

Presidential Elections (Amendment) Bill

Bill No. 5/2010.

Read the first time on 11th March 2010.

A BILL

intituled

An Act to amend the Presidential Elections Act (Chapter 240A of the 2007 Revised Edition).

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 Presidential Elections (Amendment) Act 2010 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **New section 7A**

2. The Presidential Elections Act (referred to in this Act as the principal Act) is amended by inserting, immediately after section 7, the following section:

“Failure of election

10 **7A.**—(1) Whenever an election wholly fails, a fresh writ may be issued by the Prime Minister at any time for the holding of another election, except that where the election has failed because of the death of a candidate after the election has been reported as contested but before polling day, then section 16(7) and (8) shall apply.

15 (2) The original writ for an election that has wholly failed and everything done in connection with the election because of that writ shall be of no effect.

(3) Where a fresh writ is issued under subsection (1), sections 6 and 7 shall apply to that writ.

20 (4) For the purposes of this Act, an election shall have wholly failed if no candidate is nominated or returned as elected at that election.”.

Amendment of section 10

3. Section 10(4) of the principal Act is amended by inserting, immediately after the words “a candidate for election”, the words “, an election has wholly failed”.

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Amendment of section 16

4. Section 16 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (5) and substituting the following paragraph:

30 “(a) the date on which the poll will be taken, the date being not earlier than the 10th day, and not later than the 56th day, after the date of publication of the notice

in the *Gazette* (referred to in this Act as polling day);”; and

(b) by deleting the words “for the election” in subsection (7)(b) and substituting the words “, time and place for the nomination of candidates for election, at least 4 clear days before the fresh date fixed for such nomination”.

Amendment of section 21

5. Section 21(2) of the principal Act is amended by deleting the words “\$500 or to imprisonment for a term not exceeding 6 months” and substituting the words “\$1,500 or to imprisonment for a term not exceeding 9 months or to both, and shall, on conviction, become incapable for a period of 3 years from the date of his 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”.

Amendment of section 22

6. Section 22(4) of the principal Act is amended by deleting the words “or under section 33C(3)(b)” and substituting the words “under this section, section 33C(3)(b) or 36C”.

Amendment of section 26

7. Section 26 of the principal Act is amended by deleting “\$5” in subsections (8) and (9) and substituting in each case “\$50”.

Amendment of section 27

8. Section 27(4) of the principal Act is amended by deleting the words “\$500 or to imprisonment for a term not exceeding 6 months” and substituting the words “\$1,500 or to imprisonment for a term not exceeding 9 months or to both”.

Amendment of section 31A

9. Section 31A of the principal Act is amended by inserting, immediately after subsection (2), the following subsections:

“(3) Where polling at all polling stations established for the purposes of a poll is postponed under section 36C, the conduct of the counting of votes cast for the election shall stand postponed until

such other time as the Returning Officer, by notice in writing to each candidate or his principal election agent, shall specify.

5 (4) Where polling at any polling station established for the purposes of a poll is temporarily suspended, adjourned and postponed or abandoned and re-started under section 36C, the conduct of the count in respect of votes cast at the other polling stations which are specified in the direction under this section to be counted at the same counting place as votes cast at the first-mentioned polling station shall, even though the poll at the other polling stations has closed, stand postponed until such other time as the Returning Officer, by notice in writing to each candidate or his principal election agent, shall specify.”.

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Amendment of section 36

15 **10.** Section 36(7) of the principal Act is amended by deleting the words “\$500 or to imprisonment for a term not exceeding 6 months” and substituting the words “\$1,500 or to imprisonment for a term not exceeding 9 months or to both”.

New sections 36A to 36F

20 **11.** The principal Act is amended by inserting, immediately after section 36, the following sub-heading and sections:

“Postponement and adjournment of elections

Postponement of nomination day, etc.

25 **36A.**—(1) Notwithstanding any other provision of this Act, at any time before the nomination day for any election, the Prime Minister may postpone nomination day to another day, or change the place of nomination, because of —

- (a) riot or open violence;
- (b) the threat of riot or open violence;
- (c) storm, tempest, flood or an occurrence of a similar kind;
- 30 (d) a health hazard;
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or

(f) any other reason related to the safety of assistants, clerks, candidates and other persons authorised under section 11 to be present at the place of nomination, or to difficulties in the physical conduct of nomination proceedings.

5 (2) Any postponement of nomination day to another day, or any change in the place of nomination, under subsection (1) shall be —

(a) by notice published in the *Gazette* describing the postponement of nomination day or the change in the place of nomination, as the case may be; or

10 (b) if publication under paragraph (a) is not practicable, by notice published in such manner as will secure adequate publicity to the general public describing the postponement of nomination day or the change in the place of nomination, as the case may be,

15 and any postponement or change so made shall be valid and sufficient and any date or place provided for in lieu of a date or place fixed by the writ shall be deemed to be the nomination day or place of nomination so fixed, as the case may be.

Change in hours for nomination of candidates, etc.

20 **36B.**—(1) Notwithstanding any other provision of this Act but subject to subsection (3), at any time before the nomination day for any election, the Returning Officer may change the hours for nomination proceedings to another time, because of —

(a) riot or open violence;

25 (b) the threat of riot or open violence;

(c) storm, tempest, flood or an occurrence of a similar kind;

(d) a health hazard;

(e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or

30 (f) any other reason related to the safety of assistants, clerks, candidates and other persons authorised under section 11 to be present at the place of nomination, or to difficulties in the physical conduct of nomination proceedings.

(2) Any change in the hours for nomination proceedings to another time under subsection (1) shall be —

(a) by notice published in the *Gazette* describing the change in the hours for nomination proceedings; or

5 (b) if publication under paragraph (a) is not practicable, by notice published in such manner as will secure adequate publicity to the general public describing the change in the hours for nomination proceedings,

and any change so made shall be valid and sufficient.

10 (3) In changing the hours for nomination proceedings under subsection (1), the Returning Officer may specify such other times in the day but —

(a) shall specify a period of one hour for the Returning Officer to receive nomination papers;

15 (b) shall specify a period of 90 minutes for the making of objections to any nomination paper; and

(c) shall specify the latest time by which a candidate must make his deposit for the purposes of section 10, may correct errors in the nomination papers and may withdraw his candidature.

20 (4) Any changes in time under subsection (1) in lieu of the hours fixed by the notice of the issue of the writ under section 7 for an election shall be deemed to be the hours for nomination proceedings so fixed, and sections 9 to 15 shall apply with such modifications as are necessary.

25 **Adjournment, etc., of polling**

36C.—(1) Notwithstanding any other provision of this Act, if at any time before the polling day appointed in respect of an election, it appears to the Returning Officer that the polling at all polling stations established for the purposes of the poll is likely to be obstructed, 30 disrupted, undermined or seriously affected because of —

(a) riot or open violence;

(b) the threat of riot or open violence;

(c) storm, tempest, flood or an occurrence of a similar kind;

- (d) a health hazard;
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- (f) any other reason related to the safety of presiding officers, clerks, interpreters, polling agents or voters within any polling station, or to difficulties in the physical conduct of voting,

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which has arisen or is likely to arise before or during the polling at all of those polling stations, the Returning Officer may postpone the polling day for that election to another day, except that the postponed poll must be within the time delimited by Article 17(3) of the Constitution.

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(2) Notwithstanding any other provision of this Act, if at any time before or during the conduct of polling in respect of an election, it appears to the Returning Officer that the polling at any polling station established for the purposes of the poll is likely to be obstructed, disrupted, undermined or seriously affected because of —

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- (a) riot or open violence;
- (b) the threat of riot or open violence;
- (c) storm, tempest, flood or an occurrence of a similar kind;
- (d) a health hazard;
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- (f) any other reason related to the safety of presiding officers, clerks, interpreters, polling agents or voters within the polling station, or to difficulties in the physical conduct of voting,

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which has arisen or is likely to arise before or during the polling at that polling station, the Returning Officer may, subject to subsection (3), do one of the following:

- (i) temporarily suspend the polling at that polling station for a period not exceeding 2 hours, with or without changing the location of that polling station;

- (ii) adjourn and postpone the polling at that polling station to another day, with or without changing the location of that polling station;
- (iii) wholly abandon and re-start the polling at that polling station on another day, with or without changing the location of that polling station;
- (iv) terminate the polling at that polling station early;
- (v) in the case of polling at an overseas polling station, abandon the poll at the polling station if he is satisfied that polling thereat cannot start or be resumed or completed.

(3) Any poll at an overseas polling station, if resumed or held in place of a postponed poll thereat, must close not later than the close of the poll on polling day in Singapore, and any poll held in place of a postponed poll at any polling station must be within the time delimited by Article 17(3) of the Constitution.

(4) In exercising any power under subsection (1) or (2), the Returning Officer shall —

- (a) by notification published in the *Gazette* declare the temporary suspension, adjournment, postponement, abandonment, re-start or early termination (as the case may be) of polling at the polling station concerned and, where applicable, specify the date and time on and at which polling at that polling station is to resume, re-start or be held in place of the suspended, adjourned, postponed or abandoned poll, as the case may be; or
- (b) if publication under paragraph (a) is not practicable, by notice published in such manner as will secure adequate publicity to the general public for the temporary suspension, adjournment, postponement, abandonment, re-start or early termination (as the case may be) of the polling and, where applicable, the date and time on and at which polling at that polling station is to resume, re-start or be held in place of the suspended, adjourned, postponed or abandoned poll, as the case may be,

and any postponement, resumption, re-start or other change so made shall be valid and sufficient and any date or place provided for in lieu

of a date or place fixed by the notice of contested election shall be deemed to be the polling day or polling place so fixed, as the case may be.

5 (5) If, in exercising any power under subsection (2), the Returning Officer changes the location of any polling station, the notice given under subsection (4) shall also contain the address of the re-located polling station.

10 (6) Any temporary suspension, adjournment, postponement, abandonment, re-start or early termination, as the case may be, of polling at a polling station pursuant to the exercise of any power under subsection (1) or (2) shall be carried out in the prescribed manner.

(7) Nothing in this section shall restrict the exercise of any power under section 33C(3).

15 **Voting at adjourned polling**

36D. Where for any reason the polling at any polling station established for the purposes of the poll is so suspended or postponed under section 33C(3) or 36C, only those electors —

- (a) who are registered electors;
- 20 (b) who are entitled to vote as electors at that polling station; and
- (c) who have not already voted,

shall be entitled to vote on the date and time on and at which polling at that polling station is to resume or to be held in place of the postponed poll, as the case may be.

25 **Adjournment, etc., of counting**

36E.—(1) Notwithstanding any other provision of this Act, if at any time before or during the counting of votes in respect of an election, it appears to the Returning Officer that the counting of votes at any counting place is likely to be obstructed, disrupted, undermined or seriously affected because of —

- (a) riot or open violence;
- 30 (b) the threat of riot or open violence;

- (c) storm, tempest, flood or an occurrence of a similar kind;
- (d) a health hazard;
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- 5 (f) any other reason related to the safety of assistants, clerks counting the votes and candidates or their counting agents present in the counting place, or to difficulties in the physical conduct of counting,

which has arisen or is likely to arise before or during the counting of
 10 votes at that counting place, the Returning Officer may —

- (i) temporarily suspend the counting at that counting place for a period not exceeding 2 hours, with or without changing the location of that counting place;
- 15 (ii) adjourn and postpone the counting at that counting place to another day, with or without changing the location of that counting place;
- (iii) wholly abandon the counting of votes at that counting place if he is satisfied that counting thereat cannot be resumed or completed and that the number of votes to be counted will
 20 not affect the result of the election, and in the case of an abandoned recount of votes at that counting place, declare the election results using the results of the first count; or
- (iv) wholly abandon the counting of votes at that counting place and re-start (within the time delimited by Article 17(3) of
 25 the Constitution) the polling at all polling stations which are specified in the direction under section 31A to be counted at that counting place and the counting of the votes cast thereat, if he is satisfied that counting thereat cannot be resumed or completed and that the number of votes to be
 30 counted will affect the result of the election.

(2) In exercising any power under subsection (1), the Returning Officer shall —

- 35 (a) announce to such of the candidates and their counting agents attending the counting of the votes at the counting place concerned, the temporary suspension, adjournment, postponement or abandonment (as the case may be) of

counting of votes at the counting place and where applicable, the date and time on and at which counting of votes at that counting place is to resume or to be held in place of the suspended, adjourned, postponed or abandoned count, as the case may be; and

(b) by notice published in the *Gazette* declare the temporary suspension, adjournment, postponement or abandonment (as the case may be) of counting of votes at the counting place concerned and where applicable, specify the date and time on and at which counting of votes at that counting place is to resume or to be held in place of the suspended, adjourned, postponed or abandoned count, as the case may be.

(3) If, in exercising any power under subsection (1), the Returning Officer changes the location of any counting place, the announcement and notice given under subsection (2) shall also contain the address of the re-located counting place.

(4) Before every temporary suspension of the counting of votes at any counting place —

(a) all counted ballot papers, uncounted ballot papers and all other documents relating to the counting of votes at the counting place shall be sealed up in separate packets and placed in any ballot box or boxes; and

(b) those ballot box or boxes shall 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.

(5) Before resuming the counting of votes following any temporary suspension or adjournment of counting, the Returning Officer or a person authorised by him shall, in the presence of such of the candidates and their counting agents as attend, show each ballot box with such seals unbroken before taking out the uncounted ballot papers therein.

(6) Any temporary suspension, adjournment, postponement or abandonment of the counting of votes at any counting place pursuant to the exercise of any power under subsection (1), and the resumption of counting of votes or polling in place of the suspended, adjourned,

postponed or abandoned count, shall be carried out in the prescribed manner.

(7) In this section, any reference to counting of votes includes a reference to the recounting of votes.

5 **Adjournment, etc., of adding of counted votes**

10 **36F.**—(1) Notwithstanding any other provision of this Act, if at any time before or during the adding of all the counted votes cast in respect of an election, it appears to the Returning Officer that the adding of those votes at the principal counting place is likely to be obstructed, disrupted, undermined or seriously affected because of —

- (a) riot or open violence;
- (b) the threat of riot or open violence;
- (c) storm, tempest, flood or an occurrence of a similar kind;
- (d) a health hazard;
- 15 (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- (f) any other reason related to the safety of assistants, clerks adding the votes and candidates or their election agents present in the principal counting place or to difficulties in
- 20 the physical conduct of adding the counted votes,

which has arisen or is likely to arise before or during the addition of votes at the principal counting place, the Returning Officer may —

- (i) temporarily suspend the addition of votes at the principal counting place for a period not exceeding 2 hours, with or
- 25 without changing the location of the principal counting place; or
- (ii) adjourn and postpone the addition of votes at the principal counting place to another day, with or without changing the location of the principal counting place.

30 (2) In exercising any power under subsection (1), the Returning Officer shall —

- (a) announce to such of the candidates and their election agents attending the addition of the votes at the principal counting

place, the temporary suspension, adjournment or postponement (as the case may be) of addition of votes at the principal counting place and where applicable, the date and time on and at which addition of votes at the principal counting place is to resume or to be held in place of the suspended, adjourned or postponed addition of votes, as the case may be; and

(b) by notice published in the *Gazette* declare the temporary suspension, adjournment or postponement (as the case may be) of the addition of the votes at the principal counting place and where applicable, specify the date and time on and at which addition of votes at the principal counting place is to resume or to be held in place of the suspended, adjourned or postponed addition of votes, as the case may be.

(3) If, in exercising any power under subsection (1), the Returning Officer changes the location of the principal counting place, the announcement and notice given under subsection (2) shall also contain the address of the re-located principal counting place.

(4) Any temporary suspension, adjournment or postponement (as the case may be) of the addition of votes at the principal counting place pursuant to the exercise of any power under subsection (1), and the resumption of the addition of votes or the addition of votes in place of the suspended, adjourned or postponed addition, shall be carried out in the prescribed manner.”.

Amendment of section 37

12. Section 37(1) of the principal Act is amended by deleting the words “to imprisonment for a term not exceeding 2 years” and substituting the words “by a District Court to a fine and to imprisonment for a term not exceeding 5 years”.

Amendment of section 42

13. Section 42 of the principal Act is amended —

(a) by deleting the words “a fine of not less than \$250 and not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both; and” in subsection (1)(i) and substituting the words “a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both;”;

(b) by deleting paragraph (ii) of subsection (1) and substituting the following paragraphs:

“(ii) in the case referred to in paragraph (b), to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 years or to both;

(iii) in the case referred to in paragraph (c), to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both;

(iv) in the case referred to in paragraph (d) or (e), to a fine or to imprisonment for a term not exceeding 12 months or to both; or

(v) in the case referred to in paragraph (f), to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 6 months or to both.”; and

(c) by deleting subsection (3) and substituting the following subsection:

“(3) Without prejudice to section 38, every offence of undue influence or bribery under section 40 or 41, and every other corrupt practice under subsection (1)(c), (d) or (e) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

Amendment of section 53

14. Section 53 of the principal Act is amended —

(a) by deleting “\$100” in subsection (5) and substituting “\$500”; and

(b) by deleting subsections (6), (7) and (8) and substituting the following subsection:

“(6) The illegal practice and the offence under subsections (1A) and (4), respectively, shall each be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

Amendment of section 58

15. Section 58(2) of the principal Act is amended by deleting the words “\$500 or to imprisonment for a term not exceeding 6 months” and

substituting the words “\$1,000 or to imprisonment for a term not exceeding 6 months or to both”.

Amendment of section 59

16. Section 59 of the principal Act is amended —

5 (a) by inserting, immediately after the words “on polling day” in subsection (1), the words “or on the eve of polling day at an election”;

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

10 “(2) The offence under subsection (3) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”; and

 (c) by deleting the section heading and substituting the following section heading:

15 **“Badges, symbols, etc., prohibited on polling day and eve of polling day”.**

Amendment of section 60

17. Section 60 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

20 “(5) Every offence under such regulations shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

New section 60A

25 **18.** The principal Act is amended by inserting, immediately after section 60, the following section:

“Election advertising ban

60A.—(1) Except as otherwise provided by or under subsection (2), no person shall, at any time on polling day or the eve of polling day at an election —

30 (a) knowingly publish, or knowingly cause or permit to be published, any election advertising among any electors; or

(b) knowingly display, or knowingly cause or permit to be displayed, any election advertising on any vehicle, thing or structure.

(2) Subsection (1) shall not apply to —

5 (a) the distribution of a book, or the promotion of the sale of a book, for not less than its commercial value, if the book was planned to be published regardless of whether there was to be an election;

(b) the publication of any news relating to an election —

10 (i) in a newspaper in any medium by a person permitted to do so under the Newspaper and Printing Presses Act (Cap. 206); or

(ii) in a radio or television broadcast by a person licensed to do so under the Broadcasting Act (Cap. 28);

15 (c) the telephonic or electronic transmission by an individual to another individual of the first-mentioned individual's own political views, on a non-commercial basis;

20 (d) any election advertising that was lawfully published or displayed before the start of the eve of polling day on what is commonly known as the Internet and that was not changed after its publication or display;

(e) the continued lawful display or posting of posters or banners that have been displayed or posted before the start of the eve of polling day at any election; and

25 (f) such activities or circumstances as may be prescribed by the Minister.

30 (3) Any person who contravenes subsection (1) shall be guilty of an offence and 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) It shall be a defence for a person charged with an offence under subsection (3) to prove —

(a) that the contravention of that subsection arose from circumstances beyond his control; and

(b) that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise,

and nothing in this subsection shall limit the operation of section 10 of the Electronic Transactions Act (Cap. 88) in relation to network service providers.

(5) Every offence under this section shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).

(6) In this section, “election advertising” means any poster, banner, notice, circular, handbill, illustration, article, advertisement or other material that can reasonably be regarded as intended —

(a) to promote or procure the electoral success at any election for one or more identifiable candidates; or

(b) to otherwise enhance the standing of any such candidates with the electorate in connection with any election,

and such material shall be election advertising even though it can reasonably be regarded as intended to achieve any other purpose as well and even though it does not expressly mention the name of any candidate, but excludes any button, badge, pen, pencil, balloon and any other thing prescribed by the Minister by notification in the *Gazette*.

(7) For the purposes of this section —

(a) the reference to the electoral success of a candidate at any election shall be a reference to the return of the candidate at any such election; and

(b) the reference to the doing of anything mentioned in paragraph (a) or (b) of the definition of “election advertising” in subsection (6) shall include doing so by prejudicing the electoral prospects at the election of other candidates by prejudicing the standing with the electorate of other candidates.”.

Amendment of section 61

19. Section 61(1) of the principal Act is amended by deleting “\$300” and substituting “\$2,000”.

Amendment of section 62

20. Section 62 of the principal Act is amended —

- 5 (a) by inserting, immediately after the words “on polling day” in subsection (1), the words “and the eve of polling day at an election”;
- (b) by deleting the words “an election” in subsection (1)(a) and (b) and substituting in each case the words “the election”;
- 10 (c) by deleting the words “\$1,000 or to imprisonment for a term not exceeding 12 months” in subsection (2) and substituting the words “\$1,500 or to imprisonment for a term not exceeding 12 months or to both”;
- (d) by deleting subsection (4) and substituting the following subsection:
- 15 “(4) The offence under subsection (2) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”;
- (e) by inserting, immediately after the words “on polling day” in subsection (5), the words “or on the eve of polling day”; and
- 20 (f) by deleting the section heading and substituting the following section heading:

“Prohibition of canvassing on polling day and eve of polling day”.

New section 62A

25 **21.** The principal Act is amended by inserting, immediately after section 62, the following section:

“Restrictions on election meetings

30 **62A.**—(1) Without prejudice to sections 12 and 13 of the Public Order Act 2009 (Act 15 of 2009), and notwithstanding section 14 of that Act, all election meetings, wherever held, are prohibited on polling day and the eve of polling day at an election, and notwithstanding section 7 of that Act, no permit shall be granted under Part II of that Act for such an election meeting even if a notice

under section 6 of that Act is given in respect of that election meeting.

(2) Notwithstanding section 14 of the Public Order Act 2009, an election meeting shall not take place within any public place that is designated as an unrestricted area under that section between nomination day and the day before the eve of polling day at an election (both days inclusive), unless the Commissioner of Police is notified under section 6 of that Act of the intention to hold the election meeting, and a permit is granted under section 7 of that Act in respect of that election meeting; and Part II of that Act shall apply to such an election meeting as if it does not take place within an unrestricted area.

(3) Any reference in the Public Order Act 2009 to an assembly or a procession that is unlawful under Part II of that Act shall include a reference to an election meeting —

- (a) that is held in contravention of subsection (1) or (2); or
- (b) in the case of an election meeting that takes place in an unrestricted area within the meaning of section 14 of the Public Order Act 2009 —
 - (i) that is held on a date or at a time which differs from the date or time specified in relation to the election meeting in the notice given under section 6 of that Act; or
 - (ii) that is not in compliance with any requirement imposed by section 8(1) of that Act or any condition imposed under section 8(2) of that Act on organisers or persons taking part in that election meeting.

(4) In this section, “election meeting” means a public assembly (within the meaning of the Public Order Act 2009) organised by or on behalf of a candidate nominated for election —

- (a) to promote or procure the electoral success at the election for one or more identifiable candidates; or
- (b) to otherwise enhance the standing of any such candidates with the electorate in connection with the election.”.

Amendment of section 63

22. Section 63 of the principal Act is amended —

(a) by deleting the words “\$1,000 or to imprisonment for a term not exceeding 12 months” in subsection (2) and substituting the words “\$2,000 or to imprisonment for a term not exceeding 12 months or to both”; and

5 (b) by deleting subsection (4) and substituting the following subsection:

“(4) The offence under subsection (2) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

10 **Amendment of section 64**

23. Section 64 of the principal Act is amended —

(a) by deleting the words “\$1,000 or to imprisonment for a term not exceeding 12 months” in subsection (3) and substituting the words “\$2,000 or to imprisonment for a term not exceeding 12 months or to both”; and

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(b) by deleting subsection (4) and substituting the following subsection:

“(4) The offence under subsection (3) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

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Amendment of section 65

24. Section 65 of the principal Act is amended —

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

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“(1A) An individual who is not a citizen of Singapore shall not knowingly publish or display, or knowingly cause or permit to be published or displayed, any election advertising (within the meaning of section 60A) among any electors during the period beginning with the day the writ of election is issued for an election and ending with the start of the eve of polling day at the election.”;

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(b) by deleting the words “\$1,000 or to imprisonment for a term not exceeding 12 months” in subsection (5) and substituting the

words “\$2,000 or to imprisonment for a term not exceeding 12 months or to both”;

- (c) by deleting subsection (7) and substituting the following subsection:

5 “(7) Every offence under this section for contravening subsection (1), (1A) or (2) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”; and

- (d) by inserting, immediately after subsection (8), the following subsection:

10 “(9) Nothing in this section shall prohibit the carrying out by any prescribed person, or person in a prescribed class of persons, of such type of work as is prescribed, being work that is performed solely pursuant to a contract for service entered into with a person authorised to conduct election activity under
15 this section.”.

Amendment of section 67

25. Section 67 of the principal Act is amended —

- (a) by deleting “\$1,000” in subsection (2) and substituting “\$1,500”; and

- 20 (b) by deleting subsection (3) and substituting the following subsection:

 “(3) The offence under subsection (2) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

25 Amendment of section 83

26. Section 83 of the principal Act is amended —

- (a) by deleting “\$50” in subsection (2) and substituting “\$1,000”; and

- 30 (b) by inserting, immediately after subsection (2), the following subsection:

 “(3) The offence under subsection (2) shall be a seizable offence within the meaning of the Criminal Procedure Code (Cap. 68).”.

Transitional provision

27. Section 7 of this Act shall apply only to and in relation to every written application by any person for the restoration of his name to a register of electors made on or after the commencement of that section under section 26 of the principal Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the Presidential Elections Act (Cap. 240A) —

- (a) to enable all or part of election proceedings to be postponed or suspended and adjourned to another day in the event nomination proceedings, polling or counting, as the case may be, are obstructed, disrupted, undermined or seriously affected by natural or man-made catastrophes;
- (b) to impose a ban on election advertising, election meetings and canvassing on the eve of any polling day and polling day itself;
- (c) to prohibit individuals who are non-citizens from knowingly publishing or displaying, or knowingly causing or permitting to be published or displayed, any election advertising among any electors during the period beginning with the day the writ of election is issued for an election and ending on the start of the eve of polling day at the election; and
- (d) to raise the penalties for various offences under the Act, most of which have remained unchanged since 1993.

Clause 1 relates to the short title and commencement.

Clause 2 introduces a new section 7A to enable the Prime Minister to issue a fresh writ of election when there is a total failure of the election. These are instances where no candidate is nominated, or returned as elected e.g. the polls have to be aborted mid-way due to some catastrophe.

Clause 3 amends section 10(4) to provide for the refund of election deposits in the event there is a total failure of an election.

Clause 4 amends section 16 to adjust the earliest date polling day may be fixed, and to clarify the process should one of several candidates nominated die before polling day.

With the first set of amendments, the earliest the date on which a poll can be taken will be a date that is not earlier than the 10th day after the date of publication of the notice of contested election in the *Gazette*, which is normally done on nomination day. This change will ensure that, despite the introduction of a ban on campaigning on the eve of polling day and polling day itself, the minimum number of days of campaigning as permitted by law before the amendments will not be reduced. However, the last date by which the poll must be taken will still be not later than the 56th day after the date of

publication of the notice of contested election in the *Gazette*, which is normally done on nomination day.

As for the other amendments in clause 4, as section 16(7) now stands, the Returning Officer will countermand his notice for the poll and set a fresh date for the election, and the candidates that stood validly nominated at the time of countermand of the poll will be deemed nominated at the fresh election proceedings. The amendments in clause 4 make it clear that the notice issued by the Returning Officer is to set out a fresh date, time and place for the nomination of candidates like the notice in section 7, and the notice of the fresh nomination day must be given at least 4 clear days before the fresh date so fixed.

Clause 5 amends section 21(2) by raising the penalty for the offence of voting while not being entitled to do so from a fine not exceeding \$500 or imprisonment not exceeding 6 months to a fine not exceeding \$1,500 or to imprisonment for a term not exceeding 9 months or to both. The person convicted will also become incapable for a period of 3 years from the date of his 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.

Clause 6 amends section 22(4) as a consequence of the insertion of new section 36C.

Clause 7 amends section 26(8) and (9) by raising the sum that an elector is required to pay in order to restore his name to a register of electors, if he does not have a good and sufficient reason for not recording his vote at an election. The new charge is \$50.

Clause 8 amends section 27(4) by raising the penalty for making a false declaration as to his identity from a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months to a fine not exceeding \$1,500 or to imprisonment for a term not exceeding 9 months or to both.

Clause 9 amends section 31A to deal with the situation where polling in a particular polling station is temporarily suspended, adjourned and postponed or abandoned and re-started. The Returning Officer will have to specify a new date for the counting of votes cast at the election. The counting of votes cast at all other polling stations which have been directed to be counted together with the votes cast at the first-mentioned polling station also cannot start, so as to prevent the results of these other polling stations influencing the voters at the postponed or re-started poll.

Clause 10 amends section 36(7) (which sets out the offence of breaching the obligation to maintain secrecy of the vote) by raising the penalty from a fine not exceeding \$500 or to imprisonment for a term not exceeding 6 months to a fine not exceeding \$1,500 or to imprisonment for a term not exceeding 9 months or to both.

Clause 11 inserts new sections 36A to 36F to enable nomination proceedings, polling or counting of votes to be postponed or to be suspended and adjourned in the event those proceedings are or are likely to be obstructed, disrupted, undermined or seriously affected by natural or man-made catastrophes. The circumstances in which such powers may be exercised range from riot or open violence, the threat of riot or open violence, storm, tempest, flood or an occurrence of a similar kind, a health hazard, a fire or the activation of fire safety equipment (such as sprinklers or alarms), any other

reason related to the safety of voters or difficulties in the physical conduct of voting, or related to the safety of candidates and/or officials or difficulties in the physical conduct of nomination proceedings or counting, as the case may be.

The new section 36A empowers the Prime Minister to postpone nomination day at any time before that day. The Prime Minister must give notice of such postponement by notice published in the *Gazette* describing the postponement of nomination day or the change in the place of nomination, as the case may be. If publication in the *Gazette* is not practicable, the Prime Minister has to give notice in such manner as will secure adequate publicity describing the postponement of nomination day or the change in the place of nomination, as the case may be.

The new section 36B empowers the Returning Officer to change the hours for nomination of candidates at any time before nomination day. The Returning Officer must give notice of such postponement by notice published in the *Gazette* describing the change in the hours for the nomination of candidates. If publication in the *Gazette* is not practicable, the Returning Officer has to give notice in such manner as will secure adequate publicity describing the new hours for the nomination of candidates. The notice must also specify a period of one hour for the Returning Officer to receive nomination papers, a period of 90 minutes for the making of objections to any nomination paper, and the latest time by which a candidate must make his election deposit, may correct errors in the nomination papers and may withdraw his candidature.

The new section 36C empowers the Returning Officer to postpone polling to another polling day if it appears to him that the polling at all polling stations established for the purposes of the poll is likely to be obstructed, disrupted, undermined or seriously affected, before or during the polling at all those polling stations. If polling at some but not all polling stations is likely to be obstructed, disrupted, undermined or seriously affected, before or during the polling, the Returning Officer may instead, temporarily suspend the polling at the polling station for a period not exceeding 2 hours, with or without changing the location of that polling station, or postpone the polling at that polling station to another day, with or without changing the location of that polling station. The Returning Officer may also, depending on the circumstances of the case, abandon and postpone (by re-starting) the poll or terminate the poll early. In the case of an overseas polling station, the poll may be abandoned if the Returning Officer is satisfied that the poll thereat cannot be resumed or completed. Any poll at an overseas polling station, if resumed or held in place of the postponed poll, must close not later than the close of the poll on polling day in Singapore.

The Returning Officer must give notice of such postponement, abandonment or suspension by notification published in the *Gazette* describing the postponement, abandonment or suspension or the change in the polling station site, as the case may be. If publication in the *Gazette* is not practicable, he has to give notice in such manner as will secure adequate publicity describing the postponement, abandonment or suspension of polling or the change in the polling station site, as the case may be.

The new section 36D states that where the polling at any polling station established for the purposes of the poll is so suspended or postponed under the new section 36C, only those electors who are registered electors, and are entitled to vote as electors at that polling station, and who have not already voted, will be entitled to vote on the date

and time on and at which polling at that polling station is to resume or to be held in place of the postponed poll, as the case may be.

The new section 36E empowers the Returning Officer to temporarily suspend the counting at any counting place for a period not exceeding 2 hours, or to postpone the counting at that counting place to another day, with or without changing the location of that counting place, if it appears to the Returning Officer that the counting of votes at the counting place is or is likely to be obstructed, disrupted, undermined or seriously affected. The counting may also be abandoned if the Returning Officer is satisfied that the counting of votes at any counting place cannot be resumed or completed and that the number of votes to be counted will not affect the result of the election. In the case of an abandoned recount of votes at that counting place, he may then declare the election results using the results of the first count. Where the votes to be counted will affect the results of the election, the Returning Officer may abandon the counting at that counting place and re-start the poll at all polling stations which are specified in the direction under section 31A to be counted at that counting place.

In doing so, the Returning Officer must announce to such of the candidates and their counting agents as are present during the counting of the votes at the counting place concerned, the temporary suspension, adjournment, postponement or abandonment (as the case may be) of counting of votes at the counting place and the date and time on and at which counting of votes at that counting place is to resume or to be held in place of the suspended, adjourned, postponed or abandoned count, as the case may be, and by notice published in the *Gazette* declare the temporary suspension, adjournment, postponement or abandonment (as the case may be) of counting of votes at the counting place concerned and specify the date and time on and at which counting of votes at that counting place is to resume or to be held in place of the suspended, adjourned, postponed or abandoned count, as the case may be. Any temporary suspension, adjournment, postponement or abandonment (as the case may be) of the counting of votes at any counting place, and the counting of votes in place of the suspended, adjourned, postponed or abandoned count, must be carried out in the manner prescribed by regulations to be made under section 81.

Finally, the new section 36F empowers the Returning Officer to temporarily suspend the addition or tallying of votes at the principal counting place for a period not exceeding 2 hours, or to adjourn and postpone the event to another day, with or without changing the location of the principal counting place, if it appears to the Returning Officer that the addition or tallying of votes at the principal counting place is or is likely to be obstructed, disrupted, undermined or seriously affected. In doing so, the Returning Officer must announce to such of the candidates and their election agents as are present during the addition of the votes at the principal counting place, the temporary suspension, adjournment or postponement (as the case may be) of the tally and the date and time on and at which addition of votes at the principal counting place is to resume or to be held in place of the suspended, adjourned or postponed tally, as the case may be, and by notice published in the *Gazette* declare the temporary suspension, adjournment or postponement (as the case may be) of the addition of votes at the principal counting place and specify the date and time on and at which tallying of votes at the principal counting place is to resume or to be held in place of the suspended, adjourned or postponed tally. Any temporary suspension, adjournment or

postponement (as the case may be) of the addition of votes at any principal counting place, and the addition of votes or the tallying of votes in place of the suspended, adjourned or postponed addition, must be carried out in the manner prescribed by regulations to be made under section 81.

Clause 12 raises the penalty for various election offences in section 37 from imprisonment for a term not exceeding 2 years to imprisonment for a term not exceeding 5 years plus a fine.

Clause 13 amends section 42 to raise the penalties for the various offences which are corrupt practices. The present penalty of a fine not exceeding \$500 or imprisonment for a term not exceeding 6 months or both is inadequate.

In the case of the offence of personation, the present penalty of a fine of at least \$250 but not exceeding \$1,000 or imprisonment for a term not exceeding 12 months or both, is replaced by a penalty of a fine not exceeding \$5,000 or imprisonment for a term not exceeding 3 years or both. The minimum fine is abolished but the maximum imprisonment term is raised.

For the offences of treating, undue influence and bribery, the enhanced penalty is a fine not exceeding \$5,000 or imprisonment for a term not exceeding 3 years or both. In the case of publishing election advertising without the proper identification particulars, the new penalty is a fine not exceeding \$1,000 or imprisonment for a term not exceeding 12 months or both. As for the publication of false statements in relation to the personal character or conduct of a candidate or false statement of the withdrawal of a candidate, the new penalty is a fine or imprisonment for a term not exceeding 12 months or both. The new penalty for making a false declaration of election expenses is a fine not exceeding \$2,000 or imprisonment for a term not exceeding 6 months or to both.

The offences of undue influence and bribery and all other corrupt practices (except that of treating and of knowingly making a false declaration of election expenses) are each made a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 14 amends section 53 by raising the penalty for parking, between 8 a.m. and 8 p.m. on polling day, a motor vehicle within 100 metres of any polling station from a fine not exceeding \$100 to a fine not exceeding \$500. That offence, as well as the illegal practice of knowingly letting, lending, employing, hiring, borrowing or using a motor vehicle for the purpose of conveying electors or voters to or from the poll on polling day, are also made seizable offences in respect of which a police officer may ordinarily arrest without warrant. The former restrictions on the exercise of such powers of arrest are abolished.

Clause 15 amends section 58 by raising the penalty for the offence by an employer of directly or indirectly, refusing, or by intimidation, undue influence or in any other manner, interfering with the granting to any elector in his employ of a reasonable period for voting. The penalty is raised from a fine not exceeding \$500 or imprisonment for a term not exceeding 6 months to that of a fine not exceeding \$1,000 or imprisonment for a term not exceeding 6 months or to both.

Clause 16 amends section 59 to extend the current prohibition as to the wearing, using, carrying or display of any badge, symbol, rosette, favour, set of colours, flag, advertisement, handbill, placard or poster or any replica of a voting paper as political propaganda on polling day to include the eve of polling day. The offence is also made a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 17 amends section 60 and makes every offence of contravening any regulation regulating the display of posters and banners in respect of an election a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 18 inserts a new section 60A to stipulate a ban on election advertising during polling day and the eve of polling day. It will be an offence to knowingly publish, or knowingly cause or permit to be published, any election advertising among any electors during this period, or to knowingly display, or knowingly cause or permit to be displayed, any election advertising on any vehicle, thing or structure during this period. The penalty is a fine not exceeding \$1,000 or imprisonment for a term not exceeding 12 months or both.

A defendant will have a defence if he can show that the contravention of the new section 60A(1) arose from circumstances beyond his control, and that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise. This will address any injustice arising from election advertising carried out by third parties without the consent, connivance or neglect of the candidate.

The ban on election advertising on the eve of polling day and polling day itself in new section 60A does not apply to the distribution of a book, or the promotion of the sale of a book, for not less than its commercial value, if the book was planned to be published regardless of whether there was to be an election, the publication of any news relating to an election in a newspaper in any medium by a person permitted to do so under the Newspaper and Printing Presses Act (Cap. 206) or in a radio or television broadcast by a person licensed to do so under the Broadcasting Act (Cap. 28), and to the telephonic or electronic transmission by an individual to another individual, on a non-commercial basis of the individual's own political views, such as by email on the Internet or by using an SMS or MMS system. Where the election advertising is already lawfully published or displayed, such as posters and banners and websites, the ban would also not apply to these so long as they remain unaltered. Other activities or other circumstances may be excluded from the ban if these are prescribed by the Minister by regulations under section 81.

Clause 19 amends section 61(1) which sets out the penalty for illegal practice. The maximum fine for illegal practice is raised from \$300 to \$2,000.

Clause 20 amends section 62 to extend the current prohibition on canvassing on polling day to include the eve of polling day. The penalty for the offence of canvassing on polling day e.g. visiting an elector on polling day at his home or place of work for any purpose in connection with an election, is raised from a fine not exceeding \$1,000 or imprisonment for a term not exceeding 12 months, to a fine not exceeding \$1,500 or imprisonment for a term not exceeding 12 months or both. Every offence under the

section is also made a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 21 introduces a new section 62A which imposes restrictions on election meetings, in addition to the provisions of the Public Order Act 2009 (Act 15 of 2009). Election meetings are public assemblies organised by or on behalf of a candidate nominated for election to promote or procure the electoral success at the election for one or more identifiable candidates or to otherwise enhance the standing of any such candidates with the electorate in connection with the election.

The first restriction is a ban on the holding of all election meetings on polling day and the eve of polling day. The ban is on all election meetings, wherever held, whether or not in an unrestricted area like Speakers' Corner in Hong Lim Park. The new section also makes it lawful for the Commissioner of Police to refuse to grant a permit for such an election meeting under Part II of the Public Order Act 2009 even if a notice under section 6 of that Act is given in respect of that election meeting.

The other restriction is on election meetings within unrestricted areas like Speakers' Corner during the campaign period. All such election meetings within any unrestricted area between nomination day and the day before the eve of polling day are prohibited unless the Commissioner of Police is notified under section 6 of the Public Order Act 2009 of the intention to hold the election meeting, and a permit is granted under section 7 of that Act in respect of that election meeting.

Any election meeting held in contravention of new section 62A(1) or (2) will be regarded as unlawful under Part II of the Public Order Act 2009. A person who organises or takes part in such an unlawful election meeting will be guilty of an offence under the Public Order Act 2009 and the police may issue any such person a direction to move-on under that Act.

Clause 22 amends section 63 (relating to the offence of dissuasion from voting) by raising the penalty for the offence from a fine not exceeding \$1,000 or imprisonment for a term not exceeding 12 months, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 12 months or both. Every offence under the section is also made a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 23 amends section 64 (relating to various offences of undue influence at or near polling stations on polling day) by raising the penalty for the offences from a fine not exceeding \$1,000 or imprisonment for a term not exceeding 12 months, to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 12 months or both. Every offence under the section is also made a seizable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 24 amends section 65 by prohibiting an individual who is not a citizen of Singapore from knowingly publishing or displaying, or knowingly causing or permitting to be published or displayed, any election advertising among any electors during the period beginning with the day the writ of election is issued for an election and ending with the start of the eve of polling day at the election. The penalty for all offences under the section is also raised to a fine not exceeding \$2,000 or imprisonment for a term not exceeding 12 months or both.

Section 65(7) is also amended to empower a police officer to arrest without warrant any person offending against section 65(1), (1A) or (2), whether or not offending in the police officer's view.

The other amendment to section 65 is to enable regulations to be made by the Minister under section 81 to exclude certain persons, or classes of persons, who carry out certain types of work pursuant to a contract for services with a person authorised to conduct election activity from the prohibition in section 65(1) against taking part in election activity, and from the requirement of written authorisation in section 65(2). For example, manual work like erecting tents and stages carried out by foreign workers of a contractor with a written authorisation may be excluded by such regulations, thereby rendering permissible such actions which would otherwise be prohibited election activity.

Clause 25 amends section 67 (relating to the offence of operating a loudspeaker or other similar instrument so as to interfere with an election meeting) by raising the maximum fine for the offence from \$1,000 to \$1,500. The maximum imprisonment term of 12 months remains unchanged. The offence under the section is also made a seizureable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 26 amends section 83 (relating to the offence of destroying, mutilating, defacing or removing, without lawful authority, any notice which is exhibited by any authority under the Act or any document which is made available for inspection in accordance with the Act) by raising the penalty for the offence from a fine not exceeding \$50 to a fine not exceeding \$1,000. The offence is also made a seizureable offence in respect of which a police officer may ordinarily arrest without warrant.

Clause 27 is a transitional provision dealing with pending applications by non-voters to restore their names to a register of electors. The new and higher restoration fee of \$50 introduced by clause 7 will apply only to and in relation to an application by any person for the restoration of his name to a register of electors made on or after the commencement of that clause.

EXPENDITURE OF PUBLIC MONEY

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