

Constitution of the Republic of Singapore (Amendment) Bill

Bill No. 20/2007.

Read the first time on 21st May 2007.

A BILL

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An Act to amend the Constitution of the Republic of Singapore
(1999 Reprint).

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 may be cited as the Constitution of the Republic of Singapore (Amendment) Act 2007 and shall come into operation on such date as the President may, by notification in the *Gazette*, appoint.

5 **Amendment of Article 22**

2. Article 22(1) of the Constitution of the Republic of Singapore (referred to in this Act as the Constitution) is amended by inserting, immediately after paragraph (f), the following paragraph:

10 “(fa) a member of the Legal Service Commission, other than an ex-officio member referred to in Article 111(2)(a), (b) or (c);”.

Amendment of Article 37A

3. Article 37A of the Constitution is amended by deleting the definition of “member” and substituting the following definition:

15 ““member” means a member of the Council and includes the Chairman and any alternate member appointed under Article 37C.”.

Amendment of Article 37B

20 4. Article 37B of the Constitution is amended by deleting clause (4) and substituting the following clauses:

“(4) When the Chairman exercises the functions of the office of the President under Article 22N or 22O, he —

25 (a) shall not act as the Chairman during the period he so exercises the functions of the office of President; and

(b) shall not take part in any proceedings of the Council during that period.

(5) Where the Chairman is temporarily unable, whether by illness, absence or any other reason (including disqualification under clause (4)), to take part in any proceedings of the Council for any period —

30 (a) he shall appoint a member (not being an alternate member) of the Council to act as Chairman for that period; and

- (b) the alternate member selected under Article 37C(3) to act in place of the member referred to in paragraph (a) shall perform that member's functions during that same period.”.

Repeal and re-enactment of Article 37C

- 5 **5.** Article 37C of the Constitution is repealed and the following Article substituted therefor:

“Alternate members

10 **37C.**—(1) The President may, in accordance with this Article, appoint persons to be alternate members to act in place of members (other than the Chairman) appointed under Article 37B(1) while any such member is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed under Article 37B(5)(a) to act as the Chairman.

15 (2) For the purposes of making an appointment under clause (1), the President —

(a) shall, acting in his discretion, appoint one person as an alternate member; and

20 (b) shall request that the Prime Minister, after consulting the Chief Justice and the Chairman of the Public Service Commission, nominate one other person to be an alternate member, and upon such nomination, shall appoint the person so nominated as another alternate member.

(3) Whenever any member appointed under Article 37B(1) (other than the Chairman) —

25 (a) is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council; or

30 (b) is appointed under Article 37B(5)(a) to act as the Chairman, an alternate member to act in place of that member shall be selected from among the persons appointed under clause (2) —

(i) by the President, acting in his discretion, if the member concerned is any of the 2 members appointed under Article 37B(1)(a);

(ii) by the Prime Minister, if the member concerned is any of the 2 members appointed under Article 37B(1)(b); or

(iii) by the Chief Justice or Chairman of the Public Service Commission, as the case may be, if the member concerned is a member appointed under Article 37B(1)(c) or (d), respectively.

(4) A person may be appointed to be an alternate member under clause (2) if, and only if, the person is qualified under Article 37D and not disqualified under Article 37E.

(5) Every alternate member shall be appointed under clause (2) for a term of 4 years, and shall hold office as such for such a term unless the alternate member earlier —

(a) resigns in writing addressed to the Chairman;

(b) ceases to be a citizen of Singapore; or

(c) becomes subject to any disqualification referred to in Article 37E.

(6) The alternate member who is selected under clause (3) to act in place of a member shall act in place of and perform the functions of the member (but not as the Chairman) only when the member is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed under Article 37B(5)(a) to act as the Chairman, and the alternate member —

(a) may act in place of and perform the functions of the member in relation to any matter, even though that member is disqualified in relation to that matter; and

(b) while so acting, shall have and may exercise all the powers and duties of that member.

(7) The appointment of a person as an alternate member may be terminated at any time by the President —

(a) acting in his discretion, if the alternate member is appointed under clause (2)(a); or

(b) acting on the advice of the Prime Minister (which shall be given only after consulting with the Chief Justice and the Chairman of the Public Service Commission), if the

alternate member is appointed under clause (2)(b) on the nomination of the Prime Minister.”.

Amendment of Article 37H

5 **6.** The Constitution is amended by renumbering Article 37H as clause (1) of that Article, and by inserting immediately thereafter the following clause:

10 “(2) Clause (1) shall also apply where an alternate member appointed under Article 37C is selected under Article 37C(3) to act in place of and perform the functions of a member appointed under Article 37B(1), except that an alternate member need not be required, during his term of office as an alternate member, to take such an oath more than once in respect of the occasions when he is so selected to act.”.

Amendment of Article 97

15 **7.** The Constitution is amended by renumbering Article 97 as clause (1) of that Article, and by inserting immediately thereafter the following clause:

20 “(2) Notwithstanding clause (1), a Judicial Commissioner who is appointed under Article 94(5) to hear and determine a specified case need not be required to take the Oath of Office again if a period of less than 12 months intervenes between the date of his judgment in any specified case he is so appointed to hear and determine and the start of hearing for the next specified case.”.

Amendment of Article 111

25 **8.** Article 111 of the Constitution is amended —

- (a) by inserting, at the end of clause (2)(c), the word “and”;
- (b) by deleting paragraphs (d) and (e) of clause (2) and substituting the following paragraph:

30 “(d) at least 3 but not more than 6 other members, each of whom shall be appointed by the President if he, acting in his discretion, concurs with the advice of the person nominating the member under clause (2A).”;

(c) by inserting, immediately after clause (2), the following clauses:

“(2A) The members referred to in clause (2)(d) shall comprise —

- (a) at least one but not more than 2 persons nominated by the Chief Justice;
- (b) at least one but not more than 2 persons nominated by the Chairman of the Public Service Commission; and
- (c) at least one but not more than 2 persons nominated by the Prime Minister,

except that where the Chief Justice, the Chairman of the Public Service Commission or the Prime Minister, as the case may be, nominates 2 persons, one of whom must be a person who has for an aggregate period of not less than 10 years been a qualified person within the meaning of section 2(1) of the Legal Profession Act (Cap. 161).

(2B) A person shall not be appointed under clause (2)(d) to be a member of the Legal Service Commission if he is, and shall cease to be such a member if he becomes —

- (a) a public officer;
- (b) an employee of any corporation incorporated by or under the provisions of any law for the time being in force in Singapore other than the Companies Act (Cap. 50) or any corresponding previous written law;
- (c) a Member of Parliament or a duly nominated candidate for election as such Member;
- (d) a member of any trade union or of any body or association affiliated to a trade union; or
- (e) the holder of any office in any political association.

(2C) Subject to clause (2B), every member of the Legal Service Commission appointed under clause (2)(d) shall, unless he earlier resigns his office by writing under his hand addressed to the President or is removed therefrom under clause (2D), hold office from the date of his appointment for such period (being not shorter than 3 years and not longer than

5 years) as the President may specify, and shall be eligible for reappointment.

5 (2D) If the Prime Minister, or the President of the Legal Service Commission after consulting with the Prime Minister, represents to the President that a member of the Legal Service Commission who is appointed under clause (2)(d) ought to be removed from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, the President shall —

- 10 (a) refer that representation to a tribunal consisting of 2 Judges of the Supreme Court nominated for that purpose by the Chief Justice, if the President, acting in his discretion, concurs with that representation; and
- 15 (b) remove that member from office by writing under his hand if the tribunal in paragraph (a) so recommends.

(2E) The members of the Legal Service Commission appointed under clause (2)(d) shall —

- 20 (a) before assuming the duties of their respective offices, take and subscribe before the Chief Justice or some other Judge of the Supreme Court the appropriate Oath for the due execution of their offices in the form set out in the First Schedule; and
- 25 (b) be paid such allowances as may, from time to time, be determined, and such allowances shall be charged on and paid out of the Consolidated Fund.

30 (2F) Subject to the provisions of this Constitution, the terms of service of the members of the Legal Service Commission appointed under clause (2)(d) may either be prescribed by or under any law made under this Constitution, or (in so far as they are not prescribed by or under any such law) be prescribed by the President.

35 (2G) The terms of service of any member of the Legal Service Commission appointed under clause (2)(d) shall not be altered to his disadvantage during his continuance in office, except that in so far as the terms of service of such a member of the Legal Service Commission depend upon his option, any

terms for which he opts shall be taken to be more advantageous to him than any for which he might have opted.

(2H) One of the members of the Legal Service Commission referred to in clause (2)(b), (c) or (d) may be appointed by the President as the Vice-President of the Legal Service Commission where the President, acting in his discretion, concurs with the advice of the Prime Minister who shall consult the President of the Legal Service Commission before tendering any such advice to the President.”;

(d) by deleting the words “or pensionable” in clause (3);

(e) by deleting the words “grade of service” in clause (4) and substituting the words “grade of officers in the Singapore Legal Service, not being functions which are exercisable by a personnel board under Article 111AA”; and

(f) by deleting clause (5) and substituting the following clauses:

“(5) The Legal Service Commission may, subject to the provisions of this Constitution, regulate its own procedure and make rules for that purpose.

(6) There shall be a Secretary to the Legal Service Commission who shall —

(a) be a person who is a public officer; and

(b) be appointed by the President in accordance with the advice of the Legal Service Commission.

(7) The Secretary to the Legal Service Commission shall be responsible, in accordance with such instructions as may be given to him by the President of the Legal Service Commission, for arranging the business for, and keeping the minutes of, the meetings of the Legal Service Commission and for conveying the decisions of the Legal Service Commission to the appropriate person or authority and shall have such other functions as the President of the Legal Service Commission may, from time to time, direct.”.

New Article 111AA

9. The Constitution is amended by inserting, immediately after Article 111, the following Article:

“Personnel boards of Singapore Legal Service

5 **111AA.**—(1) Subject to the provisions of this Article, the President may, on the advice of the Prime Minister and by order published in the *Gazette*, establish one or more personnel boards to exercise all or any of the powers and functions of the Legal Service Commission under Article 111.

10 (2) An order under clause (1) shall specify the powers and functions to be exercised by a personnel board and the class or classes of officers in the Singapore Legal Service in respect of which those powers and functions may be exercised except the following:

- (a) the power to dismiss and exercise disciplinary control over officers in the Singapore Legal Service; and
- (b) all powers of the Legal Service Commission in relation to officers in the Singapore Legal Service who hold appointments of and above a grade prescribed in the order, including the power to nominate officers for appointment or promotion to that grade,

15 and any power of appointment specified in the order as to be exercised by a personnel board shall not include a power to dismiss any person so appointed.

20 (3) Before tendering his advice as to the grade in the Singapore Legal Service referred to in clause (2)(b), the Prime Minister shall consult the President of the Legal Service Commission.

25 (4) Where the President has by order established a personnel board under clause (1) for the purpose of exercising any of the powers or functions of the Legal Service Commission, such power or function —

- (a) may be exercised by such personnel board notwithstanding anything in Article 111; and
- (b) shall, so long as it remains a power or function to be exercised by the personnel board pursuant to such order, cease to be exercisable by the Legal Service Commission except to the extent permitted under clause (5).

30 (5) Subject to any order made under clause (1), any person who is aggrieved by any decision of any personnel board established under this Article may, within such time and in such manner as may be

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prescribed, appeal to the Legal Service Commission, and the decision of that Commission shall be final.

(6) Subject to clause (7), a personnel board which is established under this Article shall consist of such persons (who may or may not be members of the Legal Service Commission) as the President may, on the advice of the Legal Service Commission, appoint except that the President may, acting in his discretion, refuse to make any such appointment if he does not concur with the advice of the Legal Service Commission.

(7) A person shall not be appointed to be a member of a personnel board established under this Article if he is, and shall cease to be a member if he becomes —

(a) a Member of Parliament or a duly nominated candidate for election as such Member;

(b) a member of any trade union or of any body or association affiliated to a trade union; or

(c) the holder of any office in any political association.

(8) An order under clause (1) may also —

(a) provide for matters relating to the appointment of members of personnel boards established under this Article;

(b) prescribe the procedure to be followed by these personnel boards in the exercise of their powers and functions; and

(c) prescribe the manner of appeals under clause (5).”.

Amendment of First Schedule

10. The First Schedule to the Constitution is amended by deleting the forms of Oath for due execution of Office of Prime Minister and Oath for due execution of Office of Minister or Parliamentary Secretary and substituting the following forms of Oath:

“4. *Oath for due execution of Office of Prime Minister*

I,, being chosen and appointed as Prime Minister of Singapore, do solemnly swear (or affirm) that I will at all times faithfully discharge my duties as Prime Minister according to law, and to the best of my knowledge and ability, without fear or favour, affection or ill-will.

4A. *Oath for due execution of Office of Minister or Parliamentary Secretary*

I,, being chosen and appointed as *Minister/Parliamentary Secretary of Singapore, do solemnly swear (or affirm) that I will at all times faithfully discharge my duties as *Minister/Parliamentary Secretary according to law, and to the best of my knowledge and ability, without fear or favour, affection or ill-will.”

Saving and transitional provision

11. Nothing in section 9 shall affect any delegation issued by the Legal Service Commission under Article 111(4) of the Constitution before the commencement of that section, but that delegation shall cease to have effect when a personnel board is established under Article 111AA of the Constitution to exercise any power or function of the Legal Service Commission that is the subject of any such delegation.

EXPLANATORY STATEMENT

This Bill seeks to amend the Constitution of the Republic of Singapore for 4 main purposes —

- (a) to provide for the appointment of alternate members to act in place of members of the Council of Presidential Advisers (the Council) when anyone of them (other than the Chairman) is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council;
- (b) to enhance and institutionalise the personnel management system of the Singapore Legal Service;
- (c) to shorten the oaths of office for the Prime Minister, Ministers and Parliamentary Secretaries; and
- (d) to relieve Judicial Commissioners appointed to hear specific cases from repeated oath-taking if the interval between the cases is short.

Clause 1 relates to the short title and commencement.

Clause 2 amends Article 22(1) as a consequence of the change in composition of the Legal Service Commission, by clause 8. The members of the Legal Service Commission (other than the ex-officio members) are included in the list of key appointments over whom the President has a discretion to veto their appointments.

Clause 3 amends the definition of “member” in Article 37A to include an alternate member.

Clause 4 amends Article 37B(4) as a consequence of the appointment of alternate members. When the Chairman is the Acting President, he cannot act as the Chairman

and cannot take part in any proceedings of the Council, and he must appoint another member (not an alternate member) to be the Chairman. The alternate member who is selected under the new Article 37C to act in place of the member appointed as Acting Chairman will, during that same period, act in the member's place and perform his functions as a member.

Clause 5 repeals Article 37C (which relates to the appointment of temporary members) and re-enacts a new Article 37C providing for the appointment of 2 alternate members to act in place of members of the Council when anyone of them (other than the Chairman) is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed to act as Chairman of the Council (when the Chairman is acting President).

The President may, acting in his discretion, appoint one alternate member. The other alternate member will be appointed by the President on the nomination of the Prime Minister, after the Prime Minister has consulted with the Chief Justice and the Chairman of the Public Service Commission. Every alternate member is to be appointed for a term of 4 years. The alternate member will, however, vacate his office if he earlier resigns, ceases to be a citizen of Singapore or becomes subject to any disqualification under Article 37E. An alternate member's appointment may also be terminated at any time.

Where a member of the Council is temporarily unable, whether by illness, absence or any other reason, to take part in any proceedings of the Council, or is appointed to act as Chairman of the Council (when the Chairman is acting President), an alternate member from among the 2 appointed will be selected to act in place of that member. The President will make the selection in his discretion if the member is one who is appointed at his discretion. The selection will be made by the Prime Minister, the Chief Justice and the Chairman of the Public Service Commission, depending on whether the member who is temporarily unable to take part in any proceedings of the Council, or is appointed to act as Chairman of the Council, is appointed on the advice of the Prime Minister, the Chief Justice or the Chairman of the Public Service Commission, as the case may be.

An alternate member selected to act in place of any member can only act in place of the member when the member is temporarily unable to take part in any proceedings of the Council, or is appointed to act as Chairman of the Council (when the Chairman is acting President). When doing so, the alternate member can act in the member's place even though that member is disqualified in relation to a matter, and while so acting, the alternate member has all the powers and duties of that member.

Clause 6 amends Article 37H to require every alternate member to take an oath of office and allegiance before entering upon his duties as an alternate member. However, in the interest of avoiding repeated oath-taking, the alternate member need not be required to take such an oath more than once during his term of office as an alternate member.

Clause 7 amends Article 97 to relieve ad-hoc Judicial Commissioners appointed to hear specific cases from repeated oath-taking, provided that an interval of less than

12 months elapses between the end of one case and the start of hearing for the next case.

Clause 8 amends Article 111, which relates to the Legal Service Commission. The composition of the Legal Service Commission is changed to admit at least 3 and up to 6 additional members, each of whom is to be appointed by the President if he, acting in his discretion, concurs with the advice of the person nominating the member. These additional members are nominated by the Chief Justice and the Chairman of the Public Service Commission (2 of the ex-officio members of the Legal Service Commission), and by the Prime Minister. There will be at least one but up to 2 nominees each from the Chief Justice, the Chairman of the Public Service Commission, and the Prime Minister, respectively. If there are 2 nominees each from the Chief Justice, at least one of his nominees must be a person who has for an aggregate period of not less than 10 years been a qualified person within the meaning of section 2(1) of the Legal Profession Act (Cap. 161). The same rule applies if the Chairman of the Public Service Commission or the Prime Minister makes 2 nominations each.

The President may also appoint one of the members of the Legal Service Commission as the Vice-President of the Legal Service Commission. The appointment of the Vice-President is made by the President, acting in his discretion, if he concurs with the advice of the Prime Minister who must consult the President of the Legal Service Commission before tendering any such advice to the President.

The Attorney-General continues to be an ex-officio member of the Legal Service Commission, and the Chief Justice remains ex-officio its President.

The rest of the new clauses introduced relate to the new members of the Legal Service Commission. The provisions deal with disqualification to be or being a Legal Service Commission member, and their tenure and service terms. The same disqualifications for members of the Public Service Commission apply to these new members of the Legal Service Commission. Likewise, the terms of service of the new members of the Legal Service Commission cannot be altered to their disadvantage while in office.

The function and duty of the Legal Service Commission remains unchanged substantially viz. to appoint, confirm, emplace on the permanent establishment, promote, transfer, dismiss and exercise disciplinary control over officers in the Singapore Legal Service. With the amendment, there is no longer a duty to emplace officers on the pensionable establishment since the Singapore Legal Service ceased to be a pensionable service since 1986.

Finally, with the amendments, the Secretary to the Public Service Commission will cease to be concurrently the Secretary to the Legal Service Commission. Another public officer may be appointed by the President (on the advice of the Legal Service Commission) to be the Secretary to the Legal Service Commission.

Clause 9 introduces a new Article 111AA concerning personnel boards of the Singapore Legal Service. The new Article 111AA is another part of the proposals to enhance and institutionalise the personnel management system for the Singapore Legal Service.

Under the present personnel management system of the Singapore Legal Service, there is a personnel board which functions purely as delegates of the Legal Service Commission. The new Article 111AA will allow the President, on the advice of the Prime Minister, to establish by subsidiary legislation one or more personnel boards having charge over Legal Service officers. Like the equivalent personnel boards for civil servants in general in Article 110D, the powers of the Legal Service Commission will be devolved to these personnel boards for Legal Service officers, except the power of dismissal and disciplinary control, and all powers of recruitment and promotion of Legal Service officers of and above a certain threshold grade. Once such a personnel board is established, the powers of the Legal Service Commission will cease to be exercisable by that Commission, except in an appellate capacity. Any person who is aggrieved by a decision of a personnel board for Legal Service officers may appeal to the Legal Service Commission whose decision is final.

The Legal Service Commission will retain exclusive jurisdiction over Legal Service officers who hold appointments of and above a certain threshold grade (to be prescribed in the subsidiary legislation), including the power to nominate officers for appointment or promotion to that grade. Before tendering his advice to the President as to what that grade is, the Prime Minister has to first consult the President of the Legal Service Commission, who is the Chief Justice.

The members of a personnel board for Legal Service officers may or may not be members of the Legal Service Commission. Like the personnel boards for civil servants in Article 110D, the appointment of members of the personnel boards for Legal Service officers will be subject to the discretionary veto powers of the President. The President appoints these members on the advice of the Legal Service Commission, except that the President may, acting in his discretion, refuse to make any such appointment if he does not concur with the advice of the Legal Service Commission. However, political office holders, Members of Parliament and trade unionists will be disqualified from being on these personnel boards.

Clause 10 amends the First Schedule by replacing the oaths of office for the Prime Minister, Ministers and Parliamentary Secretaries with shorter oaths of office.

Clause 11 is a saving and transitional provision concerned with existing delegations by the Legal Service Commission.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
