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New Disposable Carrier Bag Scheme under Resource Sustainability Act Comes Into Effect

Introduction

Earlier in February this year, the Singapore Parliament passed several key legislative changes to the Resource Sustainability Act 2019 ("**Act**") in order to better tackle packaging and food waste in Singapore and drive behavioural changes to reduce waste and increase recycling.

These changes are set out in the Resource Sustainability (Amendment) Act 2023 ("**Amendment Act**") which include: (i) requiring regulated retailers to impose a disposable carrier bag charge under a Disposable Carrier Bag Scheme; (ii) provision of a beverage container return scheme; and (iii) revisions to the food waste reporting framework for industrial and commercial premises.

On 26 May 2023, the Amendment Act partially came into force. Notably, the new Part 4A of the Act which sets out the Disposable Carrier Bag Scheme came into effect. The other key changes that were introduced by the Amendment Act, namely the beverage container return scheme and amendments to the food waste reporting framework have not come into effect.

Regulated retailers who have applied as a registered retailer prior to 1 June 2013 must note that their compliance requirements as a registered retailer will commence soon on **3 July 2023**.

This Update outlines salient features of the new Disposable Carrier Bag Scheme and our comments on how they may impact your business and operations.

Key Features of the Disposable Carrier Bag Scheme

Part 4A of the Act sets out the obligations that regulated retailers are subject to. The detailed requirements to operationalise the Disposable Carrier Bag Scheme can be found in the Resource Sustainability (Disposable Carrier Bag Charge) Regulations 2023 ("**Regulations**") which also came into effect on 26 May 2023.

Who are affected

Operators of Singapore Food Agency (SFA)-licensed supermarkets whose annual turnover for any trigger year exceeds $100 million ("**regulated retailers**") will be subject to compliance requirements. A trigger year for the purposes of determination of registrability is 2021 or a subsequent year.

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For supermarket operators with an annual turnover below the prescribed threshold, the National Environment Agency ("**NEA**") also encourages these operators to voluntarily implement their own disposable bag carrier charges.

Regulated retailers are subject to registration and a host of other compliance requirements highlighted below.

Registration requirements

A regulated retailer must apply to be registered as a Registered Retailer with NEA before the applicable dates for the relevant trigger year, which are:

(i) 1 June 2023 (where the trigger year ("**T**") is 2021); and
(ii) 30 June of year T +1 (where year T is 2022 or a subsequent year).

Where NEA grants an application for registration, a regulated retailer will be a Registered Retailer beginning on:

(i) 3 July 2023 (where year T is 2021); or
(ii) 1 January of year T + 2 (where year T is 2022 or a subsequent year),

until deregistration pursuant to an application made under the Act.

The period during which the regulated retailer is a Registered Retailer is relevant for the compliance of other requirements, such as the requirement to impose a charge, submission of reports and record-keeping (discussed below).

Failure to comply with the registration requirements is an offence punishable by a fine not exceeding $10,000 and/or imprisonment for a term not exceeding three months.

Other key requirements

Among others, Registered Retailers will be required to:

- Impose a minimum charge of $0.05 per disposable carrier bag provided to customers. Registered Retailers are not permitted to circumvent the charge by way of reimbursement. The Act also provides prescribed circumstances under which a charge is not required to be imposed, for instance where goods are purchased online and the Registered Retailer packs and delivers the goods to the customer or the customer collects such packed goods from the Registered Retailer's premises.

- Communicate to customers the charge imposed in the prescribed manner (such as prominently displaying the charge at or near each entrance of the supermarket premises for at least six months after registration), and record the charge as a separate item in the receipt (where a receipt is given).

- Submit an annual report to NEA containing prescribed information which include the number of disposable carrier bags provided for the relevant period and all other prescribed information relevant to monitoring the Registered Retailer's compliance with requirements under Part 4A of the Act. Additionally, NEA may direct the Registered Retailer to rectify or re-compute any matter in the report if it is incomplete or inaccurate.

- Publish specified information such as:

  (i) the number of disposable carrier bags provided for the relevant period;
  (ii) the total amount of charge collected, and
  (iii) how and where charge proceeds have been applied.

  Registered Retailers are also required to have such information audited before publication.

- Keep and maintain complete and accurate records of prescribed information which includes the total amount of charge collected (including any amount collected in excess of the prescribed amount), prescribed information on how and where the charge proceeds are applied, and any information or document relevant to the report.

For more details, please refer to the new Part 4A of the Act and the Regulations.

Impact and Significance to Regulated Retailers

The Disposable Carrier Bag Scheme creates new and significant obligations on supermarket operators from an operational and compliance perspective. Among others, the effect of these requirements is that Registered Retailers are subject to closer scrutiny with regard to their levels of accountability and transparency. As Registered Retailers implement new business processes to meet their obligations, they are reminded to also ensure that internal processes are adjusted from the get-go to comply with publication and recordkeeping requirements. The new changes are consistent with and have been expected as part of the national drive towards its sustainability goals. As the Disposable Carrier Bag Scheme's implementation settles, we expect that nuances will continue to be refined. Hence, we remind Registered Retailers to remain alert for any regulatory updates on its implementation.

If you have any queries on the above developments, please feel free to contact our team members below.

In full support of the Singapore Government's efforts to champion green and sustainability practices in Singapore and the region, Rajah & Tann Singapore has a Sustainability Practice which comprises multi-disciplinary specialist teams who can advise you on the adaptation of your business to take into account sustainability and ESG (environmental, social and governance) issues.

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Background

The Resource Sustainability (Amendment) Bill ("**Bill**") was tabled on 6 February 2023 for First Reading in Parliament, and was passed on 22 February 2023. You may wish to refer to our earlier Legal Update which covers the First Reading of the Bill (available here). A summary of key features when the Bill was passed on 22 March 2023 is provided in the writeup of the March 2023 issue of Newsbytes (Page 22) (available here).

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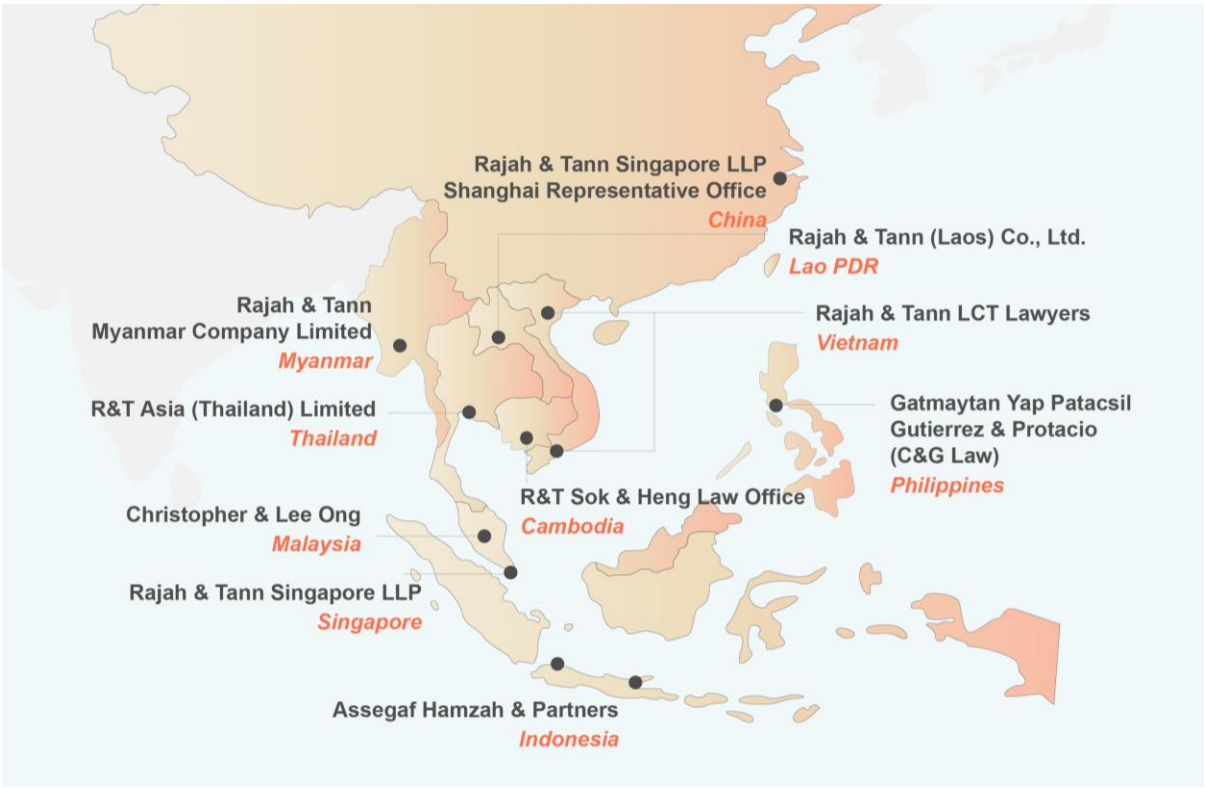

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