

No. S 000 –

POSTAL SERVICES ACT
(CHAPTER 237A)

POSTAL SERVICES (CONTROL OF DESIGNATED
POSTAL LICENSEES) REGULATIONS 2007

In exercise of the powers conferred by sections 26H and 61 of the Postal Services Act, the Info-communications Development Authority of Singapore, with the approval of the Minister for Information, Communications and the Arts, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Postal Services (Control of Designated Postal Licensees) Regulations 2007 and shall come into operation on 2007.

Definitions

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

"acquiring party" means any person who is required to obtain the Postal Authority's approval under section 26B (2), (3) or (4) of the Act;

"applicant" means a person who is required to submit an application to the Postal Authority and includes an acquiring party and a designated postal licensee;

"application" means an application made under section 26B of the Act;

"basic letter services market" means a market in Singapore for postal services for the conveyance of letters of up to 500 grams in weight and the incidental services of receiving, collecting, sorting, sending, despatching and delivering such letters;

"related corporation", in relation to a corporation, means a corporation that is deemed to be related to the first-mentioned corporation under section 6 of the Companies Act (Cap. 50);

"treasury share" has the same meaning as in section 4 (1) of the Companies Act; and

"voting share" has the same meaning as in section 4 (1) of the Companies Act but excludes a treasury share.

Meaning of holding a voting share in Part IVA of Act

3. For the purpose of Part IVA of the Act and these Regulations, a person holds a voting share in a corporation if he is deemed to have an interest in that share under section 7 (6) (a) or (d) or (7) to (10) of the Companies Act (Cap. 50).

Meaning of control of voting power in Part IVA of Act

4. For the purposes of Part IVA of the Act and these Regulations, a reference to the control of a percentage of voting power in a designated postal licensee, is a reference to the control,

whether direct or indirect, of that percentage of the total number of votes that may be cast in a general meeting of the licensee.

Meaning of associate in Part IVA of Act

5. For the purposes of Part IVA of the Act and these Regulations, a person, *A*, is an associate of another person, *B*, if —

- (a) *A* is the spouse or a parent, remoter lineal ancestor or step-parent or a son, daughter, remoter issue, step-son or step-daughter or a brother or sister, of *B*;
- (b) *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, where *B* is a corporation, of the directors of *B*;
- (c) *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, where *A* is a corporation, of the directors of *A*;
- (d) *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, where *B* is a corporation, of the directors of *B*;
- (e) *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, where *A* is a corporation, of the directors of *A*;
- (f) *A* is a related corporation of *B*;
- (g) *A* is a corporation in which *B*, alone or together with other associates of *B* as described in sub-paragraphs (b) to (f), is in a position to control not less than 12 or 30%, as the case may be, of the voting power in *A*;
- (h) *B* is a corporation in which *A*, alone or together with other associates of *A* as described in sub-paragraphs (b) to (f), is in a position to control not less than 12 or 30%, as the case may be, of the voting power in *B*; or
- (i) *A* is a person with whom *B* has an agreement or arrangement, whether oral or in writing and whether express or implied, to act together with respect to the acquisition, holding or disposal of shares or other interests in, or with respect to the exercise of their voting power in relation to, the designated postal licensee.

Notice under section 26B (1) of Act

6.—(1) A designated postal licensee shall give notice in writing to the Postal Authority of any acquisition of voting shares or control of voting power described in section 26B (1) of the Act within 5 working days of becoming aware of the acquisition.

(2) The notice shall be given in such form and manner as may be specified by the Postal Authority and shall contain such information as the Postal Authority may require, including the information specified in the code of practice referred to in section 26C of the Act.

Application for approval under section 26B of Act

7.—(1) An application for approval under section 26B of the Act shall be made jointly by the acquiring party, the designated postal licensee and all relevant associates of the acquiring party and shall be submitted —

- (a) where the acquiring party intends to acquire voting shares in the licensee that are traded on a securities exchange, whether in Singapore or elsewhere —
 - (i) if the acquiring party would be required as a result of his acquisition, under the rules of the securities exchange or otherwise, to make an offer to purchase all the voting shares in the licensee, after the acquiring party publicly announces his intention to make such an offer but not less than 60 days before making the offer; or
 - (ii) in all other cases, not more than 90 days and not less than 60 days before the day upon which the acquiring party intends to make an offer for the voting shares in the licensee;
- (b) where the acquiring party intends to acquire voting shares in the licensee that are not traded on a securities exchange, within 30 days of entering into an agreement for the acquisition of the voting shares but not less than 60 days before completion of the agreement;
- (c) where the acquiring party wishes to acquire the business of the designated postal licensee as a going concern, within 30 days of entering into an agreement for the acquisition of the business but not less than 60 days before completion of the agreement; or
- (d) in all other cases, not more than 90 days and not less than 60 days before the acquiring party intends to enter into a transaction, exercise an option to acquire voting shares or exercise a right to have voting shares transferred to him that would result in the acquiring party becoming a 12% controller or 30% controller of the licensee or entering into a consolidation with the licensee.

(2) Where an application is made under paragraph (1) and the Postal Authority does not grant its approval within 60 days of the submission of the application, the acquiring party shall not, as the case may be, proceed to become a 12% controller or 30% controller of the designated postal licensee or enter into a consolidation with the licensee until such time as the Postal Authority may grant its approval.

(3) Any application under section 26B of the Act shall be made in such form and manner as may be specified by the Postal Authority and shall contain such information as the Postal Authority may require, including the information specified in the code of practice referred to in section 26C of the Act.

(4) An application for approval under section 26B (3) or (4) of the Act shall be accompanied by an application fee of \$5,000, to be paid by the acquiring party.

(5) In this regulation, “relevant associates of the acquiring party” means the associates of the acquiring party who would become a 12% controller or a 30% controller of a designated

postal licensee as a result of an acquisition of voting shares or voting power by the acquiring party, but excludes any such associate who is an associate of the acquiring party under —

- (a) regulation 5 (b) or (d);
- (b) regulation 5 (f), by virtue of being a subsidiary of the acquiring party or a subsidiary of a holding company of the acquiring party; or
- (c) regulation 5 (g) or (h) read with regulation 5 (b) or (d).

Requirements under section 26D (9) of Act

8.—(1) Where a person notifies the Postal Authority under section 26D (9)(b) of the Act that he has contravened section 26B (2), (3) or (4) of the Act, the person shall, concurrently with his notification to the Postal Authority —

- (a) provide the Postal Authority with such information as the Postal Authority may require for the purpose of determining what directions to give to the person under section 26D, including the information specified in regulation 7 (3); and
- (b) where the person has contravened section 26B (3) or (4) of the Act, pay the application fee specified in regulation 7 (4).

(2) A person who has become aware that he has contravened section 26B (2), (3) or (4) of the Act shall not acquire any further voting shares in any designated postal licensee or control over the voting power in any designated postal licensee until he has notified the Postal Authority in accordance with section 26D (9) and complied with such directions as the Postal Authority may give under section 26D.

Denial of applications under section 26B

9. —(1) The Postal Authority may deny an application under section 26B of the Act if the Postal Authority is satisfied that —

- (a) approval of the application is likely to result in a substantial lessening of competition in any basic letter services market in Singapore; or
- (b) it is in the public interest to do so.

(2) Where the Postal Authority grants an approval under section 26B (4) of the Act, the approval shall, unless otherwise specified by the Postal Authority in writing, be deemed to include an approval under section 26B (2) of the Act on the conditions specified in the approval under section 26B (4).

Waiver

10.—(1) The Postal Authority may, upon the written request of an applicant —

- (a) waive any requirement of regulations 6, 7 or 8; or
- (b) reduce or extend any period specified in or under regulation 6, 7 or 8,

if the Postal Authority is satisfied that —

- (i) the applicant is unable to comply with the requirement due to circumstances beyond his reasonable control;
 - (ii) requiring the applicant to comply with the requirement would be unduly burdensome for the applicant or would prejudice the legitimate commercial interests of the applicant; or
 - (iii) a reduction or extension of any such period would be appropriate having regard to the circumstances of the case.
- (2) A waiver granted under paragraph (1) shall be notified in writing to the applicant and, where the Postal Authority considers it appropriate, any other person who is required to submit an application with the applicant, and need not be published in the Gazette.

Made this day of 2007.

LAM CHUAN LEONG
*Chairman,
Info-communications
Development Authority
of Singapore.*