

EXPLANATORY MATERIAL ON THE ROLE OF THE PRESIDENT UNDER THE CONSTITUTION OF THE REPUBLIC OF SINGAPORE

(Prospective candidates must read this note
prior to making the statutory declaration in the Nomination Paper.)

1. Head of State

1.1. Singapore's system of government is established by the Constitution.

1.2. Under the Constitution, the President is the Head of State. The Prime Minister is the Head of Government. The direction and control of the Government rests with the Prime Minister, together with the Cabinet.

1.3. As the Head of State, the President is the symbol of national unity. The President presides over important national events, such as the National Day Parade and the Opening of Parliament. He (or she) also exercises custodial powers as conferred by the Constitution.

1.4. The President stands above party politics and therefore cannot be a member of a political party.

2. How the President works with Parliament and the Cabinet

2.1. The Cabinet has the general direction and control of the Government. It makes and implements policies. The Cabinet is led by the Prime Minister, who must command the confidence of Parliament. The Cabinet as a whole is collectively responsible to Parliament. Parliament, in turn, is responsible for scrutinising and passing legislation. The Cabinet and Parliament are ultimately accountable to the electorate for the laws and policies that they make.

2.2. The Constitution requires the President to act on the Cabinet's advice in exercising his functions, except in specific areas where the Constitution empowers the President to act in his discretion.

3. The President's custodial functions

3.1. The Constitution confers on the President a number of custodial powers. These powers enable the President to veto certain proposed measures, notwithstanding the advice tendered by the Cabinet. These custodial powers fall into three broad categories.

3.2. The first category concerns Singapore's past reserves (that is, the reserves which were not accumulated during the present term of the Government). The President is empowered to vet and if he so decides to veto measures taken by Parliament or the Government that he considers would draw on past reserves. For example, the President can refuse to assent to a Supply Bill passed by Parliament if in his opinion the Bill would draw on the Government's past reserves. This also extends to key statutory boards (CPF Board, HDB, MAS and JTC) and key Government companies (Temasek and GIC). The President can disapprove the budgets and transactions of these entities if he considers that they draw on the entities' past reserves.

3.3. The second category concerns the Public Service. The President can veto appointments to key public offices, including the Chief Justice and the Judges of the Supreme Court; the Chief of Defence

Force and the Service Chiefs of the Singapore Armed Forces; the Commissioner of Police; the Attorney-General; the Director of the Corrupt Practices Investigation Bureau, and the Chairman and members of the Public, Judicial and Legal Service Commissions. The President can also veto the removal of individuals from these appointments.

3.4. The third category serves a protective function. The President can authorise an investigation by the Director of the Corrupt Practices Investigation Bureau if the Prime Minister refuses to give such authorisation. The President’s concurrence is required for a person to be detained under the Internal Security Act if the ISA advisory board recommends against the detention. The President can also cancel or vary a restraining order made under the Maintenance of Religious Harmony Act if the Cabinet’s advice was contrary to the recommendation of the Presidential Council for Religious Harmony.

3.5. When exercising the first two categories of custodial powers, the President must consult the Council of Presidential Advisers. If the President exercises a veto contrary to the recommendation of the Council, Parliament can vote to overrule the President. A motion to overrule the President must be supported by not less than two-thirds of the total number of MPs (excluding nominated MPs).

4. Public role

4.1. The public role of the President reflects the Constitutional powers and duties of the office.

4.2. As the Head of State, the President is the symbol of national unity. The President must be, and be seen to be, politically neutral. The President has no independent political role and must not get involved in political or controversial issues. This way the President stays above the political fray.

4.3. Publicly, the President must speak and act in accordance with the advice of the Cabinet, especially when expressing views on legislation or Government policy. The exception is matters related to the President’s custodial powers, where the President acts in his discretion, and is naturally entitled to explain to the public how he has exercised, or intends to exercise, these powers.

4.4. In private discussions with the Prime Minister, the President can share his advice freely, but these discussions must remain confidential.

5. Examples

5.1. The following table sets out examples of what the President can and cannot do.

What the President can do	What the President cannot do
Veto appointments to key statutory boards (CPF Board, HDB, MAS and JTC) and key Government companies (Temasek and GIC)	Appoint his own preferred candidates to these key appointments
Veto the Expected Long-Term Real Rate of Return (ELTRROR) proposed annually by the key statutory boards and key Government companies	Decide on the investment policies of these investment entities
Veto Supply Bills that draw on the Government’s past reserves	Veto Bills that increase tax rates

What the President can do	What the President cannot do
Deliver the Address at the Opening of Parliament, which is drafted by the Government and sets out the Government's agenda	Express public views on legislation or Government policy without being advised to do so by the Government
Represent Singapore internationally in accordance with the foreign policy and advice of the Government	Pursue a different foreign policy from the Government

Note on the position in Westminster systems

The President's role as the Head of State and his duty to act on the advice of the Government of the day is modelled on the Sovereign in the United Kingdom. The only departure concerns his custodial roles defined in the Constitution. The position in the United Kingdom, which also applies in other Westminster systems of government, is summarised below.

In the Westminster system, the head of state is separate from the government. The government has the power to make and carry out policy; it is the efficient part of the constitution. The role of the head of state is mainly to represent and symbolise the state and the nation; he is the dignified part of the constitution. The head of state has some constitutional functions, such as to appoint the prime minister and dissolve the legislature, but these are generally residual in nature.

To represent the nation, the head of state must remain politically impartial. This is achieved by the principle that the head of state must act according to the advice of the government in his public speech or conduct, and must not express his personal views on matters of state. In this way, it is the government that is responsible for what the head of state does or says in public and the head of state is removed from political controversy. By contrast, if the head of state publicly expresses his views on matters of state, he ceases to be politically impartial. The government, for its part, should not advise the head of state to say or do anything in public that could be politically controversial.

This does not mean that a head of state is without influence. The head of state has the constitutional right to be consulted, the right to advise and the right to warn. But these rights can only be exercised in private and within the constitutional framework. The head of state is not entitled to take a public position that is different from the government. At the end of the day, if the government does not accept the private views of the head of state, the head of state must still speak and act in public according to the advice of the government.

This summary is based on Walter Bagehot, *The English Constitution*, and Vernon Bogdanor, "The Monarch and the Constitution" (1996) 49 *Parliamentary Affairs* 407-422.