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Notification No. B 25 — The Constitution of the Republic of Singapore (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 15th day of September 2008.

Constitution of the Republic of Singapore (Amendment) Bill

Bill No. 25/2008.

Read the first time on 15th September 2008.

A BILL

i n t i t u l e d

An Act to amend the Constitution of the Republic of Singapore
(1999 Reprint).

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 Constitution of the Republic of Singapore (Amendment) Act 2008 and shall come into operation on such date as the President may, by notification in the *Gazette*, appoint.

5 Amendment of Article 21

2. Article 21(3) of the Constitution of the Republic of Singapore (referred to in this Act as the Constitution) is amended by inserting, immediately after the words “22D(2) and (6),” , “142(1A),”.

Amendment of Article 142

10 3. Article 142 of the Constitution is amended —

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

“(1A) Notwithstanding clauses (1C) and (2), where —

15 (a) before the start of any financial year, the President, acting in his discretion, concurs with the advice of the Minister responsible for finance on the long-term real rates of return which are expected to be earned on the respective components of the relevant assets (referred to in this Article as the expected long-term real rates of return); and

20 (b) the Minister responsible for finance thereafter certifies under his hand to the President the spending limit for that financial year, specifying an amount which shall not be more than 50% of the total of all amounts ascertained by applying the expected long-term real rates of return so agreed under paragraph (a) for that financial year on the respective components of the relevant assets,

any reference in this Part to the reserves not accumulated by the Government during its current term of office shall exclude those reserves equal to the amount so certified.

30 (1B) Any provisional certificate on the spending limit for a financial year issued by the Minister responsible for finance under clause (1A)(b) at any time during the financial year shall have the same effect as if it is a final certificate on the

spending limit for the financial year until it is superseded by the issue of the final certificate on the spending limit for that same financial year.

(1C) In addition to clause (2), the net investment income and realised capital gains that are —

(a) directly attributable to the relevant assets; and

(b) received by the Government during a financial year in any current term of office of the Government,

shall for the purposes of this Part accrete and be deemed to form part of the past reserves of the Government with effect from the date of the receipt thereof.”;

(b) by inserting, immediately after the words “past reserves of the Government” in clause (2)(b), the words “not comprised in the relevant assets”;

(c) by inserting, immediately after the words “past reserves of the Government” where they first appear in clause (3), the words “not comprised in the relevant assets”; and

(d) by deleting the definition of “past reserves of the Government” in clause (4) and substituting the following definitions:

““past reserves of the Government” means the reserves not accumulated by the Government during its current term of office, including accretions thereto deemed under clauses (1C) and (2) to be part thereof, but less such amount that is certified under clause (1A)(b) or such amount adjusted pro-rata based on the period a financial year falls partially within any current term of office of the Government;

“real rate of return” means an annual percentage of return on investment of relevant assets of the Government adjusted for changes in prices due to inflation or deflation and after deducting all expenses arising from or incidental to investing and managing the relevant assets;

“realised capital gains”, in relation to any relevant assets, means all proceeds realised from the disposition of the relevant assets less all costs and expenses arising from

or incidental to the disposition, purchase or conversion of the relevant assets, and includes any realised capital losses;

“relevant assets” means all of the following:

- 5 (a) the total net assets managed by the Government of Singapore Investment Corporation Pte. Ltd. and all its wholly-owned subsidiaries (including those with registered offices outside Singapore) as fund managers for the Government, for any company
- 10 wholly-owned by the Government and for all the wholly-owned subsidiaries of such a Government company;
- (b) such moneys of the Government as the Monetary Authority of Singapore receives from the
- 15 Government as banker to the Government; and
- (c) the excess of the assets of the Monetary Authority of Singapore over its liabilities, being assets and liabilities not directly attributable to the
- 20 Government, and being not already comprised in paragraph (b),

less the following liabilities:

- (i) the total liabilities of the Government that is attributable to its borrowings under the
- 25 Government Securities Act (Cap. 121A) and the Local Treasury Bills Act (Cap. 167); and
- (ii) the total liabilities of the Government that is represented by any Government Fund (other than a Government Fund required by written law to be held, managed and administered separately from
- 30 other Government funds) established by a public Act for special purposes and not already comprised in paragraph (i).”.

Amendment of Article 144

- 35 **4.** Article 144(3) of the Constitution is amended by deleting paragraph (c).

EXPLANATORY STATEMENT

This Bill seeks to amend the Constitution of the Republic of Singapore for the following purposes:

- (a) to allow the Government to spend on the basis of total returns on relevant assets, where total returns include capital gains in addition to such net investment income as is permissible, and relevant assets comprise those managed by the Government of Singapore Investment Corporation Pte. Ltd. and assets owned by the Monetary Authority of Singapore, net of certain liabilities;
- (b) to use the expected long-term real rates of return on the relevant assets to provide a basis to determine the total returns on those assets; and
- (c) to establish a process by which the Minister for Finance will seek the President's concurrence, before the start of a financial year, on the expected long-term real rates of return, and subsequently certify to the President an amount to be included in the Government's Budget for that financial year, being not more than 50% of that obtained by applying the expected long-term real rate of return on the relevant assets (called "the spending limit").

For the past reserves of the Government not comprised in the relevant assets, the Government may continue to spend on the basis of net investment income derived therefrom, as provided for in Article 142 currently.

The overall effect of the amendments is to subject the Government to a spending cap of 50% of the net investment returns on its reserves, which comprise the sum of the total returns on the relevant assets and the net investment income from past reserves not comprised in the relevant assets.

Clause 1 relates to the short title and commencement.

Clause 2 amends Article 21(3) to require that the President consult the Council of Presidential Advisers before he exercises his discretion whether to agree with the Minister for Finance on the expected long-term real rates of return on the relevant assets.

Clause 3 amends Article 142 to introduce the concept of expected long-term real rate of return (which will include capital gains) on the relevant assets.

The new clause (1A)(a) requires the Minister for Finance to obtain, before the start of any financial year, the concurrence of the President on the expected long-term real rates of return that can be earned on the respective components of the relevant assets.

The new clause (1A)(b) provides for the Minister for Finance, upon obtaining the President's concurrence on the expected long-term real rates of return, to certify the amount which will form the spending limit for the financial year. That amount must not be more than 50% of the total of all amounts ascertained by applying the agreed expected long-term real rates of return on the respective components of the relevant assets.

A provisional certificate on the spending limit for a financial year may be issued by the Minister for Finance under the new clause (1A)(b) at any time during the financial year before the issue of a final certificate on the spending limit for the financial year. The new clause (1B) states that any such provisional certificate will have the same effect as if it is a final certificate until it is superseded by the issue of a final certificate on the spending limit for the same financial year.

Under the new clause (1C), all the net investment income and realised capital gains directly attributable to the relevant assets will be deemed to form part of the past reserves of the Government even though these are received during the current term of office of the Government.

Other amendments are made to Article 142 so that the present treatment of net investment income derived from the past reserves applies only to those reserves not comprised in the relevant assets. At least 50% of the net investment income so derived will form part of the past reserves of the Government, unchanged from the current arrangement.

Finally, Article 142(4) is amended to define key terms like “real rate of return”, “realised capital gains” (which includes realised capital losses) and “relevant assets”.

Clause 4 deletes the reference to the Economic Development Board Act (Cap. 85) in Article 144(3). The reference was made redundant with the enactment of the Economic Development Board (Amendment) Act 2008 (Act 11 of 2008). The latter Act repealed section 17 of the Economic Development Board Act under which bonds and debentures of the Economic Development Board were guaranteed by the Government as to the repayment of principal and the payment of interest.

EXPENDITURE OF PUBLIC MONEY

This Bill will not require the Government to incur any extra financial expenditure for its implementation.
