

**SECOND READING SPEECH:  
PARLIAMENTARY ELECTIONS (AMENDMENT) BILL 2010  
DELIVERED BY MR K SHANMUGAM, MINISTER FOR LAW AND SECOND  
MINISTER FOR HOME AFFAIRS**

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**Background**

1. Mr Speaker, Sir, I beg to move, "That the Bill be now read a Second time".
2. Sir, this Bill amends the Parliamentary Elections Act ("PEA"). Together with the amendments to the Constitution moved earlier by DPM Wong, and the Presidential Elections (Amendment) Bill, which will be read next, it refines and updates our political and electoral system. Some of the amendments also implement recommendations made by the Committee that reviewed the conduct of the 2006 General Elections.
3. The Bill contains three substantive changes. First, it increases the maximum number of Non-Constituency Members of Parliament ("NCMPs") who can be elected to Parliament. Second, it introduces a Cooling Off day on the eve of Polling day. And third, it refines and liberalises rules on Internet election advertising.
4. The Bill also contains a number of technical amendments. These include the introduction of contingency measures in order to deal with unexpected situations during elections; the streamlining of election spending rules; and the updating of offences and maximum penalties in the Act.
5. I will bring the House through each of the changes in turn.

**NCMPs**

6. The first set of changes relate to the Non-Constituency MP ("NCMP") scheme.
7. During the reading of the Constitution (Amendment) Bill earlier, DPM Wong had explained the rationale for the scheme, when it was introduced in 1984, and why it is being expanded now.
8. The Constitution has just been amended to increase the maximum number of NCMPs that the PEA can provide for, from six (6) to nine (9).
9. Under the PEA, the number of NCMPs is set at three (3), or such greater number not exceeding six (6), as the President may specify, less the total number of Opposition MPs elected to Parliament.
10. Clause 15 of the Bill amends the PEA to raise the cap on NCMPs to nine (9). It also does away with the need to fix the maximum number of NCMPs by presidential order each time there is a General Election. The number of NCMPs will therefore be nine (9), less the total number of elected Opposition MPs.

11. There will also be a cap of two (2) NCMPs coming from any one Group Representation Constituency (“GRC”), and a cap of one (1) from any Single Member Constituency (“SMC”). This will spread out the NCMPs more evenly and make them more representative of voters who had voted for the Opposition nationwide in the General Election. In addition, the cap on NCMPs coming from a GRC will clearly distinguish between the winning and losing teams in a GRC.
12. Sir, at this point, I would like to touch on a commentary by Ms Yew Lun Tian which appeared in today’s Zaobao. Ms Yew referred to the debate on the Constitutional Amendments. She referred to the positions taken by DPM Wong, the PAP MPs as well as Mr Low and Ms Sylvia Lim. She then ended with her own view on the NCMP proposals: that it was all about getting more seats in Parliament. She dismissed the Government’s position on the NCMP scheme, as being superficial sugar coating i.e. we were using principle as a charade, and our real motive was to get political advantage.
13. It is unfortunate that Ms Yew’s cynicism prevents her from being able to truly appreciate what we are trying to do.
14. We are engaged in the very serious task of shaping Parliamentary democracy, with long term consequences for our Constitutional and Parliamentary structure. All of these will have important implications for Singapore and Singaporeans.
15. Our reasons for making these changes have been reiterated several times:
  - 1) Singapore needs a Government with a clear, strong majority, that can provide good governance in the long term interests of Singaporeans.
  - 2) At the same time, there is a legitimate desire amongst Singaporeans to have more diverse views, including opposition views articulated in Parliament.
16. The NCMP Scheme meets these needs. The present changes are significant because they provide for a minimum of nine opposition members in Parliament, and in addition there will be nine NMPs. Parliament will see a wide variety of views expressed. The NCMPs will in some sense also represent the views of a significant minority who voted against the Government.
17. The changes will encourage voters to vote thoughtfully in accordance with their own long term interests. This will strengthen our political system for the longer term.
18. If all we say is a charade and if these changes are motivated only by cynical electoral calculations, then making the changes is not a clever move for the PAP Government. If Ms Yew were to think it through, she would note the following possibilities: if NCMPs perform well in Parliament, they will gain credibility. They can show Singaporeans that they understand the issues, have serious views on the national agenda, and have the potential to form a government one day. They will then become a more serious force in the next elections. A group of nine Parliamentarians from the Opposition can form a very

credible caucus, a base from which they can expand their influence. Thus on a long term analysis, if this Government was only interested in its own electoral prospects, then increasing the number of NCMPs is not a good idea. It is in fact a bad idea. It is noteworthy that the Government's own MPs do not necessarily support the idea.

19. Thus, we come back to the question: Why would this Government take this step which will give the Opposition more space? We are doing it because we believe strongly in doing what is right for Singapore. We believe that these changes are good for Singapore. And we believe that these changes will make for a better Singapore. Singaporeans will know that alternative views are not shut out, as indeed the debate yesterday in which Ms Sylvia Lim and the NMPs participated showed. The changes are not being made based on cynical tactical short term calculations – which won't work anyway.

### **Cooling-Off Day**

20. The next major amendment is the introduction of a Cooling Off day, on the eve of Polling day. This was announced by the Prime Minister in November last year.
21. Currently, after Nomination day, there will be a period of campaigning, followed immediately by Polling day when Singaporeans cast their vote. This Bill proposes to increase the minimum period between Nomination day and Polling day by one day, and to use that extra day as a Cooling off day.
22. The reason for a Cooling off day is clear. During an election campaign, various parties and their candidates will put forward their manifestos and ideas to the electorate. They will engage in debates across the island on national policies and local issues, and seek to appeal to people's hearts and minds. There will be political messages during this period, at election rallies and door-to-door campaigning, on television and in print, from lorries driving around blaring political messages from loudspeakers, and in the future via the new media.
23. The Cooling off day will give everyone some time after the excitement and emotion of campaigning, to reflect on the issues and arguments made, analyse logically and rationally what is at stake, and then go to the polls the next day to cast their votes. This is important because in a General Election, each one of us will be making very significant decisions about our future and Singapore's future.
24. Another reason for having a Cooling off day is that, if emotions do run high between contesting groups of supporters during campaigning, the risk of disorder, on the eve of Polling day, and on Polling day itself will be reduced.
25. The concept of a Cooling off period for voters to reflect on issues is not novel. Sometimes referred to as 'campaign silence' or 'election silence', it exists in various forms in several other countries. In Australia, the law imposes a three-day blackout on election advertising via broadcast media (i.e. television, radio) before federal polls. In Indonesia, there is a three-day cooling off before legislative elections, and a two-day period before presidential elections. Polling

in the Philippines, Italy, Russia and Mexico, among other countries, are also preceded by a period of cooling off.

26. Clauses 8 and 9 of the Bill amend the Act to increase the minimum period between Nomination day and Polling day by one extra day; this extra day being Cooling off day. The minimum period of campaigning will therefore not be affected in any way as a result of the introduction of a Cooling off day.
27. Currently the PEA prohibits the publication or display of election advertising on Polling day. There are a number of existing exceptions to this under the Act:
  - (1) First, publication of news relating to the election in the newspapers, on radio and television may continue on Polling day;
  - (2) Second, the continued lawful display or posting of banners and posters is allowed;
  - (3) Third, Internet election advertising lawfully published before Polling day does not need to be taken down on Polling day;
  - (4) Fourth, individual transmission of personal political views on the Internet, on a non-commercial basis, is permitted; and
  - (5) Fifth, the distribution or promotion of a book for not less than commercial value is acceptable on Polling day if the publication had been planned regardless of whether there was to be an election.
28. Clause 29 of the Bill amends the Act to extend the existing prohibition of election advertising on Polling day, to Cooling off day. The exceptions to the ban that I mentioned earlier will similarly be extended. There are two (2) additional points that I will make.
29. The first is that instead of allowing only individual transmission of personal political views on the Internet (on a non-commercial basis), we have widened the exception to cover *any form of telephonic or electronic transmission* of personal political views by individuals, to other individuals (on a non-commercial basis). This is to take into account new forms of individual personal communication<sup>1</sup>. This wider exception will apply both to Cooling off day as well as Polling day.
30. The second point is that Party Political broadcasts on television, which have traditionally been aired on the eve of Polling day in previous General Elections, will be permitted on Cooling off day. This exception will be prescribed.
31. The Bill also makes other amendments to give effect to the Cooling off day. The Act currently prohibits any person from wearing, using, carrying or displaying political propaganda, such as flags, banners, badges and placards on Polling day. Candidates may, however, wear their party political badges. Clause 27 of the Bill extends the prohibition, and its exception, to the Cooling off day.

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<sup>1</sup> E.g. SMS'ing from computer to handphones, SMS, MMS, etc.

32. Canvassing and door-to-door visits are banned on Polling day. Clause 34 extends that to the Cooling off day.
33. In previous General Elections, permits for election rallies would not be granted on Polling day. Clause 35 of the Bill expressly prohibits the holding of any rallies on both the Polling day and Cooling off day. It also clarifies that, during an election period, rallies at Speakers' Corner will be subject to the same permit regime as election rallies held at any other place in Singapore.
34. To summarize, with the exception of Party Political Broadcasts, which will still be permitted on the Cooling off day, what is presently prohibited on Polling day will also be prohibited on Cooling off day. And what is currently allowed on Polling day will also be allowed on Cooling off day.
35. Some people have questioned why Singapore needs a Cooling off day, when Singaporeans are, by nature, rational. The argument they make is that Singaporeans are rational – so they do not need an additional day to think. There is a logical disconnect to this argument. Rational people do not suffer from being given an extra day to think and reflect on serious issues.
36. Sir, for us good governance is both fundamental and vital. We do not have the luxury of resources or strategic depth, or size. We cannot, like some other countries, endure a period of poor governance without suffering considerable damage. We survive and prosper as a city state, in an ever changing international political and economic environment, by having good governance. All that we have around us – our peace and security, our infrastructure, our world-class institutions, and our cosmopolitan skyline – could not have been achieved without good, strong and consistent governance, working in partnership with a hard-headed, rational and hardworking people.
37. We therefore have to take the electoral process very seriously because the direction that a government takes in its five year mandate, after an election, will have a disproportionately substantial impact on Singapore. We must therefore encourage everyone to vote rationally and logically. Our voters must be able to sift out misinformation and rhetoric. They must be able to distinguish policies and manifestos that sound good but are actually hollow, from those that are really in the best interests of Singapore. The integrity of the electoral process, which underlines the proposal for a Cooling Off day, is a part and parcel of our political morality; a political morality which also includes principles such as the integrity of our public service and Government, meritocracy, as well as racial and religious harmony.
38. It is for these reasons that the Government has decided to introduce the Cooling Off day.

#### **Liberalisation of Internet election advertising**

39. The third set of key amendment in the Bill relates to refinement of Internet election advertising.

40. Under the existing law, only political parties, candidates and election agents are permitted, during an election period, to campaign on the Internet by putting up election advertising.
41. Specifically, under the PEA, a person (other than a political party, a candidate or his election agent) will be considered a 'relevant person' if:
  - (1) he operates a website under the class licence scheme run by the Media Development Authority ("MDA"); and
  - (2) he is required under the class licence to register with MDA, on account that he engages in or provides any internet programme for the propagation, promotion or discussion of political issues relating to Singapore.
42. Under the Parliamentary Elections (Election Advertising) Regulations, a "relevant person" is not allowed to engage in any Internet election advertising during the election period.
43. Members may recall that in 2007, the Government had set up an Advisory Council on the Impact of New Media on Society, or AIMS, to study the implications of new media on society and to recommend appropriate ways that the Government could address the impact.
44. On 9 January last year, MICA announced that the Government had accepted a number of recommendations that AIMS had made. MICA also announced that individuals would be allowed to participate in Internet election advertising during the election period.
45. Clause 29 of the Bill gives effect to that commitment, by removing references to "relevant persons" from the Act altogether. This means that the current blanket prohibition on individuals operating non-party political websites will be lifted. I hope netizens will act responsibly when running such sites.
46. While the rules on propagation of political views on Internet have been liberalised, nevertheless, foreign interference in our politics will remain prohibited. Clause 38 amends the Bill to make it an offence for any person, other than a Singaporean, to knowingly publish or display any election advertising during the election period. The prohibition applies in the real world as much as it does to the virtual world. This is partly a technical alignment, since the law already makes it an offence for foreigners to take part in election activities in Singapore.
47. In another significant move to liberalise Internet election advertising, MICA had also earlier announced that candidates, their political parties and election agents will be allowed to use new media as election advertising during the election period. This will be done by expanding the positive list under the Parliamentary Elections (Election Advertising) Regulations. More details on the expanded positive list will be announced by MICA in due course.

**Technical amendment: Election contingencies**

48. I will next move on to the more technical aspects of the Bill.

49. After the 2006 General Election, a Review Committee was established to identify gaps in the conduct of the election, and to recommend improvements for the future.
50. DPM Wong announced during the Committee of Supply Debates in 2008, that one of the recommendations of the Review Committee was for the Elections Department to draw up contingency plans to deal with potential disruptions to an election. These would include man-made situations, such as bomb threats or open violence, as well as natural calamities, such as flood, fire or public health threats. Legislative amendments were necessary as the current electoral laws provided for only a limited range of responses to deal with crisis situations and disruptions.
51. The Bill therefore introduces a range of contingency measures to deal with these situations, while at the same time seeking to ensure the safety of the public and officials, as well as the integrity of the election process.

*Total failure of election*

52. Clause 6 of the Bill deals with the situation where a total failure of election occurs. This is a situation where no candidate is nominated or returned as elected in an electoral division. For instance, if polls have to be aborted midway due to some natural or man-made catastrophe, or where no candidate is nominated due to such a situation.
53. In such an event, the President may, on the advice of the Cabinet, issue a fresh writ of election.

*Postponement etc of nomination proceedings*

54. Clause 18 of the Bill introduces new sections 56A to 56F to the Act. New section 56A empowers the President, on the advice of Cabinet, to postpone Nomination day or change the location of nomination centres because of a crisis situation. Section 56B empowers the Returning Officer ("RO") to change the time for nomination proceedings because of a crisis.

*Adjournment etc of polling*

55. Section 56C allows the RO to postpone polling at all polling stations to another day, if it appears that polling at all stations is likely to be obstructed, disrupted, undermined or seriously affected by a crisis situation.
56. If the concern surrounds only one or some polling stations, then the RO may take any of the following steps:
  - a. First, he may temporarily suspend polling for not more than two (2) hours, to see if the crisis dissipates;
  - b. Second, he may adjourn and postpone polling to another day;
  - c. Third, he may wholly abandon and restart polling on another day;

- d. Fourth, he may terminate polling early; or
  - e. Fifth, in an overseas polling station, he may abandon that poll if polling cannot start or be resumed or completed.
57. If polling is resumed or held in place of a postponed overseas poll, it must not close later than the close of the poll on Polling day in Singapore.
58. Any poll held in place of a postponed poll must also be held within three (3) months after the dissolution of Parliament.

*Adjournment etc of counting*

59. Section 56E empowers the RO to take action during the counting of votes, if he is satisfied that counting at all or any counting place is likely to be obstructed, disrupted, undermined or seriously affected by a crisis. In such a situation, he may —
- a. temporarily suspend counting for up to two (2) hours;
  - b. adjourn and postpone counting to another day;
  - c. wholly abandon counting if it cannot be resumed or completed and the number of votes to be counted will not affect the result of the election for that electoral division; or
  - d. wholly abandon counting and restart polling at stations which were affected by the abandonment of counting, if counting cannot be resumed or completed, and if the votes to be counted will affect the result of the election at the electoral division.
60. If a recount of votes is wholly abandoned, then the results of the first count will be used.
61. If counting of votes is wholly abandoned and polling is restarted, the restarted poll must take place within three (3) months of the dissolution of Parliament.

*Adjournment etc. of adding of counted votes*

62. Finally, section 56F allows the RO to temporarily suspend the addition or tallying of votes at a principal counting place for up to two (2) hours, or to the next day, where the adding of counted votes may be obstructed, disrupted, undermined or seriously affected by a crisis.
63. When any of the contingency measures outlined above are activated, a notice of the action taken with regard to the election proceedings must be published in the *Gazette*. If this is not practicable, then it must be published in such a manner as to secure its adequate publicity. This ensures transparency and accountability in the manner that the powers are exercised.
64. The contingency measures are also accompanied by requirements that safeguard the integrity of the ongoing electoral process. For instance, before

counting of votes is suspended or adjourned, the Bill requires all counted ballot papers, uncounted ballot papers, and all other documents relating to the counting of votes to be sealed up in separate packets and placed in ballot boxes. These boxes must then be sealed with the RO's seal and the seals of any candidate or election agent present. Subsequently, before counting can resume, the RO must show the candidates and their counting agents who are present that each ballot box remains sealed, before the uncounted ballot papers can be taken out.

65. To sum up, the various contingency powers outlined above are necessary, so that the Returning Officer can take appropriate and authoritative measures during election proceedings, if and when they are threatened or actually disrupted by unexpected events. Contingency powers are not unprecedented. For example, the flexibility to adjourn polling in the event of a disruptive event can also be found in Australian electoral legislation<sup>2</sup>.

### **Technical amendment: streamlining of election spending rules**

66. The next set of technical amendments relate to the rules that regulate election expenditure and reporting by candidates and their parties.
67. The Parliamentary Elections Act places a limit on how much each candidate can spend in an election. It also regulates the types of permissible expenditure and the manner in which expenditure must be reported to the RO.
68. The Act requires every candidate to appoint an election agent, through whom all expenditure must be made (with minor exceptions). The election agent must keep an accurate account of all expenses incurred and donations received, and all disputed claims and unpaid claims for payment. Within 31 days after election results are published in the *Gazette*, the election agent must submit the Return of Election Expenses to the RO, together with all bills and receipts. This must be signed and declared to be accurate and complete by the election agent, and be accompanied by a similar declaration by the candidate.
69. The election spending rules in the Act were adapted from the Singapore Legislative Elections Ordinance in the 1960s. They were designed principally to regulate election expenses and reporting by individual candidates (and their agents).

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<sup>2</sup> Section 72 of the **Victorian Electoral Act 2002** provides for the issuance of a fresh writ following a failed election. The Act also empowers the election manager of a voting centre to temporarily suspend voting (s97A) because of riot or open violence or serious threat thereof, storm, tempest, flood, health hazard, fire or activation of fire safety equipment, or any other reason that the manager considers may affect safety of voters or interrupt or obstruct proper conduct of voting. Section 95 of the **Queensland Electoral Act 1992** permits the Returning Officer to adjourn polling at polling booths if the taking of the poll is or is likely to be interrupted or obstructed by storm, tempest, flood, fire or similar happening, or riot or open violence.

### *Streamlining and modernising election spending rules*

70. The Bill seeks to modernise the regulatory framework and streamline the reporting procedures for election expenses.

### *Amendments to cater to party-level expenditure*

71. The first set of amendments relate to election expenditure at party-level. Under the Bill, an election agent can give a written authority to the party to pay expenses (up to a total amount spelt out in the authority) in respect of the conduct or management of the election of its candidate. The expenses may then be paid by the party or an authorised officer of the party.

72. The party must then submit a statement of the particulars of payment to the election agent within the time limit for the sending in of claims and vouched for by a bill containing the receipt of the party.

### *Amendments to cater to GRC-level expenditure*

73. The second set of technical amendments caters to GRC-level expenditure.

74. The Bill introduces the concept of 'sub-agent', who would be one of the GRC slate's election agents who can be authorised in writing by the other agents to incur expenditure collectively for them. One or more sub-agents can be appointed per GRC slate. This would allow the team of agents to divide the work of organising the GRC slate's campaign by authorising each other to handle different types of expenses.

75. The principal election agent of the team will be required to file a consolidated return of election expenses, which must contain all payments made by sub-agents (together with all bills and receipts and dates of payment for all sums for which no receipt is attached), and the amount of those payments apportioned by agreement to each candidate. The consolidated return must be signed by the principal election agent and be accompanied by a statement made by the principal election agent and every authorised sub-agent in the team.

### *Individual returns by candidates*

76. Election agents of the individual candidates must, however, still fulfill the existing requirement of filing individual returns. These returns must reflect the portion of the expenses incurred by the political party on the behalf of the candidates. For GRC candidates, the individual returns must also take into account the expenses incurred for the candidates by the sub-agents.

### **Review of election offences**

77. Next I will deal with Election Offences. Most of the offences in the Parliamentary Elections Act originated from the Singapore Legislative Assembly Elections Ordinance of 1954. Their maximum penalties have not been reviewed since then. Some other offences were introduced in 1959, while a few others were introduced in more recent years. As a result, many of the penalties in the Act have not kept pace with those in contemporary legislation.

78. As part of the ongoing review of electoral laws, penalties in Act have been reviewed.
79. For instance, section 55 of the Act contains a list of offences that we can broadly describe as deliberate electoral fraud. These include forging of nomination papers and ballot papers, stuffing ballot boxes, and using devices or appliances that can manipulate ballot papers. Under the current Act, these serious offences carry a maximum penalty of imprisonment for up to two (2) years. The offender would also be disqualified for seven (7) years from voting or standing for election. The Bill enhances the maximum penalty to mandatory imprisonment of up to five (5) years, as well as fine. The seven (7) year disqualification remains.
80. The proposed changes (subject to one exception), do not add offences to the list of offences for which disqualification for membership of Parliament may potentially follow, if the sentence exceeds the threshold set out in Article 45 of the Constitution. Under the Constitution, a person will be disqualified from being an MP if he is convicted of an offence and sentenced to imprisonment for a term of not less than one (1) year or to a fine of not less than \$2000.
81. The one exception is this: The existing offence of voting when a person is not entitled to vote, in section 38(5) of the Parliamentary Elections Act, will be made an offence for which an automatic disqualification of three (3) years from voting or from being elected, will apply. This change will bring the penalty for this offence in line with the offence of plural voting, which already attracts a three (3) year disqualification.

### **Concluding Remarks**

82. Mr Speaker, Sir, this Bill moves our political system gradually in a direction that better reflects the growing aspirations of our society, and in a way that we believe will continue to serve Singapore well as we face the challenges of the future.
83. They ensure that the Government, which is elected by popular vote, will have a clear mandate to govern in the interests of Singapore, so that our political system will continue to serve Singapore well, now and into the future.
84. Mr Speaker, Sir, I beg to move.

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