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**Notification No. B 29** — The Parliamentary Elections (Amendment No. 2) Bill is hereby published for general information. It was introduced in Parliament on the 25th day of July 2001.

# Parliamentary Elections (Amendment No. 2) Bill

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**Bill No. 29/2001.**

*Read the first time on 25th July 2001.*

A BILL

*intituled*

An Act to amend the Parliamentary Elections Act (Chapter 218 of the 2001 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 Parliamentary Elections  
5 (Amendment No. 2) Act 2001 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

## Amendment of section 2

2. Section 2 of the Parliamentary Elections Act (referred to in this Act as the principal Act) is amended —

- (a) by inserting, immediately after the definition of “election”, the following definition: 5

“ “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 10  
at any election for one or more identifiable political parties, candidates or groups of candidates; or

- (b) to otherwise enhance the standing of any  
such political parties, candidates or groups 15  
of 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 20  
does not expressly mention the name of any political party or candidate, but excludes any button, badge, pen, pencil, balloon and any other thing prescribed by the Minister by notification in the *Gazette*;”;

- (b) by inserting, immediately after the definition of “Parliament”, 25  
the following definition:

“ “political party” means a political party which is registered under the Societies Act (Cap. 311);”;

- (c) by inserting, immediately after the definition of “public authority”, the following definition: 30

“ “publish” means make available to the general public, or any section thereof, in whatever form and by whatever means, including broadcasting (by wireless telegraphy or otherwise) and transmitting on what is commonly known as the Internet;” and 35

(d) by renumbering the section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) For the purposes of the definition of “election advertising” in subsection (1) —

(a) the reference to electoral success at any election shall be a reference —

(i) in relation to any political party, to the return at any such election of candidates or groups of candidates standing in the name of the party; and

(ii) in relation to candidates or groups of candidates, to their return at any such election;

(b) the reference to the doing of anything mentioned in paragraph (a) or (b) of that definition shall include doing so by prejudicing the electoral prospects at the election of other political parties, candidates or groups of candidates or (as the case may be) by prejudicing the standing with the electorate of other political parties, candidates or groups of candidates; and

(c) the reference to candidates or groups of candidates shall include any person or group of persons (whether or not a member of any political party) who, on or after the date of the issue of a writ for the election is declared, by himself or others, as seeking nomination as a candidate at that election.”.

### 30 **Amendment of section 27B**

**3.** Section 27B (5) of the principal Act is amended by inserting, immediately after the word “withdraws”, the words “or is deemed to have withdrawn”.

### **Amendment of section 28**

35 **4.** Section 28 of the principal Act is amended by deleting subsections (5) and (5A).

## **New section 32A**

**5.** The principal Act is amended by inserting, immediately after section 32, the following section:

### **“Multiple nominations**

**32A.**—(1) A candidate who is validly nominated for more 5  
than one electoral division at a general election shall withdraw  
his candidature in all those electoral divisions except one before  
12 noon on the day of nomination, and if he does not so withdraw  
he shall be deemed to have withdrawn his candidature in all the  
electoral divisions under section 32. 10

(2) Subsection (1) shall also apply where 2 or more  
by-elections are held at the same time.”.

## **Amendment of section 61**

**6.** Section 61 of the principal Act is amended —

(a) by deleting paragraph (c) of subsection (1) and substituting 15  
the following paragraph:

“(c) publishes or causes to be published any election  
advertising during the period beginning with the day  
the writ of election is issued for an election and  
ending on the eve of polling day at the election 20  
which —

(i) in the case of election advertising that is, or  
is contained in, a printed document, does  
not bear on its face or, if there is more than  
one side of printed matter, on the first or 25  
last page of the document, the names and  
addresses of its printer, its publisher and the  
person for whom or at whose direction the  
election advertising is published; or

(ii) in the case of any other election advertising, 30  
does not bear in the form and manner  
prescribed under section 78A the names  
and addresses of its publisher and the  
person for whom or at whose direction the  
election advertising is published;” and 35

(b) by inserting, immediately after subsection (4), the following subsections:

“(5) Where any election advertising is published in contravention of subsection (1) (c), the printer of the election advertising as well as the person for whom or at whose direction the election advertising is published shall each also be guilty of a corrupt practice and shall each be liable on conviction to the same punishment and incapacity under this section as the publisher thereof.

(6) Subsection (1) (c) shall not apply in respect of —

(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 a document directly by a person or a group of persons to their members, employees or shareholders, as the case may be;

(c) the transmission by an individual to another individual, on a non-commercial basis on what is commonly known as the Internet, of his own political views;

(d) the publication of any news relating to an election in a newspaper in any medium or in a radio or television broadcast; or

(e) such other circumstances or activities as may be prescribed by the Minister by order in the *Gazette*.”.

### **New sections 78A to 78E**

7. The principal Act is amended by inserting, immediately after section 78, the following sections:

#### **“Regulations for other election advertising**

**78A.**—(1) The Minister may make regulations —

(a) prescribing the form and manner in which details as to the names and addresses of the publisher of any election advertising not comprising printed matter and of the person for whom or at whose direction it is published

must be included in such election advertising for the purpose of complying with section 61 (1) (c) (ii); and

- (b) regulating election advertising and the publication thereof during an election period on what is commonly known as the Internet by political parties, candidates or their election agents and relevant persons, including prescribing the features that must or must not appear or be used in any such election advertising.

(2) Any person who contravenes any regulations made under subsection (1) (b) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) For the purposes of this section and any regulations made thereunder —

“election period” means the period beginning with the day the writ of election is issued for an election and ending with the close of all polling stations on polling day at the election;

“relevant person” means any person or group of persons in Singapore (other than a political party, a candidate or his election agent) which —

- (a) provides any programme on the World Wide Web through what is commonly known as the Internet under a class licence; and
- (b) is required under the conditions of the class licence to register with the Singapore Broadcasting Authority on account of that person or group of persons engaging in or providing any programme for the propagation, promotion or discussion of political issues relating to Singapore,

and a person or a group of persons shall be regarded as required to register with the Singapore Broadcasting Authority even though the time permitted for such registration has not expired;

“Singapore Broadcasting Authority” means the Singapore Broadcasting Authority constituted under the Singapore Broadcasting Authority Act (Cap. 297).

### **Election advertising ban on polling day**

**78B.**—(1) Subject to subsection (2), no person shall on polling day display or publish, or cause or permit to be displayed or published, any election advertising in or among any electors in any electoral division before the close of all the polling stations in the electoral division.

(2) Subsection (1) shall not apply in respect of —

- (a) any election advertising that was lawfully published before polling day on what is commonly known as the Internet and that was not changed after its publication;
- (b) the continued lawful display or posting of posters or banners;
- (c) 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;
- (d) the transmission by an individual to another individual, on a non-commercial basis on what is commonly known as the Internet, of his own political views;
- (e) the publication of any news relating to an election in a newspaper in any medium or in a radio or television broadcast; or
- (f) such other circumstances or activities as may be prescribed by the Minister by order in the *Gazette*.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

### **Blackout period for election survey results**

**78C.**—(1) No person shall publish or permit or cause to be published the results of any election survey during the period beginning with the day the writ of election is issued for an election and ending with the close of all polling stations on polling day at the election.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not



exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

(3) In this section, “election survey” means an opinion survey of how electors will vote at an election or of the preferences of electors respecting any candidate or group of candidates or any political party or issue with which an identifiable candidate or group of candidates is associated at an election. 5

### **Exit polls ban on polling day**

**78D.**—(1) No person shall publish or permit or cause to be published on polling day before the close of all polling stations on polling day — 10

- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or 15
- (b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both. 20

(3) In this section —

- (a) “forecast” includes estimates; and
- (b) any reference to the result of an election is a reference to the result of an election either as a whole or so far as any particular candidate or group of candidates at the election are concerned. 25

### **Defence for election advertising offences**

**78E.**—(1) It shall be a defence for a person charged with an offence under section 61 (1) or (5), 78A (2), 78B (3), 78C (2) or 78D (2) to prove — 30

- (a) that the contravention of section 61 (1) (c), (d) or (e), 78B (1), 78C (1), 78D (1) or any regulations made under section 78A (1) (b), as the case may be, arose from circumstances beyond his control; and 35

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

5 (2) Nothing in subsection (1) shall limit the operation of section 10 of the Electronic Transactions Act (Cap. 88) in relation to network service providers.”.

### **New section 108**

8. The principal Act is amended by inserting, immediately after section 107, the following section:

#### 10 **“Corporate offenders and unincorporated associations**

**108.**—(1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

15 (a) any director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

20 he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

25 (2) Where the affairs of the body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

30 (3) Proceedings for an offence alleged to have been committed under this Act by an unincorporated association shall be brought against the association in its own name (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to service of documents shall have effect as if the association were a corporation.

35 (4) Where a partnership is guilty of an offence under this Act, every partner (other than a partner who is proved to have been ignorant of, or to have attempted to prevent the commission of, the offence) shall also be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where any other unincorporated association is guilty of an offence under this Act —

- (a) every officer of the association who is bound to fulfil any duty of which the offence is a breach; or
- (b) if there is no such officer, every member of the committee or other similar governing body (other than a member who is proved to have been ignorant of, or to have attempted to prevent the commission of, the offence),

shall also be guilty of an offence and shall be liable to be proceeded against and punished accordingly.”.

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#### EXPLANATORY STATEMENT

This Bill seeks to amend the Parliamentary Elections Act (Cap. 218) for the following purposes:

- (a) to prevent multiple candidatures at a general election or where 2 or more by-elections are held at the same time;
- (b) to prohibit the publication of election opinion polls between the issue of the writ of election and polling day;
- (c) to prohibit the publication on polling day before the declaration of results of any exit poll or any forecast as to the result of the election;
- (d) to make it an offence for any person to publish (including on what is commonly known as the Internet) any election advertising without identifying the name of its printer (if it is printed), its publisher and the person for whom or at whose direction the election advertising is published; and
- (e) to empower the Minister to make regulations regulating Internet election advertising by political parties, candidates and third parties who are required to register with the Singapore Broadcasting Authority under its class licence conditions.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by introducing a new definition of “election advertising” that refers to any poster, banner, notice, circular, handbill, illustration, article, advertisement or other material that can reasonably be regarded as intended to promote or procure the electoral success at any election for one or more identifiable political parties, candidates or groups of candidates or to otherwise enhance the standing of any such political parties, candidates or groups of candidates with the electorate in connection with any election, 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 political party or candidate.

The clause also inserts new definitions of “political party” and “publish” in connection with the amendments concerning election advertising.

Clause 3 amends section 27B (5) to void the nomination of any group of candidates if one of its members withdraws or is deemed to have withdrawn his candidature.

Clause 4 amends section 28 as a consequence of the new section 32A.

Clause 5 inserts a new section 32A to deal with multiple nominations at a general election or when 2 or more by-elections are held. The new section 32A provides that a candidate who is validly nominated for more than one electoral division must withdraw his candidature in all those electoral divisions except one before 12 noon on the day of nomination. If he does not so withdraw, he shall be deemed to have withdrawn his candidature in all the electoral divisions.

Clause 6 amends section 61 to make it a corrupt practice for any person to publish (including on what is commonly known as the Internet) any election advertising without identifying the name of its printer (if it is printed), its publisher and the person for whom or at whose direction the election advertising is published. Where any election advertising is published in contravention, the printer as well as the person for whom or at whose direction it is published shall also be guilty of a corrupt practice.

Clause 7 inserts new sections 78A and 78B (which relate to election advertising), new section 78C (which relates to election opinion polls), new section 78D (which relates to exit polls) and new section 78E (which affords a defence against certain election advertising offences).

The new section 78A empowers the Minister to make regulations governing non-printed election advertising in an election period and election advertising on the Internet in an election period by political parties, candidates or persons (other than political parties, candidates or election agents) who are required by the Singapore Broadcasting Authority to register with it on account of engaging in or providing any programme for the propagation, promotion or discussion of political issues relating to Singapore.

The new section 78B prohibits any one from displaying or publishing by any means, in or among any electors in any electoral division, any election advertising on polling day. Any person who contravenes the section commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

The new section 78C prohibits any person from publishing (including broadcasting and transmitting via the Internet) the results of any election survey from the day the writ of election is issued until the close of all polling stations on polling day. Any person who contravenes the section commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

The new section 78D prohibits any person from publishing (including broadcasting and transmitting via the Internet) on polling day before the poll is closed any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given. Any person who contravenes the section commits an offence and is liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 12 months or to both.

The new section 78E provides a defence to a person charged with an offence under the new provisions concerning election advertising to prove that the contravention of the provision arose from circumstances beyond his control and that he took all reasonable steps, and exercised all due diligence, to ensure that the contravention would not arise. The new section 78E applies without prejudice to section 10 of the Electronic Transactions Act (Cap. 88), which deals with the liability of network service providers.

Clause 8 inserts a new section 108 that deals with corporate offenders and unincorporated associations.

#### EXPENDITURE OF PUBLIC MONEY

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

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