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Constitution of the Republic of Singapore (Amendment) Bill

Bill No. 11/2022.

Read the first time on 4 April 2022.

A BILL

i n t i t u l e d

An Act to amend the Constitution of the Republic of Singapore.

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

Short title

1. This Act is the Constitution of the Republic of Singapore (Amendment) Act 2022.

Amendment of Article 37E

5 2. Article 37E of the Constitution of the Republic of Singapore (called in this Act the Constitution) is amended by deleting paragraph (c) (including the proviso) and substituting the following paragraph:

“(c) has —

10 (i) been convicted of an offence by a court in Singapore or elsewhere and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$10,000 (or its equivalent in a foreign currency when

15 sentenced); and

(ii) not received a free pardon,

except that where the conviction is by a foreign court, the offence must also be one which, had it been committed in Singapore, would have been punishable

20 by a court in Singapore.”.

Amendment of Article 45

3. Article 45 of the Constitution is amended —

(a) by deleting paragraph (e) of clause (1) (including the proviso) and substituting the following paragraph:

25 “(e) has —

(i) been convicted of an offence by a court in Singapore or elsewhere and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$10,000 (or its equivalent in a foreign currency when sentenced); and

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(ii) not received a free pardon,

except that where the conviction is by a foreign court, the offence must also be one which, had it been committed in Singapore, would have been punishable by a court in Singapore;” and

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(b) by deleting clause (3).

Amendment of Article 46

4. Article 46(4) of the Constitution is amended by deleting paragraph (c) and substituting the following paragraph:

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“(c) convicted of an offence by a court in Singapore or elsewhere and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$10,000 (or its equivalent in a foreign currency when sentenced); or”.

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Amendment of Article 72

5. Article 72 of the Constitution is amended by deleting paragraph (c) (including the proviso) and substituting the following paragraph:

“(c) has —

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(i) been convicted of an offence by a court in Singapore or elsewhere and sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$10,000 (or its equivalent in a foreign currency when sentenced); and

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(ii) not received a free pardon,

except that where the conviction is by a foreign court, the offence must also be one which, had it been committed in Singapore, would have been punishable by a court in Singapore; or”.

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Transitional provision

6. Sections 2, 3, 4 and 5 apply to convictions by a court in Singapore or elsewhere before, on or after the date of commencement of this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Constitution of the Republic of Singapore relating to the disqualification from being a Member of Parliament (MP), being elected as the President or being a member of the Council of Presidential Advisers or the Presidential Council for Minority Rights, because of a conviction and sentence.

Clause 1 relates to the short title.

As there is no requirement for a notification to be made to bring the amendments in the Bill into force, once the Bill is passed and assented, the amendments contained in it come into force upon the publication of the Act in the *Gazette*.

Clause 2 contains an amendment to Article 37E(c) on the disqualification from being a member of the Council of Presidential Advisers because of a conviction by a Singapore court or foreign court for an offence and sentence to imprisonment or a fine. The present disqualification arises if a person is sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000. The amendment raises the fine amount to not less than \$10,000 or its equivalent in a foreign currency.

However, where the conviction is by a foreign court, the offence must also be one which, had it been committed in Singapore, would have been punishable by a court in Singapore.

Clause 3 contains first, an amendment to Article 45(1)(e) on the disqualification from being an MP because of a conviction for an offence and sentence to imprisonment or a fine. The present disqualification arises if a person is sentenced to imprisonment for a term of not less than one year or to a fine of not less than \$2,000. The amendment raises the fine amount to not less than \$10,000 or its equivalent in a foreign currency.

The amendment also expands the disqualification due to a conviction beyond that by a Singapore court or Malaysian court. Any foreign court conviction will be disqualifying under the amendments where the sentence is equivalent to the disqualifying threshold. The exchange rate would be that at the time of sentence by the foreign court.

However, where the conviction is by a foreign court, the offence must also be one which, had it been committed in Singapore, would have been punishable by a court in Singapore.

Finally, clause 3 also deletes Article 45(3) which excludes any part of the Commonwealth or the Republic of Ireland from being regarded as a foreign country in connection with the disqualification in Article 45(1)(f). The disqualification is voluntarily acquiring the citizenship of, or exercising rights of citizenship in, a foreign country or making a declaration of allegiance to a foreign country.

Clause 4 contains an amendment to Article 46(4)(c) that is a consequence of the amendment in clause 3 to Article 45(1)(e).

Clause 5 contains an amendment to Article 72(c) like that in clause 3 but in relation to a similar disqualification to be a member of the Presidential Council for Minority Rights.

Clause 6 is a transitional provision that makes clear that the amendments in clauses 2, 3, 4 and 5 apply not only to future convictions by a Singapore court or foreign court, but also to convictions by a Singapore court or foreign court before the amendments come into force.

This means that, for example, a person who had been fined by a Singapore court at least \$2,000 but less than \$10,000 and is presently disqualified from being an MP or being elected as the President, will cease to be disqualified when the Bill comes into force.

However, a person who had been fined, before the amendments come into force, by a Singapore court at least \$10,000 or by a foreign court the equivalent of at least \$10,000 in a foreign currency, will be disqualified after the amendments take effect from being an MP or being elected as the President, or from being a member of the Council of Presidential Advisers or the Presidential Council for Minority Rights.

Any 5-year disqualification period under Article 45(2) from being an MP or being elected as the President because of a conviction would run from the date when the fine had been imposed by a Singapore court or foreign court even if that date was before the Bill comes into force.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
