

Second Reading Speech on the Presidential Elections (Amendment) Bill 2017, in Parliament, on Monday, 6 February 2017

- 1 Madam Speaker, I beg to move, “That the Bill be now read a second time”.
- 2 The amendments proposed today to the Presidential Elections Act can be grouped into three categories.
- 3 The first category of amendments give effect to the amendments made by the Constitution of the Republic of Singapore (Amendment) Act 2016.
- 4 The second category of amendments improve election procedures during the conduct of Presidential Elections.
- 5 The third category of amendments align the Act with provisions of the Parliamentary Elections Act relating to election advertising, publication of election survey results and exit polls.
- 6 I will also be making two announcements on the Presidential Elections at the end of my speech. These announcements do not require amendments to the law.
- 7 Let me begin with the first category of amendments, the category arising from the constitutional amendments made in November last year.
- 8 The Amendment Bill was passed in November after robust debate, putting in place the framework for the changes to the EP. The amendments being proposed here today put in place the nuts and bolts of the framework agreed to in November. I will now take members through the key changes being proposed.
- 9 The new section 5A provides that the new Schedule, inserted by clause 22, has effect for the purpose of determining whether an election is reserved under the new Article 19B(1) of the Constitution. The new Schedule sets out the terms of office that are counted and the communities that the Presidents who hold those terms belong to. The first term of office to be counted is the last term of office of President Wee Kim Wee, during which he became the first President to exercise the functions created by the Constitution of the Republic of Singapore (Amendment) Act 1991. The Schedule stipulates that:
- a. Dr Wee Kim Wee and Mr Ong Teng Cheong belong to the Chinese community;
 - b. Mr S R Nathan, who served two terms, belongs to the Indian community,
 - c. Dr Tony Tan belongs to the Chinese community.
- 10 The Prime Minister had, in November, announced this during the Second Reading of the Constitutional Amendment Bill.

11 The Returning Officer is responsible for updating the Schedule after every election. For this purpose, if a community certificate was issued to a person, that person is considered to belong to the community stated on the community certificate. If no community certificate was issued to the person, the person is considered not to belong to the Chinese community, the Malay community nor the Indian or Other Minority communities.

12 The new section 5B links the reserved election mechanism in the new Article 19B of the Constitution to writs of election issued under the Act, and provides for open elections to be held if a reserved election wholly fails.

13 In an open election, a person does not have to belong to any of the three communities – Chinese, Malay, Indian or Other Minority communities – to qualify to be elected as President.

14 Clause 4 amends section 6(3) to require that nomination day must be at least 10 days after the date of the writ of election. This is an increase from the current 5 days. This provides the Presidential Elections Committee (PEC) with more time to assess whether potential candidates should be issued a Certificate of Eligibility.

15 We are also introducing changes to the certification process for the Presidential election. The new Division 2 – consisting of new sections 8 to 8D – relates to the PEC and the application process for a certificate of eligibility.

16 The key changes are as follows. First, the deadline for applying for a certificate of eligibility is extended from the current 3 days to 5 days after the date of the writ of election. The extension of deadline will give prospective candidates more time to prepare their applications.

17 Second, the PEC must be satisfied that the applicant has met the service requirements under new Article 19(2)(g) of the Constitution before it issues the certificate of eligibility.

18 Third, persons who wish to contest in the Presidential Elections must submit applications to both the PEC and to the Community Committee. The PEC must reject an application for a certificate of eligibility if the applicant did not submit a community declaration to the Community Committee.

19 The community declaration is essential to the functioning of the certification process for the reserved election system. I will elaborate on the community declaration next.

20 The community certification process serves 2 main purposes. First, to determine the community to which every person elected as President belongs, for the purposes of determining whether a future election is reserved under the new Article 19B(1) of the Constitution.

21 Second, to ensure that, in a reserved election, only persons belonging to the community to which the election is reserved, qualify to stand for election.

22 With your permission, Mdm Speaker, may I ask the Clerks to distribute the first handout?

23 All prospective candidates in all elections, regardless of a reserved election or open election, have to submit a community declaration. A declaration is essential even in open elections because the hiatus-triggered model requires that the community of each President to be counted, for the purposes of calculating when the next reserved election is. A person making a community declaration must make one (and only one) of the following 4 statements as set out in the new section 8F(2)(a) – (d). The four statements are as follows. First, that the person considers himself to be a member of the Chinese community, and wishes to apply for a community certificate stating that the person belongs to the Chinese community. Second, that the person considers himself to be a member of the Malay community, and wishes to apply for a community certificate stating that the person belongs to the Malay community. Third, that the person considers himself to be a member of the Indian or Other Minority communities, and wishes to apply for a community certificate stating that the person belongs to the Indian or Other Minority communities. Fourth, that the person does not consider himself to be a member of the Chinese community, the Malay community, or the Indian or Other Minority communities. The statements require, where the applicant considers himself to be a member of the 3 main communities, that is, Chinese, Malay, Indian or Other Minority communities, to state that he wishes to apply for a community certificate stating that he belongs to that particular community. It should be pointed out that, in open elections, a declarant can still run for elections, even if he does not receive a community certificate, if he meets all other eligibility criteria.

24 The deadline for submission of the community declaration is 5 days after the date of the writ of election, similar to the deadline to apply for the certificate of eligibility to the PEC.

25 The Community Committee must decline to accept a community declaration if the declarant did not apply to the PEC for a certificate of eligibility.

26 Let me now elaborate on the composition of this new Community Committee. The Community Committee will consist of 16 persons:

- a. the Chairman;
- b. 5 members belonging to the Chinese community;
- c. 5 members belonging to the Malay community; and
- d. 5 members belonging to the Indian or Other Minority communities.

27 The Chairman and members of the Community Committee will be appointed by the Prime Minister on the nomination of the Presidential Council for Minority Rights, or the

PCMR. The PCMR will make its nominations after consulting such organisations of the Chinese, Malay, Indian or Other Minority communities as the PCMR sees fit.

28 The 5 members belonging to the Chinese community who are on the Community Committee make up the Chinese Community sub-committee. The same arrangement applies to the Malay and Indian or Other Minority communities sub-committees.

29 In a reserved election, the Community Committee will accept a community declaration only if the declarant considers himself to belong to the community to which the election is reserved. The Community Committee will then refer the declaration to the Sub-Committee for that community. If the Sub-Committee is satisfied that the declarant belongs to that community, the Community Committee will issue the declarant with a community certificate to that effect.

30 In non-reserved elections or open elections, the Community Committee will refer community declarations to the appropriate Sub-Committee, except where a declarant does not consider himself to be a member of any of the 3 main communities.

31 If the Sub-Committee for a community is satisfied that a declarant belongs to that community, the Community Committee will issue the declarant with a community certificate to that effect.

32 If the Sub-Committee is not satisfied, the Community Committee can refuse to issue a community certificate, or can invite the declarant to submit another community declaration.

33 In the case of a declarant who does not consider himself to be a member of any of the 3 main communities, the Community Committee can either accept the community declaration, or invite the person to submit another community declaration.

34 In both instances where the Community Committee may invite the declarant to submit another community declaration, it may do so only once.

35 The approach of the Community Committee and sub-committees, in assessing whether declarants belong to a particular community, should be that of inclusion. The approach should be to welcome and embrace individuals who identify themselves with a particular community. This would apply, for example, in cases where declarants are of mixed-race parentage and have significant links with the communities of both parents.

36 The method of certifying race through community committees has worked well for our GRC system; it should similarly serve us well in the Presidential Elections.

37 Let me now move on to explain the new items that prospective candidates must submit.

38 Clause 6 amends section 9 to add certain items to the nomination papers that a prospective candidate must submit.

39 The first item is a statutory declaration in which the prospective candidate declares that he understands the role of the President as set out in the Constitution. This ensures that the prospective candidate is aware of the constitutional powers of the President, and is also aware of the constitutional limits of the Presidential office. It will serve as a declaration to the electorate that the prospective candidate is aware that he should not be drawn to making statements or promises which exceed the constitutionally-prescribed role of the President. As making a false statutory declaration is an offence, a prospective candidate's submission of the declaration signals that the candidate has studied and understood the responsibilities of the office.

40 The second additional item relates to the community certification process.

41 In a reserved election, a prospective candidate must submit a community certificate stating that he belongs to the community to which the election is reserved.

42 In open elections, a prospective candidate who applied for a community certificate in his community declaration must submit either:

- a. a community certificate; or
- b. the Community Committee's written decision rejecting the application.

43 A prospective candidate who did not apply for a community certificate in his community declaration must submit:

- a. the Community Committee's written notification that his declaration is accepted; as well as
- b. a statutory declaration stating that he does not consider himself to belong to the Chinese community, the Malay community or the Indian or Other Minority communities.

44 Clause 19 amends section 71 to provide that an election can be declared void if the elected candidate made a materially false or misleading statement of fact, or omitted to state a material fact, to the PEC. This new ground for avoidance is identical to the ground for removing a President in the new Article 22L(3)(e) of the Constitution.

45 Clause 20 repeals and re-enacts section 73 to further provide that only the PEC can apply to void an election on the ground stated in the new section 71(f). This is because the false statement, or the omission of the material fact, is made to the PEC, and so it would be the appropriate party to apply to the Election Judge to void an election.

46 Let me now address the second category of amendments. These amendments are being made to improve election procedures. I will go through the key amendments.

47 The Government is making changes to the design of the ballot paper to improve the process of voting, adjudication, and counting.

48 Clause 8 amends section 23 to stipulate that the ballot paper must have a clearly demarcated area for a voter to mark his vote for a candidate. Clause 10 amends section 25 to state that a voter's mark must only be made in the area demarcated on the ballot paper for that purpose. This ties in with the amendments to section 33 on how ballot papers are to be adjudicated and counted. Clause 14 amends section 33 to require the Returning Officer to only consider the marks made by voters in the area demarcated on ballot papers for voters to mark their votes. Under the amended section, if a voter makes a mark outside of this area, the Returning Officer must disregard that mark when determining whether the voter has given his vote to any candidate. In previous elections, disputes have arisen over whether a mark over a candidate's photo or name should count towards a vote for that individual. The changes will provide clarity in dealing with these situations.

49 Clause 9 inserts a new section 23A to formalise the inclusion of candidates' photographs on ballot papers and to stipulate the conditions that must be satisfied before a candidate's photograph will be included on the ballot paper. Photographs of the candidates on the ballot paper were first introduced in the 2011 Presidential election. This practice has been welcomed by voters, as they are able to more easily identify the candidate they are voting for on the ballot paper.

50 The Amendment Bill also sets out certain actions to deal with contingency situations pertaining to ballot boxes.

51 Clause 12 amends section 32A to empower the Returning Officer to extend the time for the sealed ballot boxes from overseas polling stations to reach Singapore. The amendments to that section confer a discretion on the Returning Officer to extend the time by another 7 days for the overseas ballot boxes to reach Singapore if two conditions are fulfilled. First, the total number of overseas electors is material to the election outcome. Second, the Returning Officer is satisfied that any of the overseas ballot boxes are not likely to reach Singapore within the initial 10-day period.

52 Clause 13 repeals and re-enacts section 32B to remove the requirement for a candidate or his counting agent to apply to the Returning Officer for a recount of votes. Currently, the law provides for a candidate or his counting agent to apply for a recount of votes if the criteria for recount is met, that is, if the difference between the number of votes given to the candidate with the most votes and the number of votes given to any other candidate at the election is 2% or less of the total number of votes cast in Singapore (excluding rejected votes and tendered votes) at the election. With the amendment, the Returning Officer must carry out a recount of

the votes if the criterion for recount is met. This will avoid unnecessary delays to the recount process.

53 Clause 15 inserts new sections 36DA and 36DB to deal with the loss or destruction of ballot boxes. If any sealed ballot box containing votes cast at a polling station, whether in Singapore or overseas, is lost or destroyed while it is being transported from a polling station to a counting place, the Returning Officer must, first, abandon the counting of all the votes cast at the affected polling station (this includes the votes cast at the affected polling station that were not in the lost or destroyed ballot box); and second, re-start the poll for the affected polling station if it will be material to the outcome of the election.

54 The third category of amendments is being made to the Act to align the Act with certain provisions of the Parliamentary Elections Act relating to election advertising, publication of election survey results and exit polls. Clauses 17 and 18 insert new sections dealing with those issues.

55 Clause 24 makes consequential amendments to the Parliamentary Elections Act in relation to the registration of overseas electors. The consequential amendments are mainly to section 13A of that Act. The time within which an elector has to register as an overseas elector or apply to change the overseas polling station allotted to the elector is being extended to 2 days after the writ of election. This will give overseas voters more time to register or change their allotted polling station.

56 That covers all the legislative amendments. As I highlighted earlier, I would also like to make two announcements on the Presidential Elections. The first is on campaign methods, and the second on the date of the Presidential Elections. These two areas will not involve amendments to the law or affect this Bill under consideration.

57 First, the Government will take up the broad thrust of the Constitutional Commission's recommendation on election campaign methods. In its report, the Constitutional Commission stated, and I quote, "Presidential candidates should be required to conduct their campaigns with rectitude and dignity as befits the office and comports with the unifying role and purpose of the Presidency." The Government fully agrees with the Commission that campaigning for the Presidential election has to be consistent with the President's position as a symbol of national unity. The Government also agrees with the Commission that there should be a difference in the campaign methods for Presidential Elections and Parliamentary elections. As the Commission said, a "Parliamentary election is a contest of ideas and policies, where candidates have to communicate their policies to the electorate and persuade voters as to the strengths of their own proposals as well as the weaknesses of those put forward by other candidates. This clash of ideas and policies makes for a lively but inevitably divisive contest."

58 The Commission also said, and I quote:

- a. “in contrast, candidates for Presidential Elections have no policy agenda to advance”;
- b. “the President plays no role in setting the national agenda nor does he make policy decisions as to the course that the nation should chart”;
- c. “[t]hose are matters which properly fall within the remit of the elected Government”;
- d. “there is little, if any, need for the vigorous contest of ideas that takes place during a Parliamentary election”.

59 The Commission considered that rules could be enacted which prescribed a “white list” of approved campaign methods, such as televised speeches, and explicitly stated that it was not clear if the holding of rallies is either necessary or helpful in dealing with divisiveness.

60 The Government agrees with the Commission that there should be a clear distinction in campaign methods for Presidential Elections and Parliamentary elections. Campaign methods for the Presidential Elections must not inflame emotions and must be in keeping with the decorum and dignity of the office of the President, given the important unifying and custodial roles of the President.

61 The possibility of changes to campaign rules was raised at the end of the debate on the Constitutional Amendment Bill last November. What was clear is that there is support from both sides of this House that campaigning for Singapore’s Presidency should be depoliticised, and fundamentally different from campaigning during Parliamentary elections. The Government agrees with the Members of this House on our shared goal to differentiate the campaigning methods of the PE from that of the GE.

62 As Presidential Elections are contested on a national level and not on a local constituency level, we will encourage the use of platforms and channels that reach out to voters at a national level. Television enables candidates to have wide national reach, and to broadcast their messages more effectively to the entire nation. At the last PE 2011, there were individual campaign broadcasts and a televised forum. To help candidates reach out to voters, the Government will increase the amount of television airtime for candidates, and study different options to achieve this.

63 Candidates can also use the wide array of social media platforms to reach voters. They can also hold indoor private sessions to engage specific groups of voters. The format of such indoor private sessions is up to the candidates themselves.

64 The Government will no longer designate any rally sites during Presidential Elections. This is in line with the Government’s and Constitutional Commission’s position not to encourage rallies, which by their nature and format, may be divisive and not congruent with the unifying role of the Elected Presidency. Nevertheless, candidates who wish to hold rallies may still do so. They will have to apply to Police for a permit. Police will assess the application

based on public order considerations. As there will not be any designated and pre-security assessed rally sites, Police will require slightly more time to evaluate applications to hold rallies. Even though this can be announced closer to the start of the application process, the Government is announcing it early for transparency and prospective candidates' early awareness.

65 My second announcement has to do with the election period for the Presidential Elections. With your permission, Mdm Speaker, may I ask the Clerks to distribute the second handout?

66 The current President's term of office expires on August 31, 2017. In the past, polling day typically fell on the last week of August. In 2011, the writ was issued in the first week of August. Campaigning began after National Day and was conducted during the month-long National Day celebrations.

67 Given the slightly longer time required for the new process and to avoid holding Presidential election campaigns during the National Day celebrations period, we will adjust the timing of the polls for the forthcoming elections.

68 The Government will issue the writ for the election later in August, before President Tony Tan's term expires on 31 August 2017, so that if the election is contested, polling day will take place in September instead of August. This resets the clock, so that, in future, Presidential Elections campaigning will take place outside of the National Day period, assuming Presidents serve their full six-year terms.

69 We have been advised by the Attorney-General that there can be an interval between the expiry of the incumbent's term and the assumption of office by the new President. If a new President is not elected by the time President Tony Tan's term expires on 31 Aug 2017, Article 22N of the Constitution provides for an acting President until a new President is elected and assumes office. The Constitution provides for the Chairman of the Council of Presidential Advisers or, if he is unavailable, the Speaker, to be the acting President. The acting President, it should be made clear, cannot exercise the functions of the President under Article 22N indefinitely.

70 We have sought AGC's advice on this proposal to adjust the timing of the polls for the Presidential Elections this year. AGC has confirmed that this can be done under our current laws.

71 Some members might ask why the Government cannot simply extend the current President's term to deal with the adjustment to the campaigning period. According to Article 20 of the Constitution, the new President shall hold office for a term of 6 years from the date on which he assumes office. We cannot extend President Tan's term beyond 6 years unless we amend the Constitution.

72 The period during which the acting President shall exercise the functions of the office of President should not exceed one month, from 1 September 2017 to the date of assumption of office by the person declared elected as President.

73 Madam, let me now say a few words in Malay and Mandarin.

74 Kita telah menerima pelbagai maklum balas yang berguna dari masyarakat Melayu dan warga-warga Singapura yang lain, mengenai pindaan bagi sistem Presiden Dipilih.

75 Saya berbesar hati masyarakat secara keseluruhannya memahami matlamat dan rasional disebalik pindaan yang telah dicadangkan.

76 Kita mahu menjaga dan mempertahankan masyarakat berbilang kaum kita kerana inilah yang membuat Singapura unik. Kita mahu mengekalkan meritokrasi kerana itulah konsep yang diutamakan Singapura.

77 Singapura merupakan negara dimana seseorang boleh memenuhi potensinya berdasarkan kerja keras dan kebolehannya sendiri, dan bukan kerana keturunan, kenalan, bangsa atau agama.

78 Oleh itu, sistem yang kita mahu tubuhkan ini akan mengimbangkan dengan teliti dua faktor- meritokrasi dan dasar berbilang kaum. Piawai tinggi yang sama tetap dikenakan kepada semua calon, tidak mengira bangsa.

79 Pilihan Raya Presiden akan datang, telah diperuntukkan untuk calon Melayu dan sekiranya ada pertandingan, hari mengundi akan diadakan pada bulan September. Langkah ini diambil supaya kempen pilihan raya Presiden akan berlangsung di luar waktu sambutan-sambutan Hari Kebangsaan.

80 Saya harap calon-calon Melayu yang layak akan tampil untuk bertanding, untuk menjadi ketua negara yang dapat menyatu-padukan masyarakat serta memberi inspirasi kepada kita semua.

81 Sebagai sebuah negara yang muda, kita harus berani untuk terus menyesuaikan institusi-institusi kita mengikut keperluan kita. Inilah semangat warga perintis kita, dan semangat yang sama, harus terus dicontohi generasi-generasi masa hadapan.

82 Kini saya teruskan ucapan saya dalam Bahasa Mandarin.

83 国会在去年 11 月, 经过三天激烈辩论, 通过了新加坡宪法 (修正) 法案。之后, 政府也收到各阶层的反馈。许多国人都非常关注我们如何在任人唯贤和多元宗族这两点之间取得平衡。

84 政府很欣慰, 我国华社, 作为大多数族群, 对于这项改革持有成熟的态度, 并表示支持。这也代表我们华社拥护多元种族和包容的价值观。这些价值观对我国至关重要。我感谢华社与社团领导在这课题上所扮演的重大角色。

85 这显然是不容易的。新加坡是个年轻的国家。我国的机构与体系得灵活地应需求而转变。我们也应象先辈们一样, 为后辈做到这一点。

86 政府同意宪法委员会的看法。总统选举的竞选活动必须符合总统作为国家团结的象征。国会上下也都支持我国总统选举的竞选活动不应该政治化, 并且同意总统选举和全国大选的竞选方式应该有所不同。

87 为了明确区分这两项选举, 政府将不再为总统选举划定任何竞选集会地点。候选人仍然想举行竞选集会的话, 就必须向警方申请准证。

88 政府会在选举期间增加电视竞选广播的时间。候选人也能利用社交媒体与选民交流。他们也可以跟过去一样在室内举行活动, 和特定的选民群体会面沟通。

89 过去, 总统选举投票日都定在 8 月的最后一个星期。竞选活动在 8 月展开, 通常会在国庆日和 8 月间的国庆庆祝活动同时进行。

90 政府认为这两件事情应该分隔进行。为了避免再出现这种情况, 今年的总统选举投票日将在 9 月举行。

91 我们的法律规则准许这么做。政府的机制也能顺利地应付这过渡期。

92 Allow me to conclude. Madam Speaker, the amendments I have described today are either consequential to the constitutional amendments made in November, or to improve processes during elections.

93 We are drawing closer to our first reserved elections for our President. The changes to the system have taken more than a year to be discussed and fleshed out since they were first publicly mooted. The time taken, along with the range of people that were consulted in the process, signal the Government's intent in refining the system, and ensuring:

- a. that, the office of President is held by a person with the necessary qualities and experience to exercise the powers and duties of the highest office in the country;
- b. that, the office of the President continues to reflect the multiracial nature of Singapore; and
- c. that, this office continues to be a unifying symbol for all Singaporeans, regardless of race, language or religion.

94 Madam, I beg to move.