



REPUBLIC OF SINGAPORE

**GOVERNMENT GAZETTE**

**BILLS SUPPLEMENT**

*Published by Authority*

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**NO. 3]**

**MONDAY, FEBRUARY 6**

**[2023**

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First published in the *Government Gazette*, Electronic Edition, on 6 February 2023 at 5 pm.

**Notification No. B 3** — The Presidential Elections (Amendment) Bill is published for general information. It was introduced in Parliament on 6 February 2023.



# **Presidential Elections (Amendment) Bill**

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**Bill No. 3/2023.**

*Read the first time on 6 February 2023.*

A BILL

*intituled*

An Act to amend the Presidential Elections Act 1991.

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 Presidential Elections (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

### 5 Amendment of section 2

2. Section 2 of the Presidential Elections Act 1991 (called in this Act the principal Act) is amended —

(a) by inserting, immediately before the definition of “ballot box” in subsection (1), the following definition:

10 ““access”, in relation to any content, means to encounter, read, view, hear or otherwise experience the content, and includes —

15 (a) access that is subject to a precondition, such as the use of a password;

(b) access by way of push technology;

(c) access by way of a standing request; and

20 (d) access for a limited period of time only;”;

(b) by inserting, immediately after the definition of “ballot display” in subsection (1), the following definitions:

25 ““banner” means any continuous piece of fabric or other flexible material, or one or more pieces of fabric or other flexible material joined into a continuous piece —

30 (a) on which content is printed, written, drawn or depicted in such a way as to be fully legible in windless conditions; and

(b) that is attached (by rope, wire or otherwise) to any building or structure or to any pole or flagstaff projecting vertically, horizontally or at an angle,

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but not a banner carried during a procession;

“billboard” means any of the following:

(a) a hoarding, signboard or free-standing advertising structure on which content is printed, written, drawn, affixed or depicted in such a way as to be fully legible;

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(b) a sign or panel which —

(i) has an electronically controlled or a digitally controlled (or both) illuminated display surface; and

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(ii) allows for different content to be shown, changed, animated or illuminated in different ways and at different intervals on that sign or panel;

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(c) a wall, ceiling or other like substantially flat and fixed surface, on which content is painted, written, drawn or depicted in such a way as to be fully legible;

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(d) a blimp, a gas-inflated balloon or other like object which is attached or anchored to the ground and upon which content is displayed,

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but not a poster, placard, picture, photograph or balloon carried during a procession;

*Examples*

(a) A sky sign on or above the roof, parapet or eaves of a building.

(b) An animated billboard.

(c) A computer monitor, screen or digital display panel or similar appliance designed to be used primarily for the reception and display of any content capable of being received, or received and displayed, as visual images (whether moving or still) with or without sound, from a broadcasting service.

“by electronic means” means by using an electronic service;”;

(c) by inserting, immediately after the definition of “Community Committee” in subsection (1), the following definitions:

““content” means information or material —

(a) whether in the form of text;

(b) whether in the form of speech, music or other sounds;

(c) whether in the form of colours or visual images (animated or otherwise), pictorial or graphic form (for example, an anthropomorphic or a humanlike depiction);

(d) whether in any other form; or

(e) whether in any combination of forms;

“conveyance” means any aircraft, train, vehicle, vessel or other mode of transport, whether of passengers or goods or both;”;

(d) by deleting the words “poster, banner, notice, circular, handbill, illustration, article, advertisement or other material” in the definition of “election advertising” in

subsection (1) and substituting the words “information or material”;

- (e) by deleting the words “such material” in the definition of “election advertising” in subsection (1) and substituting the words “such information or material”; 5
- (f) by deleting the words “, but excludes any button, badge, pen, pencil, balloon and any other thing prescribed by the Minister by notification in the *Gazette*” in the definition of “election advertising” in subsection (1);
- (g) by inserting, immediately after the definition of “election advertising” in subsection (1), the following definition: 10  
 ““election advertising regulations” means regulations made under section 42Q;”;
- (h) by inserting, immediately after the definition of “Election Judge” in subsection (1), the following definition: 15  
 ““election meeting” has the meaning given by section 62A(4);”;
- (i) by inserting, immediately after the definition of “electoral division” in subsection (1), the following definitions: 20  
 ““electronic service” means —
- (a) a service that allows end-users of the service to access content using a broadcasting service or telecommunication service for carrying messages or other content (whether between persons and persons, things and things or persons and things); or 25

(b) a service that delivers content to persons having equipment appropriate for receiving that content, where the delivery of the service is by a broadcasting service or telecommunication service described in paragraph (a),

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and includes a social media service (as defined in section 42R(1));

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“end-user”, in relation to an electronic service, means a person that, and whether or not in the course of business —

(a) has access to content or something which contains content, by means of the electronic service; or

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(b) communicates content, or something which contains content, by means of the electronic service;

“entity” means —

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(a) a body corporate (including a limited liability partnership);

(b) an unincorporated association;

(c) a partnership;

(d) a body politic;

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(e) a body of individuals who together form a body; or

(f) a person other than an individual;

“flag” means a continuous piece of fabric or other flexible material, or one or more pieces of fabric or other flexible material joined into a continuous piece —

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(a) on which content is printed, written, drawn or depicted in such a way as to



be normally not legible in windless conditions; and

- (b) that is attached (by rope, wire or otherwise) to a pole or flagstaff projecting vertically, horizontally or at an angle,

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and includes a flag, bunting, ribbon or streamer of any colour or colours but not a flag, bunting or streamer carried during a procession;

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“foreign entity” means an entity that —

- (a) is constituted or organised under a law of a foreign country, even if registered under any written law; or

- (b) has its principal place of business in a foreign country, even if incorporated under any written law;

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“foreigner” means an individual who is not a citizen of Singapore;

“grounds” means land in Singapore that has a boundary fence or another structure or feature to mark the boundary of the land;

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“non-online election advertising” means election advertising that is not online election advertising;

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“nursing home” means any premises that are —

- (a) licensed as a private hospital under the Private Hospitals and Medical Clinics Act 1980; and

(b) used or intended to be used for the reception of, and the provision of nursing for, persons suffering or convalescing from any sickness, injury or infirmity;

“official sign” means a poster, banner or other notice for an election prepared by, or with the authority of, the Returning Officer as required by or for the purposes of this Act;

“online election advertising” means election advertising that is published in any way that renders the election advertising accessible from the Internet;

“online location” means any website, webpage, chatroom or forum, or any other similar thing in electronic or digital form that is accessible from the Internet;

“ordinary polling station” means a polling station established in Singapore under section 18(1);”;

(j) by deleting the definition of “polling station” in subsection (1) and substituting the following definitions:

““polling station” means —

- (a) an ordinary polling station;
- (b) a special polling station; or
- (c) an overseas polling station;

“postal voting papers” means —

- (a) a ballot paper designed and intended to be used exclusively for the postal voting method (called in this Act a postal ballot paper); and
- (b) an envelope designed and intended to be used exclusively to contain a

postal ballot paper (called in this Act a return envelope);

“postal voting period”, for an election, means the period —

- (a) starting the day immediately after the day of nomination at the election; and 5
- (b) ending (and including) the eve of polling day in Singapore at the election;

“poster” means any of the following: 10

- (a) any paper, plastic, corflute or other inflexible material on which content is printed, written, drawn or depicted in such a way as to be fully legible;
- (b) any text, any colours or visual images (animated or otherwise) or any pictorial or graphic form, which is projected on to any external surface of a building or structure by light or any other means; 15 20
- (c) any billboard,

but not a placard carried during a procession;”;

(k) by inserting, immediately after the words “section 43(2A)” in the definition of “principal election agent” in subsection (1), the words “or treated to have been appointed under section 43(2B) or (2C)”;

(l) by inserting, immediately after the definition of “principal election agent” in subsection (1), the following definitions:

““public place” means —

- (a) any place in Singapore (open to the air or otherwise) to which members of the public have access as of right or by virtue of express or implied 30

permission, whether or not on payment of a fee, and whether or not access to the place may be restricted at particular times or for particular purposes; or

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(b) a part of a place in Singapore that the occupier of the place allows members of the public to enter, but only while the place is ordinarily open to members of the public;

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“publicly display”, for any content, means to display, exhibit, screen or project the content —

(a) in a public place in order that another person may see the content;

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(b) in or on a conveyance (whether mobile or stationary) used for public passenger transport and which is in a public place in order that another person may see the content; or

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(c) in any place in a way so that anyone in a public place can see the content from inside or outside the firstmentioned place;

25

“publish” means making available to the general public, or any section of the public, in whatever form and by whatever means, including broadcasting (by wireless telegraphy or otherwise) and transmitting on the Internet;”;

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(m) by inserting, immediately after the definition of “Returning Officer” in subsection (1), the following definition:

““special polling station” means a polling station established in Singapore under section 30A(1);”;

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(n) by inserting, immediately after the definition of “Sub-Committee” in subsection (1), the following definition:

““telecommunication service” has the meaning given by section 2 of the Telecommunications Act 1999;”;

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(o) by inserting, immediately after the definition of “tendered votes list” in subsection (1), the following definitions:

““third party”, in relation to an election, means a person who is neither a candidate at the election nor an election agent of a candidate at the election;

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“traditional election advertising” means non-online election advertising in the form of a banner, flag or poster;”;

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(p) by inserting, immediately after subsection (2), the following subsections:

“(3) Where any content is published by electronic means, the content is to be taken to be published in Singapore if —

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(a) any person physically present in Singapore accesses or is capable of having access to the content, even if the content originates wholly outside Singapore or is published by a person outside Singapore or the origin of which cannot be determined; or

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(b) the content originates in Singapore, even if none of the persons capable of having access to the content is physically present in Singapore.

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(4) In determining for the purposes of this Act whether a person is physically present in Singapore, it is to be assumed that the person will not falsify or conceal the person’s identity or location.

(5) Without limiting the definition of “content” in subsection (1) —

5 (a) any content consisting of or including a hyperlink is taken to include the content accessed directly via the hyperlink; and

10 (b) any content consisting of or including an image or item on which data is stored electronically is taken to include content accessed directly by means of the image or item.

(6) Without limiting the definition of “publish” in subsection (1) —

15 (a) any non-online election advertising, and any other election advertising that is not published by electronic means, is taken to be published in Singapore if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place;

20 (b) any content is taken to be published by electronic means by an end-user of an electronic service if the end-user causes the content to be accessible to, or forwards the content to, or shares the content with, any other end-user or end-users of the electronic service, on or by the electronic service; and

25 (c) any content that was published before and by electronic means so as to be accessible from the Internet, is taken to be published again on each day that any subsequent step is taken on that day to amplify the access to the content from the Internet by persons physically present in Singapore.

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(7) In this Act, any election advertising relates to an election if the election advertising contains an express or implicit reference to —

(a) the election;

(b) an individual who is a candidate at the election in his or her capacity as a candidate; or 5

(c) an issue submitted or otherwise before electors in the election.

(8) For the purposes of this Act, any postal voting paper or any ballot box used at an overseas polling station that is required by this Act to be received by the Returning Officer by a specified time is regarded as received only when it is actually received by the Returning Officer, or an authorised representative of the Returning Officer, in Singapore.”. 10 15

### **Amendment of section 8**

3. Section 8 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

“(3) If an application for a certificate of eligibility is made by a person who is below 45 years of age as at nomination day or, if there is more than one nomination day, the latest of those days — 20

(a) the Presidential Elections Committee is not required to consider the application; and

(b) the application is deemed to be withdrawn.”. 25

### **Amendment of section 8A**

4. Section 8A of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

5 “(3) To avoid doubt, subsection (2)(b) includes a case in a reserved election where the applicant does not state in his or her community declaration that he or she considers himself or herself to be a member of the community to which the election is reserved.”.

### **Amendment of section 8G**

5. Section 8G(2) of the principal Act is amended by deleting the words “and notify the declarant in writing of the acceptance”.

### **Amendment of section 8H**

10 6. Section 8H(2) of the principal Act is amended by deleting the words “and notify the declarant in writing of the acceptance”.

### **Amendment of section 9**

15 7. Section 9(3) of the principal Act is amended by deleting the word “name” in paragraph (a) and substituting the words “full name (as stated in the identity card of the person)”.

### **Amendment of section 10**

8. Section 10 of the principal Act is amended by deleting subsection (3) and substituting the following subsection:

20 “(3) The deposit of the sum required under subsection (1) must be made through an electronic fund transfer system designated by the Returning Officer for that purpose, or by a bank draft or a certified cheque, or in any other form or manner as the Returning Officer allows.”.

### **Amendment of section 11**

25 9. Section 11 of the principal Act is amended by deleting subsection (4).



### **Amendment of section 12**

**10.** Section 12(2) of the principal Act is amended by deleting the words “to the Returning Officer” and substituting the words “in person to the Returning Officer, in the manner specified in subsection (3), at the place of nomination”.

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### **Amendment of section 14**

**11.—(1)** Section 14 of the principal Act is amended —

(a) by deleting the word “The” and substituting the words “Subject to subsection (2), the”;

(b) by deleting the words “sections 11 and 13” and substituting the words “sections 11, 11A, 12 and 13”; and

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(c) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) A person seeking to be a candidate for election to the office of President may be refused entry to the place of nomination unless —

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(a) the person is issued a political donation certificate under section 18(4) of the Political Donations Act 2000; and

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(b) the person is accompanied by 6 other persons as his or her proposer, seconder and assentors.

(3) Subsection (2) only applies to the initial entry of a person seeking to be a candidate for an election to the place of nomination for that election.”.

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(2) Section 14(2) of the principal Act, as inserted by subsection (1)(c), is amended by deleting the words “under section 18(4) of the Political Donations Act 2000” in paragraph (a).

### **Amendment of section 16**

12. Section 16(5) of the principal Act is amended by inserting, immediately after the words “overseas polling station” in paragraph (ab), the words “and special polling station”.

### 5 **Amendment of section 18**

13. Section 18 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

10 “(a) establish for the electoral division as many ordinary polling stations as are necessary for the poll —

(i) within each polling district of the electoral division; and

15 (ii) in a polling district of another electoral division which has a common boundary with the firstmentioned electoral division, but only if the Returning Officer is satisfied that doing so is conducive to the voting convenience of a large number of electors of the electoral division who reside near that common boundary;”;

20 (b) by inserting, immediately after the words “within each” in subsection (1)(b), the word “ordinary”;

25 (c) by deleting the words “(including overseas electors) to the polling stations in the electoral division” in subsection (1)(c) and substituting the words “registered for the electoral division (including overseas electors) to the ordinary polling stations”;

30 (d) by inserting, immediately after subsection (1), the following subsection:

“(1A) A single ordinary polling station in a polling district of an electoral division may be established for the conduct of a poll in another electoral division only if the polling district has a common boundary with a polling district of the other electoral division.”; and

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(e) by inserting, immediately after subsection (4), the following subsection:

“(5) Where an ordinary polling station or a special polling station is located in any grounds, the Returning Officer —

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(a) may designate —

(i) an entrance to those grounds as a designated entrance to the polling station; and

(ii) the routes that electors have to use to access the polling places within the polling station and the polling booths or other facilities for voting in accordance with this Act, including paths, hallways and doorways; and

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(b) if a designation under paragraph (a)(i) is made, must indicate or cause to be indicated by a presiding officer the designated entrance to those grounds by displaying an official sign at that entrance.”.

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## **Amendment of section 22**

**14.** Section 22 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

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“(1) Subject to subsection (2) but without affecting section 52 (on plural voting), a person must not be admitted —

(a) to an ordinary polling station to vote in person at an election unless the person is allotted under section 18(1)(c) to that ordinary polling station;

5 (b) to an overseas polling station to vote in person at an election unless the person —

(i) is registered as an overseas elector;

10 (ii) is not designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for that election; and

(iii) is allotted under section 13A(3A) of the Parliamentary Elections Act 1954 to that overseas polling station; or

15 (c) to a special polling station to vote in person at an election unless the person is allotted under section 30B(1) to that special polling station.”;

20 (b) by deleting subsection (2) and substituting the following subsection:

25 “(2) Where an elector for any electoral division is employed as a presiding officer, police officer, or in any other official capacity at an ordinary polling station or a special polling station, and it is inconvenient for him or her to vote at the ordinary polling station which has been allotted to him or her, the Returning Officer may, by a certificate authorise the elector to vote at any other polling station and that other polling station is deemed, for the purposes of this section, to be the polling station allotted to that elector.”;

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(c) by deleting subsection (3A);

(d) by deleting the words “, section 33C(3)(b), 36C or 36DA” in subsection (4) and substituting the words “or section 33C(3)(b)”;

(e) by deleting the words “the polling agent or agents of each candidate” in subsection (5)(c) and substituting the words “the polling agents admitted to the polling station under this section”; and

(f) by deleting subsection (6) and substituting the following subsection:

“(6) The number of polling agents of each candidate that may be admitted to a polling station must not exceed the number calculated in the prescribed manner.”.

### **Repeal of section 22A**

15. Section 22A of the principal Act is repealed.

### **Amendment of section 25**

16. Section 25 of the principal Act is amended —

(a) by deleting the words “, name and description” in subsection (3)(b) and substituting the words “and name”; and

(b) by deleting the words “who is incapacitated by blindness or other physical cause from voting” in subsection (7) and substituting the words “who, by reason of blindness or other physical disability, is unable to vote”.

### **Amendment of section 26**

17. Section 26 of the principal Act is amended by inserting, immediately after subsection (1), the following subsections:

“(1A) An elector who is allotted to a special polling station under section 30B(1) for the purposes of the poll and who —

(a) attends in person at a polling place in the special polling station to record his or her vote; or

(b) has his or her vote taken by a mobile polling team,  
deployed at the special polling station,

must be treated under this section as having recorded his or her  
vote at the election in the electoral division for which he or she is  
registered.

(1B) An overseas elector —

(a) who is designated under section 13A(3A) of the  
Parliamentary Elections Act 1954 as a postal voter for  
the purposes of the poll in an election; and

(b) who applies for postal voting papers to be issued to  
him or her during the postal voting period for that  
election,

must be treated under this section as having recorded his or her  
vote at the election in the electoral division for which he or she is  
registered.”.

### **New sections 30A, 30B and 30C**

**18.** The principal Act is amended by inserting, immediately after  
section 30, the following sections:

#### **“Special polling arrangements to meet voting needs of certain voters**

**30A.—**(1) The Returning Officer may, for the purposes of the  
poll in an election —

(a) establish all or part of a nursing home as a special  
polling station; or

(b) authorise all or any of the following special polling  
arrangements to be provided to service the voting  
needs of electors who are in-patients or residents of  
the nursing home during the election period of the  
election by enabling them to record their votes there  
in that poll:

(i) by establishing one or more polling places  
within the nursing home for those in-patients or

residents to attend in person to record their votes;

- (ii) by deploying one or more mobile polling teams to visit those in-patients or residents to take the votes of those in-patients or residents, as the case may be.

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(2) In determining whether to establish a special polling station under subsection (1) in a nursing home for the purposes of the poll in an election, the Returning Officer must have regard to whether there is or is likely to be, during the election period of the election, a significant number of electors who are in-patients or residents of the nursing home and who —

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- (a) are unable or likely to be unable to travel to the ordinary polling stations allotted to them respectively under section 18(1) except with great difficulty; but
- (b) are able to vote at the nursing home by marking a ballot paper personally or in the manner allowed under section 25(7).

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(3) In addition, the Returning Officer must have regard to the following factors in determining whether to authorise special polling arrangements by way of mobile polling to be made available under subsection (1)(b)(ii):

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- (a) the number of electors who are in-patients or residents of the nursing home with any physical condition, serious illness or infirmity that will preclude the electors' attendance in person at a polling place in the special polling station;
- (b) the practicality of establishing and deploying mobile polling teams to take the votes of those electors, having regard to their numbers and the resources required for doing so;
- (c) the existence of any peculiar circumstances within the nursing home applying to those electors and their voting needs.

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(4) Subject to subsection (5) and regulations made under section 30C, a poll and voting at a special polling station by electors who are in-patients or residents of a nursing home where the special polling station is established must be conducted, as far as practicable, in the same manner as that in which a poll and voting at an ordinary polling station on polling day is conducted.

(5) Despite sections 62, 63 and 64, the person in charge of a nursing home where a special polling station is established under subsection (1) may lawfully inform a presiding officer who is a member of a mobile polling team deployed at that special polling station that a visit to an in-patient or a resident of the nursing home is forbidden on medical grounds, and the mobile polling team must then not visit the in-patient or resident to take the in-patient's or resident's vote.

### **Voting at special polling station is in lieu of voting at ordinary voting station**

**30B.**—(1) Where a special polling station is determined to be established under section 30A(1) in a nursing home for the purposes of the poll in an election, the Returning Officer must, without delay, allot the special polling station to every person —

- (a) whose name is entered in the certified register of electors in operation;
- (b) who is entitled to have his or her name so entered or retained in that register of electors; and
- (c) who is an in-patient or a resident of the nursing home during the election period of that election.

(2) An elector who is allotted to a special polling station under subsection (1) may —

- (a) attend in person at a polling place in the special polling station to record his or her vote at an election, or have his or her vote taken by a mobile polling team; or



- (b) attend in person at the ordinary polling station allotted to him or her under section 18(1)(c) to record his or her vote at an election,

but not at both in respect of the same election.

### **Regulations relating to special polling arrangements**

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**30C.**—(1) Subject to subsection (2) and section 81B, the Minister may make regulations to modify the application of any provision of this Act to the conduct of polls in any special polling station established in a nursing home, including but not limited to —

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- (a) the preparation by or under the authority of the Returning Officer of the list of electors allotted to the special polling station;
- (b) the manner of voting at the special polling station and the taking of votes by mobile polling teams;
- (c) fixing the maximum number of polling agents who may be admitted to a special polling station;
- (d) the admission of any person who is employed by the nursing home (whether or not a citizen of Singapore) into any polling place in the special polling station or authorising the presence of such an employee in the special polling station, for the purpose of providing any assistance to the presiding officers, mobile polling team or any elector at the special polling station;
- (e) the procedure on the closing of the poll at the special polling station; and
- (f) the procedure on the counting of the votes cast at the special polling station, including the recounting of such votes.

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(2) Regulations made under subsection (1) —

- (a) must not authorise any person to vote more than once at an election;

- (b) must provide for a record of every vote cast at a special polling station, including votes taken by a mobile polling team, but the vote record must not contain any means of identifying the person who cast the vote; and
- (c) must be consistent with the principles laid down in any provision of this Act that is modified by those regulations.”.

### **Amendment of section 31A**

**19.** Section 31A of the principal Act is amended —

- (a) by deleting the words “time and” in subsection (1)(a);
- (b) by deleting the words “such other time and place (called in this Act the principal counting place)” in subsection (1)(b) and substituting the words “a principal counting place (which may or may not be a counting place)”;
- (c) by deleting subsections (1A), (3) and (4); and
- (d) by deleting the words “subsections (1) and (1A)” in subsection (2) and substituting the words “subsection (1)”.

### **Amendment of section 32**

**20.** Section 32 of the principal Act is amended by deleting subsection (5) and substituting the following subsections:

“(5) The votes may be counted manually or by mechanical or electronic means.

(5A) The Returning Officer must, while counting the votes, take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.”.

### **Repeal of section 32A**

**21.** Section 32A of the principal Act is repealed.

### **Amendment of section 32B**

**22.** Section 32B of the principal Act is amended by deleting subsection (4).

### **Amendment of section 34**

**23.** Section 34(1) of the principal Act is amended by deleting the words “section 32A(5)” and substituting the words “section 36E(1)(b)”. 5

### **Amendment of section 36**

**24.** Section 36 of the principal Act is amended —

(a) by inserting, immediately after the words “at a polling station” in subsection (1), the words “under section 22(5) or every other person so authorised under regulations made under section 30C(1)(d)”; and 10

(b) by inserting, immediately after the words “and agent” in subsection (3), the words “authorised under section 22(5) and every person authorised under regulations made under section 30C(1)(d)”. 15

### **Repeal and re-enactment of Division 7 of Part 2**

**25.** Part 2 of the principal Act is amended by deleting Division 7 and substituting the following Division: 20

#### *“Division 7 — Overseas Voting*

#### **Voting at overseas polling station**

**36A.—**(1) The hours of any poll at an overseas polling station for any contested election must be not less than 4 hours and may start in advance of the poll on polling day in Singapore, except that every such poll at an overseas polling station must close not later than the close of the poll on polling day in Singapore. 25

(2) Subject to any regulations made under section 36F, a poll (including an advance poll) and voting at an overseas polling station must be conducted, as far as practicable, in the same manner as that in which a poll and voting at an ordinary polling station on polling day in Singapore is conducted. 30

### **Postal voting by overseas electors designated as postal voters**

5       **36B.**—(1) An overseas elector for an electoral division who is designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for an election may record his or her vote at the poll in the election either —

      (a) by using the postal voting method in accordance with the manner prescribed under this section; or

10       (b) by attending in person at a polling place in the ordinary polling station allotted to him or her under section 18(1)(c),

but not at both in respect of the same election.

15       (2) However, an overseas elector who intends to record his or her vote in person under subsection (1)(b) at the ordinary polling station allotted to him or her must first make and subscribe to the declaration set out in the prescribed form before he or she is given a ballot paper at that ordinary polling station.

20       (3) To record his or her vote by the postal voting method at the poll in an election, an overseas elector for an electoral division who is designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for the election must do all the following in the following sequence, before the end of the postal voting period of that election:

25       (a) apply to the Returning Officer, once the postal voting period of that election starts and in the manner prescribed by regulations made under section 36F, for postal voting papers to be issued to the overseas elector;

30       (b) mark the overseas elector's vote on the postal ballot paper comprised in the postal voting papers issued on application, fold the postal ballot paper and insert it in the return envelope comprised in the postal voting papers so issued, and seal the return envelope in accordance with the regulations made under section 36F;

35

(c) take the steps prescribed by regulations made under section 36F with respect to those postal voting papers in order to indicate the date of posting or sending;

(d) as soon as practicable after the return envelope is sealed, the overseas elector or a person to whom the overseas elector has entrusted the sealed return envelope for posting or delivery, must post or deliver the sealed return envelope to the Returning Officer in Singapore.

5

(4) Where an overseas elector records his or her vote at a poll in an election by attending in person at a polling place in the ordinary polling station allotted to him or her under section 18(1)(c), any other vote that is purportedly recorded by the same overseas elector at the same election is void.

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### **Pre-count examination of postal voting papers**

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**36C.**—(1) Before starting the counting of any votes cast by the postal voting method at an election, the Returning Officer must, at the place and time directed under section 36D(1) and in the presence of the candidates and their counting agents as attend, produce all return envelopes containing, or purporting to contain, postal ballot papers that have been received by the Returning Officer in Singapore before the expiry of 10 days after polling day in Singapore for the election.

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(2) The Returning Officer must then, if satisfied after due examination of those return envelopes, that —

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(a) a return envelope was received by the Returning Officer in Singapore before the expiry of 10 days after polling day in Singapore for the election;

(b) that return envelope was posted or sent for delivery before the end of the postal voting period for the election;

30

(c) that return envelope —

(i) remains sealed;

(ii) has not been opened or tampered with; and

(iii) is not materially damaged so as to preclude authenticating that it was posted or delivered, or entrusted for posting or delivery, to the Returning Officer by an overseas elector who is designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for the election; and

(d) that return envelope was posted or delivered, or entrusted for posting or delivery, to the Returning Officer by an overseas elector who is designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for the election,

accept that return envelope and its contents for counting, but if the Returning Officer is not so satisfied, the Returning Officer must disallow from counting the postal voting papers comprising the return envelope and the postal ballot paper inside (if any), without opening the return envelope.

(3) In addition to subsection (2), where more than one return envelope was received by the Returning Officer in Singapore, before the expiry of 10 days after polling day in Singapore for the election, from or purportedly from an overseas elector who is designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for the election, the Returning Officer —

(a) must regard the unopened return envelope not disallowed under subsection (2) and first handled by the Returning Officer during the examination of all return envelopes so received as containing the sole vote recorded by the overseas elector on a postal ballot paper, regardless —

(i) when the postal ballot paper was actually marked;

(ii) when the unopened return envelope was posted, sent for delivery or delivered in relation to the other return envelopes which are not so disallowed; and

(iii) if that unopened return envelope first handled is empty; and

(b) must disallow from counting all other unopened return envelopes from or purportedly from the same overseas elector and their contents, without opening these other return envelopes.

5

(4) Before disallowing from counting any postal voting papers under subsection (2) or (3), the Returning Officer must —

(a) first, show the return envelope without opening it, to each candidate or the candidate's counting agent as attend; and

10

(b) then, hear the views of the candidate or the candidate's counting agent thereon,

taking all proper precautions to prevent any person from opening the return envelope in question.

15

(5) The decision of the Returning Officer as to whether or not to disallow from counting any postal voting papers is final and is not to be questioned on an application under section 70.

(6) If the Returning Officer has accepted an unopened return envelope and its contents for counting, the Returning Officer must then —

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(a) open the unopened return envelope without destroying it;

(b) withdraw the postal ballot paper; and

(c) without inspecting the postal ballot paper or allowing another person to do so, set aside the postal ballot paper for counting.

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(7) Where an unopened return envelope accepted for counting is found, upon opening under due authority under subsection (6), to contain more than one postal ballot paper, the Returning Officer must reject all the postal ballot papers as invalid unless all the postal ballot papers clearly indicate that the overseas elector intends to vote for the same particular candidate, in which case the Returning Officer must —

30

(a) treat one of the postal ballot papers as representing the vote recorded by the overseas elector at the election; and

(b) reject all the other postal ballot papers as invalid.

5 (8) The Returning Officer, his or her assistants and clerks, and the candidates and their counting agents, but no other persons except with the sanction of the Returning Officer, may be present at the pre-count examination of postal voting papers.

### Counting of votes by overseas electors

10 **36D.**—(1) The votes cast at all overseas polling stations or by the postal voting method (collectively called in this section and section 36E overseas votes) must be counted at such place or places in Singapore and at such time as the Returning Officer directs.

15 (2) The Returning Officer must cause notice of every direction issued under subsection (1) to be published in the *Gazette* at least 2 clear days before polling day.

(3) Every sealed ballot box containing votes cast at an overseas polling station and every vote cast by the postal voting method at an election must, in order for those votes to be counted in the election, reach the custody of the Returning Officer in Singapore within 10 days after polling day in Singapore for the election.

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(4) Subject to subsection (3), the Returning Officer must arrange for the counting of the overseas votes in the presence of the candidates and their counting agents as attend as soon as practicable after the Returning Officer has received in Singapore —

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(a) all the sealed ballot boxes used at overseas polling stations during the poll; and

30

(b) all the votes cast by the postal voting method.

(5) Despite section 32(2), the number of counting agents that may be appointed under section 32(1) to attend —



- (a) the counting of overseas votes at the counting place as directed under subsection (1); or
- (b) the pre-count examination of postal voting papers under section 36C,

must not exceed one or any other higher number prescribed in substitution by regulations made under section 36F for either paragraph (a) or (b) or both. 5

(6) Subject to regulations made under section 36F, the counting of votes cast by overseas electors must be conducted, as far as practicable, in the same manner as that in which counting of votes cast at ordinary polling stations is conducted. 10

### **Ascertaining final results**

**36E.—**(1) Where the Returning Officer has made a declaration under section 32(8)(b) or (8D)(b) — 15

- (a) the number of overseas votes given to each candidate must be added to the number declared by the Returning Officer as the number of votes cast in Singapore for each candidate; and
- (b) the Returning Officer must immediately declare the candidate to whom the greatest total number of votes is given to be elected. 20

(2) After the Returning Officer has made any declaration under subsection (1)(b), the Returning Officer must ensure that the following procedures are complied with: 25

- (a) all ballot papers and all other documents relating to the election at every place where the overseas votes are counted must be sealed up in separate packets and placed in one or more ballot boxes;
- (b) the ballot box or boxes must then be sealed with the seal of the Returning Officer and the seals of such of the candidates or their counting agents as attend and desire to affix their seals; 30

- (c) the sealed ballot box or boxes must be despatched and delivered in safe custody to the Returning Officer;
- (d) subject to section 32(11), the sealed ballot box or boxes containing the ballot papers and other documents must be retained in safe custody for a period of 6 months;
- (e) the ballot papers and other documents must be destroyed at the end of the period of 6 months unless otherwise directed by order of the President.

(3) Where the Returning Officer has made a declaration under section 32(8)(b) or (8D)(b) in an election, and a recount of the votes is to be conducted, section 32B applies, with the necessary modifications, to the counting of votes cast by overseas electors at that election.

### **Regulations for voting in overseas polling stations and postal voting**

**36F.**—(1) Subject to section 81B, the Minister may make regulations modifying the application of any provision of this Act to —

- (a) the conduct of polls in overseas polling stations, including in particular —
  - (i) the appointment of presiding officers for overseas polling stations;
  - (ii) the procedure on closing of the poll; and
  - (iii) the procedure for the safe despatch of the sealed ballot boxes containing the votes cast to the Returning Officer in Singapore; and
- (b) the counting (including recounting) of the votes cast at overseas polling stations and by the postal voting method, respectively.

(2) Unless the contrary intention appears, the regulations made under subsection (1) on the conduct of polls in overseas polling

stations extend to acts done or omitted to be done outside Singapore by —

- (a) any Assistant Returning Officer or presiding officer;
- (b) any polling agent or election agent; or
- (c) any citizen of Singapore (whether or not a voter or an elector),

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in relation to a poll conducted or to be conducted at an overseas polling station.

(3) Subject to section 81B, the Minister may make regulations relating to the postal voting method for a contested election, including regulations for or in respect of the following matters:

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- (a) the period for an overseas elector to make an application for postal voting papers and the form and manner of such application;
- (b) the period and manner for an overseas elector to access, download and print his or her postal ballot paper and return envelope from the prescribed website;
- (c) the appointment of any authorised representative of the Returning Officer for the purposes of receiving return envelopes containing postal ballot papers;
- (d) the procedure for the postal voting method, including any measures that are necessary to ensure the authenticity of any vote;
- (e) the measures to ensure the safe custody of any return envelope received by the Returning Officer in Singapore;
- (f) the form of any application for postal voting papers, a postal ballot paper or return envelope.

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(4) Regulations made under subsection (1) or (3) —

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- (a) must not authorise any person to vote more than once at any election;

(b) must provide for a record of every vote cast at a polling station but the vote record must not contain any means of identifying the person who cast the vote; and

5 (c) must be consistent with the principles laid down in any provision of this Act that is modified by those regulations.

### **Other offences connected with postal voting**

10 **36G.**—(1) Any person to whom an envelope containing or purporting to contain a postal ballot paper is given by an overseas elector for the purpose of posting or delivery to the Returning Officer, or an authorised representative of the Returning Officer for the purposes of receiving return envelopes containing postal ballot papers, and who has agreed  
15 to post or deliver the envelope, commits an offence if the person, without reasonable excuse, fails to post or deliver the envelope promptly.

(2) Any person guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$1,500.

20 (3) This section extends to a citizen of Singapore (whether or not a voter or an elector) who engages in any conduct wholly or partly outside Singapore that constitutes an offence described in subsection (1) as if the offence had been committed in Singapore.”.

### **25 Amendment of section 37**

**26.** Section 37 of the principal Act is amended —

(a) by deleting the words “or the official mark on any ballot paper” in subsection (1)(b) and substituting the words  
30 “or return envelope or the official mark on any ballot paper or return envelope for its authentication”;

(b) by inserting, immediately after the words “ballot paper” wherever they appear in subsection (1)(c), (d) and (e), the words “or return envelope”;

(c) by inserting, immediately after paragraph (f) of subsection (1), the following paragraph:

“(fa) puts into any return envelope anything other than the postal ballot paper which he or she is authorised by law to put in;”

5

(d) by inserting, immediately after the words “ballot paper” wherever they appear in subsection (1)(g), the words “(other than a postal ballot paper)”;

(e) by inserting, immediately after paragraph (g) of subsection (1), the following paragraphs:

10

“(ga) without due authority intentionally opens, unseals or tampers with a sealed return envelope;

(gb) without due authority intentionally damages a sealed return envelope;”

15

(f) by inserting, immediately after the words “, ballot paper,” wherever they appear in subsection (4), the words “return envelope,”; and

(g) by inserting, immediately after subsection (5), the following subsection:

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“(6) This section extends to a citizen of Singapore who engages in any conduct wholly or partly outside Singapore that constitutes an offence described in subsection (1) as if the offence had been committed in Singapore.”

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## **Amendment of section 42**

**27.** Section 42 of the principal Act is amended —

(a) by deleting paragraph (c) of subsection (1);

(b) by deleting the words “makes or publishes” in subsection (1)(d) and (e) and substituting in each case the words “knowingly makes or publishes in Singapore”;

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- (c) by inserting, immediately after the words “any candidate,” in subsection (1)(d) and (e), the words “content that is or contains”;
- 5 (d) by inserting, immediately after the words “section 56” in subsection (1)(f), the words “or 56A”;
- (e) by deleting paragraph (i) of subsection (1);
- (f) by deleting the words “subsection (1)(c), (d) or (e)” in subsection (3) and substituting the words “subsection (1)(d) or (e)”; and
- 10 (g) by deleting subsections (4) and (5).

### **New Division 2A of Part 3**

**28.** Part 3 of the principal Act is amended by inserting, immediately after section 42, the following Division:

*“Division 2A — Election Advertising*  
*Subdivision (1) — Transparency and*  
*accountability requirements*

### **Objects of this Division**

**42A.** The objects of this Division are to promote free and informed voting at elections by enhancing the following:

- 20 (a) the transparency of the electoral system, by allowing voters to know who is communicating election advertising;
- (b) the accountability of those persons participating in public debate relating to any election, by making those persons responsible for their communications;
- 25 (c) the traceability of communications of election advertising, by ensuring that obligations imposed by this Division in relation to those communications can be enforced.

## Published-by requirements

**42B.**—(1) A person commits a corrupt practice 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; 5
- (b) the content is or includes election advertising that relates to the election; and
- (c) the election advertising does not include the information mentioned in subsection (3) — 10
  - (i) on or in it; or
  - (ii) if it is not reasonably practicable in the case of online election advertising to comply with sub-paragraph (i), in text or other form in an online location that is directly accessible from the online election advertising, 15

and in the manner (including language) prescribed by the election advertising regulations.

(2) A person commits a corrupt practice if —

- (a) the person publicly displays, or causes to be publicly displayed, any content, or any thing containing content, at any time during the election period of an election; 20
- (b) the content is or includes election advertising that relates to the election; and 25
- (c) the election advertising does not include the information mentioned in subsection (4) on or in it and in the manner (including language) prescribed by the election advertising regulations.

(3) The information required by subsection (1)(c) is as follows: 30

- (a) the identity particulars of every person who authorised the publishing of the election advertising;

(b) the identity particulars of every person who approved the content in the election advertising, if the content is approved by a person not in paragraph (a), before the election advertising was published;

5 (c) the identity particulars of every person for whom or at whose direction the election advertising was published if the person is not in paragraph (a) or (b);

10 (d) in the case where all or part of the production of the content that is or includes the election advertising, or the publication of the election advertising, is paid for in money or money's worth by the person or by another person —

15 (i) the fact that the production of the content that is or includes the election advertising, or the publication of the election advertising (as the case may be) is paid for; and

20 (ii) the identity particulars of every person who paid for the production of the content that is or includes the election advertising, or the publication of the election advertising, as the case may be;

(e) the identity particulars of every printer of the election advertising, if the election advertising is printed.

25 (4) The information required by subsection (2)(c) is as follows:

(a) the identity particulars of every person who authorised the public display of the election advertising;

30 (b) the identity particulars of every person who approved the content in the election advertising, if the content is approved by a person not in paragraph (a), before the election advertising was publicly displayed;



- (c) the identity particulars of every person for whom or at whose direction the election advertising was publicly displayed if the person is not in paragraph (a) or (b);
- (d) in the case where all or part of the production of the content that is or includes the election advertising, or the public display of the election advertising, is paid for in money or money's worth by the person or by another person —
  - (i) the fact that the production of the content that is or includes the election advertising, or the public display of the election advertising (as the case may be) is paid for; and
  - (ii) the identity particulars of every person who paid for the production of the content that is or includes the election advertising, or the public display of the election advertising, as the case may be;
- (e) the identity particulars of every printer of the election advertising, if the election advertising is printed.

(5) In proceedings for an offence under subsection (1) or (2), it is not necessary for the prosecution to prove that an accused knew or had reason to believe that the content published or publicly displayed is election advertising as described in subsection (1)(b) or (2)(b), as the case may be.

(6) Any person who is guilty of a corrupt practice under subsection (1) or (2) —

- (a) 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; and
- (b) shall become incapable for a period of 7 years from the date of his or her conviction of being registered as an elector or of voting at any election under this Act or of being elected as the President or a Member of Parliament, and if at that date he or she has been

elected as a Member of Parliament, his or her election shall be vacated from the date of the conviction.

5 (7) Where any election advertising that is printed is published or publicly displayed in the commission of a corrupt practice under subsection (1) or (2), the printer of the election advertising shall also be guilty of a corrupt practice and shall be liable on conviction to the same punishment and incapacity under this section as the person who caused to be published or publicly displayed the election advertising.

10 (8) A prosecution for a corrupt practice under this section must not be instituted without the consent of the Public Prosecutor.

(9) Subsection (1) does not apply to or in relation to publishing, or causing to be published, in Singapore any of the following:

15 (a) any election advertising consisting only of permissible electoral matter and forming part of any of the following:

(i) any clothing that is intended to be worn on the body;

20 (ii) any article in the nature of a dress or clothing accessory, such as a lapel pin, tie, scarf, cap or hat;

25 (iii) any button, badge, mug, pen or pencil or any other small and portable promotional item prescribed in the election advertising regulations;

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

30 (c) any publication of any content, in a way that renders the content accessible from the Internet, and by any individual who —

(i) is a citizen of Singapore and is not a candidate or an election agent;

- (ii) does so at no other person's direction and on no other person's behalf; and
- (iii) does not receive or agree to receive, and who does not contract for, any money or money's worth, for or in connection with his or her publishing that content on the Internet; 5
- (d) any communication of content by means of an electronic service where the user-generated content enabled by that service is accessible substantially or only to a closed group of end-users employed or engaged in a business (whether or not carried on for profit) and solely for their use as a tool in the conduct of that business; 10
- (e) any publication of any news relating to an election by an authorised news agency; 15
- (f) any distribution, sale or otherwise making available of any literary work or artistic work in the course of the sale, or promotion of the sale, of the literary work or artistic work for not less than its commercial value, if the literary work or artistic work (as the case may be) was planned to be published regardless if there was any election; 20
- (g) any publishing or causing to be published, in Singapore, of election advertising in other circumstances prescribed by the election advertising regulations. 25

(10) Subsection (2) does not apply to or in relation to publicly displaying, or causing to be publicly displayed, in Singapore any of the following:

- (a) any election advertising consisting only of permissible electoral matter and forming part of any of the following: 30
  - (i) any clothing that is intended to be worn on the body;

- (ii) any article in the nature of a dress or clothing accessory, such as a lapel pin, tie, scarf, cap or hat;
  - (iii) any button, badge, mug, pen or pencil or any other small and portable promotional item prescribed in the election advertising regulations;
- 5
- (b) any public display, handing out, distribution, sale or otherwise making available of any literary work or artistic work in the course of the sale, or promotion of the sale, of the literary work or artistic work for not less than its commercial value, if the literary work or artistic work (as the case may be) was planned to be published regardless if there was any election;
- 10
- (c) any public display of election advertising in other circumstances prescribed by the election advertising regulations.
- 15

### **Election advertising ban during cooling-off period**

**42C.—**(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 cooling-off period of an election;
  - (b) the content is or includes election advertising that relates to the election; and
  - (c) the person knows or ought reasonably to have known that the content is or includes election advertising that relates to the election.
- 20
- 25

(2) A person commits an offence if —

- (a) the person publicly displays, or causes to be publicly displayed, any content, or any thing containing content at any time during the cooling-off period of an election;
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- (b) the content is or includes election advertising that relates to the election; and
- (c) the person knows or ought reasonably to have known that the content is or includes election advertising that relates to the election.

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(3) Any person who is guilty of an offence under subsection (1) or (2) 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.

(4) In this section, “cooling-off period”, in relation to an election, means the period —

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- (a) starting the eve of polling day; and
- (b) ending with the close of polling on polling day.

### **Exceptions to cooling-off period election advertising ban**

**42D.**—(1) Section 42C does not apply to or in relation to any of the following:

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(a) any election advertising consisting only of permissible electoral matter and forming part of any of the following:

(i) any clothing that is intended to be worn on the body;

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(ii) any article in the nature of a dress or clothing accessory, such as a lapel pin, tie, scarf, cap or hat;

(iii) any button, badge, mug, pen or pencil or any other small and portable promotional item prescribed by the elections advertising regulations;

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(b) any public display, handing out, distribution, sale or otherwise making available of any literary work or artistic work in the course of the sale, or promotion of the sale, of the literary work or artistic work for not less than its commercial value, if the literary work or

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artistic work (as the case may be) was planned to be published regardless if there was any election.

(2) In addition, section 42C(1) does not apply to or in relation to any of the following:

- 5           (a) any communication of content between 2 or more individuals that is of a private or domestic nature by electronic means;
- (b) any communication of content by means of an electronic service where the user-generated content enabled by that service is accessible substantially or only to a closed group of end-users employed or engaged in a business (whether or not carried on for profit) and solely for their use as a tool in the conduct of that business;
- 10           (c) any publication of any news relating to an election by an authorised news agency;
- (d) any publication of election advertising in other circumstances prescribed by the election advertising regulations as excluded from section 42C(1).

20           (3) In addition, section 42C(2) does not apply to or in relation to any of the following:

- (a) any non-online election advertising that —
  - (i) was lawfully publicly displayed before the start of the cooling-off period of the election concerned; and
  - (ii) is not relocated, altered or modified since the start of the cooling-off period;
- (b) the public display of any non-online election advertising within or on an exterior wall or exterior window of the office or committee room of a candidate provided that the non-online election advertising —
  - (i) consists only of permissible electoral matter; and

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- (ii) is solely for the purpose of indicating that the office or room is the office or committee room of the candidate;
- (c) any public display of election advertising in other circumstances prescribed by the election advertising regulations as excluded from section 42C(2). 5

*Subdivision (2) — Campaign controls for candidates*

**Online election advertising, etc., in campaign period**

**42E.**—(1) This section applies only to election advertising that is — 10

- (a) online election advertising published in Singapore; or
- (b) non-online election advertising published in Singapore by electronic means.

(2) 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 campaign period of an election; 15

- (b) the person is a candidate at the election, or is doing so on behalf of a candidate at the election; 20

- (c) the content is or includes election advertising that relates to the election; and

- (d) the content is or includes —

- (i) election advertising which the candidate or the candidate's election agent did not declare to the Returning Officer in accordance with the requirements of subsection (3); or 25

- (ii) election advertising that —

- (A) has a functionality prescribed in the election advertising regulations as impermissible for that form of election advertising; or 30

(B) does not have a functionality prescribed in the election advertising regulations as requisite for that election advertising.

5 (3) For the purposes of subsection (2)(d)(i), any election advertising to which subsection (1) applies must be declared by a candidate or the candidate's election agent to the Returning Officer, in accordance with the procedure prescribed in the election advertising regulations, and accompanied by such details about it as may be prescribed (such as the online location or service used), at the following times:

10 (a) no later than 12 hours after the start of the campaign period concerned, if the election advertising is published in Singapore within 12 hours after the start of the campaign period;

15 (b) before the election advertising is published, if the election advertising is first published in Singapore after the start of that period unless otherwise allowed under paragraph (a).

20 (4) In proceedings for an offence under subsection (2), it is not necessary for the prosecution to prove that an accused knew or had reason to believe that the content published is election advertising as described in subsection (2)(c).

25 (5) Any person who is guilty of an offence under subsection (2) 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.

30 (6) Subsection (2) does not apply to or in relation to any publishing in Singapore, at any time during the campaign period of an election, of election advertising in any circumstances that are prescribed by the election advertising regulations as excluded from that subsection.

### **Traditional election advertising in campaign period**

**42F.**—(1) This section and sections 42G, 42H and 42I apply only —



- (a) to traditional election advertising; and
- (b) during the campaign period of an election.

(2) A person commits an offence if —

- (a) the person publicly displays, or causes to be publicly displayed, any traditional election advertising during the campaign period of an election; 5
- (b) the person is a candidate at the election, or is doing so on behalf of a candidate at the election; and
- (c) the traditional election advertising relates to the election. 10

(3) In proceedings for an offence under subsection (2), it is not necessary for the prosecution to prove that an accused knew or had reason to believe that the content publicly displayed is traditional election advertising as described in subsection (2)(c).

(4) Any person who is guilty of an offence under subsection (2) 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. 15

(5) However, subsection (2) does not apply to or in relation to any of the following: 20

- (a) the public display of any traditional election advertising under the authority of a permit granted by the Returning Officer;
- (b) the public display of any traditional election advertising within or on an exterior wall or exterior window of the office or committee room of a candidate provided that the traditional election advertising — 25
  - (i) consists only of permissible electoral matter; and 30
  - (ii) is solely for the purpose of indicating that the office or room is the office or committee room of the candidate;

- (c) the public display of any traditional election advertising within a hall or room that is being or is about to be used for an election meeting;
- (d) any public display of traditional election advertising in other circumstances prescribed by the election advertising regulations as excluded from subsection (2).

**Maximum permissible number for traditional election advertising displayed**

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

- (a) the person publicly displays, or causes to be publicly displayed, any traditional election advertising during the campaign period of an election;
- (b) the person is a candidate at the election, or is doing so on behalf of a candidate at the election;
- (c) the traditional election advertising relates to the election; and
- (d) the traditional election advertising is in excess of the maximum permissible number prescribed in the election advertising regulations for traditional election advertising in that same form.

(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) Strict liability applies to an offence under subsection (1).

(4) However, any traditional election advertising which is publicly displayed in any of the following circumstances is not countable for the purposes of subsection (1):

- (a) the public display of any traditional election advertising within or on an exterior wall or exterior window of the office or committee room of a

candidate provided that the traditional election advertising —

- (i) consists only of permissible electoral matter; and
- (ii) is solely for the purpose of indicating that the office or room is the office or committee room of the candidate; 5
- (b) the public display of any traditional election advertising within a hall or room that is being or is about to be used for an election meeting; 10
- (c) any public display of traditional election advertising in other circumstances prescribed by the election advertising regulations as excluded from subsection (2).

**Permissible locations for traditional election advertising display** 15

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

- (a) the person publicly displays, or causes to be publicly displayed, any traditional election advertising during the campaign period of an election; 20
- (b) the person is a candidate at the election, or is doing so on behalf of a candidate at the election;
- (c) the traditional election advertising relates to the election;
- (d) the traditional election advertising is publicly displayed in a place which is not a permissible location; and 25
- (e) the person knows or has reason to believe that the place is not a permissible location.

(2) For the purposes of subsection (1)(d) and (e), a permissible location is any premises, or any conveyance, thing or structure, prescribed in the election advertising regulations as a permissible location for the purpose of this section. 30

(3) In proceedings for an offence under subsection (1), it is not necessary for the prosecution to prove that an accused knew or had reason to believe that the content publicly displayed is traditional election advertising as described in subsection (1)(c).

5 (4) 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.

10 (5) To avoid doubt, this section does not entitle any person to display any traditional election advertising on any premises, conveyance, thing or structure —

- (a) without the consent of the owner of the premises, conveyance, thing or structure;
- (b) without a licence, permit or other like approval  
15 required by or under any other written law; or
- (c) in a manner or in circumstances as to cause a serious and imminent risk of damaging other property or injuring another individual or an animal if the traditional election advertising does fall.

20 **Restricted signage zone of polling station in Singapore**

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

- (a) the person publicly displays, or causes to be publicly displayed, any traditional election advertising during the campaign period of an election;
- 25 (b) the person is a candidate at the election, or is doing so on behalf of a candidate at the election;
- (c) the traditional election advertising relates to the election;
- 30 (d) the traditional election advertising is publicly displayed within the restricted signage zone of any ordinary polling station or special polling station established for the conduct of a poll in that election; and

- (e) the person knows or has reason to believe that where the traditional election advertising is publicly displayed is within a restricted signage zone of such a polling station.

(2) In this section, “restricted signage zone”, for an ordinary polling station or a special polling station, means all of the following, unless otherwise provided in subsection (3): 5

- (a) the building, or part of the building, in which the following are, or are to be, located:

- (i) any polling place of the polling station; 10
- (ii) any polling booth or other facility for electors allotted to that polling station are to vote in accordance with this Act;

- (b) the area within 50 metres of the external edges of a building or part of a building mentioned in paragraph (a); 15

- (c) if a building or part of a building mentioned in paragraph (a) is located in any grounds —

- (i) the area in those grounds;
- (ii) the area within 50 metres of any outer wall, fence or other structure or feature that marks the boundary of those grounds; and 20

- (iii) if the Returning Officer or a presiding officer of that polling station has designated entrances to the grounds under section 18(5) — the area within 50 metres of each designated entrance to those grounds. 25

(3) However, “restricted signage zone” does not include premises in the zone mentioned in subsection (2)(b) or (c) that are — 30

- (a) used as a residence;
- (b) outside Singapore;
- (c) used as an office by a candidate in an election; or

(d) other premises lawfully occupied by or under an arrangement with the Returning Officer.

(4) In proceedings for an offence under subsection (1), it is not necessary for the prosecution to prove that an accused knew or had reason to believe that the content publicly displayed is traditional election advertising as described in subsection (1)(c).

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

(6) Subsection (1) does not apply to or in relation to —

(a) any official sign; and

(b) any traditional election advertising prescribed by the election advertising regulations as excluded from subsection (1).

*Subdivision (3) — Controls on third party campaigning and foreigners*

**Unauthorised third party online election advertising**

**42J.**—(1) A person who is a third party at an election commits an offence if —

(a) the third party publishes, or causes to be published, in Singapore, at any time during the election period of an election, any content, or any thing containing content, by electronic means in any way that renders the content accessible from the Internet;

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

(c) all or part of —

(i) the production of the content that is or includes the online election advertising; or

(ii) the publication of the online election advertising,

is paid for in money or money's worth by the third party or by another person who may or may not be a third party; and

5

(d) the third party knows or ought reasonably to have known that —

(i) the content is or includes online election advertising as described in paragraph (b); and

(ii) the production of the content that is or includes the online election advertising, or the publication of the online election advertising, is paid for in money or money's worth by the third party or by another person who may or may not be a third party.

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(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 was granted a written authority signed by a candidate or a candidate's election agent in the prescribed form when publishing or causing to be published the content in question.

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

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

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

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### **Unauthorised third party non-online election advertising**

**42K.**—(1) A person who is a third party at an election commits an offence if —

- 5           (a) the third party at any time during the election period of an election —
- (i) publishes, or causes to be published, in Singapore any content by electronic means in any way other than rendering the content accessible from the Internet; or
- 10           (ii) publicly displays, or causes to be publicly displayed, any content;
- (b) the content is or includes non-online election advertising that relates to the election; and
- 15           (c) the third party knows or ought reasonably to have known that the content is or includes non-online election advertising that relates to the election.

(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.

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(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 was granted a written authority signed by a candidate or a candidate's election agent in the prescribed form.

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

- (a) any publication of any news relating to an election by an authorised news agency;
- 30           (b) any publishing of content by electronic means or public display of content in other circumstances prescribed by the election advertising regulations as excluded from subsection (1).



**Ban on foreigners, etc., publishing or displaying election advertising**

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

(a) the person, at any time during the election period of an election — 5

(i) publishes, or causes to be published, in Singapore; or

(ii) publicly displays, or causes to be publicly displayed,

any content, or any thing containing content; 10

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

(c) the person is a foreigner or a foreign entity; and

(d) the person knows or ought reasonably to have known that the content is or includes election advertising that relates to the election. 15

(2) Any person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both. 20

*Subdivision (4) — Supplementary provisions*

**Corrective directions for online election advertising**

**42M.**—(1) Where the Returning Officer reasonably believes that an offence under section 42C, 42E, 42J, 60B, 60C or 65(5) is being or has been committed, resulting in or involving publishing in Singapore by electronic means any online election advertising, the Returning Officer may, by written direction, require a relevant person — 25

(a) to do one or more of the following as the Returning Officer considers appropriate: 30

(i) to take all reasonable steps to ensure the removal, from the social media service,

relevant electronic service or internet access service (as the case may be) of the online election advertising identified in the direction;

5 (ii) to take all reasonable steps to disable access to the online election advertising on the social media service, relevant electronic service or internet access service (as the case may be) by end-users in Singapore who use or may use the service;

10 (iii) to take all reasonable steps so as to stop or reduce electronic communications activity involving, provision of or access to, or further electronic communications activity involving, further provision of or access to, that online  
15 election advertising by end-users in Singapore of the social media service, relevant electronic service or internet access service; and

(b) to do so within the period specified in the written direction, or any extension of that period that the  
20 Returning Officer may allow in any particular case.

(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 to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding  
25 12 months or to both.

(3) In this section, “relevant person” means —

(a) a candidate at an election;

(b) a third party in relation to an election who is connected with the commission of the offence but not a person mentioned in paragraph (c); or  
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(c) a provider of a social media service, a relevant electronic service or an internet access service.

## **Removal and confiscation of traditional election advertising**

**42N.—**(1) Where the Returning Officer reasonably believes that an offence under section 42C, 42F, 42G, 42H or 42I is being committed, the Returning Officer may direct a person — 5

(a) to either remove or cause to be removed, or to otherwise stop any public display of, any traditional election advertising that is publicly displayed in connection with that offence; and

(b) to do so within the period specified in the direction, or any extension of that period that the Returning Officer may allow in any particular case. 10

(2) Without affecting the right of the Returning Officer to exercise the powers under subsection (3), a person who, without reasonable excuse, fails to comply with any direction given to the person under subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both. 15

(3) If any direction given under subsection (1) is not complied with to the satisfaction of the Returning Officer, the Returning Officer may carry out or take steps or cause to be carried out any work or any steps to be taken, which are in the Returning Officer's opinion necessary to secure compliance with the direction, including all or any of the following: 20

(a) remove or causing to be removed any traditional election advertising that is publicly displayed in connection with an offence under section 42C, 42F, 42G, 42H or 42I and moving and detaining the traditional election advertising at a holding yard or other place; 25 30

(b) stop any public display of any traditional election advertising that is publicly displayed in connection with an offence under section 42C, 42F, 42G, 42H or 42I.

(4) Any removed traditional election advertising moved or removed to a holding yard under subsection (3) —

(a) must be dealt with in accordance with section 364(1) of the Criminal Procedure Code 2010 where the removed traditional election advertising is produced in any criminal trial;

(b) is deemed to be forfeited to the Government where the owner of the removed traditional election advertising consents to its disposal; or

(c) in any other case, must be returned to the owner of the removed traditional election advertising or reported to a Magistrate's Court.

### **Evidence**

**42O.** In any proceedings for an offence under Subdivision (1), (2) or (3) —

(a) an election advertising that includes a statement that its publication was authorised by a specified person;

(b) an election advertising that includes a statement that it was printed by a specified person; or

(c) material consisting of, or containing, a commentary on a candidate, or the issues being submitted to electors, that includes a statement that a specified person takes responsibility for the publication of the material,

is, in the absence of proof to the contrary, proof of that fact.

### **Defences**

**42P.—**(1) In any proceedings for an offence under Subdivision (1), (2) or (3), it is a defence to the charge if the accused proves, on a balance of probabilities, that —

(a) the accused —

(i) did not know and could not reasonably have known that the offence would be or is being committed; and

(ii) took all reasonable steps and exercised all due diligence to prevent or stop the commission of the offence or further commission of that offence when the accused became aware that it was committed; or 5

(b) the commission of the offence arose from circumstances beyond the accused's control. 10

(2) Every offence under Subdivision (1), (2) or (3) or any election advertising regulations is an arrestable offence within the meaning of the Criminal Procedure Code 2010.

### **Election advertising regulations**

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**42Q.**—(1) Subject to section 81B, the Minister may make regulations necessary or convenient to be prescribed for carrying out or giving effect to this Subdivision or Subdivision (1), (2) or (3).

(2) In particular, the Minister may make regulations for any of the following: 20

(a) regulating any public display, by or on behalf of a candidate, of any traditional election advertising;

(b) regulating the publishing in Singapore by electronic means, by or on behalf of a candidate, in connection with an election, any online election advertising and any non-online election advertising; 25

(c) providing that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$1,000 or with imprisonment for a term not exceeding 12 months or with both; 30

(d) providing for any saving, transitional and other consequential, incidental and supplemental provisions that are necessary or expedient.

(3) The election advertising regulations may prescribe —

5 (a) a maximum permissible number of traditional election advertising allowed to be publicly displayed by reference to the total number of electors; and

10 (b) different maximum permissible numbers for different types of traditional election advertising or for different forms of public display of traditional election advertising.

### **Supplementary interpretive provisions for election advertising controls**

15 **42R.**—(1) In this Subdivision and Subdivisions (1), (2) and (3) —

“a point” includes a mobile or potentially mobile point, whether on land, underground, in the atmosphere, underwater or anywhere else;

20 “authorised news agency” means the holder of —

(a) a permit granted under the Newspaper and Printing Presses Act 1974; or

25 (b) a broadcasting licence granted under section 8, or deemed granted under section 9, of the Broadcasting Act 1994;

“campaign period”, in relation to an election, means the period —

30 (a) starting immediately after nomination proceedings end on the day of nomination for that election and the election is adjourned under section 16(1)(a) to enable a poll to be taken in accordance with this Act; and

- (b) ending with the start of cooling-off period for that election, as defined in section 42C(4);

“election period”, in relation to an election, means the period —

- (a) starting when a writ of election is issued under section 6 for the purposes of the election; and 5
- (b) ending with the close of polling on polling day at that election;

“functionality”, in relation to an electronic service or an internet access service, includes — 10

- (a) any feature that enables interactions of any description between end-users of the service;
- (b) any feature that enables end-users to search online locations or databases, index search results or otherwise retrieve information or material from the search results; and 15
- (c) any feature enabling an end-user to do anything as follows:
  - (i) creating a user profile, including an anonymous or a pseudonymous profile; 20
  - (ii) searching within the service for user-generated content or other users of the service;
  - (iii) forwarding content to, or sharing content with, other users of the service; 25
  - (iv) sharing content on any internet-based services;
  - (v) sending direct messages to or speaking to other users of the service, or interacting with them in another way (such as by playing a game); 30

(vi) expressing a view on content;

*Examples*

(a) Applying a “like” or “dislike” button or other similar button.

5

(b) Applying an emoji or a symbol of any kind.

(c) Engaging in yes/no voting.

(d) Rating or scoring content in any way.

(vii) sharing current or historic location information with other users of the service, recording a user’s movements or identifying which other users of the service are nearby;

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(viii) following or subscribing to particular kinds of content or particular users of the service;

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(ix) creating lists, collections, archives or directories of content or users of the service;

(x) tagging or labelling content present on the service;

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(xi) uploading content relating to goods or services;

(xii) applying or changing settings on the service which affect the presentation of user-generated content on the service;

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(xiii) accessing other Internet services through content present on the service (such as through hyperlinks);

“identity particulars” means —

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(a) for an individual — his or her full name as shown in his or her passport or other identity document and any other identifying particulars prescribed (if prescribed); or



(b) for an entity —

(i) the full name of the entity; and

(ii) any other identifying particulars prescribed (if prescribed);

“internet access service” means a telecommunication service between a point in Singapore and another point in Singapore or between 2 points, one of which is in Singapore — 5

(a) that —

(i) enables end-users to access content on the Internet using that service; or 10

(ii) delivers content to persons having equipment appropriate for receiving that content on the Internet, where the delivery of the service is by a telecommunication service described in sub-paragraph (i); and 15

(b) that is covered by a licence under the Telecommunications Act 1999,

but excludes a social media service; 20

“MMS” means an electronic service that enables only the transmission of multimedia messages (such as visual or voice communication) from an end-user on a mobile telephone to another mobile telephone through a telecommunication service; 25

“money’s worth” means any service, any office or employment, or any goods or property (whether movable or immovable and whether tangible or intangible) and includes any of the following:

(a) any virtual voucher, virtual coupon, virtual credit, virtual coin or virtual token; 30

(b) any arrangement under which a party has —

(i) an encashable legal or equitable right to receive a financial benefit;

(ii) an encashable legal or equitable obligation to provide a financial benefit; or

(iii) a combination of one or more such rights and one or more such obligations;

(c) any right to receive money or something else that is money's worth under this definition;

“permissible electoral matter” means all or any of the following, and nothing else:

(a) the name or image (or both) of a candidate as a candidate;

(b) the symbol allotted to a candidate under section 16;

“point-to-multipoint service” means an electronic service which allows an end-user to communicate content to more than one end-user simultaneously;

“relevant electronic service” means —

(a) an electronic service that enables end-users to communicate, by means of email, with other end-users;

(b) an online instant messaging service that enables end-users to communicate with other end-users;

(c) a point-to-multipoint service;

(d) an electronic service that enables end-users to play online games with other end-users; or

(e) an electronic service that specialises in providing links or facilitating access to, or information about, online locations, such as

(but not limited to) a search engine, directory service or web browser;

“SMS” means an electronic service that only enables the transmission of short text messages from an end-user on a mobile telephone to another mobile telephone through a telecommunication service;

5

“social media service” means an electronic service that satisfies all the following characteristics:

(a) the sole or primary purpose of the service is to enable online interaction or linking between 2 or more end-users (including enabling end-users to share content for social purposes);

10

(b) the service allows end-users to communicate content on the service;

(c) such other characteristics as are prescribed;

15

“user-generated content”, in relation to an electronic service, means content —

(a) that is —

(i) generated directly on the service by an end-user of the service; or

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(ii) communicated by posting or sharing on the service by an end-user of the service; and

(b) that may be accessed by another end-user of that service, or other users, of the service by means of that service.

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(2) In this Subdivision and Subdivisions (1), (2) and (3), a person undertakes electronic communications activity in relation to any content if the person communicates or distributes the content on or by —

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(a) an SMS;

(b) an MMS;

(c) a service that renders the content accessible from the Internet, such as but not limited to on or by a social media service, a relevant electronic service or an internet access service; or

5 (d) a broadcasting service or other electronic service (such as real-time transmission) for reception on a computer monitor, television screen, mobile device or similar medium equipment appropriate for receiving that content.

10 (3) For the purposes of section 42B(9)(b) or 42D(2)(a), whether any communication of content by electronic means is or is not of a private or domestic nature must be determined by having regard to all or any one of the following factors:

15 (a) the number of individuals in Singapore who are able to access the content by means of the service;

(b) any restrictions on who may access the content by means of the service (such as a requirement for approval or permission from a user, or the provider, of the service);

20 (c) the relationship between the persons that the content is being or has been communicated;

(d) any other relevant factor.

25 (4) However, for the purposes of subsection (3), the following factors do not count as restrictions on access to content communicated by means of an electronic service:

(a) a requirement to log in to or register with the electronic service (or part of such a service);

30 (b) a requirement to make a payment or take out a subscription in order to access the electronic service (or part of such a service) or to access particular content communicated by means of that service;

(c) inability to access the electronic service (or part of such a service) or to access particular content communicated by means of that service except by

using particular technology or a particular kind of device (as long as that technology or device is generally available to the public).

(5) For the purposes of the definition of “money’s worth” in subsection (1), a right to receive, or an obligation to provide, a financial benefit is encashable if, and only if —

- (a) the benefit is money or money’s worth;
- (b) in the case of a right, the holder thereof intends to satisfy or settle it by receiving money or money’s worth;
- (c) in the case of an obligation, the party subject to it intends to satisfy or settle it by providing money or money’s worth; or
- (d) the financial benefit is readily convertible into money or money’s worth and there is a market for the financial benefit that has a high degree of liquidity.

(6) Any provision in this Subdivision or Subdivision (1), (2) or (3) or section 60B or 60C, or in the election advertising regulations, involving publishing content by electronic means extends to a person who engages in any conduct that constitutes an offence described in the respective provision —

- (a) wholly or partly in Singapore; or
- (b) wholly outside Singapore and as a result of that conduct, the offence occurs wholly or partly in Singapore.

(7) For the purpose of subsection (6), where a person sends content or a thing containing content, or causes content or a thing containing content to be sent, by electronic means —

- (a) from a point outside Singapore to a point in Singapore; or
- (b) from a point in Singapore to a point outside Singapore,

that conduct is taken to have occurred partly in Singapore.

(8) To avoid doubt, nothing in this Act limits the operation of section 26 of the Electronic Transactions Act 2010 in relation to network service providers.”.

### **Amendment of section 43**

5     **29.** Section 43 of the principal Act is amended —

(a) by deleting the word “named” in subsection (1) and substituting the word “appointed”;

(b) by deleting the word “name” in subsection (2) and substituting the word “appoint”;

10    (c) by inserting, immediately after subsection (2A), the following subsections:

“**(2B)** Where there is no appointment in force under subsection (1), (2) or (2A) of any election agent of a candidate for an election, the candidate must be treated, and so far as circumstances admit and subject to the provisions of this Act —

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(a) as a candidate, as an election agent and the principal election agent for that election; and

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(b) as appointed as an election agent and the principal election agent for that election and deemed so declared under subsection (3),

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and any reference in this Act to an election agent or the principal election agent is construed to refer to the candidate acting in his or her capacity as an election agent or the principal election agent (as the case may be) by virtue of this subsection.

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**(2C)** Where there is no appointment in force under subsection (2A) of the principal election agent for a candidate in an election, but there are appointments of 20 or fewer election agents under subsection (1) or (2) in force, the election agent determined in accordance with paragraph (a), (b) or (c) (whichever being

applicable) must be treated as appointed as the principal election agent for that candidate in relation to that election and deemed declared under subsection (3) as the principal election agent:

- (a) where the appointments of those election agents are all declared under subsection (3) using an electronic system approved by the Returning Officer for the election — the election agent named in the declaration made earliest in time by the candidate; 5  
10
- (b) where the appointments of those election agents are all declared under subsection (3) using the form approved by the Returning Officer for the election — the election agent whose name appears first on top in the vertical list of election agents so declared; 15
- (c) where the appointments of those election agents are declared under subsection (3) using a mix of an electronic system and the form approved by the Returning Officer for the election — 20
  - (i) the election agent named in the first declaration made using the electronic system and before any other declaration using the approved form; or 25
  - (ii) the election agent named in the declaration made using the approved form and before any other declaration using the electronic system or, if more than one election agent is named in such a declaration made using the approved form, the election agent whose name appears 30  
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first on top in the vertical list of election agents so declared.”;

5 (d) by inserting, immediately after the words “to the Returning Officer” in subsection (3), the words “using an electronic system or a form approved by the Returning Officer for the election”;

(e) by inserting, immediately after the words “so declared” in subsection (3A), the words “or deemed declared”; and

10 (f) by deleting the word “Nomination” in the section heading and substituting the word “Appointment”.

#### **Amendment of section 44**

**30.** Section 44 of the principal Act is amended —

(a) by inserting, immediately after the words “if the person”, the words “is an undischarged bankrupt or”; and

15 (b) by inserting, immediately after the words “corrupt practice” in the section heading, the word “, etc.,”.

#### **Amendment of section 45**

**31.** Section 45 of the principal Act is amended —

20 (a) by inserting, immediately after the words “appointed by” in subsection (1), the words “the candidate,”;

(b) by inserting, immediately after the word “The” in subsection (1B), the words “candidate, the”; and

25 (c) by deleting the words “he or she has appointed” in subsection (1B) and substituting the words “that has been appointed”.

#### **Amendment of section 49**

**32.** Section 49 of the principal Act is amended by deleting subsection (5).



### **Amendment of section 54**

**33.** Section 54(1) of the principal Act is amended by deleting paragraph (b) and substituting the following paragraph:

“(b) the number of polling agents of each candidate that may be admitted to each polling station under section 22(6);”.

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### **Amendment of section 56**

**34.** Section 56 of the principal Act is amended —

(a) by deleting the words “prescribed forms” in subsection (2) and substituting the words “prescribed form”; and

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(b) by inserting, immediately after subsection (4), the following subsections:

“(5) The Returning Officer may issue one or more guidelines for the purpose of providing practical guidance or certainty in respect of any one or more of the requirements of this section what must be or need not be disclosed in any returns respecting election expenses.

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(6) In proceedings for an illegal practice under this Act involving any return respecting election expenses —

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(a) compliance with a provision of any guideline issued under subsection (5) found by the court, to be relevant to a matter to which a contravention or failure alleged in the proceedings relates; or

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(b) a contravention of or a failure to comply with, whether by act or omission, any such provision so found,

may be relied on by any party to those proceedings as tending to negative or establish any liability which is in question in those proceedings.”.

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## **New section 56A**

**35.** The principal Act is amended by inserting, immediately after section 56, the following section:

### **“Corrections to returns respecting election expenses, etc.**

5       **56A.**—(1) Where the principal election agent of any candidate at an election becomes aware of any error or omission in any content contained in any return respecting election expenses which the principal election agent first transmitted under section 56 to the Returning Officer with respect to the candidate and the election (called in this section an original return) —

10           (a) the principal election agent may apply to the Returning Officer to correct the error or omission in the original return, accompanied by —

15                   (i) a fresh return respecting election expenses annotated with what content in the original return is corrected and how it is corrected; and

20                   (ii) a fresh statement and declaration in the prescribed form, made together with the candidate, in relation to the return respecting election expenses annotated under sub-paragraph (i); and

25           (b) the Returning Officer must give the principal election agent a reasonable opportunity to correct that error or omission unless subsection (3) applies.

(2) To avoid doubt, a principal election agent may make more than one application under this section to correct the original return.

(3) However —

30           (a) no application under subsection (1) may be made; and

- (b) no correction may be made with respect to any original return earlier transmitted to the Returning Officer,

after the expiry of the time delimited by section 56(1) for the transmission to the Returning Officer of returns respecting election expenses and the statements relating thereto.

(4) Every fresh return respecting election expenses by the principal election agent of a candidate and every fresh statement and declaration relating thereto, if transmitted to the Returning Officer according to subsection (1), must be treated for the purposes of this Act as replacing any original return by the principal election agent and any statement and declaration relating to the original return.

(5) In this section, “error” has the meaning given by section 82(3).

(6) Nothing in this section affects section 70.”.

### **Amendment of section 57**

**36.** Section 57 of the principal Act is amended —

- (a) by inserting, immediately after the words “in respect thereof” in subsection (1), the words “under section 56(1) or 56A(1)”;
- (b) by deleting the words “time and place” in subsection (1) and substituting the words “online location maintained by the Government”;
- (c) by deleting the words “to be fixed in some conspicuous place in his or her office and published in the *Gazette*” in subsection (1) and substituting the words “to be published in the *Gazette* and published in Singapore in any other manner that will secure adequate publicity in Singapore for the contents of the notice”;
- (d) by inserting the word “and” at the end of subsection (2)(a);
- (e) by deleting paragraphs (b) and (c) of subsection (2) and substituting the following paragraph:

“(b) ensure that, for a period of 6 months starting the date the notice is published under subsection (1) in the *Gazette*, the online location specified in that notice is accessible at all times so that any person may inspect those returns respecting election expenses and statements at that online location.”;

(f) by inserting, immediately after subsection (2), the following subsection:

“(2A) Before permitting the inspection of any return or statement under subsection (2)(b), the Returning Officer must —

(a) completely redact the address and contact number of any individual disclosed in the return or statement; and

(b) partially redact the identity card number of any individual disclosed in the return or statement.”; and

(g) by deleting the words “that period of 6 months” in subsection (3) and substituting the words “one year after the date of publication of the notice mentioned in subsection (1)”.

### **Repeal of sections 60, 60AA and 60A**

**37.** Sections 60, 60AA and 60A of the principal Act are repealed.

### **Amendment of section 60B**

**38.** Section 60B of the principal Act is amended —

(a) by inserting, immediately after the words “the results of any election survey” in subsection (1), the words “, or any content purporting to be any result of an election survey,”; and

- (b) by deleting the word “electors” wherever it appears in subsection (4) and substituting in each case the word “voters”.

### **Amendment of section 60D**

**39.** Section 60D of the principal Act is amended —

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- (a) by deleting “60AA(2), 60A(3)” in subsection (1) and substituting the words “42(1)(d) or (e)”;
- (b) by deleting the words “42(1)(c), (d) or (e), 60A(1), 60B(1) or 60C(1) or any regulations made under section 60AA(1)(b)” in subsection (1)(a) and substituting the words “42(1)(d) or (e), 60B(1) or 60C(1)”;
- (c) by deleting the words “election advertising offences” in the section heading and substituting the words “section 60B or 60C offence”.

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### **Amendment of section 64**

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**40.** Section 64 of the principal Act is amended —

- (a) by deleting the words “within a radius of 200 metres” in subsection (1)(e) and substituting the words “within the restricted zone”;
- (b) by deleting the words “within a radius of 200 metres of any polling station, and the address of every such office must be registered by the candidate or his or her principal election agent with the Returning Officer before polling day” in subsection (2) and substituting the words “within the restricted zone of any polling station”;
- (c) by inserting, immediately after subsection (4), the following subsections:

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“(5) In this section, “restricted zone”, for a polling station, means all of the following, unless otherwise provided in subsection (6):

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(a) the building, or part of the building, in which the following are, or are to be, located:

(i) any polling place of the polling station;

(ii) any polling booth or other facility for electors allotted to that polling station are to vote in accordance with this Act;

(b) the area within 200 metres of the external edges of a building or part of a building mentioned in paragraph (a);

(c) if a building or part of a building mentioned in paragraph (a) is located in grounds —

(i) the area in the grounds;

(ii) the area within 200 metres of the boundary fence or another structure or feature that marks the boundary of those grounds; and

(iii) if the Returning Officer or a presiding officer of that polling station has designated entrances to the grounds under section 18(5) — the area within 200 metres of each designated entrance to those grounds.

(6) However, “restricted zone” for a polling station does not include premises in the zone mentioned in subsection (5)(b) or (c) that are outside Singapore.”.

### **Amendment of section 65**

**41.** Section 65 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (1) and substituting the following paragraph:

“(a) who is below 16 years of age;”;

- (b) by inserting the word “or” at the end of subsection (1)(b);
- (c) by deleting paragraphs (c) and (d) of subsection (1) and substituting the following paragraph:

“(c) who is a foreigner or foreign entity.”;

- (d) by deleting subsection (1A); 5
- (e) by deleting the words “attending a primary or secondary school as a student” in subsection (6) and substituting the words “below 16 years of age or is a foreigner or a foreign entity”;
- (f) by deleting “, (1A)” in subsection (7); 10
- (g) by deleting subsection (8) and substituting the following subsections:

“(8) In this section, “election activity” includes any activity (other than clerical work wholly performed within enclosed premises) which is done for the purpose of — 15

(a) promoting or procuring the electoral success at any election for any candidate; or

(b) prejudicing the electoral prospects at the election of any other candidate. 20

(8A) However, “election activity” excludes a third party publishing, or causing to be published, any content in any way that renders the content accessible from the Internet, where all or part of the production of the content or its publication is not paid for, in money or money’s worth, by the third party or by another person who may or may not be a third party.”; and 25

- (h) by inserting, immediately after the words “section prohibits” in subsection (9), the words “the taking part in or conduct of election activity by any prescribed individual, or individual in a prescribed class of individuals, or”. 30

### **Amendment of section 79**

**42.** Section 79(1) of the principal Act is amended by deleting paragraph (a) and substituting the following paragraph:

“(a) the vote of any person —

- 5 (i) whose name was not on the register of electors assigned to the polling station at which the vote was recorded;
- 10 (ii) who is not allotted under section 13A(3A)(a)(i) or (ba)(i) of the Parliamentary Elections Act 1954 to the overseas polling station at which the vote was recorded or who is designated under section 13A(3A) of that Act as a postal voter for that election, in the case of a vote recorded at an overseas polling station;
- 15 (iii) who is not allotted under section 18(1)(c) to the ordinary polling station at which the vote was recorded;
- 20 (iv) who is not allotted under section 30B(1) to the special polling station at which the vote was recorded, in the case of a vote recorded at a special polling station; or
- (v) who has not been authorised to vote at the ordinary polling station or special polling station under section 22(2);”.

### 25 **New sections 81A and 81B**

**43.** The principal Act is amended by inserting, immediately after section 81, the following sections:

#### **“Regulations relating to crisis management at election**

30 **81A.**—(1) Subject to this section, the Minister may make regulations to enable contingency arrangements to be put in place, should they be required, to enable a Returning Officer to conduct a safe, orderly, efficient and timely election and support



the resilience of Singapore's democracy, because of a disruptive event which —

(a) has occurred or is likely to occur, before or during any stage of an election, in Singapore or in a country where there is established one or more overseas polling stations; and 5

(b) prevents or seriously interrupts, or is likely to prevent or seriously interrupt, the conduct of the election according to the provisions of this Act.

(2) Regulations made under subsection (1) may modify (so far as relevant) the application of any provision of this Act, or any regulations made under section 30C or 36F, to the conduct of nomination proceedings or a poll, or the counting at any counting place or principal counting place of votes cast, for an election because of a disruptive event. 10 15

(3) Regulations made under subsection (1) may include providing for, or providing for the determination personally by the Returning Officer of —

(a) a change in —

(i) the hours of those nomination proceedings, or of the conduct of the poll or the counting of votes cast, for the election; or 20

(ii) the address of a place of nomination, polling station, counting place or principal counting place; 25

(b) any of the following in relation to those nomination proceedings:

(i) a temporary suspension (not exceeding 2 hours);

(ii) a postponement or an adjournment and postponement of the day of nomination to a date no later than one month after the date of the writ; 30

(c) any of the following in relation to voting at the poll at one or more polling stations:

(i) a temporary suspension (not exceeding 2 hours);

(ii) an adjournment and postponement of voting at the poll to a date no later than the 56th day after the date of publication of the notice of contested election in the *Gazette* under section 16(5)(a);

(iii) abandoning the poll and restarting it on a date no later than the 56th day after the date of publication of the notice of contested election in the *Gazette* under section 16(5)(a);

(iv) ending voting early;

(d) any of the following in relation to the counting at one or more counting places or a principal counting place of votes cast:

(i) a temporary suspension (not exceeding 2 hours);

(ii) an adjournment and postponement of counting of votes cast to a date no later than the 56th day after the date of publication of the notice of contested election in the *Gazette* under section 16(5)(a);

(iii) abandoning the counting and restarting voting at the poll and counting of votes cast no later than the 56th day after the date of publication of the notice of contested election in the *Gazette* under section 16(5)(a);

(e) abandoning the counting of votes cast at any polling station —

(i) if any sealed ballot box containing votes cast at a polling station in the election is, because of a disruptive event, lost or destroyed at any time —

- (A) after the close of the poll at a polling station; and
- (B) before the ballot box could reach the counting place specified under this Act for the counting of the votes cast at the polling station; or 5
- (ii) for any other reason, but only if the number of votes likely to have been cast at the polling station will not affect the result of the election; 10
- (f) wholly abandoning the poll at an overseas polling station in a foreign country or a special polling station in a nursing home because voting in person thereat cannot start or be resumed or completed due to special circumstances in the foreign country or nursing home, as the case may be; 15
- (g) any alternate method of voting by electors at the poll except that any alternate method of voting must be such that an elector casting his or her vote using that method for an election — 20
  - (i) receives the same information (in the same order), and has the same voting options, as would appear in the ballot paper for the election that the person would be given if he or she were instead voting in person under sections 22 and 25; and 25
  - (ii) is able to indicate his or her vote in a way that, if he or she were instead marking a ballot paper in person, would satisfy the requirements of section 25; 30
- (h) the giving of public notice of —
  - (i) any change, suspension, adjournment and postponement, abandonment, new start or

resumption mentioned in paragraph (a), (b), (c) or (d), as the case may be;

(ii) any abandoning of voting or the counting of votes mentioned in paragraph (e) or (f); and

5 (iii) any alternate method of voting mentioned in paragraph (g); and

(i) the witnessing or attesting to any thing (but not voting) through the use of remote communication technology, such as by video conferencing, tele-conferencing or other electronic means.

(4) Regulations made under subsection (1) —

(a) must not authorise any person to vote more than once at an election;

15 (b) must provide for a record of every vote cast at a polling station but the vote record must not contain any means of identifying the person who cast the vote;

(c) must make provision for, or in relation to, how this Act applies in relation to votes cast using an alternate method of voting; and

20 (d) must be consistent with the principles laid down in any provision of this Act that is modified by those regulations.

(5) Regulations made under subsection (1) may make different provisions in relation to different classes of voters affected differently by the same disruptive event occurring or about to occur at an election.

(6) However, nothing in this section limits or affects, or authorises the making of regulations that limit or affect, the operation of section 7A.

30 (7) In this section —

“counting”, of votes cast at an election, includes recounting and adding votes cast at the election;

“disruptive event” means —

- (a) riot or open violence;
- (b) the threat of riot or open violence;
- (c) a storm, flood, eruption, earthquake, landslip or an occurrence (natural or otherwise) of a similar kind; 5
- (d) a health hazard;
- (e) a fire or a poor air quality episode involving smoke, or the activation of fire safety equipment (such as sprinklers or alarms); 10
- (f) the releasing into the environment or any part of the environment or otherwise exposing the public to any toxic chemical or any dangerous, hazardous, radioactive or harmful substance;
- (g) an accident associated with the operation of an aircraft, vessel, train or public passenger transport motor vehicle where the aircraft, vessel, train or public passenger transport motor vehicle is destroyed or damaged, or missing or completely inaccessible; 15 20
- (h) an unplanned and prolonged outage of any telecommunication or electricity service, or an information and communications system, which is essential for the proper conduct of an election according to the provisions of this Act; and 25
- (i) anything else related —
  - (i) to the safety of persons authorised to be present at a place of nomination, polling station, counting place or principal counting place; or 30
  - (ii) to difficulties in the physical conduct of nomination proceedings, a poll, or the counting or recounting of votes at any

counting place or principal counting place, for an election;

“nomination proceedings” includes —

- 5 (a) proceedings for the Returning Officer to receive nomination papers;
- (b) proceedings for the making of objections to any nomination paper;
- 10 (c) proceedings where a candidate must make his or her deposit for the purposes of section 10, may correct errors in the nomination papers and may withdraw his or her candidature; and
- (d) proceedings by which a candidate may make his or her indication (regarding his or her name) to the Returning Officer under section 11(5).

15 **Presentation to Parliament, etc.**

**81B.**—(1) All regulations made under this Act must be presented to Parliament as soon as possible after publication in the *Gazette*.

20 (2) Where a writ of election has been issued under section 6 for an election, no regulations may be made under this Act until after the day of nomination or, if a poll is to be taken, until after polling day of that election.”.

**New section 85**

25 **44.** The principal Act is amended by inserting, immediately after section 84, the following section:

**“Service of documents**

**85.**—(1) A document that is permitted or required by this Act to be served on a person may be served as described in this section.

30 (2) A document permitted or required by 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 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; 5
- (d) by affixing a copy of the document in a conspicuous place at the individual's residential address or business address; 10
- (e) by sending it by fax to the fax number last known to the person giving or serving the document as the fax number for the service of documents on the individual; or 15
- (f) by sending it by email to the individual's last email address.

(3) A document permitted or required by this Act to be served on a partnership (other than a limited liability partnership) may be served — 20

- (a) by giving it to any partner or other similar officer of the partnership;
- (b) by leaving it at, or by sending it by prepaid registered post to, the partnership's business address;
- (c) by sending it by fax to the fax number used at the partnership's business address; or 25
- (d) by sending it by email to the partnership's last email address.

(4) A document permitted or required by this Act to be served on a body corporate (including a limited liability partnership) or an unincorporated association may be served — 30

- (a) by giving it to the secretary or other similar officer of the body corporate or unincorporated association, or the limited liability partnership's manager;

(b) by leaving it at, or by sending it by prepaid registered post to, the body corporate's or unincorporated association's registered office or principal office in Singapore;

5 (c) by sending it by fax to the fax number used at the body corporate's or unincorporated association's registered office or principal office in Singapore; or

(d) by sending it by email to the body corporate's or unincorporated association's last email address.

10 (5) In addition, a document permitted or required by this Act to be served on an individual, a partnership, a body corporate or an unincorporated association may be served —

(a) 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;

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(b) where by the exercise of reasonable diligence, the name of any individual or a body of persons to whom the document is to be served, or the business address, residential address or last email address of the individual or body, cannot be ascertained — by posting it on a website that is maintained by the Government and prescribed by the Minister by notification in the *Gazette* for this purpose; or

20

(c) by any other method authorised by the regulations for the service of documents of that kind if the addressee consents (expressly or impliedly) to service of a document of that kind in that way.

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(6) Service of a document under this section takes effect —

(a) if the document is sent by fax and a notification of successful transmission is received — on the day of transmission;

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- (b) 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;
- (c) if the document is sent by prepaid registered post — 2 days after the day the document was posted (even if it is returned undelivered); or
- (d) if the document is posted on a website mentioned in subsection (5)(b) — at the beginning of the day after the date on which that provision has been complied with.

(7) However, service of any document under this Act on a person by email or by an electronic notice at the person’s chosen means of notification, may be effected only with the person’s prior consent (express or implied) to service in that way.

(8) This section does not apply to documents to be served in proceedings in court.

(9) In this section —

“Act” includes any subsidiary legislation made under this Act;

“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 this Act, means an electronic means the addressee agrees with the person giving or 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

this Act, means an electronic means that the addressee nominates to the person giving or serving the document as the means by which the addressee may be notified that such a document has been served on the addressee;

5 “document” includes a notice permitted or required by this Act to be served;

10 “last email address” means the last email address given by the addressee concerned 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.”.

### **Saving and transitional provisions**

15 **45.** For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Presidential Elections Act 1991 primarily for the following purposes:

- (a) to provide for special voting arrangements for electors who are in-patients or residents of nursing homes;
- (b) to allow for postal voting to be undertaken by overseas electors;
- (c) to reform the law on election advertising;
- (d) to allow for greater use of technology to ensure more efficient election processes;
- (e) to provide more flexibility in addressing disruptive events affecting elections.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 (interpretation provision) by replacing definitions or setting out new definitions because of the amendments in the Bill.

In particular, there is an extended meaning of “publish” which would apply to provisions which use that expression and are not directly amended by the Bill, such as section 60C regarding exit polls on polling day.

Clause 3 amends section 8 (on the application for certificate of eligibility) to provide that the Presidential Elections Committee is not required to consider any application for a certificate of eligibility that is made by a person who is not at least 45 years of age as at nomination day, as the person is not qualified to be elected as President. Such an application is deemed to be withdrawn.

Clause 4 amends section 8A (on the consideration of an application for certificate of eligibility) to make clear that an application for a certificate of eligibility in a reserved election must be rejected by the Presidential Elections Committee if the applicant does not state in his or her community declaration submitted to the Community Committee that the applicant considers himself or herself to be a member of the community to which the election is reserved.

Clause 5 amends section 8G (on the consideration of community declaration in reserved elections) to streamline the processes of the Community Committee by removing the requirement for the Community Committee to notify a declarant of its acceptance of his or her community declaration in a reserved election. So long as the community declaration is not rejected under section 8G(2)(a) or (b), it will be accepted and referred to the relevant Sub-Committee for consideration.

Clause 6 amends section 8H (on the consideration of community declaration in an open election) to also remove the requirement for the Community Committee under section 8H(2) to notify a declarant of its acceptance of his or her community declaration in an open election. It remains necessary for the Community Committee to notify a declarant of its acceptance of his or her community declaration in a case mentioned in section 8I(c).

Clause 7 amends section 9 (on nomination papers) to make clear that the nomination paper of a candidate must set out his or her full name, as indicated on the candidate’s identity card.

Clause 8 amends section 10 (on election deposits) to delete the reference to cash payment of election deposits and, in its place, provides for election deposits to be made using electronic fund transfer systems (designated by the Returning Officer) or in any other form or manner that the Returning Officer allows. The latter gives the Returning Officer the flexibility to allow other modes of payment not mentioned in the amended section 10. The other payment methods currently provided in the Act, i.e., by a bank draft or certified cheque, remain available.

Clause 9 makes a consequential amendment to section 11 (on nomination day proceedings) following the amendments to section 14 (by clause 11).

Clause 10 amends section 12 (on objections to nomination papers) to make clear that any objection to a nomination paper must be made in person to the Returning Officer at the place of nomination.

Clause 11 amends section 14 (on persons entitled to be present during nomination proceedings) to provide that a person seeking to be a candidate in an election may be refused entry to the place of nomination unless the person satisfies the following requirements set out in the new section 14(2):

- (a) the person is issued a political donation certificate under section 18(4) of the Political Donations Act 2000;
- (b) the person must be accompanied by at least 6 others as his or her proposer, seconder and assentors.

These requirements only apply to the person's initial entry to the place of nomination.

Clause 12 amends section 16 to require the notice of contested election to also state the day and hours of the poll at every special polling station established under the new section 30A.

Clause 13 amends section 18 (concerning the setting up of polling stations). The amendment will allow the Returning Officer to establish an ordinary polling station outside an electoral division (called electoral division X) in another electoral division that has a common boundary with electoral division X, for the conduct of the poll for electoral division X. However, the Returning Officer can do so only if the Returning Officer is satisfied that doing so is conducive to the voting convenience of a large number of electors residing near the common boundary.

Clause 13 also amends section 18 to enable better crowd control at ordinary polling stations and special polling stations, which are located within land that has a boundary fence or another structure or feature to mark the boundary of the land (defined to mean "grounds" in clause 2). These are usually larger polling stations found within schools.

Under the amendment, the Returning Officer is empowered to designate an entrance to those grounds as a designated entrance to the polling station and the routes that electors have to use to access the polling places within the polling station and the polling booths. An official sign has to be erected or set up to indicate the designated entrance to those grounds.

The designating of entrances for these usually larger polling stations will facilitate a more definitive restricted signage zone and restricted zone under the new section 42I on traditional election advertising, and the amended section 64 on preventing undue influence on polling day at and near a polling station (as amended by clause 40).

Clause 14 amends section 22 (on persons who may be admitted to polling stations), mainly to address the 3 categories of polling stations under the Act as amended by the Bill. These are ordinary polling stations and special polling stations in Singapore, and overseas polling stations outside Singapore.

A person must not be admitted to an ordinary polling station to vote in person at an election unless the person is allotted under section 18(1)(c) to that ordinary polling station.

An overseas elector must not be admitted to an overseas polling station to vote in person at an election unless the person is registered as an overseas elector, is not designated under section 13A(3A) of the Parliamentary Elections Act 1954 as a postal voter for that election and is allotted under that provision to that overseas polling station.

Finally, a person must not be admitted to a special polling station to vote in person at an election unless the person is allotted under section 30B(1) to that special polling station.

Clause 14 also amends section 22 to empower the Minister to prescribe by regulations the method for computing the number of polling agents of each candidate who may be admitted to a polling station. This will enable the number of polling agents in a polling station to be made proportionate to the number of electors allotted to the polling station, and give more flexibility to the Elections Department to design polling stations for efficient operation.

Clause 14 also makes an amendment to section 22, which is consequential to the repeal of sections 36C and 36DA by clause 25.

Clause 15 repeals section 22A, which deals with voting at overseas polling stations, as the provisions on facilities exclusive to overseas electors are relocated in the new sections 36A to 36F.

Clause 16 amends section 25 (on manner of voting) to clarify that before any ballot paper is delivered to a voter, only the number and name of the voter are required to be called out, as they will be sufficient to identify the voter.

Clause 16 also amends section 25(7) by replacing the old-fashioned reference to a person being “incapacitated” due to blindness or other physical cause with the person being blind or having a physical disability.

Due to the introduction of special polling arrangements for voters at nursing homes and postal voting by overseas electors, clause 17 amends section 26 (on compulsory voting) to provide for when an elector in these new voting conditions is to be treated as having recorded his or her vote and therefore will not be expunged from the registers of electors. If the elector’s name is expunged, the elector has to pay for his or her name to be restored in the absence of a reasonable excuse.

First, an elector who is allotted to a special polling station under the new section 30B(1) for the purposes of the poll in an election and who attends in person at a polling place in the special polling station to record his or her vote or has his or her vote taken by a mobile polling team deployed at the special polling station, must be treated under section 26 as having recorded his or her vote at the election in the electoral division for which he or she is registered.

Second, where an overseas elector who is designated as a postal voter applies for postal voting papers to be issued to him or her during the postal voting period for an election, he or she is to be treated as having recorded his or her vote at the election in the electoral division for which he or she is registered. It does not matter whether his or her postal voting papers reached Singapore or were received by the Returning Officer on time for counting or whether the elector posted or sent his or her postal voting papers back to the Returning Officer.

Treating an application for postal voting papers as if casting a vote is confined to the purpose of section 26, which is whether or not to expunge a name from the register of electors, and does not extend to other provisions, like the offence of personation in section 38.

Clause 18 introduces new sections 30A, 30B and 30C which enable the provision of special polling arrangements by the Returning Officer to service the voting needs of the in-patients or residents of nursing homes.

The new section 30A empowers the Returning Officer to establish all or part of a nursing home as a special polling station, and to authorise special polling arrangements to be provided to enable electors who are in-patients or residents of the nursing home during the election period to record their votes there.

The special polling arrangements can be in either form as follows:

- (a) by establishing polling places within the special polling station as the Returning Officer considers necessary, so that an in-patient or a resident does not need to leave the nursing home and travel to his or her ordinary polling station to record his or her vote there, but can record his or her vote in person at one of those polling places;
- (b) by deploying one or more mobile polling teams to visit in-patients or residents of the nursing home to take the votes of those in-patients or residents.

These special arrangements are to meet the voting needs of this class of electors and are not provided as a matter of course. The new section 30A sets out factors which the Returning Officer has to take into account before providing for special polling arrangements.

If the person in charge of a nursing home where a special polling station is established informs a presiding officer who is a member of a mobile polling team deployed at that special polling station that a visit to an in-patient or a resident is

forbidden on medical grounds, the mobile polling team must not visit the in-patient or resident to take the in-patient's or resident's vote.

A poll and voting in an election involving electors residing in a nursing home where a special polling station is established must be conducted, as far as practicable, in the same manner as that in which a poll and voting at an ordinary polling station is conducted under the Act.

The new section 30B provides that voting at a special polling station is in lieu of voting at an ordinary polling station.

The new section 30C empowers the Minister to make regulations to modify the application of any provision of the Act to the conduct of polls in any special polling station established in a nursing home.

This may include regulations that set out the manner of voting at the special polling station, including the taking of votes by mobile polling teams and fixing the maximum number of polling agents who may be admitted to a special polling station.

Given the surrounding environment of a special polling station and the distinct class of electors it will serve, the regulations may also provide for the admission of any person who is employed by the nursing home (whether or not a citizen of Singapore) into any polling place in the special polling station or authorising the presence of such an employee, for the purpose of providing any assistance to the presiding officers, mobile polling team or any elector at the special polling station.

Clause 19 amends section 31A (on counting at counting places). The amendment removes the requirement for the Returning Officer to direct the time for counting the votes at a specified counting place, and for aggregating the votes at a principal counting place if there is more than one specified counting place.

The counting of votes at a counting place will start upon receipt of all the ballot boxes containing the votes that are to be counted at that counting place. The aggregation of the votes at a principal counting place will also start upon receipt of all the results of the votes that are counted at each counting place. There is no need to wait for an hour specified before starting.

Clause 20 amends section 32 (on counting of votes) to enable the use of counting machines as part of the counting process, and to remove the requirement for the Returning Officer to keep the ballot papers with their faces upwards while counting the votes.

The amendment provides that votes cast may be counted manually, or by mechanical or electronic means.

While the amendment removes the requirement to keep the ballot papers with their faces upwards while counting the votes, the amendment imposes a duty on the Returning Officer to take all proper precautions to ensure voter secrecy.

Clause 21 repeals section 32A (on counting of votes by overseas electors) which is consequential to the amendments in clause 25.

Clause 22 amends section 32B (on recounting of votes by overseas electors) which is consequential to the amendments in clause 25.

Clause 23 amends section 34 which is consequential to the amendments in clause 25.

Clause 24 makes a consequential amendment to section 36 (on maintenance of secrecy at elections) arising from regulations which may be made under the new section 30C providing for the admission of any person who is employed by the nursing home (whether or not a citizen of Singapore) into any polling place in the special polling station or authorising the presence of such an employee, for the purpose of providing any assistance to the presiding officers, mobile polling team or any elector at the special polling station.

Clause 25 repeals the provisions which deal with disruptive events affecting election proceedings and replaces them with new sections 36A to 36G relating to voting by overseas electors and the introduction of postal voting for overseas electors.

The new section 36A sets out the hours of the poll at an overseas polling station.

The new section 36B deals with overseas electors who are designated as postal voters. A postal voter has a choice to record his or her vote using the postal voting method or attend in person in Singapore at an ordinary polling station.

The new section 36B(3) describes how an overseas elector who is a designated postal voter is to record a vote by the postal voting method. All the following steps in the sequence below must be taken by such an overseas elector before the end of the postal voting period:

- (a) apply to the Returning Officer, once the postal voting period of that election starts, for postal voting papers to be issued to the overseas elector. The application has to be done in the manner prescribed by regulations made under the new section 36F;
- (b) mark the overseas elector's vote on the postal ballot paper comprised in the postal voting papers issued on application, fold the postal ballot paper and insert it in the return envelope comprised in the postal voting papers so issued, and then seal the return envelope. This has to be done in the manner prescribed by regulations made under the new section 36F;



- (c) take the steps prescribed by those regulations with respect to those postal voting papers in order to indicate the date of posting or sending;
- (d) as soon as practicable after the return envelope is sealed, the overseas elector must himself or herself post or deliver the sealed return envelope to the Returning Officer in Singapore. Alternatively, the overseas elector may entrust the sealed return envelope to a person for posting or delivery to the Returning Officer in Singapore.

The period for postal voting for an election starts on the day immediately after the day of nomination at the election, and ends on (and includes) the eve of polling day in Singapore at that election. See the definition inserted by clause 2.

The new section 36C sets out a stage unique for votes cast by the postal voting method. This stage takes place just before counting of postal ballot papers starts. The stage involves an examination of return envelopes. The Returning Officer has to accept for counting all return envelopes received before the end of the 10th day after polling day in Singapore unless he or she is not satisfied that the return envelope is authentic, was received on time or is not opened or tampered with.

The new section 36C also deals with the situation where a return envelope may contain several ballot papers and where multiple return envelopes from the same designated postal voter are received.

The new section 36D deals with the counting of votes cast by overseas electors at overseas polling stations or via the postal voting method.

The new section 36E re-enacts the repealed section 32A on ascertaining the final election results after the votes of overseas electors have been counted.

The new section 36F empowers the Minister to make regulations modifying the application of any provision of the Act to the conduct of polls in overseas polling stations and to provide procedural details as to the postal voting method.

The new section 36G creates a new offence for a person to whom an envelope containing or purporting to contain a postal ballot paper is given by an overseas elector for the purpose of posting or delivery to the Returning Officer, and who had agreed to post or deliver the envelope, if the person, without reasonable excuse, fails to post or deliver the envelope promptly.

Clause 26 amends the offences in section 37 to deal with postal voting. The present offences already deal with improper handling of ballot papers, which will extend to include postal ballot papers by definition.

The amendments make it an offence to forge or counterfeit, or fraudulently deface or destroy any return envelope, which is defined by the amendments in clause 2 to be the envelope designed and intended to be used exclusively to contain a postal ballot paper.

The offences in section 37(1)(c), (d) and (e) are also extended to apply to the return envelope. For example, supplying any return envelope without due authority to any person, selling or offering to sell any return envelope or buying or offering to buy any return envelope, or unauthorised possession of a return envelope which has been marked with the official mark.

New offences of putting into any return envelope anything other than the postal ballot paper which is authorised by law to put in, and intentionally opening, unsealing, damaging or tampering with a sealed return envelope without due authority are also created by clause 26.

As the conduct that constitutes the offence is likely to take place outside Singapore, section 37 is amended to extend to any citizen of Singapore (whether or not a voter or an elector) who engages in any conduct that constitutes an offence described, either outside Singapore or partly in Singapore. This is consistent with the present section 22A(5).

Clause 27 amends section 42 (on punishment for corrupt practice), primarily due to the amendments in clause 28 on election advertising.

The corrupt practice of contravening the published-by requirements in the existing section 42(1)(c) is deleted as it is re-enacted in a more comprehensive form by clause 28 as the new section 42B. Section 42(4) and (5) is also deleted for the same reason.

To support the right to protection against unlawful attacks on reputation but without criminalising dissemination of falsehoods unknown to the sender and accidental dissemination, the corrupt practices in section 42(1)(d) and (e) are amended to introduce the mental element of knowingly making or publishing in Singapore, before or during an election period, a false statement about the personal character or conduct of a candidate or a false statement of the withdrawal of a candidate, for the purpose of affecting election results.

Finally, the corrupt practice in section 42(1)(f) relating to returns of election expenses is also extended to cover corrected returns, because of the amendment in clause 35.

Clause 28 amends Part 3 by inserting a new Division (with 4 Subdivisions) which reforms extensively the law relating to election advertising so as to better support free and informed voting at elections which is essential to Singapore's system of representative government and applies the new requirements to modern communication activities.

The election advertising covered can be online election advertising, non-online election advertising that is not traditional election advertising, and traditional election advertising.

“Online election advertising” is defined in the amendments in clause 2 to mean election advertising that is published in any way that renders the election advertising accessible from the Internet.

“Non-online election advertising” is also defined in the amendments in clause 2 to mean election advertising that is not online election advertising. Examples of election advertising that may be covered by this definition include election advertising by way of SMS, MMS, telephone calls, clothing, films, advertising painted on or shown on top of a private car or a drone, and a drone formation against the night sky.

The last class of election advertising covered is a sub-group of non-online election advertising, called “traditional election advertising”. Clause 2 amends section 2 to define this as consisting of election advertising in the form of —

- (a) a banner, flag or poster;
- (b) a billboard, sky sign, hoarding, signboard, digital display panel or free-standing advertising structure in a public place or on a public passenger transport conveyance;
- (c) any text, colour or image (moving or still) which is projected on to any external surface of a building or structure by light or any other means;  
or
- (d) a blimp, a gas-inflated balloon or other like object which is attached or anchored to the ground in a public place and upon which information or material is displayed.

The controls in the 4 new Subdivisions inserted by clause 28 cover election advertising which is published in Singapore or is publicly displayed in Singapore. As the Internet is borderless, the new Subdivisions inserted by clause 28 have extra-territorial application if the subject matter is online election advertising.

Clause 2 amends section 2 to provide that where any content is published by electronic means, the content is to be taken to be published in Singapore if —

- (a) any person physically present in Singapore accesses or can have access to the content, even if the content originates wholly outside Singapore or is published by a person outside Singapore or the origin of which cannot be determined; or
- (b) the content originates in Singapore, even if none of the persons capable of having access to the content is physically present in Singapore.

It therefore does not matter if the act of publishing is done outside Singapore. So long as the content published on the Internet can be encountered, read, viewed, heard or otherwise experienced by a person physically present in Singapore, the content on the Internet will be treated as published in Singapore.

Clause 2 further amends section 2 to address the technological challenges to the application of the provisions in the Act, especially in connection with election advertising.

First, clause 2 contains a new section 2(5) to deal with hyperlinks and QR codes. Any content consisting of or including a hyperlink is taken to include the content accessed directly via the hyperlink. Any content consisting of or including an item or image on which data is stored electronically is taken to include content accessed by means of the item or image.

Next, a new section 2(6)(b) makes clear that for content that is published by electronic means, the word “publish” includes the act of posting or forwarding to, or sharing with, other end-users of an electronic service the content on or by the electronic service.

Clause 2 also introduces an extended meaning of “publish” for content that is published by electronic means and accessible from the Internet. The new section 2(6) extends “publish” to include taking any step to amplify the access to earlier published content by persons physically present in Singapore. For example, by boosting the search engine results for the earlier posted content.

The amendments in clause 2 also make clear that for any non-online election advertising, and any other election advertising that is not published by electronic means, the election advertising is taken to be published in Singapore if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place.

The new Division 2A, Subdivision (1) contains 4 new sections.

The new section 42A articulates the purpose for the various controls on election advertising. They are to promote free and informed voting at elections by enhancing —

- (a) the transparency of the electoral system, by allowing voters to know who is communicating election advertising;
- (b) the accountability of those persons participating in public debate relating to any election, by making those persons responsible for their communications; and
- (c) the traceability of communications of election advertising, by ensuring that obligations imposed by Subdivisions (1), (2), (3) and (4) in relation to those communications can be enforced.

The new sections 42B, 42C and 42D apply regardless if the person is a candidate or a candidate’s election agent, or is none of the preceding (called a third party).

The election advertising covered has to be one that relates to the election in question. Clause 2 introduces an interpretive provision which states that an

election advertising relates to an election if it contains an express or implicit reference to —

- (a) the election;
- (b) an individual who is a candidate at the election in his or her capacity as a candidate (and not in some other capacity, like as a Town Councillor or political office holder); or
- (c) an issue submitted or otherwise before electors in the election.

Any other content which does not contain any of the above will not be restricted under the new sections 42B and 42C.

The new section 42B re-enacts the requirements presently found in section 42(1)(c) that election advertising must bear information about its publisher. Contravention of any of the requirements will be a corrupt practice which is a criminal offence, conviction of which not only results in a fine or imprisonment or both, but the convicted person becomes incapable for a period of 7 years from the date of his or her conviction of being registered as an elector or of voting at any election under the Act or of being elected as the President or a Member of Parliament.

To ensure that voters are aware of who is communicating to them and enable voters to assess the credibility of the information they rely on when forming their political judgment and selecting the President, every election advertising published in Singapore must show on or in it, and in the manner (including language) prescribed by the election advertising regulations, the identity particulars of all the following persons:

- (a) any person who authorised making available to the general public the election advertising;
- (b) any person who approved the content in the election advertising, if the content is approved before the election advertising was published if the person is not in paragraph (a). It does not matter whether or not that person is also a person who paid for any part of the production of the content or the publication of the election advertising;
- (c) any person for whom or at whose direction the election advertising was published if the person is not in paragraph (a) or (b).

This is intended to ensure that the information to voters is useful as covering the person who is actually responsible for the publishing of election advertising or having sufficient authority to publish the content without the content being approved by someone else, rather than other persons involved in the publication process who may not necessarily be responsible.

As is the present law today, if the election advertising is printed, the identity particulars of the printer must also be shown on or in it.

The new section 42B adds a new requirement for election advertising that is paid for (which includes distribution or production). For every election advertising published in Singapore where all or part of the production of the content that is or includes the election advertising, or the publication of the election advertising, is paid for in money or money's worth by the person or by another person, the election advertising has to show on or in it, and in the manner (including language) prescribed by the election advertising regulations —

- (a) the fact that the production of the content that is or includes the election advertising, or the publication of the election advertising (as the case may be) is paid for; and
- (b) the identity particulars of the person who paid to produce the content that is or includes the election advertising, or the publication of the election advertising, as the case may be.

The new section 42R(1) defines what is money's worth.

The new section 42B(1) applies where the election advertising is published on its own, as part of other content or made available contained in something else, such as a thumb drive containing a text or film of a candidate's speeches.

Under the new section 42B(2), a similar set of "published-by" requirements applies to election advertising which is publicly displayed, whether on its own or contained in something else (like a QR code on a poster).

Clause 2 inserts in section 2 a new definition of "publicly display" relating to visual content. Content is taken to be publicly displayed if the content is displayed within a public place or in any place in a way so that anyone in a public place can see the content from inside or outside the firstmentioned place.

For example, a printer is contracted to print handbills with an election slogan supplied by *A*, who is one of the senior campaign staff for candidate *X*. *A* developed the content of the slogan and provided it to the printer after consulting the election agent of candidate *X*. Every handbill distributed to the general public by volunteers given by the election agent of candidate *X* an authority to conduct election activity, has to bear, on its face, the identity particulars of —

- (a) candidate *X* for whom the handbill is published;
- (b) the election agent of candidate *X* at whose direction and authorisation the handbills are distributed to the general public;
- (c) *A* who approved the content of the slogan; and
- (d) the printer even though the printer does not approve the content of the slogan and the printer did not make the decision to distribute the handbills.

The names of the volunteers who are carrying out the distribution of the handbills do not need to be included as they are in no position to make the decision to distribute the handbills.

In another example, a marketing firm is engaged by candidate *A* to run the election campaign. The marketing firm designs a communications strategy using a wide range of media including using blimps with an eye-catching design comprising candidate *A*'s image and declaration of policies and ideology, internet advertisements, bulk text messages and voice calls through a call centre, boosting the search results of candidate *A* in commonly used Internet search engines, and celebrity endorsement using social media influencers.

The marketing firm directs a social media influencer to post on the account of the social media influencer a positive post about candidate *A*. The social media influencer does so without anything in return as she feels passionately that candidate *A* is best for the country. The contents of the post were approved by candidate *A*. The message posted on the account of the social media influencer has to bear, on its face —

- (a) the identity particulars of the social media influencer since she retains ultimate control over what she says or will not say in the post using her account;
- (b) the identity particulars of the marketing firm that directed the post to be made;
- (c) the identity particulars of candidate *A* who approved the content of the post and who paid for the production and publication of the content; and
- (d) the fact that the post is sponsored since the marketing firm's services were paid for despite the social media influencer not receiving any money or money's worth for posting.

Even if the marketing firm refuses any payment for running the election campaign, whether in cash or in kind, all posts by the social media influencer that the marketing firm has produced and distributed for candidate *A* must bear all the abovementioned particulars except the fact that the post is sponsored.

Even if the social media influencer was contracted and remunerated by the marketing firm to post the content, her identity particulars should still be shown, as she has control over making the content available using her account and authorises the publication.

The blimps showing the design comprising candidate *A*'s image and declaration of policies and ideology are arranged by the marketing firm to be deployed by tethering to grounds outside several shopping centres. A specialised balloonist business is contracted by the marketing firm to carry out the deployment. The design depicted on the blimp is produced by an in-house artist of the marketing

firm and is approved by candidate *A* with a few edits. The message on the blimp has to bear, on its face —

- (a) the identity particulars of the marketing firm that made the arrangements for the blimp to be deployed;
- (b) the identity particulars of candidate *A* who approved the design and who paid the marketing firm to design a communications strategy which included the use of blimps;
- (c) the identity particulars of the specialised balloonist business if it printed the design on the balloon signs supplied; and
- (d) the fact that the election advertising is sponsored since the use of blimps and the grounds around the shopping centres had to be paid for.

The identity particulars of the specialised balloonist business do not need to be included if it did not print the design on the balloons it supplied because the specialised balloonist business does not make the decision whether to deploy the blimps.

In another example, candidate *X* sees an online post from the incumbent President, against whom he is running, making an electoral promise. Candidate *X* reposts his opponent's post, with the comment "Shameful reversal of earlier promises! Which voter can now believe you?". Here, the incumbent President had authorised the original post. Candidate *X* authorises the repost (which includes the original post) and his comment on it. Candidate *X* has to include his identity particulars.

However, the provider of the electronic service used to post the messages does not need to be identified in either post so long as the service provider did not make the decision to post, does not approve the content or the post and does nothing to the nature or content of the post. The electronic service provider does not authorise the post.

Finally, *B* feels passionately that candidate *X* is the best candidate and *B* hires a local call centre to ring people to convince them to vote for candidate *X*. *B* provides a script to the call centre to use and asks the call centre to proceed with contacting voters by calling or by sending an SMS message. The calls must mention the identity particulars of the call centre as the call centre would decide who to ring up or send an SMS message, as well as of *B* as *B* approved the content (the script) of the election advertising. The fact that the calls were paid for must also be included. However, the provider of the telephone service used by the call centre does not authorise the publishing as the telephone service provider did not make the decision to call the voters.

There are exceptions to the "published-by" requirements in the new section 42B.



The requirements do not apply to election advertising which is so small or of a certain design that makes it impracticable for such particulars to be included in or on the election advertising.

The requirements also do not apply to any communication of content between 2 or more individuals that is of a private or domestic nature by electronic means.

The last key exception to the “published-by” requirements is for the publication of any Internet content by any individual who is a citizen of Singapore and not a candidate or an election agent, who does so at no other person’s direction and on no other person’s behalf and who does not receive or agree to receive, and who does not contract for, any money or money’s worth, for or in connection with his or her publishing that content on the Internet.

The new section 42C sets out the offence of publishing, or causing to be published, or publicly displaying or causing to be publicly displayed, in Singapore any content or any thing containing content during the cooling-off period of an election, being content that is or includes election advertising related to the election. This replaces the present offence that is in section 60A.

The term “cooling-off period” is defined to mean the period starting the eve of polling day of an election and ending with the close of polling on polling day at that election.

The new section 42D sets out exceptions to the election advertising ban during the cooling-off period. The exceptions are not fixed and can be expanded in future via the election advertising regulations.

The new Division 2A, Subdivision (2) sets out controls which apply to candidates whereas the new Division 2A, Subdivision (3) contains a ban on election advertising by foreigners and foreign entities, and controls that apply to third parties, which are defined to mean anyone who is neither a candidate nor an election agent. The restrictions apply to an objectively defined group of persons who freely choose to play a prominent role in political debate.

The new Division 2A, Subdivision (2) consists of 5 new sections dealing with activities in the campaign period of an election.

The new section 42E deals only with election advertising that is either online election advertising published in Singapore, or non-online election advertising published in Singapore by undertaking any electronic communications activity.

A candidate in an election who publishes any such election advertising in Singapore, during the campaign period, or anyone publishing such election advertising in Singapore during the campaign period, on behalf of a candidate commits an offence if the election advertising —

- (a) was not declared to the Returning Officer within a certain time; or

- (b) has a functionality prescribed in the election advertising regulations as impermissible for that form of election advertising, or does not have a functionality prescribed in the election advertising regulations as requisite for that election advertising.

The timeline for declaring the election advertising is like what is presently set out in the Presidential Elections (Election Advertising) Regulations (Rg 3).

The new section 42E extends to cover any subsequent step taken by or on behalf of anyone to amplify the access to an earlier published content on the Internet by persons physically present in Singapore. For example, by sharing or boosting the search engine results for the earlier posted content. Please refer to the amendments in clause 2.

The new sections 42F to 42I relate only to traditional election advertising activities during the campaign period and set out what is substantially the permit regime for posters and banners set out in the Presidential Elections (Election Advertising) Regulations, but with a few additional restrictions.

The new section 42F covers traditional election advertising by or on behalf of a candidate, during the campaign period of an election. It makes it an offence to publicly display, or cause to be publicly displayed, during the period any traditional election advertising in any place or in or on any conveyance, thing or structure, whether mobile or stationary.

The traditional election advertising covered is one that relates to the election in question. Clause 2 introduces an interpretive provision which states that an election advertising relates to an election if it contains an express or implicit reference to —

- (a) the election;
- (b) an individual who is a candidate at the election in his or her capacity as a candidate (and not in some other capacity, like as a Town Councillor or political office holder); or
- (c) an issue submitted or otherwise before electors in the election.

Any other content in the form of a banner, flag or poster and which does not contain any of the above will not be banned under the new section 42F.

However, the new section 42F does not apply to or in relation to the public display of any traditional election advertising under the authority of a permit granted by the Returning Officer. There are also other exceptions described in the new section 42G(4).

The new section 42G makes it an offence to publicly display traditional election advertising more than the maximum prescribed in the election advertising regulations for that type of traditional election advertising.

The new section 42H requires all traditional election advertising to be publicly displayed only in a positive list of permissible locations. It makes it an offence for a candidate to publicly display, or cause to be publicly displayed, during the campaign period relating to an election, any traditional election advertising in any place that is not on the positive list of permissible locations, and the person knows or has reason to believe that the place is an impermissible location.

The new section 42I relates to the offence of displaying traditional election advertising within the restricted signage zone of an ordinary polling station or a special polling station. The restricted signage zone is roughly a 50-metre zone around an ordinary polling station or a special polling station.

The new Division 2A, Subdivision (3) consists of 3 new sections dealing with election advertising undertaken by third parties during the election period of an election and a ban on election advertising by foreigners and foreign entities.

The new section 42J makes it an offence for a third party at an election to undertake electronic communications activity that results in or involves publishing in Singapore, at any time during the election period of an election, any content in any way that renders the content accessible from the Internet, and if all or part of the production of the content that is or includes the online election advertising or the publication of the online election advertising, is paid for in money or money's worth by the third party or by another person who may or may not be a third party.

This is permissible only if the third party was granted a written authority under section 65(2), signed by a candidate or a candidate's election agent.

The new section 42J does not criminalise third-party election advertising on the Internet if that is not paid for in money or money's worth by the third party or by another person who may or may not be a third party.

The new section 42K is a corresponding offence for third-party activities involving non-online election advertising. The difference is that there is no exception for unpaid third-party election advertising if these are not online.

The new section 42L re-enacts section 65(1A) which contains a ban on foreign individuals publishing or displaying election advertising during the election period of an election. The new section 42L extends the ban to foreign entities. The expressions "foreigner" and "foreign entity" are inserted by the amendments in clause 2.

The new Division 2A, Subdivision (4) contains enforcement provisions, defences to offences under the new Division 2A, Subdivisions (1), (2) and (3), and definitions of terms which are used only in the new Division 2A.

The new section 42M empowers the Returning Officer to issue corrective directions to certain relevant persons where he or she reasonably believes that an offence under the new section 42C, 42E, 42J, 60B (election survey results), 60C

(exit polls) or 65(5) (publishing without authorisation by candidate or election agent) is being or has been committed, resulting in or involving publishing in Singapore any online election advertisement.

The relevant persons are —

- (a) a candidate at an election;
- (b) a third party in relation to an election who is connected with the commission of the offence but not a person mentioned in paragraph (c); or
- (c) a provider of a social media service, a relevant electronic service or an internet access service.

The corrective directions can require a relevant person to take all reasonable steps to ensure the removal, from the social media service, relevant electronic service or internet access service (as the case may be) of the online election advertising identified in the direction, or to disable access to the online election advertising on the social media service, relevant electronic service or internet access service (as the case may be) by end-users in Singapore who use or may use the service.

The corrective direction may also require a relevant person to take all reasonable steps to stop or reduce electronic communications activity involving, provision of or access to, or further electronic communications activity involving, further provision of or access to, that online election advertising by end-users in Singapore of the social media service, relevant electronic service or internet access service.

A relevant person who, without reasonable excuse, fails to comply with a direction given commits an offence.

The new section 42N confers on the Returning Officer powers to deal with traditional election advertising which is the subject of offences. Where the Returning Officer reasonably believes that an offence under the new section 42C, 42F, 42G, 42H or 42I is being committed, the Returning Officer may direct a person —

- (a) to either remove or cause to be removed, or to otherwise stop any public display of, any traditional election advertising that is publicly displayed in connection with that offence; and
- (b) to do so within the period specified in the direction, or any extension of that period that the Returning Officer may allow in any particular case.

The person directed can be any person, unlike the closed list in the new section 42M. The person directed under the new section 42N need not be a candidate political party or an election agent, or a person who committed the offence.

A person who, without reasonable excuse, fails to comply with any direction given to the person by the Returning Officer commits an offence. At the same time, if any such direction is not complied with to the satisfaction of the Returning Officer, the Returning Officer may carry out or take steps or cause to be carried out any work or any steps to be taken, which are in the Returning Officer's opinion necessary to secure compliance with the direction, including removing or causing to be removed any traditional election advertising and detaining the traditional election advertising at a holding yard or other place, or stopping any public display of any traditional election advertising.

The new section 42O is an evidentiary provision.

The new section 42P sets out defences to offences in the new Division 2A, Subdivision (1), (2) or (3).

The new section 42Q contains power for the Minister to make election advertising regulations.

The new section 42R contains supplementary interpretive provisions.

The new section 42R(6) and (7) also makes it clear that the offences in the new Division 2A or section 60B or 60C, or in the election advertising regulations, involving publishing content by electronic means extend to a person who engages in any conduct that constitutes an offence described in the respective provision either wholly or partly in Singapore, or wholly outside Singapore and as a result of that conduct, the offence occurs wholly or partly in Singapore. In short, there is extra-territorial application.

Clause 29 amends section 43 (on nomination of election agents) to provide for the following purposes:

- (a) where there is no appointment in force of an election agent of a candidate for an election, the new section 43(2B) deems the candidate as a candidate, an election agent and the principal election agent;
- (b) where there is no appointment in force of the principal election agent of a candidate for an election, but there are appointments in force of election agents, one of the appointed election agents must be treated as appointed as the principal election agent for the candidate in that election in accordance with the order set out in the new section 43(2C).

The other amendments are housekeeping changes. The amendments will dispense with the sole reliance on hardcopy appointment forms to notify the Returning Officer of appointments of election agents or changes in appointments and will allow the use of an electronic system instead.

Clause 30 amends section 44 (on persons disqualified from being appointed an election agent) by introducing a new disqualification to be an election agent. An

individual who is an undischarged bankrupt will be disqualified from being an election agent.

Clause 31 amends section 45 (on making of contracts through an election agent) to provide that a candidate may appoint a polling agent, clerk or messenger for the purposes of the election. If the candidate makes such an appointment, the candidate must inform the presiding officer at each polling station in writing of the name of every polling agent appointed.

Clause 32 amends section 49 (on election expenses paid by persons authorised by an election agent of a candidate) to delete section 49(5), which requires such persons to send to the principal election agent the particulars of any payment made by them in an election. Section 49(5) is not necessary as it is the principal election agent's responsibility to ensure that all particulars and supporting documents relating to election expenses are collected and preserved for the purposes of the return on election expenses that the principal election agent must submit to the Returning Officer after the election.

Clause 33 makes a consequential amendment to section 54 (on certain employment that constitutes an illegal practice) arising from the amendments to section 22 (by clause 14).

Clause 34 amends section 56 which will empower the Returning Officer to issue one or more guidelines for the purpose of providing practical guidance or certainty in respect of any of the requirements of section 56 on the filing of returns respecting election expenses. The guidelines may cover what must be or need not be disclosed in any returns respecting election expenses.

In court proceedings for an illegal practice involving any return respecting election expenses, compliance with a provision of any guideline so issued, or a contravention of or a failure to comply with such a guideline, which is found by the court to be relevant to a matter to which a contravention or failure alleged in the proceedings relates, may be relied on by any party to those proceedings as tending to negative or establish any liability which is in question in those proceedings.

Clause 35 introduces a new section 56A which provides a means by which an election agent, together with the candidate, can make corrections to returns for election expenses filed with the Returning Officer. However, the corrections must be made before the expiry of the time delimited by section 56(1) for the transmission to the Returning Officer of returns respecting election expenses and the related statements. The amendment does not affect the courts' power to grant an authorised excuse under section 70 for non-compliance with provisions as to returns and statements respecting election expenses.

Clause 36 amends section 57 (on publication and inspection of returns and statements on election expenses) to enable the Returning Officer to provide public

notice of returns respecting election expenses using more modern methods. The amendments will allow for online access to these returns.

Clause 36 also amends section 57 to require the Returning Officer to redact certain personal details (for personal data protection) before allowing any person to inspect or make extracts from any return or statement on election expenses submitted to the Returning Officer. The clause also extends the period of time (currently 6 months) for which the Returning Officer must preserve the returns and statements on election expenses to one year.

Clause 37 repeals sections 60, 60AA and 60A because of clause 28.

Clause 38 amends section 60B (which bans publishing the results of election surveys between the day the writ of election is issued for an election and ending with the close of all polling stations on polling day at the election) to make clear that the survey may involve voters and not necessarily electors whose names are entered in a register of electors, and the results may be those purporting to be that of a survey of voters.

By reason of the amendments in clause 2 to section 2, section 60B extends to cover any subsequent step taken by or on behalf of anyone to amplify the access to an earlier published election survey result on the Internet by persons physically present in Singapore. For example, by sharing or boosting the search engine results for the earlier posted content.

Clause 39 amends section 60D by removing cross-references to sections 42(1)(c) and 60A(1) and to regulations made under section 60AA(1)(b), as these are made redundant by the amendments in clause 37.

Clause 40 amends section 64 (on undue influence at or near polling stations) to better define a restricted zone for a polling station, within which there can be no loitering on polling day. This is to overcome operational difficulties where the polling station is situated within a larger setting, like a school.

A restricted zone for a polling station means the building, or part of the building, in which any polling place of the polling station or any polling booth or other facility for electors allotted to that polling station are to vote. The restricted zone is also the area within 200 metres of the external edges of such a building or part of a building.

If the Returning Officer or a presiding officer of that polling station has designated entrances to the grounds under section 18(5), the area within 200 metres of each designated entrance to those grounds is the restricted zone for that polling station.

The 200-metre zone does not extend to premises that are outside Singapore.

Clause 41 amends section 65 which deals with taking part in and conducting of election activity.

The first amendment is to section 65(1)(a) to replace the present ban on individuals attending a primary or secondary school as a student from taking part in election activity with a ban on individuals who are below 16 years of age.

There is a corresponding amendment to section 65(6) to prohibit any candidate or an election agent authorising anyone to conduct an election activity, knowing or having reason to believe that the person is below 16 years of age.

Clause 41 also amends section 65 to ban foreign entities and foreign individuals from taking part in or conducting election activity. The terms “foreigner” and “foreign entity” are defined by the amendments in clause 2. There is however a facility to carve out foreign individuals from the ban by regulations.

Finally, section 65(1)(c) is also repealed by clause 41. This abolishes the ban on undischarged bankrupts taking part in election activities.

Section 65 is further amended to exclude an activity which the new section 42J (on third-party election advertising on the Internet) does not criminalise. As amended, “election activity” excludes a third party publishing, or causing to be published, any content in any way that renders the content accessible from the Internet, where all or part of the production of the content or its publication is not paid for, in money or money’s worth, by the third party or by another person who may or may not be a third party.

Finally, the current section 65(1A) is repealed as it is re-enacted as the new section 42L.

Clause 42 amends section 79(1)(a), which deals with the striking out of votes on a scrutiny at the hearing of an application under section 79 to set aside an election result. The amendment has to set out more circumstances where the votes cast need to be struck off because of the introduction of special voting arrangements and postal voting.

Clause 43 introduces a new section 81A which empowers the Minister to make regulations to enable contingency arrangements to be put in place, should they be required, to enable a Returning Officer to conduct a safe, orderly, efficient and timely election and support the resilience of Singapore’s democracy, because of a disruptive event which has occurred or is likely to occur, before or during any stage of an election, in Singapore or in a country where there is established one or more overseas polling stations and which prevents or seriously interrupts, or is likely to prevent or seriously interrupt, the conduct of the election according to the Act.

The regulations will replace the present sections 36A, 36B, 36C, 36D, 36DA, 36DB, 36E and 36F. This will provide for greater flexibility for measures to be devised to deal with these unusual situations, instead of having to amend the Act. While the regulations may modify the provisions of the Act, the regulations must



not authorise any person to vote more than once at an election and must preserve voting in secret.

The regulations may also provide for the witnessing or attesting to any thing (but not voting) through the use of remote communication technology, such as by video conferencing, tele-conferencing or other electronic means.

A disruptive event is defined as what is presently in sections 36A, 36B, 36C, 36D, 36DA, 36DB, 36E and 36F but is expanded to cover more natural disasters which occur regionally, such as an eruption, earthquake, landslip or haze, and events like transport accidents and unplanned and prolonged outage of any telecommunication or electricity service, or an information and communications system, which is essential for the proper conduct of an election.

Clause 43 also introduces a new section 81B which requires all regulations made under the Act to be presented to Parliament as soon as possible after publication in the *Gazette*. There is also a blackout period during which no regulations may be made. This period starts when a writ of election has been issued under section 6 for an election and ends after the day of nomination or, if a poll is to be taken, after polling day of that election.

Clause 44 introduces a new section 85, which deals with the service of documents permitted or required to be served on a person for the purposes of the Act. The new section 85 does not deal with service of court documents like summonses, as these are regulated by the Rules of Court or other written laws.

The new modes of service introduced follow the technological advances in communications. Service by fax is provided for. Service by email is also permissible. Service is also permitted by giving an electronic notice to the individual, partnership, body corporate or unincorporated association (called 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. For example, a recipient of a notice may choose to be notified by a mobile phone application that notifies the person that a notice to the person is available to be accessed on a website maintained by the Government.

The new section 85 also provides for special service arrangements for a person where, by the exercise of reasonable diligence, the name of the person to whom the document is to be served, or the business address, residential address or last email address of the person, cannot be ascertained. The document may be served by posting it on a website maintained by the Government and prescribed by the Minister by notification in the *Gazette* for this purpose.

However, service of any document on a person by email or by an electronic notice at the person's chosen means of notification may be effected only with the person's prior consent to service in that way. The consent may be given expressly or impliedly.

Clause 45 confers power on the Minister to make regulations prescribing provisions of a saving or transitional nature consequent on the enactment of any clause in the Bill as the Minister may consider necessary or expedient. The regulations must be made within a 2-year time limit.

## EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

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