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Elections (Integrity of Online Advertising) (Amendment) Bill

Bill No. 29/2024.

Read the first time on 9 September 2024.

A BILL

i n t i t u l e d

An Act to amend the Parliamentary Elections Act 1954 and the Presidential Elections Act 1991 to prohibit the publication of online election advertising containing certain digitally generated or manipulated content about candidates, and for related purposes.

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

Short title and commencement

1. This Act is the Elections (Integrity of Online Advertising) (Amendment) Act 2024 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of Parliamentary Elections Act 1954

2. In the Parliamentary Elections Act 1954 —

(a) in section 28, after subsection (1B), insert —

10 “(1C) After a writ of election is issued and before the end of nomination proceedings under the writ, the Returning Officer must publish and maintain, on an Internet website accessible to the general public, a list of every candidate who has —

(a) deposited the sum required by this section; and

15 (b) consented to having his or her name so published.”;

(b) in Part 3, under the heading “ELECTION ADVERTISING”, in Division 3, in the Division heading, replace “*and foreigners*” with “, *foreigners and manipulated content*”;

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(c) after section 61M, insert —

“Ban on manipulated online election advertising containing realistic but false representation of candidate, etc.

25 **61MA.—**(1) A person commits an offence if —

(a) the person publishes, or causes to be published, in Singapore any content, or any thing containing content, at any time during the election period of an election in an electoral division;

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- (b) the content is or includes online election advertising that relates to the election in the electoral division;
- (c) the person knows or ought reasonably to have known that the content is or includes online election advertising that relates to the election in the electoral division; 5
- (d) the online election advertising contains an audio, visual or audiovisual representation of a candidate in the election saying or doing something, whether during that election period or at some other time; 10
- (e) the candidate did not in fact say or do that thing, but the representation is realistic enough such that it is likely that some members of the general public would, if they heard or saw the representation, reasonably believe that the candidate said or did that thing; and 15
- (f) the representation was created wholly or partly with content that was generated or manipulated using digital means. 20

Illustrations

The following are illustrations of online election advertising that contain representations of a candidate saying or doing something that he or she did not in fact say or do. 25

- (a) An online election advertisement contains an audio representation of a candidate saying “I support tax increases”. The candidate in fact said “I do not support tax increases”. 30
- (b) An online election advertisement contains an audiovisual representation of a candidate pausing for a long time between 2 sentences. The candidate did say the 2 sentences but did not pause between them.

(c) An online election advertisement contains an audiovisual representation of a candidate making a speech at a temple with a statement “We will build public housing on this land”. The candidate did make the speech and the statement, but on a piece of vacant land.

The technology known as generative artificial intelligence is an example of digital means by which content could be generated or manipulated.

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction by a District Court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) However, in any proceedings for an offence under subsection (1), it is a defence for the person charged to prove, on a balance of probabilities, that the person did not know and had no reason to believe that the candidate did not in fact say or do the thing mentioned in subsection (1)(d) and (e).

(4) Subsection (1) does not apply to or in relation to any of the following:

(a) any communication of content between 2 or more individuals that is of a private or domestic nature by electronic means;

(b) any publication of any news relating to an election by an authorised news agency;

(c) any publishing of content by electronic means in other circumstances prescribed by the election advertising regulations as excluded from subsection (1).

(5) For the purposes of this section, “candidate”, in relation to an election in an electoral division, means —

(a) for the period starting when the writ for that election is issued under section 24 and

ending with the end of nomination proceedings for that election — a person whose name is published under section 28(1C); and

(b) for the period starting with the end of nomination proceedings for that election and ending with the end of the election period for that election — a person who is nominated as a candidate for that election.”; 5
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(d) in section 61N(1), after “section”, insert “61B,”;

(e) in section 61N(1), after “61K,”, insert “61M, 61MA,”;

(f) in section 61N, replace subsection (2) with —

“(2) Any relevant person who, without reasonable excuse, fails to comply with a direction given under subsection (1) shall be guilty of an offence and shall be liable on conviction — 15

(a) in the case of a provider of a social media service — to a fine not exceeding \$1,000,000; or 20

(b) in any other case — to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

(2A) A candidate may make a request in the prescribed form and manner for the Returning Officer to give a direction under subsection (1) in respect of an offence under section 61MA. 25

(2B) A candidate commits an illegal practice if he or she —

(a) knowingly makes a false or misleading declaration in a request under subsection (2A); or 30

(b) makes a request under subsection (2A) knowing that a material particular of the request is false or misleading.”; and

(g) in section 61S(3), replace “or 61D(2)(a)” with “, 61D(2)(a) or 61MA(4)(a)”.

Amendment of Presidential Elections Act 1991

3. In the Presidential Elections Act 1991 —

(a) in section 10, after subsection (2), insert —

“(2A) After a writ of election is issued and before the end of nomination proceedings under the writ, the Returning Officer must publish and maintain, on an Internet website accessible to the general public, a list of every candidate who has —

(a) deposited the sum required by this section; and

(b) consented to having his or her name so published.”;

(b) in Part 3, in Division 2A, in Subdivision (3), in the Subdivision heading, replace “*and foreigners*” with “, *foreigners and manipulated content*”;

(c) after section 42L, insert —

“Ban on manipulated online election advertising containing realistic but false representation of candidate, etc.

42LA.—(1) A person commits an offence if —

(a) the person publishes, or causes to be published, in Singapore any content, or any thing containing content, at any time during the election period of an election;

(b) the content is or includes online election advertising that relates to the election;

- (c) the person knows or ought reasonably to have known that the content is or includes online election advertising that relates to the election;
- (d) the online election advertising contains an audio, visual or audiovisual representation of a candidate in the election saying or doing something, whether during that election period or at some other time; 5
- (e) the candidate did not in fact say or do that thing, but the representation is realistic enough such that it is likely that some members of the general public would, if they heard or saw the representation, reasonably believe that the candidate said or did that thing; and 10
- (f) the representation was created wholly or partly with content that was generated or manipulated using digital means. 15

Illustrations

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The following are illustrations of online election advertising that contain representations of a candidate saying or doing something that he or she did not in fact say or do.

- (a) An online election advertisement contains an audio representation of a candidate saying “I support drawing on the past reserves”. The candidate in fact said “I do not support drawing on the past reserves”. 25
- (b) An online election advertisement contains an audiovisual representation of a candidate pausing for a long time between 2 sentences. The candidate did say the 2 sentences but did not pause between them. 30
- (c) An online election advertisement contains an audiovisual representation of a candidate standing outside a casino, saying “I had a lot of fun today”. The candidate did make the comment, but at a kindergarten visit. 35

The technology known as generative artificial intelligence is an example of digital means by which content could be generated or manipulated.

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction by a District Court to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) However, in any proceedings for an offence under subsection (1), it is a defence for the person charged to prove, on a balance of probabilities, that the person did not know and had no reason to believe that the candidate did not in fact say or do the thing mentioned in subsection (1)(d) and (e).

(4) Subsection (1) does not apply to or in relation to any of the following:

(a) any communication of content between 2 or more individuals that is of a private or domestic nature by electronic means;

(b) any publication of any news relating to an election by an authorised news agency;

(c) any publishing of content by electronic means in other circumstances prescribed by the election advertising regulations as excluded from subsection (1).

(5) For the purposes of this section, “candidate”, in relation to an election, means —

(a) for the period starting when the writ for that election is issued under section 6 and ending with the end of nomination proceedings for that election — a person whose name is published under section 10(2A); and

(b) for the period starting with the end of nomination proceedings for that election and ending with the end of the election period for that election — a person who is

nominated as a candidate for that election.”;

(d) in section 42M(1), after “section”, insert “42B,”;

(e) in section 42M(1), after “42J,”, insert “42L, 42LA,”;

(f) in section 42M, replace subsection (2) with —

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“(2) Any relevant person who, without reasonable excuse, fails to comply with a direction given under subsection (1) shall be guilty of an offence and shall be liable on conviction —

(a) in the case of a provider of a social media service — to a fine not exceeding \$1,000,000; or

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(b) in any other case — to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

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(2A) A candidate may make a request in the prescribed form and manner for the Returning Officer to give a direction under subsection (1) in respect of an offence under section 42LA.

(2B) A candidate commits an illegal practice if he or she —

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(a) knowingly makes a false or misleading declaration in a request under subsection (2A); or

(b) makes a request under subsection (2A) knowing that a material particular of the request is false or misleading.”; and

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(g) in section 42R(3), replace “or 42D(2)(a)” with “, 42D(2)(a) or 42LA(4)(a)”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Parliamentary Elections Act 1954 and the Presidential Elections Act 1991 to prohibit the publication of online election advertising containing certain digitally generated or manipulated content about candidates, and for related purposes.

Clause 1 relates to the short title and commencement.

Clause 2 amends the Parliamentary Elections Act 1954.

- (a) The new section 61MA makes it an offence to publish online election advertising that contains realistic representations, created using content that was digitally generated or manipulated, of a candidate saying or doing something that he or she did not in fact say or do. For this purpose, candidates include persons who have placed the deposit required by section 28 and consented to have their names published by the Returning Officer. The offence applies throughout the election period. It is a defence for accused persons to prove that they did not know and had no reason to believe that the representation of the candidate was in fact untrue. The offence does not apply to private and domestic communications, the publication of news by authorised news agencies and other prescribed circumstances.
- (b) The Returning Officer's power to issue corrective directions under section 61N(1) is extended to online election advertising that contravenes the new section 61MA, as well as online election advertising that contravenes section 61B (published-by requirements) or section 61M (ban on foreigners, etc., publishing or displaying election advertising).
- (c) For providers of social media services, the maximum punishment for the offence of failing to comply with a corrective direction under section 61N(1) is increased to \$1,000,000.
- (d) A candidate may make a request for the Returning Officer to issue a corrective direction under section 61N(1) in respect of an offence under the new section 61MA. A candidate commits an illegal practice if he or she knowingly makes a false or misleading declaration in a request, etc.

Clause 3 makes similar amendments to the Presidential Elections Act 1991.

EXPENDITURE OF PUBLIC MONEY

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