c*) except as provided in paragraph (*b*), excludes a service provided in a data centre where the service is used solely by the party operating the data centre;

"DC licence" means a licence granted or renewed under section 24 to operate a data centre in Singapore;

"digital infrastructure service" means a service delivered through physical hardware, or physical hardware and associated software (including virtualisation software), that enables the storage, processing or transport of data across computer networks so as to enable information and communications systems to operate with one another, and which is used directly or indirectly for the provision of a digital service, but excludes an internet access service within the meaning given by section 2(1) of the Broadcasting Act 1994;

"digital service" means any service normally provided for remuneration, that is provided by one party to another party at the individual request of the other party, entirely through electronic means and without needing the parties' simultaneous physical presence, but does not include such services as the Minister may, by order in the *Gazette*, prescribe;

"EDB" means the Economic Development Board established under section 3 of the Economic Development Board Act 1961;

"eligible international carbon credit" means an international carbon credit that —

(*a*) meets the criteria prescribed by the Minister; and

(*b*) is accepted as an eligible international carbon credit by the Authority in accordance with any direction of the Minister;

"foundational digital infrastructure service" means any digital infrastructure service specified as a foundational digital infrastructure service in the Schedule;

"greenhouse gas" has the meaning given by section 2(1) of the Carbon Pricing Act 2018;

"international carbon credit" means a certificate representing one tonne of greenhouse gas emission reductions or removals measured in metric tonnes of carbon dioxide equivalence, generated from any project or programme outside Singapore;

"investigation officer" means an individual who is appointed as such under section 6;

"licensee" —

(*a*) in relation to Part 3, means a holder of a major FDI licence; and

(*b*) in relation to Part 4, means a holder of a DC licence;

"loss or impairment", in relation to the provision of a major foundational digital infrastructure service, includes the loss or impairment of the availability, confidentiality or integrity of data stored, transported or processed through the provision of that service;

"major FDI licence" means a licence granted or renewed under section 8 to provide a major foundational digital infrastructure service —

(*a*) whether from within or outside Singapore, to users in Singapore; or

(*b*) wholly or partially from Singapore, to users in or outside Singapore;

"major foundational digital infrastructure service" means any foundational digital infrastructure service —

(*a*) if provided from within or outside Singapore to users in Singapore — the loss or impairment of the provision of which is likely to lead to or cause disruption or deterioration of the operations of a large

number of businesses or organisations in Singapore which rely on or are enabled by that service;

(*b*) if provided wholly or partially from Singapore to users in or outside Singapore — the loss or impairment of the provision of which is likely to lead to or cause disruption or deterioration of the operations of a large number of businesses or organisations (in or outside Singapore) which rely on or are enabled by that service; and

(*c*) which is specified in the Schedule;

"Minister" means —

(*a*) except as provided in paragraphs (*b*) and (*c*), the Minister charged with the responsibility for regulating digital infrastructure services and data centres;

(*b*) for the purposes of the definition of "eligible international carbon credit" in this section, section 25(3)(*b*)(iii) and (*c*)(ii), the definition of "prescribed energy source" in section 25(7), and sections 68 and 69 — the Minister charged with the responsibility for coordinating policies associated with climate change; and

(*c*) for the purposes of section 60(10)(*e*) — the Minister charged with the responsibility for regulating digital infrastructure services and data centres or the Minister charged with the responsibility for coordinating policies associated with climate change, as appropriate;

"modification" or "modify", in relation to the conditions of a DC licence or major FDI licence, includes deleting, varying and substituting a condition, and adding a condition;

"non-reckonable greenhouse gas emission" means any emission of a greenhouse gas specified in the first column of Part 2 of the Second Schedule to the Carbon Pricing Act 2018 in the

circumstances described in the second column of Part 2 of that Schedule opposite the greenhouse gas;

"permanent resident of Singapore" has the meaning given by section 2 of the Immigration Act 1959;

"public authority" means any body established or constituted by or under any public Act to perform a public function, but excludes a Town Council;

"reckonable greenhouse gas emission" means any emission of a greenhouse gas other than a non-reckonable greenhouse gas emission;

"trustee-manager", in relation to a business trust, has the meaning given by section 2 of the Business Trusts Act 2004;

"user", in relation to a digital infrastructure service, means a person who has been provided the digital infrastructure service;

"user in Singapore" —

(*a*) in relation to an individual, means a user who is ordinarily resident in Singapore; and

(*b*) in relation to a business entity, means a user which is registered (even if incorporated outside Singapore) or incorporated under any written law.

Application of Act

3.—(1) Part 3 (licensing of major foundational digital infrastructure service providers) (except section 14) applies to any provider of a major foundational digital infrastructure service that —

(*a*) provides the service, whether from within or outside Singapore, to users in Singapore, as described in section 7; or

(*b*) provides the service wholly or partially from Singapore, to users in or outside Singapore, as described in section 7.

(2) Section 14 (power to obtain information to ascertain if service is major foundational digital infrastructure service) applies to any

person (whether located in or outside Singapore) that an authorised officer has reason to believe is providing a foundational digital infrastructure service which may be a major foundational digital infrastructure service.

(3) Subject to subsection (5), Part 4 (licensing of data centre operators) (except section 34) applies to every operator of a data centre located in Singapore, whether the operator is located in or outside Singapore.

(4) Section 34 (power to obtain information to ascertain if facility is data centre) applies to any person (whether located in or outside Singapore) that an authorised officer has reason to believe is operating a structure or group of structures encompassed within a facility in Singapore which may be a data centre.

(5) Part 4 does not apply to —

(*a*) a data centre operated by the Government and situated within a facility owned or occupied by the Government;

(*b*) a data centre operated by a public authority and situated within a facility owned or occupied by the public authority;

(*c*) a data centre operated by an educational institution and dedicated to the support of any research and development activities within the meaning of section 3(1) of the National Research Fund Act 2006, whether or not relating to data centres; or

(*d*) a data centre operated by a licensee under the Telecommunications Act 1999, Electricity Act 2001 or Gas Act 2001 and dedicated to —

(i) the support of activities that are the subject of the licence of the licensee; and

(ii) any other uses that are ancillary to those activities.

(6) For the purposes of subsection (5)(*c*), "educational institution" means —

(*a*) the Institute of Technical Education, Singapore established under the Institute of Technical Education Act 1992;

(*b*) any of the following Polytechnics:

(i) the Nanyang Polytechnic established under the Nanyang Polytechnic Act 1992;

(ii) the Ngee Ann Polytechnic established under the Ngee Ann Polytechnic Act 1967;

(iii) the Republic Polytechnic established under the Republic Polytechnic Act 2002;

(iv) the Singapore Polytechnic established under the Singapore Polytechnic Act 1954;

(v) the Temasek Polytechnic established under the Temasek Polytechnic Act 1990;

(vi) any other person whose function of providing polytechnic education is determined by written law; or

(*c*) any of the following Universities:

(i) the Nanyang Technological University;

(ii) the National University of Singapore;

(iii) the Singapore Management University;

(iv) the Singapore University of Technology and Design;

(v) the Singapore Institute of Technology;

(vi) the Singapore University of Social Sciences;

(vii) any other person whose function of providing university education is determined by written law.

PART 2

ADMINISTRATION

Administration of Act

4.—(1) It is the function of the Authority to administer this Act.

(2) Despite anything in the Interpretation Act 1965, the Info-communications Media Development Authority Act 2016 or

any other law, the powers conferred or duties imposed upon the Authority by any provision of this Act are non-delegable to a company mentioned in section 38(1)(*d*) of the Info-communications Media Development Authority Act 2016.

Authorised officers

5.—(1) The Authority may, in relation to any provision of this Act, appoint any of the following individuals to be an authorised officer for the purposes of that provision, either generally or in a particular case:

(*a*) any of its employees;

(*b*) any public officer, or employee of another public authority, performing duties in the Authority under a secondment arrangement making available temporarily to the Authority the services of the individual.

(2) Subject to subsection (3), the Authority may delegate the exercise of all or any of the powers conferred or duties imposed upon the Authority by any provision of this Act, to any authorised officer, subject to any conditions or limitations that the Authority may specify; and any reference in that provision of this Act or its subsidiary legislation to the Authority includes a reference to such an authorised officer.

(3) Nothing in subsection (2) authorises delegating —

(*a*) the power of delegation conferred by that subsection; or

(*b*) any power of the Authority to make subsidiary legislation under this Act.

(4) Any delegation under subsection (2) may be general or specific, and may be subject to any conditions or limitations that the Authority may specify.

(5) In this section, "employee", in relation to the Authority, means an individual who is employed by the Authority under a contract of service or who is otherwise engaged to perform duties in the Authority.

Investigation officers

6. The Authority may appoint any of the following to be an investigation officer to exercise the powers conferred on investigation officers under this Act:

(*a*) any of its employees;

(*b*) any public officer, or employee of another public authority, performing duties in the Authority under a secondment arrangement making available temporarily to the Authority the services of the individual.

PART 3

LICENSING OF MAJOR FOUNDATIONAL DIGITAL INFRASTRUCTURE SERVICE PROVIDERS

Division 1 — Major FDI licences

Licensing of major foundational digital infrastructure service providers

7.—(1) A person must not provide a major foundational digital infrastructure service —

(*a*) whether from within or outside Singapore, to users in Singapore, the loss or impairment of the provision of which is likely to lead to or cause disruption or deterioration of the operations of a large number of businesses or organisations in Singapore which rely on or are enabled by the service; or

(*b*) wholly or partially from Singapore, to users in or outside Singapore, the loss or impairment of the provision of which is likely to lead to or cause disruption or deterioration of the operations of a large number of businesses or organisations (in or outside Singapore) which rely on or are enabled by the service,

unless the person has in force a major FDI licence granted under section 8 that entitles the person to provide the service.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part of a day during which the offence continues after conviction.

Application for grant or renewal of major FDI licence

8.—(1) A person that wishes to provide a major foundational digital infrastructure service —

(*a*) whether from within or outside Singapore, to users in Singapore; or

(*b*) wholly or partially from Singapore, to users in or outside Singapore,

may apply to the Authority for the grant or renewal of a major FDI licence under this section.

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

(*a*) made in writing to the Authority in the form and manner determined by the Authority;

(*b*) accompanied by such information and documents as may be determined by the Authority;

(*c*) accompanied by such application fee as may be prescribed; and

(*d*) in the case of an application for the renewal of a major FDI licence, made not later than 6 months or such other period before the expiry of the licence as may be prescribed (called in this section the renewal period).

(3) Upon receiving an application under subsection (1), the Authority may —

(*a*) grant a major FDI licence to, or renew the major FDI licence of, the applicant; or

(*b*) refuse to grant a major FDI licence to, or renew the major FDI licence of, the applicant.

(4) Subject to the provisions of this Act, an applicant is eligible for the grant or renewal of the major FDI licence if, and only if —

(*a*) the applicant has paid the prescribed licence fee, if any; and

(*b*) the applicant satisfies any other requirements that may be prescribed for such grant or renewal.

(5) Without affecting subsection (4), the Authority may refuse to grant a major FDI licence to, or renew the major FDI licence of, an applicant if, in the Authority's opinion —

(*a*) it is not in the public interest to grant or renew the licence; or

(*b*) the grant or renewal of the licence may pose a threat to national security.

(6) Where a person submits an application for the renewal of the person's major FDI licence before the start of the renewal period, the licence continues in force beyond the expiry date until the date on which the licence is renewed or the application for its renewal is refused, as the case may be.

(7) The Authority may, on the application of a person and on any terms that the Authority thinks appropriate, by notice abridge the renewal period mentioned in subsection (2)(*d*), and an application for the renewal of the person's major FDI licence submitted before the start of the abridged renewal period is treated as submitted before the start of the renewal period for the purposes of subsection (6).

(8) An applicant which is located outside Singapore may appoint a person in Singapore to accept service of notices and other documents under this Act.

Criteria for grant, etc., of major FDI licence

9.—(1) This section applies where the Authority is making a decision on any of the following:

(*a*) whether to grant or refuse to grant a major FDI licence under section 8;

(*b*) whether to renew or refuse to renew a major FDI licence under section 8;

(*c*) whether to impose conditions on a major FDI licence under section 11(1);

(*d*) whether to modify any condition of a major FDI licence under section 11(4).

(2) The Authority must have regard, and give such weight as the Authority considers appropriate, to all of the following matters when making the decision:

(*a*) when making a decision mentioned in subsection (1)(*a*) or (*b*) — the experience of the applicant in the provision of any major foundational digital infrastructure services of the type the application relates to (whether in Singapore or elsewhere), and the ability of the applicant to perform the duties which would be imposed on that person under this Part and under the major FDI licence, if granted or renewed;

(*b*) when making a decision mentioned in subsection (1) — whether it would be contrary to the public interest for the decision to be made.

(3) In addition, the Authority must not grant or renew a major FDI licence unless —

(*a*) the applicant is —

(i) a company;

(ii) a corporation formed or incorporated outside Singapore; or

(iii) the trustee-manager of a business trust;

(*b*) the applicant has a permanent place of business, or a registered office, in Singapore;

(*c*) at least one officer of the applicant —

(i) is a citizen of Singapore or permanent resident of Singapore;

(ii) is ordinarily resident in Singapore; or

(iii) if the applicant satisfies such conditions as may be prescribed — belongs to a prescribed class of persons;

(*d*) the applicant satisfies such financial requirements as may be prescribed;

(*e*) the Authority is satisfied that the applicant meets such other criteria for the grant or renewal of the licence as the Authority considers relevant; and

(*f*) the applicant satisfies such operational requirements as the Authority may specify.

(4) To avoid doubt, the Authority is not confined to consideration of the matters specified in subsection (2) and may take into account any other matters and evidence that may be relevant.

(5) In this section, "officer", in relation to an applicant, means any director, or other person responsible for the management, of the applicant.

Form and duration of major FDI licence, etc.

10.—(1) A major FDI licence granted or renewed under section 8 must —

(*a*) be in the form determined by the Authority; and

(*b*) contain the conditions subject to which it is granted.

(2) A major FDI licence granted under section 8 is in force for the duration specified by the Authority in the licence.

(3) A major FDI licence renewed under section 8 continues in force for the duration specified by the Authority in the licence, starting from the date immediately following the date on which the licence would have expired but for the renewal.

(4) A licensee which is located outside Singapore must appoint a person in Singapore to accept service of notices, directions, orders and other documents under this Act.

Conditions of major FDI licence

11.—(1) The Authority may grant or renew a major FDI licence subject to any conditions that the Authority may determine.

(2) For the purpose of subsection (1), the Authority may specify —

(*a*) conditions applicable to all licensees;

(*b*) conditions applicable to a specified class of licensees; or

(*c*) conditions applicable to a specified licensee only.

(3) Without limiting subsection (1), the conditions that may be imposed include a condition requiring the licensee to pay to the Authority periodic licence fees for the duration of the major FDI licence of a prescribed amount.

(4) The Authority may at any time, on the Authority's own initiative or on the application of a licensee, modify any condition of a major FDI licence imposed under subsection (1).

(5) Before making any modification under subsection (4) on the Authority's own initiative, the Authority must give notice to the licensee and any other licensee likely to be affected by the modification —

(*a*) stating that the Authority proposes to make the modification in the manner specified in the notice;

(*b*) stating the reasons why the Authority proposes to make the modification; and

(*c*) specifying the time (being not less than 28 days after the date of service of the notice) within which written representations with respect to the proposed modification may be made.

(6) Upon receiving any written representations mentioned in subsection (5)(*c*), the Authority must consider the representations and may —

(*a*) reject the representations; or

(*b*) withdraw or amend the proposed modification in accordance with the representations or otherwise.

(7) Where —

(*a*) the Authority rejects any written representations under subsection (6)(*a*);

(*b*) the Authority amends any proposed modification to the condition of the licence under subsection (6)(*b*); or

(*c*) no written representation is received by the Authority within the time specified by the Authority under subsection (5)(*c*), or any written representation made by the licensee is withdrawn, and the licensee has not given immediate effect to the modification,

the Authority must issue a written direction to the licensee requiring that effect be given within a reasonable time to the modification as specified in the notice given under subsection (5), or as amended by the Authority under subsection (6)(*b*), as the case may be.

(8) An application under subsection (4) must be —

(*a*) made in writing to the Authority in the form and manner determined by the Authority;

(*b*) accompanied by such information and documents as may be determined by the Authority; and

(*c*) accompanied by the prescribed fee, if any.

(9) Upon receiving an application under subsection (4), the Authority may —

(*a*) modify the condition in accordance with the application or otherwise; or

(*b*) reject the application.

Restriction on transfer of major FDI licence

12.—(1) A major FDI licence is not transferable to any other person without the written approval of the Authority.

(2) Any purported transfer of a major FDI licence without the written approval of the Authority is void.

(3) The Authority may approve the transfer of a major FDI licence —

(*a*) on the application of the licensee and the intended transferee;

(*b*) after considering the matters in section 9(2), as modified by replacing each reference to the applicant with the intended transferee and making other necessary modifications; and

(*c*) in accordance with this section.

(4) A major FDI licence may only be transferred to a person which —

(*a*) is eligible under section 9(3) to be granted a licence; and

(*b*) meets any other criteria that may be prescribed.

(5) The Authority's approval under this section may be given with or without conditions.

(6) A transfer of a major FDI licence takes effect on —

(*a*) the date on which the conditions (if any) for the Authority's approval of the transfer are met; or

(*b*) such other date as the Authority may specify.

(7) The transfer of a major FDI licence does not affect any criminal or civil liability incurred by the original licensee.

Surrender of major FDI licence

13.—(1) A licensee may surrender its major FDI licence by giving to the Authority a written notice of at least 6 months or such other period as may be prescribed.

(2) The surrender takes effect only if the Authority consents to the surrender.

(3) The Authority's granting of consent may be subject to the licensee meeting such conditions as may be specified.

(4) A surrender of a licence takes effect on —

(*a*) the date on which the conditions (if any) for the Authority's granting of consent are met; or

(*b*) such other date as the Authority may specify.

(5) The Authority may, on the application of a licensee and on any terms that the Authority thinks appropriate, by notice abridge the notice period mentioned in subsection (1).

Division 2 — General provisions

Power to obtain information to ascertain if service is major foundational digital infrastructure service

14.—(1) This section applies where an authorised officer has reason to believe that a person (whether located in or outside Singapore) is providing a foundational digital infrastructure service which may be a major foundational digital infrastructure service.

(2) The authorised officer may, by written notice given in the prescribed form and manner to the person, require the person to provide to the authorised officer, within a reasonable period specified in the notice, any relevant information or document relating to the service that may be required by the authorised officer for the purpose of ascertaining whether the service is a major foundational digital infrastructure service.

(3) Any person who —

(*a*) without reasonable excuse, fails to comply with a notice given under subsection (2); and

(*b*) continues, after the expiry of the period specified in the notice, to provide the service —

(i) whether from within or outside Singapore, to users in Singapore; or

(ii) wholly or partially from Singapore, to users in or outside Singapore,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part of a day during which the offence continues after conviction.

(4) Any person to whom a notice is given under subsection (2) is not obliged to disclose any information or document that is subject to any right, privilege or immunity conferred, or obligation or limitation

imposed, by or under any law, contract or rules of professional conduct in relation to the disclosure of such information or document, as the case may be.

(5) Where a person claims, before providing any information or document in response to a notice given under subsection (2), that it might tend to incriminate the person, the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under any written law in respect of its falsity.

Duty to take measures to ensure security and resilience of major foundational digital infrastructure service

15. A licensee must, in relation to the major foundational digital infrastructure service that is the subject of the major FDI licence —

(*a*) implement such processes and measures to ensure the security (including the physical security and cybersecurity) of the service, as may be prescribed;

(*b*) implement such processes and measures to minimise the likelihood of unexpected interruptions to the provision of the service, as may be prescribed;

(*c*) implement such business continuity and disaster recovery plans to ensure timely resumption of the service from interruptions to the licensee's business activities and processes, as may be prescribed; and

(*d*) notify the Authority, in the prescribed form and manner, of the occurrence of such cybersecurity incident, or service delivery disruption, as may be prescribed.

Codes of practice

16.—(1) The Authority may, from time to time —

(*a*) issue or approve one or more codes of practice relating to —

(i) practices and measures to be taken by licensees to ensure the security (including the physical security

and cybersecurity) of the major foundational digital infrastructure services provided by the licensees;

(ii) practices and measures to be taken by licensees to minimise the likelihood of unexpected interruptions to the provision of the major foundational digital infrastructure services provided by the licensees;

(iii) plans for business continuity and disaster recovery of the major foundational digital infrastructure services provided by the licensees; and

(iv) the timeframe within which a notification to the Authority of the occurrence of any cybersecurity incident or service delivery disruption mentioned in section 15(*d*) should be provided; and

(*b*) amend or revoke any code of practice issued or approved under paragraph (*a*).

(2) A code of practice issued under this section —

(*a*) may be of general or specific application; and

(*b*) may specify that different provisions of the code of practice apply to different circumstances, or provide for different cases or classes of cases.

(3) Any provision in any code of practice applicable to a licensee must not be inconsistent with any provision in any Cybersecurity Act code of practice or standard of performance applicable to that licensee.

(4) If any provision in any code of practice is inconsistent with this Act, the provision, to the extent of the inconsistency, does not have effect.

(5) Where a code of practice is issued, approved, amended or revoked by the Authority under subsection (1), the Authority must —

(*a*) publish a notice of the issue, approval, amendment or revocation (as the case may be) in a manner that will secure adequate publicity for the issue, approval, amendment or revocation, as the case may be;

(*b*) specify in the notice 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, and of all amendments to that code, are available free of charge to a licensee to whom that code applies.

(6) None of the following has any effect until the notice relating to it is published in accordance with subsection (5):

(*a*) a code of practice;

(*b*) an amendment to a code of practice;

(*c*) a revocation of a code of practice.

(7) A code of practice has no legislative effect.

(8) Subject to subsections (6) and (9), every licensee must comply with any code of practice that applies to the licensee.

(9) The Authority may, either generally or for such time as the Authority may specify, waive the application to a licensee of any code of practice, or any part of it.

(10) In this section, "Cybersecurity Act code of practice or standard of performance" means any code of practice or standard of performance issued or approved under section 35A(1) of the Cybersecurity Act 2018, and includes such code of practice or standard of performance as may be amended from time to time.

Directions of Authority

17.—(1) The Authority may, if the Authority thinks —

(*a*) it is necessary or expedient for ensuring compliance with requirements under this Part relating to the security and resilience of a major foundational digital infrastructure service provided by a licensee or a class of licensees; or

(*b*) it is necessary or expedient for the effective administration of this Part,

issue a written direction, either of a general or specific nature, to the licensee or each licensee within that class of licensees.

(2) Without limiting subsection (1), a direction under that subsection may relate to —

(*a*) an audit to be carried out by the licensee or an auditor approved or appointed by the Authority, on the licensee's compliance with this Part or any code of practice applicable to the licensee;

(*b*) any action to be taken by the licensee to remedy a non-compliance with this Part or any code of practice applicable to the licensee; or

(*c*) compliance with any code of practice applicable to the licensee.

(3) The Authority may, if the Authority thinks it is necessary or expedient, direct a licensee in writing to notify its users in Singapore, who are affected or may potentially be affected by a prescribed cybersecurity threat or cybersecurity incident in respect of a computer or computer system controlled by the licensee, of the possible protective or remedial measures the users may take to prevent or reduce any or further harm arising from the cybersecurity threat or cybersecurity incident.

(4) A direction under subsection (1) or (3) may be revoked at any time by the Authority.

(5) Before issuing a direction under subsection (1) or (3), the Authority must, unless the Authority considers that it is not practicable or desirable to do so, give notice to the licensee to whom the Authority proposes to issue the direction —

(*a*) stating that the Authority proposes to issue the direction and setting out its effect; and

(*b*) specifying the time within which written representations or objections to the proposed direction may be made.

(6) The Authority must consider any written representations or objections which are duly made before giving any direction.

Emergency measures and requirements

18.—(1) The Minister may, if satisfied that it is necessary for the purposes of preventing, detecting or countering any serious and imminent threat to the national security, defence, foreign relations, economy, public health, public safety or public order of Singapore arising from a threat to the continuous provision of a major foundational digital infrastructure service, by a certificate under the Minister's hand, authorise or direct any person or organisation specified in the certificate (called in this section the specified person) to take such measures or comply with such requirements as may be necessary to prevent, detect or counter any threat to the continuous provision of the major foundational digital infrastructure service.

(2) The measures and requirements mentioned in subsection (1) may include, without limitation —

(*a*) the exercise by the specified person of the powers in sections 39(1)(*a*) and (*b*) and (2)(*a*) and (*b*) and 40(2)(*a*), (*b*) and (*c*) of the Criminal Procedure Code 2010;

(*b*) requiring or authorising the specified person to direct another person to provide any information that is necessary to identify, detect or counter any such threat, including —

(i) information relating to the design, configuration or operation of any computer, computer program or computer system employed for the provision of the major foundational digital infrastructure service; and

(ii) information relating to the cybersecurity of any computer, computer program or computer system employed for the provision of the major foundational digital infrastructure service;

(*c*) providing to the Minister or the Authority any information (including real-time information) obtained from any computer controlled or operated by the specified person, or obtained by the specified person from another person pursuant to a measure or requirement under paragraph (*b*), that is necessary to identify, detect or counter any such threat, including —

(i) information relating to the design, configuration or operation of any computer, computer program or computer system employed for the provision of the major foundational digital infrastructure service; and

(ii) information relating to the cybersecurity of any computer, computer program or computer system employed for the provision of the major foundational digital infrastructure service; and

(*d*) providing to the Minister or the Authority a report of a breach or an attempted breach of cybersecurity of a description specified in the certificate under subsection (1), relating to any computer, computer program or computer system employed for the provision of the major foundational digital infrastructure service.

(3) Any measure or requirement mentioned in subsection (1), and any direction given by a specified person for the purpose of taking any such measure or complying with any such requirement —

(*a*) does not confer any right to the production of, or of access to, information subject to legal privilege; and

(*b*) subject to paragraph (*a*), has effect despite any obligation or limitation imposed or right, privilege or immunity conferred by or under any law, contract or rules of professional conduct, including any restriction on the disclosure of information imposed by law, contract or rules of professional conduct.

(4) Any specified person who, without reasonable excuse, fails to take any measure or comply with any requirement directed by the Minister under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 10 years or to both.

(5) Any person who, without reasonable excuse —

(*a*) obstructs a specified person in the taking of any measure or in the complying with any requirement under subsection (1); or

(*b*) fails to comply with any direction given by a specified person for the purpose of the specified person taking any such measure or complying with any such requirement,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 10 years or to both.

(6) No civil or criminal liability is incurred by —

(*a*) a specified person for doing or omitting to do any act if the specified person had done or omitted to do the act in good faith and for the purpose of or as a result of taking any measure or complying with any requirement under subsection (1); or

(*b*) a person for doing or omitting to do any act if the person had done or omitted to do the act in good faith and for the purpose of or as a result of complying with a direction given by a specified person for the purpose of taking any such measure or complying with any such requirement.

(7) The following persons are not considered to be in breach of any restriction upon the disclosure of information imposed by law, contract or rules of professional conduct:

(*a*) a specified person who, in good faith, obtains any information for the purpose of taking any measure under subsection (1) or complying with any requirement under that subsection, or who discloses any information to the Minister or the Authority, in compliance with any requirement under that subsection;

(*b*) a person who, in good faith, obtains any information, or discloses any information to a specified person, in compliance with a direction given by the specified person for the purpose of taking any measure under subsection (1) or complying with any requirement under that subsection.

(8) The following persons, namely:

(*a*) a specified person to whom a person has provided information in compliance with a direction given by the specified person for the purpose of taking any measure under subsection (1) or complying with any requirement under that subsection;

(*b*) a person to whom a specified person provides information in compliance with any requirement under subsection (1),

must not use or disclose the information, except —

(*c*) with the written permission of the person from whom the information was obtained or, where the information is the confidential information of a third person, with the written permission of the third person;

(*d*) for the purpose of preventing, detecting or countering a threat to a computer, computer system or class of computers or computer systems employed for the provision of a major foundational digital infrastructure service;

(*e*) to disclose to any police officer or other law enforcement authority any information which discloses the commission of an offence under this Act or any other written law; or

(*f*) in compliance with a requirement of a court or the provisions of this Act or any other written law.

(9) Any person who contravenes subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 12 months or to both.

(10) Where an offence is disclosed in the course of or pursuant to the exercise of any power under this section —

(*a*) no information for that offence may be admitted in evidence in any civil or criminal proceedings; and

(*b*) no witness in any civil or criminal proceedings is obliged —

(i) to disclose the name, address or other particulars of any informer who has given information with respect to that offence; or

(ii) to answer any question if the answer would lead, or would tend to lead, to the discovery of the name, address or other particulars of the informer.

(11) If any book, document, data or computer output which is admitted in evidence or liable to inspection in any civil or criminal proceedings contains any entry in which any informer is named or described or which may lead to the informer's discovery, the court must cause those entries to be concealed from view or to be obliterated only so far as may be necessary to protect the informer from discovery.

Revocation or suspension of major FDI licence, etc.

19.—(1) Subject to subsection (4), the Authority may by order revoke, or suspend for a period not exceeding one year, a major FDI licence if the Authority is satisfied that there exists cause of sufficient gravity for revoking or suspending the licence (as the case may be) on one or more of the following grounds:

(*a*) the licensee —

(i) has failed, without reasonable excuse, to comply with section 15 (duty to take measures to ensure security and resilience of major foundational digital infrastructure service);

(ii) has contravened or failed to comply with any provision of this Part (other than section 15), which contravention of or non-compliance with is not an offence under this Act;

(iii) has failed to comply with any condition of the licence; or

(iv) has failed, without reasonable excuse, to comply with a written direction issued under section 17(1) or (3);

(*b*) the grant or renewal of the licence had been obtained by fraud or misrepresentation;

(*c*) a circumstance existed at the time the licence was granted or renewed that the Authority was unaware of, which would have required or permitted the Authority to refuse to grant or renew the licence if the Authority had been aware of the circumstance at that time;

(*d*) the licensee has ceased to provide the major foundational digital infrastructure service which the licensee was entitled to provide under the licence;

(*e*) the licensee has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;

(*f*) the licensee has been convicted of an offence under this Part, or an offence involving fraud, dishonesty or moral turpitude;

(*g*) it is undesirable in the public interest for the licensee to continue to provide the major foundational digital infrastructure service which the licensee was entitled to provide under the licence.

(2) Subject to subsection (4), the Authority may, in any case where the Authority considers that no cause of sufficient gravity for revoking or suspending a major FDI licence exists, by order —

(*a*) reduce the duration of the licence;

(*b*) modify any condition of the licence or impose any other condition as the Authority considers appropriate; or

(*c*) censure the licensee.

(3) The Authority must give the licensee written notice of —

(*a*) the Authority's intention to exercise any power under subsection (1) or (2); and

(*b*) the date on which the Authority intends to exercise the power.

(4) The Authority must not, during a period of 14 days after the Authority informs the licensee of such intention, exercise any power under subsection (1) or (2) unless the licensee is given an opportunity to be heard, whether in person or by a representative and whether in writing or otherwise.

(5) Where the Authority has by order revoked or suspended a major FDI licence under subsection (1) or made any order under subsection (2) in respect of a licensee, the Authority must serve on the licensee a notice of the order.

(6) An order under subsection (1) by the Authority revoking or suspending a major FDI licence takes effect on the date specified in the order, being a date not earlier than 14 days after the service of the notice of the order on the licensee under subsection (5).

(7) In any proceedings under this section consequent upon the conviction of a licensee for a criminal offence, the Authority must accept the licensee's conviction as final.

Financial penalty

20.—(1) This section applies where a licensee —

(*a*) fails, without reasonable excuse, to comply with section 15 (duty to take measures to ensure security and resilience of major foundational digital infrastructure service);

(*b*) contravenes or fails to comply with any provision of this Part (other than section 15), which contravention of or non-compliance with is not an offence under this Act;

(*c*) fails to comply with any condition of the major FDI licence; or

(*d*) fails, without reasonable excuse, to comply with a written direction issued under section 17(1) or (3),

and continues, after the contravention or failure to comply, to provide the major foundational digital infrastructure service that is the subject of the major FDI licence —

(*e*) whether from within or outside Singapore, to users in Singapore; or

(*f*) wholly or partially from Singapore, to users in or outside Singapore.

(2) On the occurrence of a contravention or failure to comply mentioned in subsection (1) (other than subsection (1)(*d*)), the Authority may, instead of or in addition to taking any action under section 19(1) or (2) (revocation or suspension of major FDI licence, etc.), order the licensee to pay a financial penalty of an amount not exceeding the higher of the following amounts:

(*a*) $1 million;

(*b*) 10% of the licensee's annual turnover in Singapore.

(3) On the occurrence of a failure to comply mentioned in subsection (1)(*d*), the Authority may, instead of or in addition to taking any action under section 19(1) or (2) (revocation or suspension of major FDI licence, etc.), order the licensee to pay a financial penalty of an amount not exceeding $100,000.

(4) The order mentioned in subsection (2) or (3) must specify the date by which the financial penalty is to be paid.

Authority to give opportunity to make representations before ordering financial penalty

21.—(1) Subsections (2) to (6) apply before the Authority makes an order under section 20(2) or (3).

(2) The Authority must give the licensee written notice of —

(*a*) the Authority's intention to make the order; and

(*b*) the date on which the Authority intends to make the order.

(3) The date mentioned in subsection (2)(*b*) must not be earlier than 21 days after the date of the written notice in subsection (2).

(4) The licensee may make representations to the Authority at any time before the date mentioned in subsection (2)(*b*).

(5) The Authority must consider any representations made by the licensee before the date mentioned in subsection (2)(*b*).

(6) The Authority must, on or after the date mentioned in subsection (2)(*b*), give the licensee written notice of the Authority's final decision.

Regulatory action can continue despite licence expiry, etc.

22. If proceedings under section 19(1) or (2) or 20(2) or (3) are pending against a licensee at the time of the revocation, surrender or expiry of the licensee's licence, then, despite the revocation, surrender or expiry of the licence, those proceedings may continue and the Authority may exercise any powers under section 19(2)(*c*) or 20(2) or (3) (as the case may be) in relation to the former licensee as if the former licensee were a licensee.

PART 4

LICENSING OF DATA CENTRE OPERATORS

Division 1 — DC licences

Licensing of data centre operators

23.—(1) A person (whether located in or outside Singapore) must not operate a data centre in Singapore, unless the person has in force a DC licence granted under section 24 that entitles the person to operate the data centre.

(2) For the purposes of this Act —

(*a*) a person is deemed to operate a data centre if the person controls the introduction and implementation of one or more of the following for the data centre, whether the data centre is operated for the purposes of provision by the person of a data centre facility service or for the person's own use:

(i) operating policies;

(ii) maintenance policies;

(iii) environmental policies; and

(*b*) if more than one person satisfies paragraph (*a*) at any one time, then the person that has the greatest authority to

introduce and implement the policies mentioned in that paragraph (and not the other person or persons) is taken to control the introduction and implementation of those policies.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $10,000 for every day or part of a day during which the offence continues after conviction.

(4) In this section, "environmental policies", in relation to a data centre, means policies to minimise or mitigate the environmental impact of operating the data centre, including the environmental impact of —

(*a*) the use of energy in operating the data centre; and

(*b*) the use of water in operating the data centre.

Application for grant or renewal of DC licence

24.—(1) A person that wishes to operate a data centre in Singapore may apply to the Authority for the grant or renewal of a DC licence under this section.

(2) A consortium of persons that wishes to form a corporation to operate a data centre in Singapore may apply to the Authority for the grant of a DC licence to the proposed corporation under this section.

(3) An application under subsection (1) or (2) must be —

(*a*) made in writing to the Authority in the form and manner determined by the Authority;

(*b*) accompanied by such information and documents as may be determined by the Authority;

(*c*) accompanied by such application fee as may be prescribed; and

(*d*) in the case of an application for the renewal of a DC licence under subsection (1), made not later than one year or such other period before the expiry of the licence as may be prescribed (called in this section the renewal period).

(4) The Authority may invite persons to make applications for the grant of DC licences under subsection (1) or (2) in conjunction with any, or any combination, of the following methods in accordance with regulations made under section 67:

(*a*) applications for the grant of DC licences for the allocation of limited data centre capacity under a competitive process;

(*b*) applications for the grant of DC licences for the allocation of limited data centre capacity under a non-competitive process to applicants whose current and proposed business activities in Singapore (including but not limited to activities related to the operation of data centres) will, in the opinion of the Authority —

(i) likely be of significant economic or strategic importance to the growth, expansion, development or wellbeing of Singapore's economy, including Singapore's status as a hub for technological innovation or other business activities that will enhance the international standing or competitiveness of Singapore's economy; or

(ii) likely contribute significantly to the development or enhancement of Singapore's status as a digital economy.

(5) A person who has in force a DC licence may operate a data centre using electricity generated from any energy sources permitted by law, but subject to any limitations specified under any condition of the licence relating to permitted energy sources.

(6) Upon consideration of an application made under subsection (2), the Authority may —

(*a*) refuse the application; or

(*b*) give the applicants written notice of the Authority's in-principle support for the grant of a DC licence to the proposed corporation on the condition that —

(i) the proposed corporation is formed;

(ii) the proposed corporation adopts the statements (including representations and commitments) made and particulars, information and documents furnished by the applicants in making the application, as if they were made or furnished by the proposed corporation; and

(iii) the applicants fulfil or the proposed corporation fulfils any other requirement that the Authority may specify in the written notice.

(7) The proposed corporation, upon being formed and adopting the statements, particulars, information and documents mentioned in subsection (6)(*b*)(ii), becomes the applicant in respect of the application originally made by the consortium under subsection (2), and the application is treated thereafter as an application made by the proposed corporation under subsection (1).

(8) Upon receiving an application made under subsection (1) (including an application mentioned in subsection (7) that is treated as an application made under subsection (1)), the Authority may —

(*a*) grant a DC licence to, or renew the DC licence of, the applicant; or

(*b*) refuse to grant a DC licence to, or renew the DC licence of, the applicant.

(9) Subject to the provisions of this Act, an applicant of an application under subsection (1) (including an application mentioned in subsection (7) that is treated as an application made under subsection (1)) is eligible for the grant or renewal of the DC licence if, and only if —

(*a*) the applicant has paid the prescribed licence fee, if any; and

(*b*) the applicant satisfies any other requirements that may be prescribed for such grant or renewal.

(10) Without affecting subsection (9), the Authority may refuse to grant a DC licence to, or renew the DC licence of, an applicant if, in the Authority's opinion —

(*a*) it is not in the public interest to grant or renew the licence; or

(*b*) the grant or renewal of the licence may pose a threat to national security.

(11) Where a person submits an application for the renewal of the person's DC licence before the start of the renewal period, the licence continues in force beyond the expiry date until the date on which the licence is renewed or the application for its renewal is refused, as the case may be.

(12) The Authority may, on the application of a person and on any terms that the Authority thinks appropriate, by notice abridge the renewal period mentioned in subsection (3)(*d*), and an application for the renewal of the person's DC licence submitted before the start of the abridged renewal period is treated as submitted before the start of the renewal period for the purposes of subsection (11).

(13) An applicant which is located outside Singapore may appoint a person in Singapore to accept service of notices and other documents under this Act.

(14) In this section, "data centre capacity", in relation to one or more DC licences, means the critical IT load at which the data centres may be operated under the licences.

Criteria for grant, etc., of DC licence

25.—(1) This section applies where the Authority is making a decision on any of the following:

(*a*) whether to grant or refuse to grant a DC licence under section 24;

(*b*) whether to renew or refuse to renew a DC licence under section 24;

(*c*) whether to impose conditions on a DC licence under section 27(1);

(*d*) whether to modify any condition of a DC licence under section 27(4).

(2) The Authority must have regard, and give such weight as the Authority considers appropriate, to all of the following matters when making the decision:

(*a*) when making a decision mentioned in subsection (1)(*a*) or (*b*) — the experience of the applicant in the operation of data centres of the type the application relates to (whether in Singapore or elsewhere), and the ability of the applicant to perform the duties which would be imposed on that person under this Part and under the DC licence, if granted or renewed;

(*b*) when making a decision mentioned in subsection (1) — the energy efficiency and water efficiency of the data centre to be operated under the DC licence;

(*c*) when making a decision mentioned in subsection (1) — whether it would be contrary to the public interest for the decision to be made.

(3) When making a decision mentioned in subsection (1), the Authority may also have regard, and give such weight as the Authority considers appropriate, to one or more of the following matters:

(*a*) the characteristics of the energy sources from which electricity to be used by the applicant to operate the data centre is generated, including —

(i) the renewability of each energy source;

(ii) the extent to which any greenhouse gas is emitted when electricity is generated from each energy source; and

(iii) whether and the extent to which the energy sources are one or more prescribed energy sources;

(*b*) whether and the extent to which any reckonable greenhouse gas emissions produced in connection with the generation of electricity (that is not low-carbon electricity) to be used by the applicant to operate the data centre will be —

(i) disposed of, processed or stored;

(ii) mitigated by the acquisition and surrender of eligible international carbon credits; or

(iii) disposed of, processed or stored, or mitigated, via one or more methods prescribed by the Minister;

(*c*) whether and the extent to which the electricity to be used by the applicant to operate the data centre will be —

(i) imported from outside Singapore; or

(ii) imported from one or more sources prescribed by the Minister;

(*d*) the bearing that the energy consumption of the data centre may have on Singapore's strategy to meet Singapore's international commitments in relation to reducing the amount of greenhouse gases emitted from activities in Singapore;

(*e*) the extent to which the current and proposed business activities of the applicant in Singapore (including but not limited to activities related to the operation of data centres) will, in the opinion of the Authority —

(i) likely be of economic or strategic importance to the growth, expansion, development or wellbeing of Singapore's economy, including Singapore's status as a hub for technological innovation or other business activities that will enhance the international standing or competitiveness of Singapore's economy; or

(ii) likely contribute to the development or enhancement of Singapore's status as a digital economy;

(*f*) any other matters and evidence that may be relevant.

(4) The Authority must, in determining the matter set out in subsection (3)(*e*), have regard to the opinion of the EDB.

(5) The Authority may, in determining the matters set out in subsection (2)(*b*) or (3)(*a*), (*b*), (*c*) or (*d*), consult and have regard to the views of relevant public authorities.

(6) In addition, the Authority must not grant or renew a DC licence unless —

(*a*) the applicant is —

(i) a company;

(ii) a corporation formed or incorporated outside Singapore; or

(iii) the trustee-manager of a business trust;

(*b*) the applicant has a permanent place of business, or a registered office, in Singapore;

(*c*) at least one officer of the applicant —

(i) is a citizen of Singapore or permanent resident of Singapore;

(ii) is ordinarily resident in Singapore; or

(iii) if the applicant satisfies such conditions as may be prescribed — belongs to a prescribed class of persons;

(*d*) the applicant satisfies such financial requirements as may be prescribed;

(*e*) the Authority is satisfied that the applicant meets such other criteria for the grant or renewal of the licence as the Authority considers relevant; and

(*f*) the applicant satisfies such operational requirements as the Authority may specify.

(7) In this section —

"low-carbon electricity" has the meaning given by section 19A(6) of the Energy Market Authority of Singapore Act 2001;

"officer", in relation to an applicant, means any director, or other person responsible for the management, of the applicant;

"prescribed energy source" means —

(*a*) any renewable energy source; or

(*b*) any low-carbon fuel by which the emission of any greenhouse gas may be reduced or minimised when the fuel is used for the generation of electricity,

that is prescribed by the Minister.

Form and duration of DC licence, etc.

26.—(1) A DC licence granted or renewed under section 24 must —

(*a*) be in the form determined by the Authority; and

(*b*) contain the conditions subject to which it is granted.

(2) A DC licence granted or renewed under section 24 must specify the critical IT load at which the data centre may be operated under the licence.

(3) A DC licence granted under section 24 is in force for the duration specified by the Authority in the licence.

(4) A DC licence renewed under section 24 continues in force for the duration specified by the Authority in the licence, starting from the date immediately following the date on which the licence would have expired but for the renewal.

(5) A licensee which is located outside Singapore must appoint a person in Singapore to accept service of notices, directions, orders and other documents under this Act.

Conditions of DC licence

27.—(1) The Authority may grant or renew a DC licence subject to any conditions that the Authority may determine.

(2) For the purpose of subsection (1), the Authority may specify —

(*a*) conditions applicable to all licensees;

(*b*) conditions applicable to a specified class of licensees; or

(*c*) conditions applicable to a specified licensee only.

(3) Without limiting subsection (1), the conditions that may be imposed include the following:

(*a*) a condition requiring the licensee to pay to the Authority periodic licence fees for the duration of the DC licence of a prescribed amount;

(*b*) a condition requiring the licensee to commence operation of the data centre that is the subject of the licence (called in this subsection the subject data centre) within a specified period;

(*c*) a condition requiring the licensee to perform specified tasks or achieve specified goals that the licensee had undertaken to perform or achieve as part of the licensee's application for the grant or renewal of a licence, which tasks or goals relate to the licensee's proposed business activities in Singapore (including but not limited to activities related to the operation of data centres) that will, in the opinion of the Authority —

(i) likely be of economic or strategic importance to the growth, expansion, development or wellbeing of Singapore's economy, including Singapore's status as a hub for technological innovation or other business activities that will enhance the international standing or competitiveness of Singapore's economy; or

(ii) likely contribute to the development or enhancement of Singapore's status as a digital economy;

(*d*) a condition requiring the licensee —

(i) to identify a suitable low-carbon energy project to be located in Singapore which is to supply electricity directly or indirectly to the subject data centre;

(ii) to establish, fund and implement the project (whether by itself or working with one or more other persons), including obtaining any necessary regulatory approvals; and

(iii) to commence drawing electricity directly or indirectly from the project for the operation of the subject data centre by a specified date;

(*e*) a condition requiring the licensee to arrange, by a specified date, for reckonable greenhouse gas emissions produced in connection with the generation of electricity (that is not low-carbon electricity) used by the licensee to operate the subject data centre, to be —

(i) disposed of, processed or stored (including by a specified method of disposal, processing or storage), whether in or outside Singapore; or

(ii) mitigated by the acquisition and surrender of eligible international carbon credits (including specified eligible international carbon credits);

(*f*) a condition requiring the licensee to arrange, by a specified date, for electricity to be imported (including from a specified source) and used to operate the subject data centre;

(*g*) a condition requiring the licensee not to use more than a specified amount or proportion of electricity generated from any specified energy source to operate the subject data centre during any specified period.

(4) The Authority may at any time, on the Authority's own initiative or on the application of a licensee, modify any condition of a DC licence imposed under subsection (1).

(5) Before making any modification under subsection (4) on the Authority's own initiative, the Authority must, unless subsection (10) applies, give notice to the licensee and any other licensee likely to be affected by the modification —

(*a*) stating that the Authority proposes to make the modification in the manner specified in the notice;

(*b*) stating the reasons why the Authority proposes to make the modification; and

(*c*) specifying the time (being not less than 28 days after the date of service of the notice) within which written representations with respect to the proposed modification may be made.

(6) Upon receiving any written representations mentioned in subsection (5)(*c*), the Authority must consider the representations and may —

(*a*) reject the representations; or

(*b*) withdraw or amend the proposed modification in accordance with the representations or otherwise.

(7) Where —

(*a*) the Authority rejects any written representations under subsection (6)(*a*);

(*b*) the Authority amends any proposed modification to the condition of the licence under subsection (6)(*b*); or

(*c*) no written representation is received by the Authority within the time specified by the Authority under subsection (5)(*c*), or any written representation made by the licensee is withdrawn, and the licensee has not given immediate effect to the modification,

the Authority must issue a written direction to the licensee requiring that effect be given within a reasonable time to the modification as specified in the notice given under subsection (5), or as amended by the Authority under subsection (6)(*b*), as the case may be.

(8) An application under subsection (4) must be —

(*a*) made in writing to the Authority in the form and manner determined by the Authority;

(*b*) accompanied by such information and documents as may be determined by the Authority; and

(*c*) accompanied by the prescribed fee, if any.

(9) Upon receiving an application under subsection (4), the Authority may —

(*a*) modify the condition in accordance with the application or otherwise; or

(*b*) reject the application.

(10) However, where the Authority considers that it is impracticable or undesirable, in the circumstances of the particular case, to give notice under subsection (5) before modifying a condition of the DC licence under subsection (4) because of any act, omission or thing that is of such a serious nature that it adversely affects the integrity of the operation of the data centre, the Authority may, by giving notice to that licensee, modify a condition of the licence with immediate effect.

(11) In this section —

"low-carbon electricity" means any electricity that is generated using —

(*a*) energy from any renewable energy source; or

(*b*) any low-carbon fuel by which the emission of any greenhouse gas may be reduced or minimised when the fuel is used for the generation of electricity;

"low-carbon energy project" means a project consisting of the construction, improvement, extension, replacement, acquisition or leasing of any infrastructure or property (including the acquisition of any intellectual property), to enable the generation of low-carbon electricity (including the import, production, transportation and storage of any fuel used to generate such electricity), and the disposal, processing, storage or transportation of any waste produced in connection with the generation of low-carbon electricity.

Restriction on transfer of DC licence

28.—(1) A DC licence is not transferable to any other person without the written approval of the Authority.

(2) Any purported transfer of a DC licence without the written approval of the Authority is void.

(3) The Authority may approve the transfer of a DC licence —

(*a*) on the application of the licensee and the intended transferee;

(*b*) after considering the matters in section 25(2), as modified by replacing each reference to the applicant with the intended transferee and making other necessary modifications; and

(*c*) in accordance with this section.

(4) A DC licence may only be transferred to a person which —

(*a*) is eligible under section 25(6) to be granted a licence; and

(*b*) meets any other criteria that may be prescribed.

(5) The Authority's approval under this section may be given with or without conditions.

(6) A transfer of a DC licence takes effect on —

(*a*) the date on which the conditions (if any) for the Authority's approval of the transfer are met; or

(*b*) such other date as the Authority may specify.

(7) The transfer of a DC licence does not affect any criminal or civil liability incurred by the original licensee.

Surrender of DC licence

29.—(1) A licensee may surrender its DC licence by giving to the Authority a written notice of at least 6 months or such other period as may be prescribed.

(2) The surrender takes effect only if the Authority consents to the surrender.

(3) The Authority's granting of consent may be subject to the licensee meeting such conditions as may be specified.

(4) A surrender of a licence takes effect on —

(*a*) the date on which the conditions (if any) for the Authority's granting of consent are met; or

(*b*) such other date as the Authority may specify.

(5) The Authority may, on the application of a licensee and on any terms that the Authority thinks appropriate, by notice abridge the notice period mentioned in subsection (1).

Division 2 — Reporting of change of control of data centre operators

Interpretation of this Division

30.—(1) In this Division —

"5% controller", in relation to a licensee, means a person who, alone or together with that person's associates —

(*a*) holds 5% or more of the total equity interests in that licensee; or

(*b*) is in a position to control 5% or more of the voting power in that licensee;

"acquisition" includes an agreement to acquire, but does not include —

(*a*) an acquisition by will or by operation of law; or

(*b*) an acquisition by way of enforcement of a loan security;

"arrangement" includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

"control" includes control as a result of, or by means of, any trust, agreement, arrangement, understanding or practice, whether or not having legal or equitable force and whether or not based on legal or equitable rights;

"director" has the meaning given by section 4(1) of the Companies Act 1967;

"equity interest" —

(*a*) in relation to a licensee that is a corporation — means a voting share in that corporation; and

(*b*) in relation to a licensee that is the trustee-manager of a business trust — means a unit in that business trust;

"indirect controller", in relation to a licensee, means any person, whether acting alone or together with any other person, and whether with or without holding equity interests or controlling the voting power in the licensee —

(*a*) whose directions, instructions or wishes the directors or other officers of the licensee are accustomed or under an obligation, whether formal or informal, to act in accordance with; or

(*b*) who is in a position to determine the policy of the licensee,

but does not include —

(*c*) any person who is a director or other officer of the licensee; or

(*d*) any person whose directions, instructions or wishes the directors or other officers of the licensee are accustomed to act in accordance with by reason only that they act on advice given by the person in that person's professional capacity;

"liquidator" includes the Official Receiver when acting as the liquidator of a corporation;

"officer", in relation to a licensee, includes —

(*a*) a director or secretary of, or a person employed in an executive capacity by, the licensee;

(*b*) any receiver or manager, or any receiver and manager, of any part of the undertaking of the licensee, appointed under a power contained in any instrument or by the General Division of the High Court or by creditors;

(*c*) any liquidator of the licensee appointed in a voluntary winding up or by the General Division of the High Court or by creditors; and

(*d*) any judicial manager of the licensee appointed by the General Division of the High Court under Part 7 of the Insolvency, Restructuring and Dissolution Act 2018;

"Official Receiver" has the meaning given by section 2(1) of the Insolvency, Restructuring and Dissolution Act 2018;

"related corporation", in relation to a licensee, means another corporation that is deemed under section 32(2) to be related to the licensee;

"share", in relation to a corporation, means a share in the share capital of the corporation and includes stock into which all or any of the share capital of the corporation has been converted;

"treasury share" has the meaning given by section 4(1) of the Companies Act 1967;

"unit" has the meaning given by section 2 of the Business Trusts Act 2004;

"unitholder" means a person who holds units in a business trust;

"voting share" has the meaning given by section 4(1) of the Companies Act 1967 but does not include a treasury share.

(2) A reference in this Division to the control of a percentage of the voting power in a licensee is a reference to the control, whether direct or indirect, of that percentage of the total number of votes that might be cast in —

(*a*) a general meeting of the licensee; or

(*b*) in the case of a licensee that is the trustee-manager of a business trust — a general meeting of the unitholders of the business trust.

(3) In ascertaining a person's control of the percentage of the total number of votes that might be cast at a general meeting mentioned in subsection (2), the number of votes that the person is entitled to cast at the meeting by reason of having been appointed a proxy or representative to vote at the meeting is to be disregarded.

(4) In this Division, a reference to the business of a business trust is a reference to the business carried on by the trustee-manager of the business trust on behalf of the business trust.

What holding an equity interest means

31.—(1) A person holds an equity interest under this Division if the person —

(*a*) has or is deemed to have an equity interest in accordance with subsections (2) to (8); or

(*b*) otherwise has a legal or equitable interest in that equity interest,

except for —

(*c*) any interest to be disregarded under section 7(9) of the Companies Act 1967;

(*d*) any interest in a share held by a person whose ordinary business includes the lending of money if the person holds the interest as a loan security;

(*e*) any interest in a share held by a person, being an interest held by the person because the person holds a prescribed office;

(*f*) any interest of a prescribed kind in a share, being an interest held by such persons as are prescribed;

(*g*) any interest in a share held by the Government or the Minister for Finance in his or her corporate capacity;

(*h*) any equity interest of a prescribed kind in a company, being an equity interest held by a prescribed person; or

(*i*) any interest prescribed by regulations made under section 67 as an interest that is to be disregarded.

(2) For the purposes of this Division, if —

(*a*) a person holds an interest in a share as a loan security;

(*b*) the ordinary business of the person includes the lending of money;

(*c*) the loan security is enforced;

(*d*) as a result of the enforcement of the loan security, the person becomes the holder of the share; and

(*e*) the person holds the share for a continuous period (called the holding period) beginning at the time when the security was enforced,

the person's interest in the share is to be disregarded at all times during so much of the holding period as occurs during whichever of the following periods is applicable:

(*f*) the period of 90 days beginning when the security was enforced;

(*g*) if the Authority, by written notice given to the person, allows a longer period, the end of that longer period.

(3) Subject to subsection (4), a person has an equity interest if the person has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, that equity interest.

(4) It is immaterial that the authority of a person to dispose of, or to exercise control over the disposal of, the equity interest mentioned in subsection (3) is, or is capable of being made, subject to restraint or restriction.

(5) It is immaterial, for the purposes of determining whether a person has an equity interest, that the interest cannot be related to a particular share or a unit of a business trust, as the case may be.

(6) A person is deemed to have an equity interest if —

(*a*) any property held in trust consists of or includes the equity interest; and

(*b*) the person knows, or has reasonable grounds for believing, that the person has an interest under that trust.

(7) A person is also deemed to have an equity interest in a licensee if that person —

(*a*) has entered into a contract to purchase the equity interest;

(*b*) has a right, otherwise than by reason of having an interest under a trust, to have the equity interest transferred to (or to the order of) that person, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;

(*c*) has the right to acquire the equity interest under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or

(*d*) is entitled (otherwise than by reason of having been appointed a proxy or representative) to vote at —

(i) a general meeting of the licensee; or

(ii) in the case of a licensee that is the trustee-manager of a business trust — a general meeting of the unitholders of the business trust,

to exercise or control the exercise of a right attached to the equity interest, not being an equity interest in which that person has a legal or equitable interest.

(8) For the purposes of subsection (7)(*c*), a person is entitled to acquire anything if the person is absolutely or contingently entitled to acquire it, whether because of any constituent document of a licensee, the exercise of any right or option or for any other reason.

(9) A person is not to be deemed as not having an equity interest by reason only that the person has the equity interest jointly with another person.

(10) An equity interest is not to be disregarded by reason only of —

(*a*) its remoteness;

(*b*) the manner in which it arose; or

(*c*) the fact that the exercise of a right conferred by the equity interest is, or is capable of being made, subject to restraint or restriction.

Meanings of "associate", "related corporation", "subsidiary" and "holding company"

32.—(1) In this Division, a person (*A*) is an associate of another person (*B*) if —

(*a*) *A* is the spouse, or a parent, step-parent or remoter lineal ancestor, or a son, stepson, daughter, stepdaughter or remoter issue, or a brother or sister, of *B*;

(*b*) *A* is a partner of *B* in a partnership or limited liability partnership;

(*c*) *A* is a corporation of which *B* is an officer;

(*d*) *B* is a corporation of which *A* is an officer;

(*e*) *A* and *B* are officers of the same corporation;

(*f*) *A* is an employee of *B*;

(*g*) *B* is an employee of *A*;

(*h*) *A* and *B* are employees of the same employer;

(*i*) *A* is the trustee of a discretionary trust where *B* (or another person who is an associate of *B* by virtue of any paragraph, except this paragraph and paragraphs (*j*) and (*r*)) benefits, or is capable (whether by exercise of a power of appointment or otherwise) of benefitting, under the trust, either directly or through interposed entities or trusts;

(*j*) *B* is the trustee of a discretionary trust where *A* (or another person who is an associate of *A* by virtue of any paragraph, except this paragraph and paragraphs (*i*) and (*r*)) benefits, or is capable (whether by exercise of a power of appointment or otherwise) of benefitting, under the trust, either directly or through interposed entities or trusts;

(*k*) *A* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, if *B* is a corporation, of the directors of *B*;

(*l*) *B* is a corporation whose directors are accustomed or under an obligation, whether formal or informal, to act in

accordance with the directions, instructions or wishes of *A* or, if *A* is a corporation, of the directors of *A*;

(*m*) *A* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *B* or, if *B* is a corporation, of the directors of *B*;

(*n*) *B* is a person who is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of *A* or, if *A* is a corporation, of the directors of *A*;

(*o*) *A* is a related corporation of *B*;

(*p*) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in paragraphs (*b*) to (*o*), is in a position to control not less than 20% of the voting power in *A*;

(*q*) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in paragraphs (*b*) to (*o*), is in a position to control not less than 20% of the voting power in *B*;

(*r*) *A* is a person with whom *B* enters, or proposes to enter, into an agreement or arrangement (whether oral or in writing and whether express or implied) that relates to any of the following matters:

(i) *A* and *B* being in a position, by acting together, to control any of the voting power in a licensee;

(ii) *A* and *B* acting together with respect to the acquisition, holding or disposal of equity interests or other interests in a licensee;

(iii) the power of *A* and *B*, by acting together, to appoint or remove a director of a licensee;

(iv) the situation where one or more of the directors of the licensee are accustomed or under an obligation (whether formal or informal) to act in accordance

with the directions, instructions or wishes of *A* and *B* acting together;

(*s*) *A* controls more than half of the voting power of a holding company of *B*;

(*t*) *B* controls more than half of the voting power of a holding company of *A*; or

(*u*) *A* is related to *B* in such other manner as may be prescribed by regulations made under section 67.

(2) A corporation (*A*) and another corporation (*B*) are deemed to be related to each other for the purposes of this section if *A* is —

(*a*) the holding company of *B*;

(*b*) a subsidiary of *B*; or

(*c*) a subsidiary of the holding company of *B*.

(3) For the purposes of subsection (2) and subject to subsection (5), a corporation (*A*) is deemed to be a subsidiary of another corporation (*B*) if —

(*a*) *B* controls the composition of the board of directors of *A*;

(*b*) *B* controls more than half of the voting power of *A*; or

(*c*) *A* is a subsidiary of any corporation which is *B*'s subsidiary.

(4) For the purposes of subsection (3)(*a*), the composition of *A*'s board of directors is deemed to be controlled by *B* if *B*, by the exercise of a power exercisable by *B* without the consent or concurrence of any other person, can appoint or remove all or a majority of the directors, and for the purposes of this provision, *B* is deemed to have power to make such an appointment if —

(*a*) a person cannot be appointed as a director without the exercise in the person's favour by *B* of such a power; or

(*b*) a person's appointment as a director follows necessarily from that person being a director or other officer of *B*.

(5) In determining whether one corporation (*A*) is the subsidiary of another corporation (*B*) —

(*a*) any shares held or power exercisable by *B* in a fiduciary capacity is treated as not held or exercisable by *B*;

(*b*) subject to paragraphs (*c*) and (*d*), any shares held or power exercisable —

(i) by any person as a nominee for *B* (except if *B* is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of *B*, not being a subsidiary which is concerned only in a fiduciary capacity,

is to be treated as being held or exercisable by *B*;

(*c*) any shares held or power exercisable by any person by virtue of the provisions of any debentures of *A*, or of a trust deed for securing any issue of such debentures, is to be disregarded; and

(*d*) any shares held or power exercisable by, or by a nominee for, *B* or its subsidiary (not being held or exercisable as mentioned in paragraph (*c*)) is to be treated as not held or exercisable by *B* if the ordinary business of *B* or its subsidiary (as the case may be) includes the lending of money and the shares are so held or power is so exercisable by way of security only for the purposes of a transaction entered into in the ordinary course of that business.

(6) A reference in this section to the holding company of a corporation is a reference to a corporation of which the last mentioned corporation is a subsidiary.

(7) For the purposes of this section, the Depository is not to be regarded as a holding company of a corporation by reason only of the shares it holds in that corporation as a bare trustee.

(8) Regulations made under section 67 may provide that any person or class of persons are not associates of another person for the purposes of any provision of this Division.

(9) In this section —

"Depository" has the meaning given by section 81SF of the Securities and Futures Act 2001;

"officer", in relation to a licensee, means a director or secretary of, or a person employed in an executive capacity by, the corporation.

Duty of licensee to report changes of equity and control of voting power

33. If a licensee becomes aware that —

(*a*) a person has become a 5% controller of the licensee;

(*b*) a person has ceased to be a 5% controller of the licensee;

(*c*) a person has become an indirect controller of the licensee; or

(*d*) a person has acquired, as a going concern, the licensee's business of operating a data centre or any part of such business,

the licensee must inform the Authority in writing within 7 days after becoming aware of that fact.

Division 3 — General provisions

Power to obtain information to ascertain if facility is data centre

34.—(1) This section applies where an authorised officer has reason to believe that a person (whether located in or outside Singapore) is operating a structure or group of structures encompassed within a facility in Singapore which may be a data centre.

(2) The authorised officer may, by written notice given in the prescribed form and manner to the person, require the person to provide to the authorised officer, within a reasonable period specified in the notice, any relevant information or document relating to the structure or group of structures that may be required by the authorised officer for the purpose of ascertaining whether the structure or group of structures is a data centre.

(3) Any person (whether located in or outside Singapore) who —

(*a*) without reasonable excuse, fails to comply with a notice given under subsection (2); and

(*b*) continues, after the expiry of the period specified in the notice, to operate the structure or group of structures,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 and, in the case of a continuing offence, to a further fine not exceeding $5,000 for every day or part of a day during which the offence continues after conviction.

(4) Any person to whom a notice is given under subsection (2) is not obliged to disclose any information or document that is subject to any right, privilege or immunity conferred, or obligation or limitation imposed, by or under any law, contract or rules of professional conduct in relation to the disclosure of such information or document, as the case may be.

(5) Where a person claims, before providing any information or document in response to a notice given under subsection (2), that it might tend to incriminate the person, the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under any written law in respect of its falsity.

Duty to meet environmental sustainability requirements

35. A licensee must, in relation to the data centre that is the subject of the DC licence —

(*a*) ensure that the operation of the data centre complies with such minimum facility-level energy efficiency requirements applicable to the data centre, as may be prescribed;

(*b*) ensure that the information technology equipment installed within the data centre (whether installed by a customer of the licensee or otherwise) complies with such equipment-level energy efficiency requirements, as may be prescribed; and

(*c*) ensure that the operation of the data centre complies with such minimum facility-level water efficiency requirements applicable to the data centre, as may be prescribed.

Duty to submit regular reports to Authority

36.—(1) A licensee must submit to the Authority a report on an annual basis (or such less frequent basis as may be prescribed), within the prescribed period or such longer period as the Authority may allow in a particular case (whether allowed before or after the end of the period), and in the form and manner determined by the Authority, on —

(*a*) the licensee's compliance with this Part and any regulations made under this Act applicable to the licensee; and

(*b*) the licensee's compliance with the conditions of the DC licence, and any code of practice applicable to the licensee.

(2) The Authority may require the report required under subsection (1) to be audited and accompanied by the report of the auditor.

Codes of practice

37.—(1) The Authority may, from time to time —

(*a*) issue or approve one or more codes of practice relating to practices and measures to be taken by licensees to ensure the energy efficiency and water efficiency of the data centres operated by the licensees; and

(*b*) amend or revoke any code of practice issued or approved under paragraph (*a*).

(2) If any provision in any code of practice is inconsistent with this Act, the provision, to the extent of the inconsistency, does not have effect.

(3) Where a code of practice is issued, approved, amended or revoked by the Authority under subsection (1), the Authority must —

(*a*) publish a notice of the issue, approval, amendment or revocation (as the case may be) in a manner that will secure adequate publicity for the issue, approval, amendment or revocation, as the case may be;

(*b*) specify in the notice 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, and of all amendments to that code, are available free of charge to a licensee to whom that code applies.

(4) None of the following has any effect until the notice relating to it is published in accordance with subsection (3):

(*a*) a code of practice;

(*b*) an amendment to a code of practice;

(*c*) a revocation of a code of practice.

(5) A code of practice has no legislative effect.

(6) Subject to subsections (4) and (7), every licensee must comply with any code of practice that applies to the licensee.

(7) The Authority may, either generally or for such time as the Authority may specify, waive the application to a licensee of any code of practice, or any part of it.

Directions of Authority

38.—(1) The Authority may, if the Authority thinks —

(*a*) it is necessary or expedient for ensuring compliance with requirements under this Part relating to the energy efficiency or water efficiency of a data centre operated by a licensee or a class of licensees; or

(*b*) it is necessary or expedient for the effective administration of this Part,

issue a written direction, either of a general or specific nature, to the licensee or each licensee within that class of licensees.

(2) Without limiting subsection (1), a direction under that subsection may relate to —

(*a*) an audit to be carried out by the licensee or an auditor approved or appointed by the Authority, on the licensee's compliance with this Part or any code of practice applicable to the licensee;

(*b*) any action to be taken by the licensee to remedy a non-compliance with this Part or any code of practice applicable to the licensee; or

(*c*) compliance with any code of practice applicable to the licensee.

(3) A direction under subsection (1) may be revoked at any time by the Authority.

(4) Before issuing a direction under subsection (1), the Authority must, unless the Authority considers that it is not practicable or desirable to do so, give notice to the licensee to whom the Authority proposes to issue the direction —

(*a*) stating that the Authority proposes to issue the direction and setting out its effect; and

(*b*) specifying the time within which written representations or objections to the proposed direction may be made.

(5) The Authority must consider any written representations or objections which are duly made before giving any direction.

Revocation or suspension of DC licence, etc.

39.—(1) Subject to subsection (5), the Authority may by order revoke, or suspend for a period not exceeding one year, a DC licence if the Authority is satisfied that there exists cause of sufficient gravity for revoking or suspending the licence (as the case may be) on one or more of the following grounds:

(*a*) the licensee —

(i) has failed, without reasonable excuse, to comply with section 35 (duty to meet environmental sustainability requirements);

(ii) has failed, without reasonable excuse, to comply with section 36 (duty to submit regular reports to Authority);

(iii) has contravened or failed to comply with any provision of this Part (other than section 35 or 36), which contravention of or non-compliance with is not an offence under this Act;

(iv) has failed to comply with any condition of the licence; or

(v) has failed, without reasonable excuse, to comply with a written direction issued under section 38(1);

(*b*) the grant or renewal of the licence had been obtained by fraud or misrepresentation;

(*c*) a circumstance existed at the time the licence was granted or renewed that the Authority was unaware of, which would have required or permitted the Authority to refuse to grant or renew the licence if the Authority had been aware of the circumstance at that time;

(*d*) the licensee has ceased to operate the data centre which the licensee was entitled to operate under the licence (called in this section the subject data centre);

(*e*) the licensee has gone into compulsory or voluntary liquidation other than for the purpose of amalgamation or reconstruction;

(*f*) the licensee has been convicted of an offence under this Part, or an offence involving fraud, dishonesty or moral turpitude;

(*g*) it is undesirable in the public interest for the licensee to continue to operate the subject data centre.

(2) Subject to subsection (5), the Authority may, in any case where the Authority considers that no cause of sufficient gravity for revoking or suspending a DC licence exists, by order —

(*a*) reduce the duration of the licence;

(*b*) reduce the critical IT load at which the subject data centre may be operated under the licence;

(*c*) modify any condition of the licence or impose any other condition as the Authority considers appropriate; or

(*d*) censure the licensee.

(3) Subject to subsection (5), where a licensee fails to comply with any condition mentioned in section 27(3)(*g*) (requiring the licensee not to use more than a specified amount or proportion of electricity generated from any specified energy source to operate the subject data centre during a specified period), the Authority may, instead of or in addition to taking any action under subsection (1) or (2), order the licensee to do either or both of the following:

(*a*) transfer to the Government or any designated body acting on behalf of the Government, by a specified date, a number of eligible international carbon credits to offset any increase in reckonable greenhouse gas emissions occasioned by the failure, not exceeding any positive amount computed by the formula A – B, rounded up to the nearest whole number, where —

(i) A is the number of metric tonnes of carbon dioxide equivalence of the total amount of reckonable greenhouse gas emissions into the atmosphere that arose in the course of operating the data centre during the period of the failure; and

(ii) B is the number of metric tonnes of carbon dioxide equivalence of the total amount of reckonable greenhouse gas emissions into the atmosphere that, if not for the failure, would have arisen in the course of operating the data centre during the period of the failure;

(*b*) pay to the Authority, by a specified date, a monetary amount representing any cost savings by the licensee occasioned by the failure, not exceeding any positive amount computed by the formula C – (D + E + F) where —

(i) C is the monetary amount which, if not for the failure, the licensee would have paid or incurred for the electricity used to operate the data centre during the period of the failure;

(ii) D is the monetary amount which the licensee paid or incurred for the electricity used to operate the data centre during the period of the failure;

(iii) E is any monetary amount which the licensee paid or incurred for the purposes of procuring any eligible international carbon credits mentioned in paragraph (*a*); and

(iv) F is any monetary amount which the licensee paid to the Authority for the costs and expenses incurred for procuring any eligible international carbon credits under subsection (10)(*a*).

(4) The Authority must give the licensee written notice of —

(*a*) the Authority's intention to exercise any power under subsection (1), (2) or (3); and

(*b*) the date on which the Authority intends to exercise the power.

(5) The Authority must not, during a period of 14 days after the Authority informs the licensee of such intention, exercise any power under subsection (1), (2) or (3) unless the licensee is given an opportunity to be heard, whether in person or by a representative and whether in writing or otherwise.

(6) Where it is alleged that a licensee has contravened or failed to comply with a condition of the DC licence which is related to the matter set out in section 27(3)(*c*), the Authority must have regard to the opinion of the EDB in deciding on the making of an order under this section.

(7) Where the Authority has by order revoked or suspended a DC licence under subsection (1) or made any order under subsection (2) or (3) in respect of a licensee, the Authority must serve on the licensee a notice of the order.

(8) An order under subsection (1) by the Authority revoking or suspending a DC licence takes effect on the date specified in the order, being a date not earlier than 14 days after the service of the notice of the order on the licensee under subsection (7).

(9) In any proceedings under this section consequent upon the conviction of a licensee for a criminal offence, the Authority must accept the licensee's conviction as final.

(10) Where a licensee fails to comply with an order made under subsection (3)(*a*), the Authority may —

(*a*) take all steps as the Authority considers reasonable and necessary to procure the number of eligible international carbon credits that the licensee failed to transfer to the Government or designated body acting on behalf of the Government (as the case may be) under the order, and thereafter transfer the eligible international carbon credits procured to the Government or designated body, as the case may be; and

(*b*) recover all costs and expenses reasonably incurred by the Authority in so doing from the licensee, as a civil debt due to the Authority.

(11) All monetary amounts collected pursuant to an order made under subsection (3)(*b*) must be paid into the Consolidated Fund.

Financial penalty

40.—(1) This section applies where a licensee —

(*a*) fails, without reasonable excuse, to comply with section 35 (duty to meet environmental sustainability requirements);

(*b*) fails, without reasonable excuse, to comply with section 36 (duty to submit regular reports to Authority);

(*c*) contravenes or fails to comply with any provision of this Part (other than section 35 or 36), which contravention of or non-compliance with is not an offence under this Act;

(*d*) fails to comply with any condition of the DC licence; or

(*e*) fails, without reasonable excuse, to comply with a written direction issued under section 38(1),

and continues, after the contravention or failure to comply, to operate the data centre that is the subject of the DC licence.

(2) On the occurrence of a contravention or failure to comply mentioned in subsection (1) (other than subsection (1)(*e*)), the Authority may, instead of or in addition to taking any action under section 39(1), (2) or (3) (revocation or suspension of DC licence, etc.), order the licensee to pay a financial penalty of an amount not exceeding the higher of the following amounts:

(*a*) $1 million;

(*b*) 10% of the licensee's annual turnover in Singapore.

(3) On the occurrence of a failure to comply mentioned in subsection (1)(*e*), the Authority may, instead of or in addition to taking any action under section 39(1) or (2) (revocation or suspension of DC licence, etc.), order the licensee to pay a financial penalty of an amount not exceeding $100,000.

(4) The order mentioned in subsection (2) or (3) must specify the date by which the financial penalty is to be paid.

Authority to give opportunity to make representations before ordering financial penalty

41.—(1) Subsections (2) to (6) apply before the Authority makes an order under section 40(2) or (3).

(2) The Authority must give the licensee written notice of —

(*a*) the Authority's intention to make the order; and

(*b*) the date on which the Authority intends to make the order.

(3) The date mentioned in subsection (2)(*b*) must not be earlier than 21 days after the date of the written notice in subsection (2).

(4) The licensee may make representations to the Authority at any time before the date mentioned in subsection (2)(*b*).

(5) The Authority must consider any representations made by the licensee before the date mentioned in subsection (2)(*b*).

(6) The Authority must, on or after the date mentioned in subsection (2)(*b*), give the licensee written notice of the Authority's final decision.

Regulatory action can continue despite licence expiry, etc.

42. If proceedings under section 39(1), (2) or (3) or 40(2) or (3) are pending against a licensee at the time of the revocation, surrender or expiry of the licensee's licence, then, despite the revocation, surrender or expiry of the licence, those proceedings may continue and the Authority may exercise any powers under section 39(2)(*d*) or (3) or 40(2) or (3) (as the case may be) in relation to the former licensee as if the former licensee were a licensee.

PART 5

RECONSIDERATIONS AND APPEALS

Meaning of "appealable decision"

43. In this Part, "appealable decision" means any of the following decisions of the Authority:

(*a*) a decision under —

(i) section 8 (application for grant or renewal of major FDI licence);

(ii) section 11(1) or (4) (conditions of major FDI licence);

(iii) section 12(3) (approval of transfer of major FDI licence);

(iv) section 19(1) or (2) (revocation or suspension of major FDI licence, etc.);

(v) section 20(2) or (3) (financial penalty);

(vi) section 24 (application for grant or renewal of DC licence);

(vii) section 27(1) or (4) (conditions of DC licence);

(viii) section 28(3) (approval of transfer of DC licence);

(ix) section 39(1), (2) or (3) (revocation or suspension of DC licence, etc.); or

(x) section 40(2) or (3) (financial penalty);

(*b*) a written direction under section 17(1) or (3) or 38(1);

(*c*) the issue, approval or amendment of a code of practice under section 16 or 37.

Reconsideration by Authority

44.—(1) A person who is aggrieved by an appealable decision may apply to the Authority for a reconsideration of the appealable decision.

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

(*a*) in the prescribed manner; and

(*b*) before the expiry of the time specified in the appealable decision, being a time not later than 14 days after the appealable decision was given to the applicant.

(3) Upon receiving an application under subsection (1) for reconsideration, the Authority has to, without compensating the applicant —

(*a*) wholly cancel the appealable decision;

(*b*) substitute the appealable decision (called in this section the initial appealable decision) with another appealable decision that the Authority might have made under this Act (called in this section the substitute appealable decision); or

(*c*) affirm the initial appealable decision.

(4) When a substitute appealable decision is made by the Authority under subsection (3)(*b*), the Authority must immediately give the applicant the substitute appealable decision in the same manner as the initial appealable decision.

(5) When an initial appealable decision is cancelled by the Authority under subsection (3)(*a*) or affirmed under subsection (3)(*c*), or a substitute appealable decision is made under

subsection (3)(*b*), the Authority must give notice (as the case may be) of —

(*a*) the cancellation or affirmation (as the case may be) to every person given the initial appealable decision; or

(*b*) the making of the substitute appealable decision to the applicant and any other person given the initial appealable decision.

(6) There is to be no further reconsideration after a decision under subsection (3), unless directed by the Minister under section 45(7)(*b*).

(7) An application to reconsider the Authority's initial appealable decision does not affect the operation of that decision or prevent the taking of action to implement that decision and, unless otherwise provided by Part 3 or 4 or allowed by the Authority, the initial appealable decision to be reconsidered must be complied with unless the determination of the reconsideration indicates otherwise.

(8) In subsections (2)(*b*), (4) and (5), a reference to the giving of an appealable decision to a person is, in the case of the issue, approval or amendment of a code of practice under section 16 or 37, a reference to the publication of the notice of the issue, approval or amendment (as the case may be) of the code of practice in accordance with section 16(5) or 37(3).

Appeal to Minister

45.—(1) A person who is aggrieved by —

(*a*) an initial appealable decision affirmed on reconsideration under section 44; or

(*b*) a substitute appealable decision made on reconsideration under section 44,

may appeal to the Minister against the decision in accordance with this section.

(2) An appeal must be made by lodging with the Minister a written notice of appeal within 30 days after the date the decision appealed against is given to the appellant, or such longer period as the Minister

allows in a particular case (whether allowed before or after the end of the 30 days).

(3) A notice of appeal must —

(*a*) state as concisely as possible the circumstances under which the appeal arises, and the issues and grounds for the appeal; and

(*b*) contain all relevant facts, evidence and arguments for the appeal.

(4) Where an appeal has been made to the Minister under subsection (1), the Minister may require —

(*a*) any party to the appeal; and

(*b*) any person who is not a party to the appeal but appears to the Minister to have information that is relevant to the matters appealed against,

to provide the Minister with all such information as the Minister may require, whether for the purpose of deciding if an Appeals Advisory Panel should be established or for determining the appeal, and any person so required must provide the information in such manner and within such period as may be specified by the Minister.

(5) The Minister may dismiss an appeal of an appellant who fails to comply with subsection (3) or (4).

(6) An appeal against an appealable decision does not affect the operation of that decision or prevent the taking of action to implement that decision, and unless otherwise provided by Part 3 or 4 or allowed by the Minister, the decision must be complied with until the determination of the appeal.

(7) The Minister may determine an appeal under this section —

(*a*) by confirming, varying or reversing the appealable decision; or

(*b*) by directing the Authority to reconsider the appealable decision.

(8) Before determining an appeal, the Minister may consult any Appeals Advisory Panel established for the purpose of advising the

Minister in respect of the appeal but, in making such determination, is not bound by the advice of the Panel.

(9) The decision of the Minister in any appeal is final.

(10) The Minister may make regulations in respect of the manner in which an appeal may be made to, and the procedure to be adopted in the hearing of any appeal by, the Minister under this section.

Appeals Advisory Panel

46.—(1) Where the Minister considers that an appeal made under section 45(1) involves issues the resolution or understanding of which requires particular technical skills or specialised knowledge, the Minister may establish an Appeals Advisory Panel to provide advice to the Minister in respect of the appeal.

(2) The Minister may do all or any of the following:

(*a*) determine, and from time to time vary, the terms of reference of an Appeals Advisory Panel;

(*b*) appoint persons possessing particular technical skills or specialised knowledge to be the chairperson and other members of an Appeals Advisory Panel;

(*c*) at any time remove the chairperson or any other member of an Appeals Advisory Panel from such office;

(*d*) determine any other matter which the Minister considers incidental to or expedient for the proper and efficient conduct of business by an Appeals Advisory Panel.

(3) An Appeals Advisory Panel may regulate its proceedings in such manner as it considers appropriate, subject to the following:

(*a*) the quorum for a meeting of the Appeals Advisory Panel is a majority of its members;

(*b*) a decision supported by a majority of the votes cast at a meeting of the Appeals Advisory Panel at which a quorum is present is the decision of that Panel.

(4) The remuneration and allowances (if any) of a member of an Appeals Advisory Panel are to be determined by the Minister.

(5) An Appeals Advisory Panel is independent in the performance of its functions.

PART 6

ENFORCEMENT

Furnishing of information to authorised officer for assessing compliance

47.—(1) An authorised officer may, by written notice given in the prescribed form and manner, require a licensee to furnish, within a reasonable period specified in the notice, any document or information that the authorised officer may reasonably require for the purpose of determining —

(*a*) the licensee's compliance with Part 3 or 4 (as the case may be) or any regulations made under this Act applicable to the licensee; or

(*b*) the licensee's compliance with any condition of the licence, or any code of practice applicable to the licensee.

(2) The power to require a licensee to furnish any document or information under subsection (1) includes the power —

(*a*) to require that licensee, or any individual who is or was an officer or employee of the licensee, to provide an explanation of the document or information;

(*b*) if the document or information is not provided, to require that licensee or individual to state, to the best of the knowledge and belief of that licensee or individual (as the case may be), 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 authorised officer in legible form.

(3) Any licensee to whom a notice is given under subsection (1) is not obliged to disclose any document or information that is subject to any right, privilege or immunity conferred, or obligation or limitation imposed, by or under any law or rules of professional conduct in

relation to the disclosure of such document or information, except that the performance of a contractual obligation is not an excuse for not disclosing the document or information.

(4) The licensee is not treated as being in breach of any contractual obligation mentioned in subsection (3) for doing or omitting to do any act, if the act is done or omitted to be done with reasonable care and in good faith and for the purpose of complying with a notice given under subsection (1).

(5) In this section and section 48, "licensee" means —

(*a*) except as provided in paragraphs (*b*) and (*c*), a holder of a major FDI licence or a DC licence, as the case may be;

(*b*) in a case where section 22 applies — a former holder of a major FDI licence; and

(*c*) in a case where section 42 applies — a former holder of a DC licence.

Powers of entry, etc. — authorised officers

48.—(1) An authorised officer may exercise the powers set out in this section for any of the following purposes:

(*a*) to determine a licensee's compliance with Part 3 or 4 (as the case may be) or any regulations made under this Act applicable to the licensee;

(*b*) to determine a licensee's compliance with any condition of the licence, or any code of practice applicable to the licensee;

(*c*) to determine whether information provided to the Authority under a provision of this Act or any subsidiary legislation made thereunder is correct;

(*d*) to investigate whether there are grounds for taking any action against a licensee under —

(i) section 19(1) or (2) (revocation or suspension of major FDI licence, etc.);

(ii) section 20(2) or (3) (financial penalty);

(iii) section 39(1), (2) or (3) (revocation or suspension of DC licence, etc.); or

(iv) section 40(2) or (3) (financial penalty).

(2) An authorised officer may, in accordance with subsection (3), enter any premises occupied by a licensee which the authorised officer reasonably believes to be used for or in connection with the provision of a major foundational digital infrastructure service, or the operation of a data centre, that is the subject of the licence, and do one or more of the following at the premises:

(*a*) to inspect, examine or take measurements of the premises and any equipment, system or other thing and observe any activity conducted in or on the premises;

(*b*) to make a still or moving image or recording of the premises and any thing in or on the premises;

(*c*) to inspect and make copies of or take extracts from, or require the occupier or any person having the management or control of the premises to, without payment, provide copies of or extracts from, any book, document, record or electronic material;

(*d*) to take into or onto the premises any equipment and materials that the authorised officer requires for the purpose of exercising any power under this Act in relation to the premises;

(*e*) to operate electronic equipment in or on the premises;

(*f*) to 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 authorised officer reasonably requires for any of the purposes in subsection (1).

(3) However, an authorised officer is not authorised by subsection (2) —

(*a*) to enter any premises except —

(i) with the consent of the occupier; or

(ii) under a warrant of a Magistrate's Court;

(*b*) to search any premises unless the search is made under a warrant of a Magistrate's Court; or

(*c*) to seize any thing in or on any premises unless the seizure is made under a warrant of a Magistrate's Court.

(4) A warrant mentioned in subsection (3) may be issued if a Magistrate is satisfied that it is necessary for the authorised officer to enter the premises, search the premises or seize any thing (as the case may be) for the purposes in subsection (1).

(5) The power under subsection (2)(*e*) to operate electronic equipment in or on any premises includes the power —

(*a*) to use a disk, tape or other storage device that is in or on the premises and that 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

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

(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,

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

(6) The power to require an individual to provide any document or information under subsection (2)(*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 that 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 authorised officer in legible form.

(7) Any individual who is present at any premises mentioned in subsection (2) must render all assistance and cooperation to an authorised officer as are necessary for an entry or inspection or otherwise for the exercise of his or her powers under this Act in relation to those premises.

(8) Sections 370, 371 and 372 of the Criminal Procedure Code 2010 apply, with the necessary modifications, when an authorised officer seizes any thing under this section.

(9) In this section, "premises" includes any building or structure.

Powers of investigation

49.—(1) An investigation officer may, in relation to any offence under this Act (including any offence under any regulations made under this Act, but excluding any offence under section 18 (emergency measures and requirements)), on declaration of the investigation officer's office and production to the person against whom the investigation officer is acting such identification card as the Authority may direct to be carried —

(*a*) require any person whom the investigation officer reasonably believes to have committed that offence to furnish evidence of the person's identity;

(*b*) require, by written notice, any person whom the investigation officer reasonably believes has —

(i) any information; or

(ii) any document in the person's custody or control,

that is relevant to the investigation, to furnish that information or document within the time and manner specified in the written notice;

(*c*) require, by written order, the attendance before the investigation officer of any person within the limits of Singapore who, from any information given or otherwise obtained by the investigation officer, appears to be acquainted with the facts or circumstances of the case; or

(*d*) examine orally any person who appears to be acquainted with the facts or circumstances of the case —

(i) whether before or after that person or anyone else is charged with an offence in connection with the case; and

(ii) whether or not that person is to be called as a witness in any inquiry, trial or other proceedings in connection with the case.

(2) The person mentioned in subsection (1)(*d*) is bound to state truly the facts and circumstances with which the person is acquainted concerning the case, except that the person need not say anything that might expose the person to a criminal charge, penalty or forfeiture.

(3) A statement made by a person examined under subsection (1)(*d*) must —

(*a*) be reduced to writing;

(*b*) be read over to the person;

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

(*d*) after correction (if necessary), be signed by the person.

(4) If any person fails to attend as required by an order under subsection (1)(*c*), the investigation officer may report such failure to a Magistrate who may then issue a warrant to secure the attendance of that person as required by the order.

(5) An investigation officer may, without payment, take possession or make copies of any document (or any part of it) furnished under subsection (1), for further investigation.

Power to enter premises under warrant, etc. — investigation officers

50.—(1) A Magistrate may, on the application of an investigation officer, issue a warrant in respect of any premises if the Magistrate is satisfied that there are reasonable grounds to suspect that there is on the premises any document, or any computer in which any document or information is contained or to which any information is available, being any document or information which —

(*a*) has been required by an investigation officer under section 49 to be furnished, but has not been furnished in compliance with that requirement; or

(*b*) if required by an investigation officer under section 49 to be furnished — will be concealed, removed, tampered with or destroyed.

(2) If the Magistrate is also satisfied that there are reasonable grounds to suspect that there is on those premises any other document or computer mentioned in subsection (1) that relates to any matter relevant to the investigation concerned, the Magistrate may direct that the powers exercisable under the warrant extend to that other document or computer.

(3) A warrant under subsection (1) may authorise a named investigation officer, and any other officer whom the Authority has authorised in writing to accompany the investigation officer —

(*a*) to enter and search the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(*b*) to take possession of, make copies of, or secure against interference, any document (or any part of it) that appears to be a document mentioned in subsection (1) or (2) (called in this subsection the relevant document);

(*c*) to require any individual found in or on the premises to provide an explanation of any relevant document or, where applicable, to state, to the best of that individual's knowledge and belief, where the relevant document may be found;

(*d*) to require any relevant document that is stored in electronic form and accessible at the premises to be produced in a form that —

(i) can be taken away; and

(ii) is visible and legible;

(*e*) to access, inspect and check the operation of a computer on the premises specified in the warrant, if there are reasonable grounds to suspect that any document or information mentioned in subsection (1) or (2) is or has been contained in or available to the computer, or that the computer is a computer mentioned in subsection (1) or (2);

(*f*) to use any computer mentioned in paragraph (*e*), or cause any such computer to be used —

(i) to search any document or information that appears to be a document or any information mentioned in subsection (1) or (2), that is contained in or available to such computer; and

(ii) to make copies of any such document or information; and

(*g*) to order —

(i) any person whom the Authority or any person named in the warrant reasonably suspects of using, or of having used, a computer mentioned in paragraph (*e*);

(ii) any person having charge of, or otherwise concerned with the operation of, any such computer; or

(iii) any person whom the Authority or any person named in the warrant reasonably believes has knowledge of or access to any username, password or other authentication information required to gain access to any such computer,

to provide assistance to gain access to the computer (including assistance through the provision of any username, password or other authentication information required to gain access to the computer).

(4) An investigation officer who enters any premises in execution of the warrant may do one or more of the following at the premises:

(*a*) to make a still or moving image or recording of the premises and any thing in or on the premises;

(*b*) to take into or onto the premises any equipment and materials that the investigation officer requires for the purpose of exercising any power under this Act in relation to the premises;

(*c*) to operate electronic equipment in or on the premises.

(5) The warrant continues in force until the end of the period of one month beginning on the day on which it is issued.

(6) If the owner or occupier of the premises is present when the investigation officer proposes to execute the warrant, the investigation officer must —

(*a*) identify himself or herself to the owner or occupier;

(*b*) show the owner or occupier the identification card of the investigation officer; and

(*c*) give the owner or occupier a copy of the warrant.

(7) Any individual who is present at any premises mentioned in the warrant must render all assistance and cooperation to an investigation officer as are necessary for the execution of the warrant or otherwise for the exercise of his or her powers under this Act in relation to those premises.

(8) If there is no one at the premises when the investigation officer proposes to execute the warrant, the investigation officer must, before executing it —

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

(*b*) where the owner or occupier is so informed, give the owner or occupier or the legal or other representative of the owner or occupier a reasonable opportunity to be present when the warrant is executed.

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

(10) The investigation officer must —

(*a*) prepare and sign a list of all documents and other things taken under subsection (3)(*b*) and (*d*) in execution of the warrant; and

(*b*) give a copy of the list to the owner or occupier of the premises or the legal or other representative of the owner or occupier.

(11) On leaving the premises after executing the warrant, the investigation officer must, if the premises are unoccupied or the owner or occupier of the premises is temporarily absent, leave the premises as effectively secured as the investigation officer found them.

(12) Sections 370, 371 and 372 of the Criminal Procedure Code 2010 apply, with the necessary modifications, when an investigation officer seizes any thing under this section.

(13) The power under subsection (4)(*c*) to operate electronic equipment in or on any premises includes the power —

(*a*) to use a disk, tape or other storage device that is in or on the premises and that 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

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

(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,

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

(14) In this section —

"occupier", in relation to any premises specified in a warrant under subsection (1), means a person whom the investigation officer named in the warrant reasonably believes to be the occupier of those premises;

"premises" includes any building or structure.

False information, statement or document, etc.

51.—(1) A person must not make any statement, or furnish any particulars, information or document, to the Authority under a provision of this Act or any subsidiary legislation made thereunder which the person knows to be false or does not believe to be true.

(2) A person must not intentionally alter, suppress, dispose of or destroy any information or document which the person is required to provide under this Act.

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

Penalty for obstructing or hindering Authority

52.—(1) A person must not obstruct or hinder the Authority, an authorised officer or an investigation officer in the performance of any function or the exercise of any power under this Act.

(2) Any person 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 12 months or to both.

Composition of offences

53.—(1) The Chief Executive of the Authority, or an employee of the Authority authorised in writing by the Authority, 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:

(*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, no further proceedings are to be taken against that person in respect of the offence.

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

PART 7

MISCELLANEOUS

Offences by corporations

54.—(1) Where, in any proceedings 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

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

is evidence that the corporation had that state of mind.

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

(*a*) who is —

(i) an officer of the corporation; or

(ii) an individual 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 within the meaning of section 2(1) of the Limited Liability Partnerships Act 2005;

"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;

"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

55.—(1) Where, in any proceedings 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 —

(*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,

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 —

(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

(*b*) who —

(i) consented or connived, or conspired with others, to effect the commission of the offence;

(ii) is in any other way, whether by act or omission, knowingly concerned in, or is party to, the commission of the offence by the unincorporated association or partnership; or

(iii) knew or ought reasonably to have known that the offence by the unincorporated association or partnership (or an offence of the same type) would be or is being committed, and failed to take all reasonable steps to prevent or stop the commission of that offence,

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

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

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

(*a*) Chapters 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 a committee of the unincorporated association, and includes —

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

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

"partner" includes a person purporting to act as a partner;

"state of mind" of a person includes —

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

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

Jurisdiction of courts

56. Despite the Criminal Procedure Code 2010, a District Court has jurisdiction to try any offence under this Act and has power to impose the full punishment for the offence.

Extra-territoriality of Act

57. Where a person does an act partly in and partly outside Singapore which constitutes an offence under section 7(2), 14(3), 23(3) or 34(3), that person may be dealt with as if the offence were committed wholly in Singapore.

Extension of time

58.—(1) A person that, in any particular case, is unable to do any thing that the person is required to do under this Act within the time specified for it may apply in writing to the Authority for an extension of time.

(2) The Authority may grant an extension of time (whether for the same or less than the period of extension applied for), upon being satisfied that there are good reasons to do so.

(3) The Authority may grant the extension of time under subsection (2) after the time sought to be extended has expired, but only if the application by the person was made to the Authority before the expiry of the time sought to be extended.

(4) Where subsection (3) applies, the Authority must extend the time to a date after the date of the decision of the Authority on the application and, to avoid doubt, time is treated as extended so long as the Authority has not made its decision.

(5) The Authority may grant one or more extensions of time under and in accordance with this section.

(6) This section does not apply to the doing of any thing where another provision of this Act makes provision for the extension of time for the doing of the thing.

Service of documents

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

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

(*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 generally, or specifically for the document, or, if no address is so specified, the individual's residential address or business address;

(*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; or

(*e*) by sending it by email to the individual's last email address.

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

(*a*) by giving it to any partner or other similar officer, or an authorised representative, of the partnership;

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

(*c*) by sending it by email to the partnership's last email address.

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

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

(*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; or

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

(5) Service of a document under subsection (2), (3) or (4) takes effect —

(*a*) 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; and

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

(6) In addition, a document permitted or required by or under this Act to be served on an individual, partnership, body corporate or unincorporated association may be served by giving an electronic notice to the individual, partnership, body corporate or unincorporated association (called in this section an addressee) by the addressee's chosen means of notification, stating that the document is available and how the addressee may use the addressee's chosen means of access to access the document's contents.

(7) However, service of any document under this Act on a person by email or by an electronic notice using the person's chosen means of notification may be effected only with the person's prior written consent to service in that way.

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

(9) In this section —

"authorised representative", in relation to a partnership (other than a limited liability partnership), means any person authorised to accept service of documents on behalf of the partnership;

"business address" means —

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

(*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;

"chosen means of access", for an addressee on whom is or is to be served a document permitted or required by or under this Act, means an electronic means that the addressee agrees with the person serving the document as the means by which the addressee may access that document's contents;

"chosen means of notification", for an addressee on whom is or is to be served a document permitted or required by or under this Act, means an electronic means that the addressee

nominates to the person serving the document as the means by which the addressee may be notified that such a document has been served on the addressee;

"document" includes a direction, notice or order permitted or required by or under this Act to be served;

"last email address" means the last email address given by the addressee 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.

Preservation of secrecy

60.—(1) Every specified person must preserve, and aid in preserving, the secrecy of —

(*a*) all matters relating to the design, configuration, operation, security (including physical security and cybersecurity) and plans for business continuity and disaster recovery of any major foundational digital infrastructure service or data centre;

(*b*) all matters relating to the business, commercial or official affairs of any person;

(*c*) all matters that have been identified as confidential under subsection (5); and

(*d*) all matters relating to the identity of persons furnishing information to any specified person,

that may come to the specified person's knowledge in the performance of his or her functions or the discharge of his or her duties under this Act.

(2) The specified person must not communicate or otherwise disclose any matter mentioned in subsection (1) to any person, except insofar as such communication or disclosure —

(*a*) is necessary for the performance of any such function or the discharge of any such duty; or

(*b*) is lawfully required by any court, or lawfully required or allowed by or under this Act or any other written law.

(3) This section does not apply to any information provided in compliance with a direction or requirement under section 18 (emergency measures and requirements).

(4) Any person who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 12 months or to both.

(5) Any person, when furnishing any information to a specified person, may identify information that the person claims to be confidential information.

(6) Every claim made under subsection (5) must be supported by a written statement giving reasons why the information is confidential.

(7) Despite subsections (1) and (2), the Authority may disclose any information relating to any matter mentioned in subsection (1) in any of the following circumstances:

(*a*) where the written consent of the person to whom the information relates has been obtained;

(*b*) for the purpose of a prosecution under this Act;

(*c*) subject to subsection (8), for the purpose of enabling the Authority to give effect to any provision of this Act;

(*d*) for the purpose of enabling the Authority to investigate a suspected offence under this Act or to enforce a provision of this Act;

(*e*) for the purpose of disclosing to any police officer any information which discloses the commission of an offence under the Computer Misuse Act 1993;

(*f*) for the purpose of complying with such provision of an agreement between Singapore and a country or territory outside Singapore (called in this section a foreign country) as may be prescribed, where the conditions specified in subsection (9) are satisfied.

(8) The Authority must, when considering whether to disclose any information under subsection (7)(*c*), have regard to —

(*a*) the need to exclude, so far as is practicable, information the disclosure of which would in the Authority's opinion be contrary to the public interest;

(*b*) the need to exclude, so far as is practicable —

(i) commercial information the disclosure of which would, or might, in the Authority's opinion, significantly harm the legitimate business interests of the undertaking to which it relates; or

(ii) information relating to the private affairs of an individual the disclosure of which would, or might, in the Authority's opinion, significantly harm the individual's interest; and

(*c*) the extent to which the disclosure is necessary for the purposes for which the Authority is proposing to make the disclosure.

(9) The conditions mentioned in subsection (7)(*f*) are —

(*a*) the information or documents requested by the foreign country are available to the Authority;

(*b*) unless the Government otherwise allows, the foreign country undertakes to keep the information or documents given confidential at all times; and

(*c*) the disclosure of the information or documents is not likely to be contrary to the public interest.

(10) In this section, "specified person" means a person who is or has been —

(*a*) a member, an employee or an agent of the Authority;

(*b*) a member of a committee of the Authority or any person authorised, appointed or employed to assist the Authority;

(*c*) an authorised officer or an investigation officer;

(*d*) a member of an Appeals Advisory Panel established under section 46;

(*e*) the Minister, or any person appointed or employed to assist the Minister;

(*f*) a member, an officer, an employee, an agent or a member of a committee of the EDB; or

(*g*) a member or an officer (within the meaning of section 2 of the Public Sector (Governance) Act 2018), or an agent or a member of a committee, of a public authority consulted by the Authority under section 25(5).

Protection from personal liability

61. No liability shall lie against —

(*a*) a member or an employee of the Authority;

(*b*) a member of a committee of the Authority or any person authorised, appointed or employed to assist the Authority;

(*c*) an authorised officer or an investigation officer;

(*d*) a member of an Appeals Advisory Panel established under section 46; or

(*e*) any other person acting under the direction of the Authority,

who, acting in good faith and with reasonable care, does or omits to do anything in —

(*f*) the exercise or purported exercise of any power under this Act; or

(*g*) the performance or purported performance of any function or duty under this Act.

Protection of informers

62.—(1) No witness in any proceedings for any offence under this Act is obliged or permitted —

(*a*) to disclose the name, address or other particulars of an informer who has given information with respect to that

offence, or the substance of the information received from the informer; or

(*b*) to answer any question if the answer would lead, or would tend to lead, to the discovery of the name, address or other particulars of the informer.

(2) If any document which is in evidence or liable to inspection in any proceedings mentioned in subsection (1) contains any entry in which any informer is named or described or which might lead to the informer's discovery, the court must cause the entry to be concealed from view or to be obliterated so far only as may be necessary to protect the informer from discovery.

(3) If, during any proceedings —

(*a*) the court, after full inquiry into the case, believes that the informer wilfully made in the informer's complaint a material statement which the informer knew or believed to be false or did not believe to be true; or

(*b*) the court is of the opinion that justice cannot be fully done between the parties to the proceedings without the discovery of the informer,

it is lawful for the court to require the production of the original complaint, if in writing, and permit inquiry, and require full disclosure of the informer.

Recovery of fees and monetary amounts

63.—(1) Any fee to be paid to the Authority under this Act may be recovered by the Authority in any court of competent jurisdiction as if it were a civil debt due to the Authority.

(2) Any monetary amount ordered to be paid under section 39(3)(*b*) may be recovered by the Authority in any court of competent jurisdiction as if it were a civil debt due to the Government.

Recovery of financial penalties

64.—(1) Any person who fails to pay any financial penalty imposed by the Authority by the date specified in an order under section 20(2) or (3) or 40(2) or (3) or, where there is an appeal to the Minister, by

the date specified by the Minister, is liable to pay to the Authority interest on the amount unpaid at the same rate as for a judgment debt.

(2) Any financial penalty payable pursuant to an order under section 20(2) or (3) or 40(2) or (3), and any interest under subsection (1), is recoverable by the Authority, or any person duly authorised by the Authority to act on the Authority's behalf, as a debt due to the Government.

(3) The Authority may, in any case in which the Authority thinks fit, waive, remit or refund in whole or in part any financial penalty imposed or any interest due on any financial penalty.

(4) Any financial penalty and any interest on any financial penalty collected under this section must be paid into the Consolidated Fund.

(5) In any proceedings for the recovery of any financial penalty or interest due on any financial penalty which any person is liable to pay, a certificate purporting to be issued by the Authority certifying the amount of the financial penalty or interest due on the financial penalty that is payable by the person is prima facie evidence of the facts stated in the certificate.

General exemption

65.—(1) The Minister may, by order in the *Gazette*, exempt any person or any class of persons from all or any of the provisions of this Act, either generally or in a particular case and subject to such conditions as may be prescribed.

(2) If any exemption is granted under subsection (1) with conditions, the exemption operates only if the conditions are complied with.

Amendment of Schedule

66.—(1) The Minister may at any time, by order in the *Gazette*, amend the Schedule.

(2) The Minister may, in any order made under subsection (1), make such transitional, incidental, consequential or supplementary provision as may be necessary or expedient.

(3) Any order made under subsection (1) —

(*a*) must be presented to Parliament as soon as possible after publication in the *Gazette*; and

(*b*) may be revoked (wholly or partly) by a resolution of Parliament.

(4) A resolution under subsection (3)(*b*) —

(*a*) must specify the date from which the order is revoked; and

(*b*) may only be passed on a motion for which notice is given on or before the first available sitting day of Parliament after the expiry of one month after the date on which the order was presented to Parliament.

(5) If Parliament passes a resolution under subsection (3)(*b*) —

(*a*) the order is revoked with effect from the date specified in the resolution;

(*b*) the revocation does not affect the validity of anything done before the specified date; and

(*c*) the Minister is not prevented from making a new order.

Regulations by Authority

67.—(1) Subject to subsection (4), the Authority may, with the approval of the Minister, make regulations necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), the Authority may, with the approval of the Minister, make regulations for or with respect to all or any of the following matters:

(*a*) the processes and measures to be implemented to ensure the security (including the physical security and cybersecurity) of a major foundational digital infrastructure service;

(*b*) the processes and measures to be implemented to minimise the likelihood of unexpected interruptions to the provision of a major foundational digital infrastructure service;

(*c*) the business continuity and disaster recovery plans to be implemented to ensure timely resumption of a major foundational digital infrastructure service provided by a holder of a major FDI licence from interruptions to the holder's business activities and processes;

(*d*) the types of cybersecurity incidents or service delivery disruptions that are required to be notified to the Authority, and the form and manner in which the notification to the Authority is to be provided;

(*e*) the types of cybersecurity threats or cybersecurity incidents in respect of a computer or computer system controlled by the holder of a major FDI licence that may give rise to a direction under section 17(3);

(*f*) the energy efficiency and water efficiency requirements applicable to a data centre, and for this purpose different requirements may be prescribed for different classes of holders of DC licences;

(*g*) the energy efficiency requirements applicable to information technology equipment installed within a data centre, and for this purpose different requirements may be prescribed for different classes of holders of DC licences;

(*h*) the interests in a corporation or the trustee-manager of a business trust that are to be disregarded for the purposes of Division 2 of Part 4;

(*i*) the manner in which a person is related to another person so as to be an associate of that other person for the purposes of Division 2 of Part 4;

(*j*) the requirements and the time for making an application for the grant or renewal of a major FDI licence or DC licence, and the supporting information and documents to be submitted in respect of such an application;

(*k*) the fees to be paid in respect of any application under this Act and otherwise in connection with the administration of this Act, and the waiver, refund or remission (in whole or in part) of the fees;

(*l*) any matter that is required or permitted to be prescribed under this Act.

(3) Regulations may make different provisions for —

(*a*) different classes of major foundational digital infrastructure service providers or operators of data centres; or

(*b*) different circumstances.

(4) This section does not apply to or in relation to any matter for which regulations may be made under any of the following sections:

(*a*) section 45 (appeal to Minister);

(*b*) section 68 (regulations by Minister charged with responsibility for coordinating policies associated with climate change);

(*c*) section 71 (saving and transitional provisions).

Regulations by Minister charged with responsibility for coordinating policies associated with climate change

68. The Minister may make regulations for or with respect to all or any of the following matters:

(*a*) the criteria that an international carbon credit is required to meet in order to be accepted by the Authority as an eligible international carbon credit for the purposes of the definition of "eligible international carbon credit" in section 2, and the process by which an operator of a data centre may apply for the Authority's acceptance of an international carbon credit as an eligible international carbon credit;

(*b*) the time and manner in which or the process by which any eligible international carbon credit is to be surrendered by an operator of a data centre, and the circumstances in which any eligible international carbon credit may be treated as surrendered, to mitigate reckonable greenhouse gas emissions produced in connection with the generation of electricity used to operate a data centre for the purposes

of sections 25(3)(*b*)(ii) and 27(3)(*e*)(ii), or to offset any increase in reckonable greenhouse gas emissions for the purposes of section 39(3)(*a*);

(*c*) the methods, or criteria for the methods, by which the amounts of reckonable greenhouse gas emissions are to be measured or determined for the purposes of Part 4;

(*d*) the energy sources or types of energy sources for the purposes of the definition of "prescribed energy source" in section 25(7);

(*e*) the methods of disposal, processing or storage of greenhouse gas emissions, and the types of eligible international carbon credits used for mitigation, for the purposes of section 25(3)(*b*)(iii);

(*f*) the sources from which electricity may be imported for the purposes of section 25(3)(*c*)(ii).

Incorporation by reference, etc.

69.—(1) Any regulation made under this Act may make provision for or in relation to a matter by applying, adopting or incorporating by reference, with or without modification, any material contained in any code, standard, rule, requirement, specification or other document, as in force at a particular time or from time to time, which relates to any matter with which the regulation deals.

(2) Material mentioned in subsection (1) may be applied, adopted or incorporated by reference in any regulation made under this Act —

(*a*) in whole or in part; or

(*b*) with modifications, additions or variations specified in the regulation.

(3) A copy of any material applied, adopted or incorporated by reference in any regulation made under this Act, including any amendment to, or replacement of, the material, must be —

(*a*) certified as a correct copy of the material by the Minister or the Authority, as the case may be; and

(*b*) retained by the Minister or the Authority, as the case may be.

(4) Any material applied, adopted or incorporated in any regulation made under this Act by reference under subsection (1) is to be treated for all purposes as forming part of the regulation; and, unless otherwise provided in the regulation, every amendment to any material incorporated by reference under subsection (1) that is made by the person or organisation originating the material is, subject to subsections (5) and (6), to be treated as being a part of that regulation.

(5) Where any material referred to in subsection (1) is applied, adopted or incorporated by reference in any regulation made under this Act, the Minister or the Authority (as the case may be) must give notice in the *Gazette* stating —

(*a*) that the material is incorporated in the regulation and the date on which the relevant provision in the regulation was made;

(*b*) that the material is available for inspection during working hours, free of charge;

(*c*) the place where the material can be inspected;

(*d*) that copies of the material can be purchased;

(*e*) the place where copies of the material can be purchased; and

(*f*) if copies of the material are available in other ways, the details of where or how the material can be accessed or obtained.

(6) The Minister or the Authority (as the case may be) must cause a copy of every code, standard, rule, requirement or specification incorporated by reference under subsection (1) to be made available for inspection by members of the general public without charge at the office of the Minister or the Authority (as the case may be) during normal office hours.

(7) In this section, "modification" includes omissions, additions and substitutions.

PART 8

RELATED AMENDMENTS TO CYBERSECURITY ACT 2018

Related amendments to Cybersecurity Act 2018

70. In the Cybersecurity Act 2018 —

(*a*) in section 2(1), after the definition of "business entity", insert —

"" "certificate for authentication" means an electronic attestation that makes it possible to authenticate a website, computer system, application software or connected device, and links the website, computer system, application software or connected device (as the case may be) to the person to whom it is issued;";

(*b*) in section 2(1), after the definition of "designated provider responsible for third-party-owned critical information infrastructure", insert —

"" "digital identity management service" means a service consisting of —

(*a*) managing identity proofing (being the process of collecting, verifying and validating sufficient attributes to define and confirm the identity of a person within a particular context); and

(*b*) electronic authentication (being a process used to achieve sufficient assurance in the binding between a person and an identity);

"digital infrastructure service" —

(*a*) means a service delivered through physical hardware, or physical hardware and associated software (including virtualisation software), that enables the storage, processing

or transport of data across computer networks so as to enable information and communications systems to operate with one another, and which is used directly or indirectly for the provision of a digital service; and

(*b*) includes —

(i) a service consisting of the issuance and validation of certificates for authentication; and

(ii) a digital identity management service;";

(*c*) in section 2(1), replace the definition of "foundational digital infrastructure service" with —

"" "foundational digital infrastructure service" means any digital infrastructure service specified as a foundational digital infrastructure service in the Third Schedule;";

(*d*) in section 18G(1)(*b*)(i) and (ii) (as inserted by section 17 of the Cybersecurity (Amendment) Act 2024), replace "operation" with "operations"; and

(*e*) in the Third Schedule (as inserted by section 30 of the Cybersecurity (Amendment) Act 2024), in paragraph 2, replace the definition of "data centre facility service" with —

"" "data centre facility service" means any service provided in a data centre in Singapore which relies on a computer or computer system to facilitate data storage, processing and transport by another party through the centralised accommodation, interconnection and operation of information technology and network telecommunications equipment (including one or more computers or computer systems), and —

(*a*) includes a service to host, within the data centre, the computers or computer systems of a party other than the party operating the data centre;

(*b*) includes a service provided in a data centre where the service is used solely by the party operating the data centre to provide a cloud computing service to one or more other parties unrelated to itself; and

(*c*) except as provided in paragraph (*b*), excludes a service provided in a data centre where the service is used solely by the party operating the data centre.".

PART 9

SAVING AND TRANSITIONAL PROVISIONS

Saving and transitional provisions

71.—(1) Despite anything in this Act, any person who, immediately before the date of commencement of Part 3, provides a major foundational digital infrastructure service —

(*a*) whether from within or outside Singapore, to users in Singapore; or

(*b*) wholly or partially from Singapore, to users in or outside Singapore,

may continue to provide the service —

(*c*) for 6 months starting on the date of commencement of Part 3; and

(*d*) if, within the period in paragraph (*c*), the person applies for a major FDI licence for that service, until the earlier of the following:

(i) the date on which the Authority grants the major FDI licence to the person;

(ii) the date that the application is finally refused or withdrawn.

(2) Despite anything in this Act, any person (whether located in or outside Singapore) who, immediately before the date of commencement of Part 4, operates a data centre in Singapore, may continue to operate the data centre —

(*a*) for 6 months starting on the date of commencement of Part 4; and

(*b*) if, within the period in paragraph (*a*), the person applies for a DC licence for that data centre, until the earlier of the following:

(i) the date on which the Authority grants the DC licence to the person;

(ii) the date that the application is finally refused or withdrawn.

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

THE SCHEDULE

Sections 2 and 66(1)

1. The following digital infrastructure services are specified as foundational digital infrastructure services:

(*a*) data centre facility service;

(*b*) regulated cloud computing service.

2. The following foundational digital infrastructure services are specified as major foundational digital infrastructure services:

(*a*) major data centre facility service;

(*b*) major regulated cloud computing service.

3. In this Schedule —

"Infrastructure-as-a-Service" means the category of cloud computing service under which the cloud computing service customer is provided processing, storage, networks, and other fundamental computing resources with which the customer is able to deploy and run arbitrary software (which can include operating systems and software applications), but where the customer does not manage or control the underlying physical and virtual resources;

"major data centre facility service" means a data centre facility service delivered in a data centre which carries a critical IT load of at least 10 megawatts (MW);

"major regulated cloud computing service" means a regulated cloud computing service that has generated revenue from users in Singapore of at least $100 million per year on average over the 3 preceding years;

"Platform-as-a-Service" means the category of cloud computing service under which the cloud computing service customer is provided the capability to deploy, manage and run customer-created or customer-acquired software applications using one or more computer programming languages and one or more execution environments supported by the cloud computing infrastructure and to exercise control over the deployed software applications and possibly configuration settings for the execution environment, but where the customer does not manage or control the underlying cloud computing infrastructure including network, servers, operating systems or storage;

"regulated cloud computing service" means a cloud computing service that falls within the category of Infrastructure-as-a-Service or Platform-as-a-Service but not Software-as-a-Service;

THE SCHEDULE — *continued*

"Software-as-a-Service" means the category of cloud computing service under which the cloud computing service customer can use the cloud computing service provider's software applications running on a cloud computing infrastructure, but where the customer does not manage or control the underlying cloud computing infrastructure including network, servers, operating systems, storage or even individual software application capabilities.