

REVIEW OF SPECIFIC ASPECTS OF THE ELECTED PRESIDENCY

THE CONSTITUTION OF THE REPUBLIC OF SINGAPORE (AMENDMENT) BILL

I. INTRODUCTION

1. In February 2016, the Government appointed a Constitutional Commission (“the Commission”) to study and make recommendations on specific aspects of the Elected Presidency.
2. The Commission submitted its report (“the Report”)¹ in August 2016, after a nationwide consultation process.
3. Part II of this White Paper provides the background to the Commission’s review. Part III summarises the Commission’s recommendations, and sets out the Government’s response. The Government has studied the Report, and accepts in principle the Commission’s main recommendations. In some areas the Government has decided not to accept the Commission’s recommendations, or to accept them with modifications.
4. The Constitution of the Republic of Singapore (Amendment) Bill will be presented at the next sitting of Parliament to introduce the necessary constitutional amendments. Consequential and related changes to the details in primary and subsidiary legislation will be introduced later, once the constitutional framework is in place.

II. BACKGROUND

A. The Elected Presidency

1. *The President’s symbolic and unifying role*
5. Singapore had a ceremonial Head of State when it achieved self-government in 1959. Originally known as the *Yang di-Pertuan Negara*, his title was changed to the President when Singapore became an independent nation on 9 August 1965.

¹ *Report of the Constitutional Commission 2016* (17 August 2016), referred to in the main text as “the Report” and in the footnotes as “CCR”.

6. Unlike Presidential systems, in which the President is both the Head of State and the Head of Government, there is a clear separation of roles in Singapore's system of Parliamentary democracy. The Prime Minister is the Head of Government, and has the authority to govern the nation. He and his Cabinet are responsible for national policies, for which they are accountable to Parliament, and ultimately to voters.
7. As the Head of State, the President has no policy-making role. Instead, he performs constitutional and ceremonial functions. Very importantly, the President is also a "symbol of the unity of the country".² He represents all Singaporeans, regardless of race, language or religion.
8. This unifying and symbolic role was a hallmark of the Presidential office from its inception, and remains critically important today. As the Commission emphasised in the Report, this continues to be the President's "principal role".³

2. *The President's custodial role in two areas*

9. In 1988, a White Paper ("1988 White Paper")⁴ proposed that the President additionally be entrusted with custodial powers in two specified areas: (a) financial reserves, and (b) key public service appointments.
10. Under the proposals, the President would remain the non-executive Head of State, and retain his historical role as a unifying symbol of the nation.⁵ However, this symbolic role would now be overlaid with custodial powers in the two specified areas, to safeguard Singapore's financial assets and the integrity of our public service.⁶ A special committee of advisors would be created, to assist and advise the President in exercising these powers.⁷
11. The proposals also contemplated that the Presidency would become an elected office, rather than one appointed by Parliament, as it had been up until then.⁸ This would ensure that the President had the mandate and moral authority to disagree with the Government in the two specified areas, should this become necessary.

² CCR, at para 2.6. See also *Report of the Federation of Malaya Constitutional Commission 1957* (11 February 1957), at para 58.

³ CCR, at para 2.53.

⁴ *Constitutional Amendments to Safeguard Financial Assets and the Integrity of the Public Services* (Cmd 10 of 1988, 29 July 1988).

⁵ See *Singapore Parliamentary Debates, Official Report* (27 January 2016) vol 94 (*per* Prime Minister Lee Hsien Loong) and the Statement by the Minister for Law on the Elected President (10 June 2011), at para 3.

⁶ 1988 White Paper, at paras 42 to 45.

⁷ 1988 White Paper, at paras 23 and 24. This committee was known as the Presidential Committee for the Protection of Reserves ("Reserves Committee"). The 1990 White Paper then proposed establishing a Council of Presidential Advisers, in place of the Reserves Committee. Unlike the Reserves Committee, which was intended to perform a "purely advisory function", the Council of Presidential Advisers was to also perform the additional function of being "a check on the exercise of the President's powers". See CCR, at para 2.28.

⁸ 1988 White Paper, at para 35.

12. In 1990, the Government published a further White Paper (“1990 White Paper”)⁹ to explain the proposed constitutional amendments required to establish the Elected Presidency. The amendments were debated in Parliament and studied by a Select Committee in 1990 (“1990 Select Committee”).¹⁰ The Constitution was thereafter amended in 1991 to introduce the Elected Presidency.¹¹
13. These were novel arrangements, without obvious parallel anywhere in the world. In elected presidencies such as the United States or France, the elected President is the apex executive position with extensive executive powers.¹² By design, Singapore’s Elected Presidency was fundamentally different. Executive policy-making would remain the prerogative of the elected Government commanding the majority in Parliament (see paras 6 and 7 above). Even in the two specified custodial areas (see para 9 above), it would remain the Government’s role to *initiate* policy, by using the “first key”. The elected President’s custodial “second key”, which empowered him to disagree with the Government’s initiatives in the specified custodial areas, would be of a purely *reactive* nature.¹³
14. As the Commission noted, “the Elected President did not, nor was it ever intended to, shift the locus of political power”.¹⁴ The President’s new custodial powers therefore had to be carefully designed, to avoid the risk of constitutional gridlock. As then-Senior Minister Lee Kuan Yew explained, care had to be taken “to make quite sure that this mechanism we were putting into place would not obstruct a government from doing what it legitimately should be able to do.”¹⁵
15. Given the complex and unprecedented nature of our Elected Presidency, further improvements and refinements were needed as the Government gained experience operating the institution.¹⁶ Over the years, various constitutional amendments were made to fine-tune the institution,¹⁷ to make it workable and effective in achieving its original objectives.

⁹ *Safeguarding Financial Assets and the Integrity of the Public Services* (Cmd 11 of 1990, 27 August 1990).

¹⁰ See *Report of the Select Committee on the Constitution of the Republic of Singapore (Amendment No. 3) Bill* (Parl 9 of 1990, 18 December 1990) (“1990 Select Committee Report”) and the various Parliamentary debates on this issue between 1984 and 1991.

¹¹ Constitution of the Republic of Singapore (Amendment) Act 1991 (Act 5 of 1991).

¹² Article II of the Constitution of the United States of America explicitly states that “[t]he executive power shall be vested in a President of the United States of America”, and that the President “shall be Commander in Chief”. In France, the President is the executive Head of State, and is, amongst other things, the Commander in Chief of the Armed Forces.

¹³ 1988 White Paper, at paras 33 to 34.

¹⁴ CCR, at para 2.59.

¹⁵ *Singapore Parliamentary Debates, Official Report* (17 August 1999) vol 70 (*per* Senior Minister Lee Kuan Yew).

¹⁶ See *e.g.* *Singapore Parliamentary Debates, Official Report* (21 October 2008) vol 85 (*per* Prime Minister Lee Hsien Loong).

¹⁷ Constitutional amendments to the Elected Presidency have been made in 1994, 1996, 1998, 2001, 2002, 2004, 2007, 2008 and 2015.

B. The Constitutional Commission

16. It has been 25 years since the Elected Presidency was introduced in 1991. Whilst various refinements and modifications have been made in some areas, certain fundamental aspects have not been reviewed. Hence the Government decided that a formal study of these key aspects would be timely, to examine how the institution of the Elected Presidency could be further improved.
17. On 27 January 2016, Prime Minister Lee Hsien Loong announced the Government's intention to appoint the Commission to study and make recommendations on the following broad aspects of the Elected Presidency:¹⁸
 - (a) First, the qualifying process and eligibility criteria for Presidential candidates, and to what extent these should be updated and, if so, how.
 - (b) Second, the President's status as a unifying figure that represents multi-racial Singapore, and whether there should be some mechanism to ensure minority representation in the office.
 - (c) Third, the role and composition of the Council of Presidential Advisers, including whether the views of the Council should be given more weight and, if so, how.
18. The Commission was chaired by Chief Justice Sundaresh Menon and included eight other distinguished members from the private and public sectors, and the Judiciary.
19. The Commission issued a media release a week after it was appointed, inviting the public to share their views on the matters under review. Advertisements were placed in both English and non-English media, and reported on local television. Contributors were given the option of keeping their submissions private, and asked if they were willing to make oral representations to the Commission at a public hearing.
20. At the close of the consultation period the Commission received 107 written submissions, in English and other languages. Further submissions were also received after the deadline, and these were considered by the Commission as well.
21. These written submissions provided diverse views on a variety of issues. The contributors came from many sectors of Singapore society – students, legal professionals, academics, senior corporate executives, community organisations, and political parties.
22. After reviewing and discussing the written submissions, the Commission invited 20 contributors to make oral representations to elaborate on or clarify their written submissions. Those invited again represented a broad cross-section of society. They

¹⁸ *Singapore Parliamentary Debates, Official Report* (27 January 2016) vol 94 (*per* Prime Minister Lee Hsien Loong). See also Prime Minister's Office, "Constitutional Commission to Review Specific Aspects of the Elected Presidency" (10 February 2016).

included civil society groups, academics, young Singaporeans, lawyers, and a retired Cabinet Minister who was also a sitting member of the Council of Presidential Advisers.

23. 19 contributors accepted the invitation, and the Commission heard their oral submissions in four public hearings.¹⁹ The Workers' Party, which had made a written submission, declined to appear before the Commission, and indicated that they would debate the matter in Parliament. The public hearings were extensively reported in the local media, and excerpts of the contributors' oral submissions were also broadcast on local television.
24. The Commission also received feedback from President Tony Tan and former President the late Mr S R Nathan on the broad aspects referred to in para 17 above.
25. This wide consultation allowed a broad spectrum of views to be canvassed, by all persons who had an interest in coming forward. These views were reviewed and discussed by and beyond the Commission, before, during and after the Commission's public hearings.
26. Based on the public feedback received, the Commission submitted a detailed report, of over 150 pages, to Prime Minister Lee Hsien Loong on 17 August 2016. The Commission also set out its thoughts on some matters which fell outside the scope of its review. The Report was published on 7 September 2016.

III. THE PROPOSED AMENDMENTS

27. This Part elaborates on the recommendations and observations made by the Commission. It also sets out the Government's position on these issues and the details of the proposed constitutional and legislative amendments.

A. Eligibility Criteria for Presidential Candidates

28. The first aspect of the Commission's review related to the eligibility criteria for Presidential candidates.
29. The Commission's consideration of the issue was informed by the following general points:
 - (a) The introduction of a two-key safeguard mechanism in 1991 was an "unquestionably wise initiative".²⁰ The two assets in question, namely: (i) our nation's financial reserves, and (ii) the integrity of our public service, are

¹⁹ The public hearings were held on 18, 22, 26 April and 6 May 2016.

²⁰ CCR, at para 2.54.

important assets that “hold significance of existential proportions”.²¹ Singapore has no other assets, natural resources or hinterland which it can fall back on.²²

- (b) As the holder of the “second key”, the office of President should be elected, to confer the President with the democratic legitimacy and moral authority to disagree with the elected Government’s use of its “first key”, if and when the need arises.²³
- (c) It is important and necessary to have stringent eligibility criteria for Presidential candidates. To quote the Commission, “it seems *only sensible* to require that one seeking to be elected should at least have a record suggesting that he has *the technical competence and expertise* to discharge the functions and exercise the powers of the Presidency appropriately and effectively”.²⁴
 - (i) The Elected Presidency allows the President to withhold his concurrence from an elected Government’s initiatives to access past reserves or make key public service appointments. While Parliament acts on the basis of the support of a majority of its members, the President’s custodial powers are vested in the hands of a single individual. A President who indiscriminately or unwisely exercises these custodial powers could cause serious damage to the nation. This risk might not have been sufficiently appreciated by those who advocated a lowering of the eligibility criteria, or who expressed opposition to revising the criteria.²⁵
 - (ii) In discharging these custodial functions, the President is likely to encounter complex issues, some of which are of a highly technical nature.²⁶ In particular, in relation to the fiscal powers, the President will have to understand the Government’s proposal, analyse it, take into account multiple considerations (including the potential risk to the reserves and the benefits secured by permitting a drawdown), and make an evaluation, before he can arrive at a final decision on whether or not to concur with the Government.²⁷
 - (iii) Given the President’s concurrent role as a symbol of national unity, it is desirable, if not necessary, to avoid the politicisation of the Presidential election process (see also para 144 below). Appropriate eligibility criteria will reduce the prospect and significance of potentially divisive electoral issues, such as character, competence and expertise, since each candidate

²¹ CCR, at para 2.54.

²² CCR, at para 2.54.

²³ CCR, at para 2.55.

²⁴ CCR, at para 4.12 (emphasis added). See also CCR, at para 4.6 and paras 4.13 to 4.17.

²⁵ CCR, at para 4.12.

²⁶ CCR, at para 4.13.

²⁷ CCR, at para 4.16.

who qualifies would have satisfied the Presidential Elections Committee that they possess those traits.²⁸

- (iv) To ensure that only persons with the requisite experience and expertise qualify, it is critical that the eligibility criteria are updated periodically, to keep pace with changing circumstances. Quantitative thresholds cannot remain fixed in perpetuity, because a country's economic situation does not itself remain static.²⁹
- (v) The current eligibility criteria were set over 25 years ago. There is a need to review and update these criteria, to ensure their continued suitability and relevance. This is perhaps most evident when one considers the current \$100 million paid-up capital benchmark for private-sector candidates:³⁰
 - (A) In 1993, shortly after the Elected Presidency was introduced, only 158 companies met the \$100 million paid-up capital criterion. These companies made up the top 0.2% of Singapore-incorporated companies.³¹
 - (B) In contrast, if Singapore-incorporated companies were ranked today by the size of their paid-up capital:
 - (I) The 158th company would have a paid-up capital of approximately \$1.6 billion – 16 times the \$100 million threshold.
 - (II) The top 0.2% of Singapore-incorporated companies would number about 600, with the smallest of these having a paid-up capital of over \$430 million – 4 times the \$100 million threshold.

The figures “demonstrate that the commercial landscape that prevails today is *vastly different* compared to that in the early 1990s”, and “underscores the need to update the qualifying criteria”.³²

- (C) The Government would additionally note that the size of the government reserves, which are the subject of the President's “second key”, has also grown, over 25 years. The weight of the job has increased. This is apparent from the figures below:³³

²⁸ CCR, at paras 4.14 and 4.15.

²⁹ CCR, at paras 4.18 and 4.21.

³⁰ CCR, at para 4.18 and paras 4.45 to 4.48.

³¹ CCR, at para 4.46.

³² CCR, at para 4.48 (emphasis added).

³³ Prime Minister Lee Hsien Loong at the National Day Rally 2016 (21 August 2016), online: <http://www.pmo.gov.sg/national-day-rally-2016>.

	1990 (\$bil)	2015 (\$bil)
Gross Domestic Product	71	402
Central Provident Fund Balances	41	300
Official Foreign Reserves	48	351
Temasek's Net Portfolio Value	9	266

30. The broad thrust of the Commission's main recommendations, which are explained in greater detail below, is as follows:

- (a) *The nature of the position.* This should be limited to the "most senior executive" position in the entity, to qualify only those officers who have been "actively involved" in running their organisation, and who have borne "*the ultimate weight of responsibility*" for its performance.³⁴
- (b) *The nature of the entity.* Where quantitative thresholds are specified as proxies for the entity's size and complexity, these should be increased, from the current numeric threshold of \$100 million, to \$500 million,³⁵ having regard to the following realities:
 - (i) The President may have to scrutinise huge potential drawdowns. For instance, in October 2008, then-President S R Nathan approved a *\$150 billion* guarantee on all bank deposits in Singapore, to be backed by Singapore's reserves.³⁶
 - (ii) To effectively discharge responsibilities of such a scale and magnitude, the President must have the confidence that comes with familiarity with making decisions involving large sums of money.³⁷

31. The Government agrees in principle with the Commission's views and main recommendations (see paras 29 and 30 above). However, in some areas, the Government has differing views on the detailed proposals, and has decided to adopt an alternative approach. The Government's specific response to each of the Commission's recommendations is set out below.

³⁴ CCR, at paras 4.63 and 4.65 (emphasis added).

³⁵ CCR, at paras 4.40 and 4.56.

³⁶ CCR, at para 4.57.

³⁷ CCR, at para 4.58.

1. *Fine-tuning and updating the eligibility criteria*

32. Article 19(2)(g) of the Constitution³⁸ sets out the list of offices which are considered to equip a candidate with the necessary experience and ability for Presidential office.³⁹ The Commission categorised these qualifying offices into two tracks, and made various recommendations for fine-tuning and updating them:

- (a) *The automatic track.* Under this track, a candidate is considered to have the necessary experience and ability if he has held office for a period of not less than three years:⁴⁰
 - (i) as Minister, Chief Justice, Speaker, Attorney-General, Chairman of the Public Service Commission, Auditor-General, Accountant-General or Permanent Secretary (referred to as “limb (i)”);
 - (ii) as chairman or chief executive officer of statutory boards in the Fifth Schedule to the Constitution (referred to as “limb (ii)”); or
 - (iii) as chairman of the board of directors or chief executive officer of a company with a paid-up capital of at least \$100 million (referred to as “limb (iii)”).
- (b) *The deliberative track.* Under this track, a candidate will qualify if he satisfies the Presidential Elections Committee that he has held an office (of a comparable nature to those held under the automatic track) that has given him the necessary experience and ability for Presidential office (referred to as “limb (iv)”).⁴¹

(i) *Public-sector qualifying offices: Limb (i)*

33. This limb allows applicants to qualify by virtue of having held “high public office”.⁴² In the Commission’s view:

- (a) The senior public-sector officers identified in this limb would have dealt with “complex matters having a wide-reaching public dimension”.⁴³ They would also have experience in grappling with “the contrary pulls and pressures of government decision-making”.⁴⁴
- (b) The private- and public-sector routes to qualification are both aimed at identifying persons with the relevant skillsets. However, no single office is ever

³⁸ Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint) (“the Constitution”).

³⁹ CCR, at paras 4.3 and 4.19.

⁴⁰ Article 19(2)(g)(i) to (iii) of the Constitution.

⁴¹ Article 19(2)(g)(iv) of the Constitution.

⁴² CCR, at para 8.3(a).

⁴³ CCR, at para 4.27.

⁴⁴ CCR, at para 4.26. See also 1988 White Paper, at para 18(d).

likely to endow its holder with *all* the necessary attributes. It therefore may not be correct to compare the two routes as if they are exactly alike.⁴⁵

In particular, a differentiated approach should be taken in relation to performance criteria. Such criteria are inapposite for public-sector offices, given the absence of any objectively measurable standards against which an applicant's performance in public office can be assessed.⁴⁶

34. The Commission observed that the list of public-sector offices included in this limb is "tightly drawn".⁴⁷ It accordingly recommended that the list of qualifying offices be maintained, save for one revision.⁴⁸ Specifically, the Commission observed that it would be appropriate to remove the offices of the Accountant-General and the Auditor-General from limb (i), as these officeholders play ancillary and comparatively narrower roles, compared to the other offices in limb (i).⁴⁹
35. The Government thanks the Commission for these observations which raise valid points. The Government would like to consider this recommendation more carefully. Thus the Government will retain the existing position for now, and reconsider whether the two offices should be removed at a future point in time.

(ii) *Qualifying offices in the Fifth Schedule entities: Limb (ii)*

36. The Commission proposed that:

- (a) The terms "Chairman" and "Chief Executive Officer" in limb (ii) be replaced with a more general reference such as "the most senior executive position of the statutory board, however that office may be titled",⁵⁰ so as to place emphasis on persons who have had practical experience in handling fiscal matters of sufficient size or complexity.⁵¹
- (b) Holders of qualifying offices in limb (ii) should *not* be subject to performance assessment by the Presidential Elections Committee because, like the public-sector qualifying offices in limb (i), there are "no *measurable standards* against which their performance may be assessed".⁵² The Commission further noted that

⁴⁵ CCR, at para 4.25.

⁴⁶ CCR, at para 4.33.

⁴⁷ CCR, at para 4.27.

⁴⁸ CCR, at para 4.28.

⁴⁹ CCR, at para 4.28.

⁵⁰ CCR, at para 4.37.

⁵¹ CCR, at paras 4.37 read with 4.63.

⁵² CCR, at paras 4.33 and 4.38 (emphasis in original).

the objectives of statutory boards differ from those of private companies, where profit-maximisation tends to be the primary goal.⁵³

- (c) The threshold for new statutory boards to qualify for potential addition to the Fifth Schedule should be updated to \$500 million,⁵⁴ in tandem with the quantitative threshold for private-sector companies in limb (iii) (see para 39(b) below).⁵⁵

37. The Government agrees with the Commission’s recommendations and will propose the necessary amendments. In addition, the Government intends to harmonise the position, so that a uniform framework is applied to all Fifth Schedule entities, regardless of whether they are statutory boards or Government companies.

- (a) The dollar threshold for an entity’s inclusion in the Fifth Schedule should remain the same for both Government companies and statutory boards.⁵⁶ The threshold for a new Government company to be added to the Fifth Schedule should therefore also be adjusted to \$500 million,⁵⁷ in tandem with the Commission’s recommendations in relation to Fifth Schedule statutory boards (see para 36(c) above). The list of entities in the Fifth Schedule will also be updated.⁵⁸

- (b) Limb (ii) of Article 19(2)(g) should also be extended to include all Fifth Schedule entities. As the Commission noted, Fifth Schedule Government companies, like Fifth Schedule statutory boards, are key institutions that hold significant amounts of the national reserves.⁵⁹ They have been considered important enough to be made the subject of Presidential oversight. Those who hold the “most senior executive position” in these companies should automatically qualify for Presidential office.

(iii) *Private-sector qualifying offices: Limb (iii)*

38. As stated above (see para 29), the Commission observed that “the commercial landscape that prevails today is *vastly different* compared to that in the early 1990s”.⁶⁰ Against this backdrop, the Commission made recommendations relating to:

⁵³ CCR, at para 4.38.

⁵⁴ Under Article 22A(5) of the Constitution, this threshold applies to the total value of the reserves of the statutory board.

⁵⁵ CCR, at paras 4.40 and 8.3(b)(ii).

⁵⁶ The Fifth Schedule quantitative thresholds for both Government companies and statutory boards are currently set at \$100 million (see Articles 22A(5) and 22C(5)(a) of the Constitution).

⁵⁷ Under Article 22C(5)(a) of the Constitution, this threshold applies to the value of the shareholders’ funds of the company attributable to the Government’s interest in the company.

⁵⁸ The Government intends to remove MND Holdings (Private) Limited from the Fifth Schedule. The other existing entities in the Fifth Schedule will remain.

⁵⁹ CCR, at paras 3.6(b) and 6.12(b).

⁶⁰ CCR, at para 4.48 (emphasis added).

- (a) the nature of a qualifying company under limb (iii);
- (b) the nature of the qualifying position within a qualifying company; and
- (c) the introduction of performance criteria.

(a) Nature of a qualifying company under limb (iii)

39. As regards the measure of a qualifying company's size and complexity under limb (iii), the Commission recommended that:

- (a) Shareholders' equity ought to replace paid-up capital as the qualifying criterion, as it is "a better proxy for a company's size and complexity".⁶¹ Unlike paid-up capital, shareholders' equity reflects a company's current (and not just its historical) recorded worth.⁶² Shareholders' equity is also a better measure than other possible indicators, such as a company's net tangible assets and its market capitalisation. These are either not as comprehensive a measure, or are applicable only to publicly-listed companies and susceptible to significant volatility generated by forces that may affect the securities market.⁶³
- (b) The numerical threshold should be set at \$500 million in shareholders' equity. Apart from the reasons referred to above (see para 29(c) above), the Commission observed that setting the threshold at this level would not "dramatically shrink" the pool of qualified candidates.⁶⁴ In absolute terms, more companies would meet this revised threshold (at least 691 companies, in 2016⁶⁵) than the original \$100 million paid-up capital threshold (158 companies, in 1993). The percentage of Singapore companies that would cross the threshold would also increase slightly, from 0.2% in 1993 (based on the current \$100 million paid-up capital benchmark), to 0.23% (under the proposed \$500 million shareholders' equity threshold).⁶⁶
- (c) Shareholders' equity should be calculated by taking the average shareholders' equity value for the three consecutive financial years:⁶⁷
 - (i) ending immediately prior to the point where the applicant ceased to hold the qualifying office; or

⁶¹ CCR, at para 4.52.

⁶² CCR, at para 4.52.

⁶³ CCR, at para 4.53.

⁶⁴ CCR, at para 4.60.

⁶⁵ This figure, of 691 companies, only captures companies that filed their financial statements with the Accounting and Corporate Regulatory Authority ("ACRA"). Roughly 80% of Singapore-incorporated companies do *not* file their statements with ACRA. See CCR, at footnote 180.

⁶⁶ CCR, at para 4.60.

⁶⁷ CCR, at para 4.54.

- (ii) if the applicant still holds qualifying office when he applies for a Certificate of Eligibility, ending immediately prior to Nomination Day for the Presidential election.
 - (d) The proposed shareholders' equity threshold should be periodically reviewed, to keep pace with changes in the economic environment.⁶⁸ For instance, such a review could be undertaken within 12 months of every other Presidential election.⁶⁹
40. The Government agrees with the Commission's recommendations, save in relation to two technical points on the calculation of shareholders' equity:
- (a) First, a company's shareholders' equity should be calculated based on an applicant's most recent three consecutive years in the qualifying office, regardless of whether these coincide with the company's *financial* year.⁷⁰
 - (b) Second, the period of assessment for a company's shareholders' equity shall end, at the latest, by the date of issuance of the writ for the Presidential election, rather than immediately prior to Nomination Day.⁷¹ This will allow sufficient time to calculate the relevant shareholders' equity, prior to Nomination Day.
41. With regard to the further requirement that a company should be publicly listed on the Singapore Exchange, the Government agrees that this need not be introduced at the present time.⁷² The issue can be revisited later, after we have seen how the other modifications to the eligibility criteria have operated in practice.

(b) Nature of the qualifying position within a qualifying company

42. The Commission proposed that only the person holding the "highest level of executive authority in the company" should be deemed to have the requisite experience and expertise.⁷³ As such, there "would generally only be *one* individual who holds this position" in each company, as it is the "holder of *the most senior executive* position who bears the ultimate weight of responsibility for the fate of the company".⁷⁴

⁶⁸ CCR, at paras 4.62 and 8.3(c)(i).

⁶⁹ The Commission observed that this responsibility could be discharged by the Presidential Elections Committee either by itself, or in consultation with a committee of individuals with strong financial expertise. See CCR, at para 4.62.

⁷⁰ The Presidential Elections Committee will be given the discretion to refer not only to a company's annual accounts, but also to other sources, such as its half-yearly or quarterly financial statements.

⁷¹ This would arise in the scenario where an applicant still holds the qualifying office when he applies for a Certificate of Eligibility.

⁷² CCR, at para 4.61.

⁷³ CCR, at para 4.64.

⁷⁴ CCR, at para 4.65 (emphasis in original).

43. The Government agrees with the Commission’s recommendation and will propose the necessary amendments to effect this.

(c) Other performance criteria

44. The Commission proposed that as a matter of principle, there should be additional performance criteria for those who seek to justify their candidacy under limb (iii). In this regard, the Commission suggested that the company in question:

(a) must have a record of “*net* profitability during the entire period that the applicant held the qualifying office”;⁷⁵ and

(b) must not have “gone into liquidation or entered into any other type of insolvency process (such as judicial management) within a period of three years of the applicant ceasing to be the holder of the qualifying office, or by Nomination Day for the Presidential election in question, whichever is the earlier”.⁷⁶

45. The Government agrees with the Commission’s recommendation, save for a technical point relating to the reference period used to determine whether a company has gone into liquidation or entered into any insolvency process. For the same reasons stated in relation to the period of assessment for a company’s shareholders’ equity (see para 40(b) above), the Government intends to peg such a determination to the date of issuance of the writ for the Presidential election.

(iv) *The deliberative track: Limb (iv)*

46. The Commission highlighted that it should be clarified whether the deliberative track was designed to favour applicants from the private sector rather than from the public sector, since there is a reference to “administering and managing *financial affairs*”.⁷⁷ In this regard, the Commission pointed out that the 1990 Select Committee did not appear to have intended that public-sector applicants be excluded from limb (iv).⁷⁸

47. The Government’s understanding is the same as that of the 1990 Select Committee. The Government’s intention is for limb (iv) to apply equally to *both* private- and public-sector applicants. The Government will make the necessary amendments to limb (iv) to clarify the position.

⁷⁵ CCR, at para 4.66(a) (emphasis in original).

⁷⁶ CCR, at para 4.66(b).

⁷⁷ CCR, at para 4.69 (emphasis in original).

⁷⁸ CCR, at para 4.69.

48. The Government also agrees with the recommendation that limb (iv) be amended to explicitly require the Presidential Elections Committee to take an entity's performance into consideration.⁷⁹ The Committee should be able to refuse to certify an applicant if it is satisfied that he had performed poorly in the office he held.⁸⁰
49. The Government further notes the Commission's observations regarding the existing language of comparability in limb (iv), namely, that an applicant must have held a position of "similar or comparable... seniority and responsibility", in an organisation of "equivalent size *or* complexity". In the Commission's view:
- (a) An applicant will qualify only if the office he has held is of a *comparable* nature to the offices of persons who qualify under limbs (i) to (iii).⁸¹
 - (b) The word "equivalent", in relation to an organisation's "size *or* complexity", effectively bears the same meaning as the expression "similar or comparable", since it would be "practically impossible to find two organisations that are precisely equal in size *and* complexity".⁸²
50. In view of these observations, the Government intends to streamline the language of limb (iv) to more accurately reflect the Commission's interpretation, by:
- (a) importing a uniform criterion, that both an applicant's position and his organisation must be "comparable"; and
 - (b) clarifying that comparability will be applied to both the size *and* complexity of an applicant's organisation.
- (v) *Length and currency of an applicant's qualifying tenure*
51. The Commission made recommendations relating to:
- (a) the length of tenure in a qualifying office;
 - (b) the aggregation of terms of office; and
 - (c) the currency of an applicant's experience.

(a) Length of tenure in a qualifying office

52. With regard to the length of tenure required, the Commission recommended that:

⁷⁹ CCR, at para 4.70.

⁸⁰ CCR, at paras 4.70 and 4.71.

⁸¹ CCR, at paras 4.19(b).

⁸² CCR, at footnote 141 (emphasis added).

- (a) All applicants under limbs (i) to (iii) must have held the relevant qualifying offices for at least six years.⁸³
 - (b) There is no need to expressly stipulate the length of tenure required for applicants relying on limb (iv), so as to accord the Presidential Elections Committee greater flexibility in its deliberations.⁸⁴
53. The Government agrees that it is important that applicants be required to have spent adequate time in a qualifying office. At the same time, the precise minimum duration to be set is ultimately a question of balance. Given the concurrent changes to other aspects of the eligibility criteria, the Government prefers to adopt a cautious approach, and retain the qualifying tenure at three years at this time.
54. The Government is also of the view that limb (iv) should continue to stipulate a required tenure (*i.e.* the current period of three years). This will provide an applicant with a clearer indication of the requirements he must meet, and will also ensure that there is greater clarity in determining whether his qualifying tenure satisfies the proposed currency requirement (see paras 58 and 59 below).

(b) Aggregation of terms of office

55. The Commission recommended that an applicant should be allowed to aggregate his tenure at two or more qualifying offices for the purposes of deciding whether he satisfies the requisite length of tenure.⁸⁵ However, the time spent in a private-sector qualifying office should not be aggregated with the time spent in a public-sector qualifying office, as the experience derived from one route is likely to be different in nature from that derived from the other.⁸⁶
56. The Government agrees that an applicant should be allowed to aggregate his terms of office where the offices held are within the same sector (*i.e.* either both offices are in the private sector, or both offices are in the public sector).⁸⁷ However, given that the requisite tenure will remain at three years (instead of six years, as proposed by the Commission), aggregation should be limited to:
- (a) a maximum of two separate periods during which a person has held a relevant office or offices; and
 - (b) periods of office that are for not less than one year each.

⁸³ CCR, at para 4.73.

⁸⁴ CCR, at para 4.73.

⁸⁵ CCR, at paras 4.74 and 8.5.

⁸⁶ CCR, at para 4.74.

⁸⁷ In this regard, the Government also concurs with the Commission's approach, of regarding the offices in limbs (i) and (ii) of Article 19(2)(g) as public-sector qualifying offices, and the offices in limb (iii) of Article 19(2)(g) as private-sector qualifying offices. See the illustrations discussed in CCR, at para 4.74.

(c) Currency of an applicant's experience

57. The Commission recommended that to ensure the currency of an applicant's experience, his entire qualifying tenure should fall within the 15-year period immediately preceding the relevant Nomination Day.⁸⁸
58. The Government agrees with the Commission's recommendation to introduce a currency requirement. It is important that an applicant's experience remains sufficiently relevant.
59. In setting the "look back" duration, the Government would prefer to proceed cautiously, particularly as it is a new requirement. In the Government's view, as long as an applicant's qualifying tenure⁸⁹ falls wholly or partly within 20 years of the relevant Presidential election,⁹⁰ his experience may be considered suitably current.

2. *The qualifying process*

60. In relation to enhancing the qualifying process, the Government broadly accepts the following recommendations made by the Commission:
- (a) applicants should be required to provide more information to the Presidential Elections Committee, in the application form for a Certificate of Eligibility;⁹¹
 - (b) the Committee should be empowered to seek further information from applicants over and above that which is mandated in the application form;⁹²
 - (c) all information provided to the Committee should be provided under oath or on affirmation;⁹³
 - (d) the Committee should be empowered to revoke a Certificate of Eligibility if the applicant is found, at any time (including after a candidate is elected to Presidential office), to have made any material false declarations in his application;⁹⁴

⁸⁸ CCR, at para 4.75.

⁸⁹ Where an applicant seeks to aggregate two terms of office for the purposes of his qualifying tenure (see para 56 above), each of these terms must fall, at least partly, within the 20-year "look back" period.

⁹⁰ The 20-year "look back" period will be calculated from the date of issuance of the writ for the Presidential election, instead of Nomination Day. This ensures consistency with the assessment of a company's shareholders' equity and the reference period for determining if a company has entered into any insolvency process (see paras 40(b) and 45 above).

⁹¹ CCR, at paras 4.81 to 4.83.

⁹² CCR, at para 4.85.

⁹³ CCR, at para 4.80.

⁹⁴ CCR, at para 4.86.

- (e) the application forms and additional information furnished by successful applicants should be made publicly available;⁹⁵
 - (f) the Committee should furnish reasons for denying an applicant a Certificate of Eligibility, but such reasons should not be publicised by the Committee;⁹⁶ and
 - (g) the timing at which applicants may apply for a Certificate of Eligibility should also be modified, to allow the Committee adequate opportunity to undertake the relevant checks and reach an assessment.⁹⁷
61. The Government agrees with the Commission's recommendations and will propose the necessary amendments to give effect to these recommendations.
 62. In addition to the above, the Government intends to harmonise the role of the Committee across limbs (i) to (iv) of Article 19(2)(g).
 63. Presently, while the Committee must certify that *all* Presidential candidates are persons of integrity, good character and reputation,⁹⁸ its role in certifying qualifying offices is limited only to instances where an applicant relies on limb (iv).⁹⁹
 64. Based on the Commission's recommendations, the Committee would now have the following *additional* responsibilities *vis-à-vis* certain aspects of the *other* limbs of Article 19(2)(g):¹⁰⁰
 - (a) for applicants under limbs (ii) and (iii), to assess if they did in fact hold the most senior executive position in their respective entities; and
 - (b) for applicants under limb (iii), to assess whether the applicants' companies met the performance criteria.
 65. In the Government's view, the Committee's certification of whether an applicant has held a qualifying office should be extended to include all aspects of limbs (i) to (iv) of Article 19(2)(g).¹⁰¹ This approach would provide for greater uniformity and coherence in the role of the Committee when ascertaining the eligibility of applicants.

⁹⁵ CCR, at para 4.87

⁹⁶ CCR, at para 4.97.

⁹⁷ CCR, at para 4.94.

⁹⁸ Articles 18(1) read with 19(2)(e) of the Constitution.

⁹⁹ Articles 18(1) read with 19(2)(g)(iv) of the Constitution.

¹⁰⁰ CCR, at para 4.89.

¹⁰¹ This would include, for instance, the assessment of whether a company meets the shareholders' equity threshold under limb (iii).

3. *Composition of the Presidential Elections Committee*

66. The Committee currently comprises of three members:¹⁰²
- (a) the Chairman of the Public Service Commission;
 - (b) the Chairman of the Accounting and Corporate Regulatory Authority; and
 - (c) a member of the Presidential Council of Minority Rights, nominated by the Chairman of that Council.
67. The Commission recommended that the following three members should be added, to strengthen the Committee and aid its decision-making:¹⁰³
- (a) a legal expert (possibly a retired judge of the Supreme Court) nominated by the Chief Justice, who would: (i) have relevant expertise in constitutional interpretation when deciding whether the constitutional eligibility requirements have been satisfied, and (ii) be able to help ensure that decisions are reached in a procedurally fair manner;¹⁰⁴
 - (b) a past or current member of the Council of Presidential Advisers nominated by the Chairman of that Council, who would have unique insight into what the President's job entails;¹⁰⁵ and
 - (c) a private-sector nominee nominated by the Prime Minister, to provide valuable perspectives on whether a limb (iv) applicant's private-sector organisation is of a size and complexity comparable to limb (iii) companies.¹⁰⁶
68. The Commission further recommended that explicit legislative amendments be made to allow the expanded Committee to decide on issues by a simple majority, with the Chairman of the Committee exercising a casting vote in the event of a tie.¹⁰⁷
69. The Government agrees with the Commission's recommendations and will propose the necessary amendments to give effect to them.

B. Minority Representation in the Presidency

70. The second aspect of the Committee's review related to minority representation in the Presidency.

¹⁰² Article 18(2) of the Constitution.

¹⁰³ CCR, at para 8.9.

¹⁰⁴ CCR, at para 4.92(a).

¹⁰⁵ CCR, at para 4.92(b).

¹⁰⁶ CCR, at para 4.92(c).

¹⁰⁷ CCR, at para 4.93.

1. *The importance of minority representation*

71. The Commission recommended that racial minorities must have the opportunity to be periodically elected to Presidential office. In particular, the Commission expressed the following views:
- (a) The President's role as a symbol of national unity was the hallmark of the Presidential office in Singapore at its inception.¹⁰⁸ The role continues to be integral to the Presidential office today.¹⁰⁹ This crucial role as a unifying symbol of the nation is unique to the President's office. No other public office is intended to be a personification of the State and a symbol of the nation's unity in the way that the Presidency is.¹¹⁰ This is a critical distinction in principle between the Presidency and other public offices.¹¹¹
 - (b) To ensure that the office of President retains its "vitality as a symbol of the nation's unity", there is a "pressing need" to ensure that no ethnic group is "shut out" of the Presidency.¹¹²
 - (i) The President embodies the nation itself.¹¹³ He is a symbol of our multi-racial community, and an expression of our national identity. In view of the President's "crucial symbolic role", there are "strong justifications" for introducing measures to ensure that the highest office in the land is not only accessible, but *seen to be accessible*, to persons from all the major racial communities in Singapore.¹¹⁴ It is "vital" that ethnic minorities are neither perceived nor perceive themselves as being unable to access this symbolic office.¹¹⁵
 - (ii) Prior to the introduction of the Elected Presidency, Parliament had developed a "convention of rotating the Presidency among the races".¹¹⁶ As then-Senior Minister Lee Kuan Yew observed in an interview in 1999, this convention "was important to remind Singaporeans that their country was multi-racial". The changes wrought by the introduction of the Elected Presidency did not change the critical importance of this symbolic function. Mr Lee Kuan Yew went on to observe that even in the context of the

¹⁰⁸ CCR, at para 5.4.

¹⁰⁹ CCR, at para 5.5.

¹¹⁰ CCR, at paras 5.14 and 6.37.

¹¹¹ CCR, at para 5.14.

¹¹² CCR, at para 5.15.

¹¹³ CCR, at para 5.5.

¹¹⁴ CCR, at paras 5.5 and 5.16 (emphasis in original).

¹¹⁵ CCR, at para 5.5.

¹¹⁶ CCR, at para 5.5, citing Zuraidah Ibrahim & Irene Ng, "Good to rotate EP among races", *The Straits Times* (11 August 1999), at 27.

Elected Presidency, the Presidency should continue to be “a symbol of a multi-racial community, an expression of our national identity”.¹¹⁷

(iii) However, this importance of encouraging minority representation in the Presidential office has on occasion been overlooked in later years. Public attention has tended to focus on the *additional* custodial dimension overlaid upon the President’s office in 1991.¹¹⁸ It is necessary to refocus the understanding of the office of President on the equally important aspect of the President’s ceremonial and symbolic role as the Head of State.¹¹⁹ Placing undue focus on the President’s custodial role, to the exclusion of the symbolic one, would oversimplify what is in truth a multi-faceted institution.¹²⁰

(c) The “ultimate destination” for our society should, no doubt, be a community where no safeguards are needed to ensure that candidates from different ethnic groups are periodically elected into Presidential office.¹²¹ However, it seems common ground that Singapore, as a society, cannot affirmatively say that she has already “arrived” at that destination.¹²²

As we continue on the journey towards that “ultimate destination”, it would be prudent for safeguards to be put in place to ensure minority representation.¹²³ Any measure which is devised for this purpose can incorporate an in-built mechanism that will allow it to recede in significance over time, until it ceases to be needed.¹²⁴

(d) Any mechanism to encourage minority representation should not, under any circumstances, compromise the rigour of the eligibility criteria, given the President’s custodial responsibilities and the profound impact that his decisions could have on the country.¹²⁵ On this approach, the introduction of measures to encourage minority representation accordingly would not undermine meritocracy.¹²⁶

72. The Government agrees with the Commission’s reasons for ensuring multi-racial representation in the Presidency.

¹¹⁷ CCR, at para 5.5, citing Zuraidah Ibrahim & Irene Ng, “Good to rotate EP among races”, *The Straits Times* (11 August 1999), at 27.

¹¹⁸ CCR, at para 5.3.

¹¹⁹ CCR, at para 5.4.

¹²⁰ CCR, at para 5.6.

¹²¹ CCR, at para 5.9.

¹²² CCR, at para 5.9. Some contributors expressed the view that while Singapore had made tremendous progress in building a multi-racial society, she had yet to reach the stage where it could be said that the race of a candidate did not affect his chance of being elected into public office. See CCR, at para 5.8.

¹²³ CCR, at para 5.9.

¹²⁴ CCR, at para 5.17(b).

¹²⁵ CCR, at para 5.17(c).

¹²⁶ CCR, at para 5.13.

73. Multi-racialism is an integral part of Singapore’s social fabric and is fundamental to Singapore’s cohesion and survival. It featured prominently in the first session of the first Parliament in 1965, and formed the terms of reference for the first Constitutional Commission in 1966.¹²⁷
74. The racial harmony that Singapore has enjoyed over the years stems from our Pioneer Generation. Our forefathers, from all sectors and communities, committed themselves to building a multi-racial society, and upheld meritocratic ideals. Over the years, with the support of Singaporeans, the Government has been able to foster racial harmony in key areas such as education, housing, and even politics. For instance, in recognition of its importance to Singapore, multi-racialism has been safeguarded in our Parliamentary system since 1988 through the Group Representation Constituency (“GRC”) scheme.¹²⁸ The scheme ensures that members of the minority groups, namely, the Malay community and the Indian and other minority communities, are suitably represented in Parliament. This has encouraged all political parties to engage in multi-racial rather than sectarian politics.¹²⁹
75. As observed by the Commission, the President is, as the Head of State, the foremost unifying figure who represents our multi-racial society (see para 71(a) above). The Presidency is “a singular institution” by virtue of this “immensely important symbolic function”.¹³⁰ Our nation loses an important element of multi-racialism if particular racial minorities are never represented in the office of President. Every Singaporean has to be able to identify with the President, and to know that a member of his community can and will become President from time to time.
76. The need to ensure multi-racial representation in the office of the Head of State is not unique to Singapore. For instance:
- (a) In Switzerland, the Presidency is rotated amongst seven Federal Council members, with the members drawn equitably from different cantons, language regions and parties.¹³¹ The aim of this rotation is to prevent large cantons or language regions from dominating the Federal Council. The Federal Constitution of the Swiss Confederation expressly provides that in “[i]n electing the Federal

¹²⁷ *Singapore Parliamentary Debates, Official Report* (22 December 1965) vol 24 (per Minister for Law and National Development E W Barker).

¹²⁸ Constitution of the Republic of Singapore (Amendment) Act 1988 (Act 9 of 1988). See also *Singapore Parliamentary Debates, Official Report* (9 January 1989) vol 52 (per President Wee Kim Wee).

¹²⁹ *Singapore Parliamentary Debates, Official Report* (27 January 2016) vol 94 (per Prime Minister Lee Hsien Loong).

¹³⁰ CCR, at para 6.37. See also CCR, at para 5.14.

¹³¹ See the Federal Council website, online: <https://www.admin.ch/gov/en/start/federal-council/history-of-the-federal-council/regions-in-the-federal-council-since-1848.html>.

Council, care must be taken to ensure that the various geographical and language regions of the country are appropriately represented”.¹³²

- (b) In Canada and New Zealand, the Queen is the Head of State, and a Governor-General is appointed to represent the Queen in Canada and New Zealand respectively. In Canada, it is traditional for the position of Governor-General to be rotated between an Anglophone and a Francophone.¹³³ In New Zealand, minorities are, from time to time, appointed to the position.¹³⁴
77. Singapore’s progress in building a multi-racial and meritocratic society should not be taken for granted. Recent events around the world remind us how easily racial harmony can unravel. The world is, today, seeing a trend of explicitly race-based politics which work up and exploit populist sentiments. Decencies and sensibilities built up over the years can easily come undone in an age where populism and appeals to racial impulses are increasingly common. For instance:
- (a) In Britain, there was the European Union referendum campaign earlier this year. During the referendum, debates on immigration policy were widely intertwined with racial arguments. Several commentators have observed that the referendum result appears to have legitimised public expressions of bigotry and further fuelled racist sentiments.
 - (b) The experience of the United States is a reminder that racial differences are natural fault lines. In the entire history of the United States, there have only been nine African American senators,¹³⁵ of whom only about half were popularly elected. When President Barack Obama became elected as the first African American President in 2008, there were suggestions that the United States had become a “post-racial” nation. However, the voting patterns for President Obama’s election showed that race mattered to a significant degree – only 43% of White persons voted for him, while 95% of African Americans cast their vote in his favour. In the upcoming Presidential election in the United States, one candidate has been outspoken on specific racial minority groups.
78. Despite our significant progress, Singapore has not become a “post-racial” society. This is borne out by a recent study by Channel NewsAsia and the Institute of Policy

¹³² Art 175(4) of the Federal Constitution of the Swiss Confederation 1999, online: <https://www.admin.ch/opc/en/classified-compilation/19995395/index.html>. See also the Federal Council website, online: <https://www.admin.ch/gov/en/start/federal-council/history-of-the-federal-council/regions-in-the-federal-council-since-1848.html>.

¹³³ Wayne Thompson, *Canada* (Rowman & Littlefield Publishers, 2016) at 82.

¹³⁴ See the New Zealand Governor-General’s website, online: <http://www.gg.govt.nz/the-governor-general/historical>.

¹³⁵ “Breaking New Ground – African American Senators”, online: http://www.senate.gov/pagelayout/history/h_multi_sections_and_teasers/Photo_Exhibit_African_American_Senators.htm.

Studies.¹³⁶ The study revealed strong endorsement for meritocracy and multi-racial values, and a very high proportion of Singaporeans reported living out multi-racial ideals. However, on important personal choices, such as the choice of business counterparts and marriage partners, many people still prefer persons of their own race.

79. Of particular relevance is the study's finding that many respondents found a member of their own race more acceptable to be the President and the Prime Minister over other races. Whilst this does not mean that a candidate from a minority ethnic group will never be able to overcome racial barriers, these findings underscore that race remains a significant factor for many Singaporeans, and that voting choices can, and are, swayed by racial factors, quite apart from the merit of candidates.

2. *Designing a suitable safeguard*

80. In designing a suitable safeguard, the Commission was guided by the following principles:

- (a) There should be *minimum* intervention, and “nothing more should be done than is necessary to achieve the aim of ensuring that *all* racial groups are represented in the Presidency”.¹³⁷
- (b) There should be an in-built mechanism that will allow the safeguard to “recede in significance over time”, until it ceases to be needed.¹³⁸
- (c) The safeguard must not compromise the eligibility criteria that candidates must satisfy.¹³⁹

81. Based on these principles, the Commission recommended a “hiatus-triggered” safeguard mechanism that operates as follows:¹⁴⁰

- (a) When a member from any racial group has not occupied the President's office after five continuous terms (referred to as a “5-term hiatus”), the next Presidential election will be reserved for a candidate from that racial group.¹⁴¹ The relevant racial groups can be categorised as follows: (i) the Chinese community; (ii) the Malay community; and (iii) the Indian and other minority communities.¹⁴²

¹³⁶ “Channel NewsAsia – Institute of Policy Studies (CNA–IPS) Survey on Race Relations”, online: http://lkyspp.nus.edu.sg/ips/wp-content/uploads/sites/2/2013/04/CNA-IPS-survey-on-race-relations_190816.pdf.

¹³⁷ CCR, at para 5.17(a) (emphasis in original).

¹³⁸ CCR, at para 5.17(b).

¹³⁹ CCR, at para 5.17(c).

¹⁴⁰ CCR, at para 5.36.

¹⁴¹ CCR, at paras 5.37 and 5.39.

¹⁴² CCR, at para 5.37. The Commission observed that the mechanism in the Parliamentary Elections Act (Cap 218, 2011 Rev Ed) for the GRC system can be adapted for the purpose of determining which racial group a given individual belongs to.

- (b) In the Commission’s view, this was the “best model” amongst those that were studied. Most importantly, it has a “natural sunset”. A reserved election will never arise if free and unregulated elections produce Presidents of varied ethnicities. It will only be invoked if there has not been a President of a given ethnicity for an “exceedingly long period”.¹⁴³
 - (c) If, during a reserved election, no qualified candidate from the racial group in question emerges, the election will then be opened to candidates from all races, while the election subsequent to that should again be reserved for the same (unrepresented) racial group.¹⁴⁴
 - (d) Where two racial groups are eligible for reserved elections, the racial group with the longer hiatus will be prioritised. If no candidates from that racial group come forward, the election will then be reserved for the other racial group that has also had a 5-term hiatus.¹⁴⁵
82. The Government agrees with the approach proposed by the Commission. It strikes an appropriate balance between maintaining the ultimate long-term goal of multi-racialism, and ensuring the representation of minority races in the Presidential office as we progress towards that ideal. The framework also carefully balances the need for multi-racialism with our meritocratic ideals. Presidents will be elected by a mechanism which gives weight to their proven experience and competence, as well as their ability (collectively) to represent all the different races. A President who assumes office after a reserved election would, like all other elected Presidents, have met the constitutionally prescribed eligibility criteria and been chosen through a national electoral process. This should negate any perceptions of him being a “token” President.¹⁴⁶
83. As the Commission noted, the proposed mechanism also has the benefit of being “race-neutral”. It guarantees the representation of *all* racial groups in the Presidency.¹⁴⁷ Practically, it is most unlikely that a 5-term hiatus will ever arise *vis-à-vis* the Chinese community, which constitutes a significant majority of our population. But the approach is significant at a symbolic level, as it underscores the importance of ensuring that all races are represented in the Presidency.

¹⁴³ CCR, at para 5.36.

¹⁴⁴ CCR, at para 5.40.

¹⁴⁵ CCR, at para 5.40.

¹⁴⁶ See also CCR, at para 5.42, where the Commission observed that regardless of how the electoral system is structured, it is ultimately for a candidate, upon taking office, to earn the respect of the electorate by conducting himself with the dignity and gravitas befitting of the Presidency.

¹⁴⁷ CCR, at para 5.36.

C. Role and Composition of the Council of Presidential Advisers

84. The third aspect of the Commission’s review related to the role and composition of the Council of Presidential Advisers.
85. The 1990 Select Committee had observed that “[o]ver time, [the Council] should grow in importance, perhaps evolving into a Council of State”.¹⁴⁸ In this regard, the Commission observed that “reforms to the [Council] do not appear to have kept pace with changes made to the Presidency”,¹⁴⁹ and proposed additional measures to strengthen and refine the Council’s role and composition.

1. Framework for the President’s powers and the role of the Council

86. The Commission considered in detail the framework relating to the President’s discretionary powers and the role of the Council.
87. The Commission observed that:
- (a) The President should in general be advised by the Council in the exercise of his custodial powers. The Council’s primary function is to serve the President by giving him access to an independent body of experienced advisors.¹⁵⁰
 - (b) The “two-key” mechanism (see para 29(a) above) must be complemented by a political mechanism to resolve differences in opinion between the President and the Government. Given the potentially wide-ranging implications, Singapore can ill-afford an impasse on matters touching on the use of its national reserves, or where appointments to key public service positions are concerned. It is critical that the Government retains the ability to function effectively in these areas.¹⁵¹
 - (c) While the Elected Presidency augmented the traditional Westminster model of Parliamentary democracy, it was neither intended nor designed to shift the locus of political power.¹⁵² As such, in a situation of impasse, Parliament – being the most important deliberative body in the country and the best forum for transparent and robust debate – is the most suitable forum to decide whether the President’s decision should be overridden.¹⁵³

¹⁴⁸ 1990 Select Committee Report, at para 31.

¹⁴⁹ CCR, at para 6.1.

¹⁵⁰ CCR, at paras 2.57 and 6.1.

¹⁵¹ CCR, at para 6.5.

¹⁵² CCR, at para 2.59.

¹⁵³ CCR, at para 6.5.

- (d) In this respect, the Council plays an additional role as a “check” on the President’s exercise of his “second key”.¹⁵⁴ Where the President vetoes a proposed action of the Government, the Council’s position should have bearing on the weight to be accorded to the President’s decision; the President’s decision should be liable to be overridden by Parliament if he acts against the advice of the Council.¹⁵⁵

This arrangement is premised on the logic that if an independent body of experts disagrees with the President, then the President’s position may “warrant a second look in Parliament”.¹⁵⁶ Given the diversity of those who appoint the members of the Council, coupled with effective staggering of their appointment periods, the Council’s independence is sufficiently secure and it may legitimately play this role.¹⁵⁷

88. In light of the above, the Commission made specific recommendations relating to:
- (a) the obligation of the President to consult the Council;
 - (b) the appropriate scope of Parliamentary override; and
 - (c) the appropriate threshold for Parliamentary override.
89. The Government generally agrees with the Commission’s observations. However, on the threshold for Parliamentary override, the Government has decided not to accept certain aspects of the Commission’s recommendations. The reasons are set out below.
- (i) *Obligation of the President to consult the Council*
90. Currently, the President must consult the Council on the exercise of some of his discretionary powers, but not others. The Commission has observed that “the rationale for this dichotomy is not immediately apparent”.¹⁵⁸
91. The Commission pointed out that for certain discretionary powers, the President (rightly) should not be *obliged* to consult the Council, although he would not be precluded from doing so should he so desire.¹⁵⁹ These discretionary powers include:
- (a) the President’s historical discretionary powers, which predate the introduction of the Elected Presidency, such as the appointment or removal of a Prime Minister¹⁶⁰ and dissolving or denying a request to dissolve Parliament,¹⁶¹ and

¹⁵⁴ CCR, at paras 2.59 and 6.38.

¹⁵⁵ CCR, at para 2.57.

¹⁵⁶ CCR, at para 6.39.

¹⁵⁷ CCR, at para 6.7.

¹⁵⁸ CCR, at para 3.8.

¹⁵⁹ CCR, at para 6.22.

- (b) the President's powers pertaining to his protective functions in relation to detention orders under the Internal Security Act, restraining orders under the Maintenance of Religious Harmony Act and investigations by the Corrupt Practices Investigation Bureau.¹⁶²
92. However, the Commission recommended that the President should be obliged to consult the Council before exercising his discretion in respect of:
- (a) *all* fiscal matters touching on Singapore's reserves;¹⁶³ and
 - (b) *all* matters relating to key public service appointments.¹⁶⁴
93. The Government agrees with the Commission's recommendations and will propose the necessary amendments to give effect to them.
- (ii) *Appropriate scope of Parliamentary override*
94. Currently, Parliament may override the President's decision in certain circumstances:
- (a) the President's veto of Supply Bills, Supplementary Supply Bills or Final Supply Bills;¹⁶⁵ and
 - (b) the President's veto of key appointments to the public service and Fifth Schedule entities.¹⁶⁶
95. In these circumstances, a Presidential veto that is supported by the Council carries more weight than a Presidential veto that is exercised contrary to the Council's recommendations, as follows:
- (a) If a majority of the Council supports the President's veto, the veto is dispositive in that particular instance.

¹⁶⁰ Articles 21(2)(a) read with 25 (appointment of Prime Minister) and Article 26(1)(b) of the Constitution (removal of Prime Minister).

¹⁶¹ Article 21(2)(b) (denying a request to dissolve Parliament) and Article 65(2) of the Constitution (dissolving Parliament if Prime Minister's office is vacant and President is satisfied that a reasonable time has passed since the office has been vacated and that there is no Member of Parliament likely to command the confidence of a majority of the Members of Parliament).

¹⁶² CCR, at paras 6.20 and 6.21.

¹⁶³ CCR, at para 6.14.

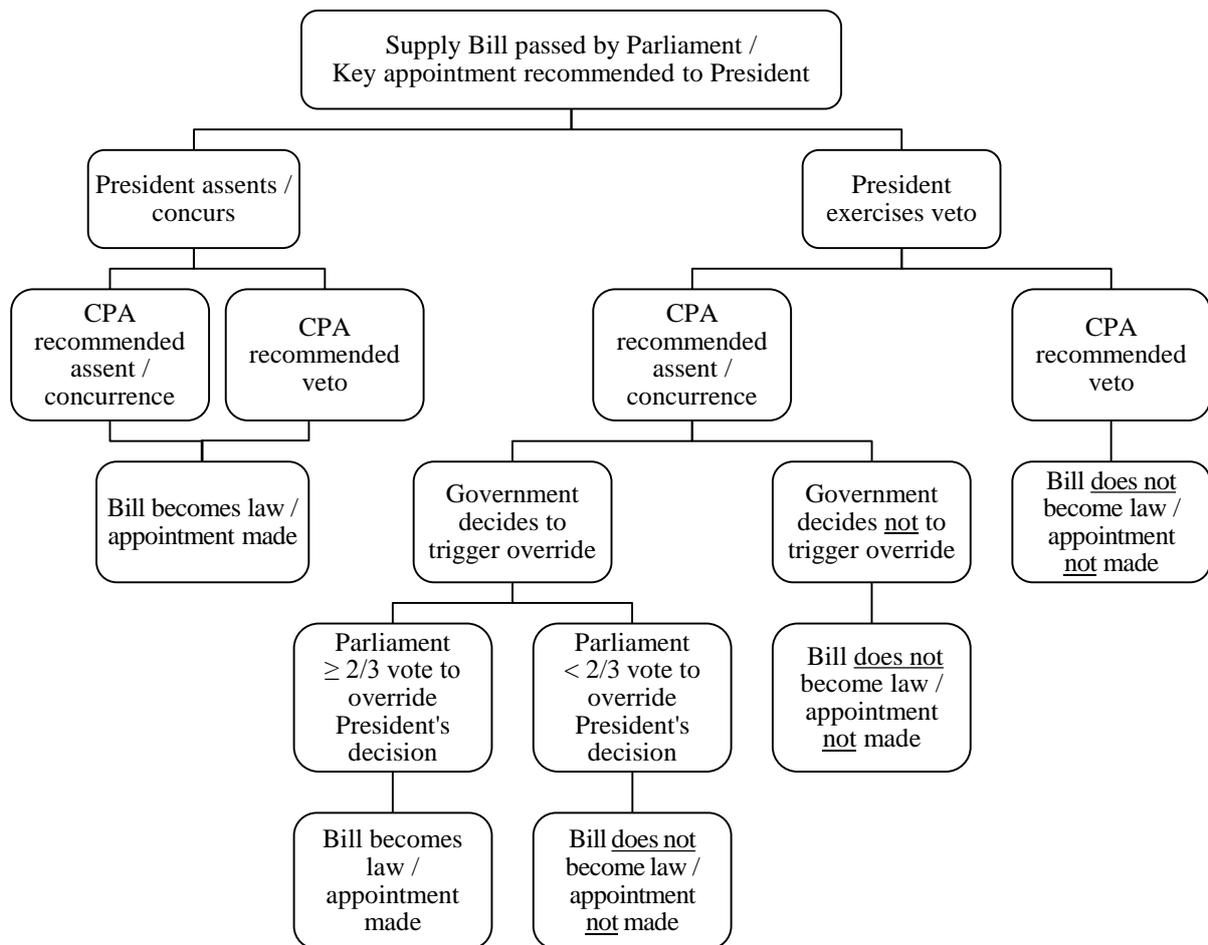
¹⁶⁴ The Commission noted, for instance, that the President should be required to consult the Council before deciding on any proposal to extend the tenure of the Attorney-General beyond the age of 60; or before the President decides to veto (a) appointments to any personnel board established to exercise power over officers in Division I of the Public Service, (b) the appointment of the Vice-President of the Legal Service Commission, and (c) appointments to any Legal Service Commission personnel board. See CCR, at paras 6.17 and 6.18).

¹⁶⁵ Article 148D(1) of the Constitution.

¹⁶⁶ Article 22(2) (relating to appointments to the public service), Article 22A(1A) (relating to appointments to Fifth Schedule statutory boards) and Article 22C(1A) of the Constitution (relating to appointments to Fifth Schedule Government companies).

(b) However, if a majority of the Council advises against vetoing the matter, the President's veto can be overridden by a two-thirds majority of Parliament.

96. This approach balances the President's discretion to veto specific Government initiatives against the weight to be accorded to the views of the Council, as illustrated by the following diagram:



97. However, this provision for Parliamentary override does not currently apply uniformly to all areas in which the President may veto the Government (see para 94 above).

98. The Commission recommended that Presidential vetoes on any fiscal matters touching on Singapore's reserves and any matters relating to key public service appointments should be subject to the same safeguards. In these areas, the President's veto should be subject to Parliamentary override where he acts against the Council's advice.¹⁶⁷ This

¹⁶⁷ CCR, at para 8.16.

will “avoid the potentially far-reaching consequences of a logjam affecting decision-making in these areas”.¹⁶⁸

99. The Government agrees with the Commission’s recommendations, and will make the necessary amendments.

(iii) *Appropriate threshold for Parliamentary override*

100. Currently, the threshold for Parliamentary override is set at a two-thirds Parliamentary majority.¹⁶⁹

101. The Commission recommended that where Parliamentary override is possible, the Parliamentary majority needed for an override should be recalibrated, to more closely reflect the degree of support the President has from the Council.¹⁷⁰

(a) Where the President acts with the support of an *absolute majority* of the Council, Parliament should not be able to override the President’s decision.¹⁷¹

(b) Where the Council is evenly split and the Chairman of the Council exercises his casting vote in the President’s favour, Parliament may override the President’s decision, but only with a two-thirds majority.¹⁷²

(c) Where the President acts against the advice of the majority of the members of the Council, Parliament should be able to override the President’s decision with a simple majority.¹⁷³ In the Commission’s view:

(i) In such scenarios, the President’s inability to garner the support of even half the Council would suggest that his veto may not be based on sufficiently persuasive grounds.¹⁷⁴ A simple majority threshold for Parliamentary override would allow the Government to press ahead with its intended course of action if it considers it important to do so, but at the political cost and exposure of having debated the issue publicly in Parliament.¹⁷⁵

¹⁶⁸ CCR, at para 6.13.

¹⁶⁹ Article 22(2) (relating to appointments to the public service), Article 22A(1A) (relating to appointments to Fifth Schedule statutory boards), Article 22C(1A) (relating to appointments to Fifth Schedule Government companies) and Article 148D(1) of the Constitution (relating to Supply Bills, Supplementary Supply Bills and Final Supply Bills).

¹⁷⁰ CCR, at paras 6.40 and 6.41.

¹⁷¹ CCR, at para 6.41(a).

¹⁷² CCR, at para 6.41(b).

¹⁷³ CCR, at para 6.41(c).

¹⁷⁴ CCR, at para 6.41(c).

¹⁷⁵ CCR, at para 6.41(c).

- (ii) In addition, when considering the optimal threshold at which to set the requisite Parliamentary majority, one should not adopt the premise that Parliament will indefinitely continue to predominantly be filled by a single political party.¹⁷⁶ The recalibrated threshold will better cater for the prospect of a difference between the President and the Government arising and being resolved in the best interests of Singapore.¹⁷⁷

102. A tabular representation of the differences between the Commission’s recommendation and the current position is set out below:

Current Framework	Commission’s Recommendations
<p>If the President exercises his veto, and a simple majority of the Council agrees –</p> <p>Parliament <i>cannot</i> override the President’s veto.</p>	<p>If the President exercises his veto, and an <i>absolute majority</i> of the Council agrees –</p> <p>Parliament <i>cannot</i> override the President’s veto.</p>
	<p>If the President exercises his veto, and the Council is <i>evenly split</i> but Chairman exercises his <i>casting vote</i> in the President’s favour –</p> <p>Parliament <i>can</i> override the President’s veto with a two-thirds majority.</p>
<p>If the President exercises his veto, and a simple majority of the Council disagrees –</p> <p>Parliament <i>can</i> override the President’s veto with a <i>two-thirds majority</i>.</p>	<p>If the President exercises his veto, and a simple majority of the Council disagrees –</p> <p>Parliament <i>can</i> override the President’s veto with a <i>simple majority</i>.</p>

103. The Government recognises that the Commission’s recommendation provides a more finely calibrated approach that has regard to the extent to which the Council supports or opposes the President’s veto.¹⁷⁸ However, the calibrated approach may unintentionally emphasise or even politicise how individual members of the Council, particularly its Chairman, have voted, instead of the collective judgment of the Council as a whole. The analogy is with the Cabinet, where Ministers may have different views on issues, but take collective responsibility for the decisions of the Cabinet to which they belong, and do not differ publicly from these decisions. As such, the Government prefers to retain the present arrangement. In other words, the override mechanism will continue to

¹⁷⁶ CCR, at para 6.44.

¹⁷⁷ CCR, at para 6.45.

¹⁷⁸ CCR, at para 6.42.

adopt a binary approach, depending on whether the President's veto is supported by a *simple* majority of the Council.

104. In terms of the requisite Parliamentary threshold for an override, the Government also notes the Commission's recommendation to require a simple (rather than two-thirds) Parliamentary majority where the President exercises his veto against the advice of the Council.¹⁷⁹ In the Government's view, a reasonable argument can be made for the Commission's proposal. Whilst the bar for Parliamentary override should not be set so low that it undermines the two-key safeguard, it is equally important that the override mechanism is able to effectively resolve potential gridlock, even as the complexion of our Parliament continues to evolve.¹⁸⁰
105. However, given the concurrent changes to the *scope* of the override mechanism (see para 99 above), the Government considers that further revisions to the requisite Parliamentary *threshold* are best deferred to a future review, when the operation of the override in these additional areas has had some time to stabilise. Thus, the Government will maintain the current position. Parliament can override the Presidential veto by a two-thirds Parliamentary majority where the Council does not support the veto.

2. *Strengthening the Council of Presidential Advisers*

106. The Council currently comprises of six members:¹⁸¹
- (a) two members appointed by the President in his discretion;
 - (b) two members appointed on the advice of the Prime Minister;
 - (c) one member appointed on the advice of the Chief Justice; and
 - (d) one member appointed on the advice of the Chairman of the Public Service Commission.
107. The Commission noted that the proposals to widen the scope of Parliamentary override will expand the Council's scope of work.¹⁸² As such, the Commission recommended that:
- (a) the size of the Council should be augmented with two additional members, with one appointed by the President and the other by the Prime Minister;¹⁸³

¹⁷⁹ CCR, at para 6.41(c).

¹⁸⁰ CCR, at para 2.59.

¹⁸¹ Article 37B(1) of the Constitution.

¹⁸² CCR, at para 6.28.

¹⁸³ CCR, at para 6.28.

- (b) general precepts (for instance, requiring a Council member to be of “integrity, good character and reputation”) should be set out to guide those charged with the responsibility for making appointments to the Council;¹⁸⁴
- (c) with the expansion of the Council, quorum requirements should also be prescribed for Council meetings;¹⁸⁵ and
- (d) the terms and appointment cycles for Council members should be harmonised to facilitate staggering, which will ensure continuity.¹⁸⁶

108. The Government agrees with the Commission’s recommendations and will propose the necessary amendments to give effect to them.

3. *Enhancing the accountability for Council decisions and the Presidential veto*

109. The Commission also made recommendations to enhance the transparency of the Council’s decision-making process, specifically, in terms of what the Council should communicate when submitting its advice. The Commission recommended that:

- (a) The Council should be required to disclose to the President: (i) the votes of each individual Council member, and (ii) the grounds for the Council’s advice (including dissenting views), in relation to all the President’s decisions concerning a veto power which could potentially be subject to Parliamentary override.¹⁸⁷
- (b) If the President eventually decides to exercise his veto against the Government’s position, he should then direct the same information, as conveyed to him by the Council, to the Prime Minister and the Speaker of Parliament. In all other cases (namely, where the President assents to the Government’s proposal), the Council’s position would have no legal or constitutional significance, and its views would therefore not be relevant.¹⁸⁸
- (c) The President should also be obliged to publish his opinion in all cases where he vetoes the Government’s proposed action, if the veto is subject to Parliamentary override.¹⁸⁹

110. A tabular comparison of the current position and the Commission’s proposed changes is set out below:

¹⁸⁴ CCR, at para 6.34.

¹⁸⁵ CCR, at para 6.32.

¹⁸⁶ CCR, at paras 6.29 and 6.30.

¹⁸⁷ CCR, at para 6.49.

¹⁸⁸ CCR, at para 6.50.

¹⁸⁹ CCR, at para 6.52.

Category	Current Framework	Commission's Recommendations
<p>Disclosure of the Council's advice on areas subject to Parliamentary override</p>	<p>On all areas subject to Parliamentary override,¹⁹⁰ the Council must disclose to the President, the Prime Minister and Parliament –</p> <p>(a) <u>total number</u> of votes for and against the Council's advice;¹⁹¹ and</p> <p>(b) grounds for advice <u>only if</u>:</p> <p>(i) the Council recommends that the President <u>exercise his veto</u>; and</p> <p>(ii) the advice relates to Supply Bills, Supplementary Supply Bills or Final Supply Bills.¹⁹²</p>	<p>On all areas subject to Parliamentary override,¹⁹³ the Council must disclose to <u>the President</u> –</p> <p>(a) <u>individual votes</u> for and against the Council's advice; and</p> <p>(b) grounds for advice on <u>all areas</u> subject to override.</p> <hr/> <p>The President must disclose the advice above to <u>the Prime Minister and to Parliament</u> – <u>only</u> where the President decides to exercise his veto.</p>
<p>Publication of the President's opinion on matters requiring his approval</p>	<p>President must publish his opinion in the <i>Gazette</i> if:</p> <p>(a) the decision relates to:</p> <p>(i) Supply Bills, Supplementary Supply Bills or Final Supply Bills; or</p> <p>(ii) budgets or transactions of Fifth Schedule entities; and</p> <p>(b) the President does <u>not</u> exercise his veto even</p>	<p><u>In addition</u> to the current framework, on <u>all</u> areas subject to Parliamentary override, the President must publish his opinion whenever he exercises his <u>veto</u>.</p>

¹⁹⁰ Currently, Parliament may override the President's veto where it pertains to: (i) Supply Bills, Supplementary Supply Bills or Final Supply Bills; and (ii) key appointments to the public service and Fifth Schedule entities. See para 94 above.

¹⁹¹ Article 37J(2)(a) (in relation to Supply Bills, Supplementary Supply Bills and Final Supply Bills) and Article 37J(2A) of the Constitution (in relation to key appointments to the public service and Fifth Schedule entities).

¹⁹² Article 37J(2)(b) of the Constitution.

¹⁹³ The Government has decided to accept the Commission's recommendation to apply the Parliamentary override mechanism uniformly, to all Presidential vetoes pertaining to: (i) fiscal matters touching on Singapore's reserves; and (ii) matters relating to key public service appointments. See para 98 above.

	though he thinks these will draw on past reserves. ¹⁹⁴	
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111. *Disclosure of the Council's advice.* The Government agrees with the Commission's recommendations, save in two respects:

- (a) First, on the proposal to require a breakdown of individual Council members' votes, the Government prefers to retain the existing arrangement, of disclosing only the total votes for or against the Council's recommendation. For the same reasons set out above (see para 103), the provision of such a breakdown could risk politicising the Council, and consequently undermine its stature and independence.
- (b) Second, the Government agrees that when the President exercises his veto on Supply Bills, Supplementary Supply Bills or Final Supply Bills, the Council's advice should be conveyed to both the Prime Minister and Parliament at the same time. These Bills originate from Parliament, and fall directly under Parliament's purview.¹⁹⁵

However, in all other areas where the President may exercise his veto, the Government would prefer a more calibrated approach to disclosure. A suitable balance must be struck between enhancing the Council's accountability on the one hand, and protecting potentially sensitive and confidential information on the other.

Prematurely publicising appointment-related or fiscal matters could precipitate unwanted consequences. The fiscal matters placed before the Council may often entail confidential or market sensitive information, such as details of proposed transactions or longer-term investment projections. Public disclosure of such information could compromise the Government's investment strategy.

The Government has also proceeded cautiously with regard to public debate on appointment-related matters. As noted by then-Prime Minister Goh Chok Tong in the context of extending the Parliamentary override mechanism to key appointments:¹⁹⁶

¹⁹⁴ Article 148A(1) (in relation to Supply Bills, Supplementary Supply Bills and Final Supply Bills), Article 22B(2) and (7) (in relation to budgets and transactions of Fifth Schedule statutory boards) and Article 22D(2) and (6) of the Constitution (in relation to budgets and transactions of Fifth Schedule Government companies). In the case of Article 148A(1) of the Constitution, the President is additionally required to state his opinion in writing addressed to the Speaker.

¹⁹⁵ Even if the Government decides *not* to invoke the Parliamentary override mechanism when the President vetoes a Supply Bill, it will have to go back to Parliament with a fresh Supply Bill, or have its spending confined to the Budget approved for the previous year.

¹⁹⁶ *Singapore Parliamentary Debates, Official Report* (28 October 1996) vol 765 (*per* Prime Minister Goh Chok Tong) (emphasis added).

“This mechanism has one disadvantage. Invoking it will mean bringing into Parliament matters which do not come under Parliament’s direct purview. We will have to discuss the merits of the candidate publicly. *The experience of countries like the United States, which hold public confirmation hearings, shows the risks of this approach. Proceedings become politicised and sensationalised, private lives are publicised, and good men are put off from standing for office.*

But we do not expect such divergence in views between the President and the Executive over appointments to happen often. Most candidates for key appointments will still be considered and appointed outside the glare of publicity. *And when the Executive decides to go to Parliament to override the President’s veto, it can consciously weigh the disadvantages of the move against the importance of getting the particular candidate appointed.* On balance, a Parliamentary override mechanism, although not perfect, is a workable solution.”

The existing override mechanism therefore mitigates the potential downside of opening a candidate’s merits for public debate, by having the Government assess, on a case-by-case basis, whether it would be prudent to bring the matter to Parliament.¹⁹⁷

In contrast, the Commission’s proposed approach would require disclosure of the Council’s detailed assessment of a candidate’s merits, and of potentially market sensitive information on fiscal matters, even where the issue has *not* been brought before Parliament. For instance, the Government may decide to accept the President’s decision, and propose an alternate candidate or not proceed with the proposed transaction. Where there is no possibility of a Parliamentary override, there would be no compelling reason to introduce the “glare of publicity”, and suffer its attendant risks.

In the Government’s view, the following framework would strike an optimal balance:

- (i) If the President exercises his veto, the Council’s advice should, at first instance, be disclosed to the Prime Minister. The Government should be apprised of the Council’s advice so that it can either: (a) make an informed assessment on whether to invoke the Parliamentary override mechanism (if the Council disagreed with the President’s exercise of his veto), or (b) learn why its proposal was conclusively vetoed (if the Council supported the President’s exercise of his veto).

¹⁹⁷ CCR, at footnote 279.

- (ii) If the President's veto is subsequently brought within Parliament's purview,¹⁹⁸ the Speaker of Parliament (and by extension, Parliament) should then be apprised of the Council's advice. In contrast, where Parliament is not involved in the subsequent process,¹⁹⁹ there would be no compelling reason to disclose the Council's advice.

112. *Publication of the President's opinion.* The Government agrees with the Commission's recommendations in relation to the publication of the President's opinion where Supply Bills, Supplementary Supply Bills and Final Supply Bills are concerned. In such cases, the President's veto is a matter that bears considerable public signature, and should be published once it occurs.

However, in all other areas where the President may exercise his veto, the Government would prefer a more calibrated approach to publication, for the reasons set out above (see para 111(b)). Therefore, where the President exercises his veto, he should, at the first instance, be required to provide his written opinion to the Prime Minister. If the Government subsequently triggers the Parliamentary override mechanism in respect of the President's veto, the President's opinion should then be published in the *Gazette*.

4. *Timeline for President to give concurrence*

113. The Parliamentary override mechanism becomes available when the President exercises his veto against the Council's advice. The Commission noted that the position is less certain where a President simply remains silent.²⁰⁰

114. Existing constitutional provisions only address limited aspects, namely, in relation to:

- (a) the President's power to veto any Supply Bill, Supplementary Supply Bill or Final Supply Bill;²⁰¹ and
- (b) the President's refusal to assent a Bill that circumvents or curtails his discretion under the Constitution.²⁰²

In these areas, the President is deemed to have consented to the Government's initiative unless he provides a negative response within 30 days.²⁰³

115. The Commission recommended that:²⁰⁴

¹⁹⁸ This would occur where the President's veto is contrary to the Council's advice, and the Government has decided to invoke the Parliamentary override mechanism in respect of that veto.

¹⁹⁹ This would occur where the President's veto accords with the Council's advice, or where the President's veto is contrary to the Council's advice but the Government decides not to invoke the Parliamentary override mechanism.

²⁰⁰ CCR, at para 6.53.

²⁰¹ Article 148A(5) of the Constitution.

²⁰² Article 22H(4) of the Constitution.

²⁰³ CCR, at para 6.54.

- (a) A similar “deeming” mechanism should be applied to all situations where the President’s refusal to concur can be subject to the Parliamentary override mechanism set out above (see para 98).
- (b) The period of time for the President to decide before he is deemed to have concurred with the Government’s initiative should be extended from the current 30 days to 6 weeks.

116. The Government agrees with the Commission’s recommendation, but has decided to modify its application in two respects:

- (a) First, the “deeming” mechanism should also be extended to the President’s protective functions in other areas (see para 91(b) above).²⁰⁵ In these matters, it is similarly important that the President expressly exercise his veto, rather than veto through silence or omission.

(b) Second, whilst a 6-week timeline can be applied in most cases:

- (i) For certain financial matters such as Supply Bills which are time-sensitive, the existing 30-day timeline should be retained (see para 114 above). This 30-day timeline has worked well over the years, and has provided the President with sufficient time to come to a decision on these specific matters after consultation with the Council.

The 30-day timeline should also be applied to the President’s protective functions (see para 91(b) above), which relate to the continuance of detention or restraining orders, and the conduct of investigations, all of which are similarly time-sensitive.

- (ii) There should also be a mechanism to shorten the timeline in exceptional cases, where the Government certifies that a matter is urgent, and requires immediate decision. In such cases, the President should be required to reach his decision within 15 days of the proposal being sent to him.

117. Timelines, with similar “deeming” mechanisms, will also be introduced for the Council’s provision of advice to the President. This will facilitate a good working understanding between the Council and the President, and ensures that the President has sufficient time to study and assess the Council’s advice.

²⁰⁴ CCR, at para 6.57.

²⁰⁵ In such situations, where the President has remained silent, he will be deemed to have concurred with the Prime Minister’s decision (under Article 22G of the Constitution), the Cabinet’s advice (under Article 22I of the Constitution) and the decision of the authority on whose advice or order the person is detained (under Article 151 of the Constitution).

D. Other Matters

118. The Commission also considered a number of other points raised by contributors. These were matters which fell beyond the initial scope of the review.²⁰⁶
119. The Government has considered the Commission’s observations. The Government’s position will be set out in greater detail on the following three areas, in respect of which the Commission contemplated possible changes to the law:
- (a) whether the Presidency should remain an elected office;
 - (b) whether the provisions entrenching the President’s discretionary powers should be entrenched, and if so, how; and
 - (c) rules governing election campaigns for the Presidency.

1. *Whether the Presidency should remain an elected office*

120. The Commission noted at the outset that this question, which is an issue of constitutional design, is “quintessentially” a political question.²⁰⁷ Nevertheless, it offered its views on the issue to provide context for any further debate which may arise in future.
121. The Commission’s consideration of the issue was informed by the following underlying points:
- (a) It is “imperative” and “a matter of existential importance” to safeguard our financial reserves and the integrity of the public service.²⁰⁸
 - (b) Conceptually, the Elected Presidency, and its provision of an *intra*-branch Executive check, seems effective to serve this purpose.²⁰⁹
 - (c) If the President is to continue to perform these custodial functions, “the office *should* remain an elected one”.²¹⁰
 - (i) First, it would be incongruous to have a “second key” in the hands of the President, if the holder of the “first key” (namely, the Government), is to appoint the holder of the “second key”.²¹¹ It is of *paramount importance* that the holder of the “second key” be, *and be manifestly seen to be,*

²⁰⁶ CCR, at para 7.1.

²⁰⁷ CCR, at para 7.36.

²⁰⁸ CCR, at paras 7.37 and 7.40.

²⁰⁹ CCR, at para 7.41.

²¹⁰ CCR, at para 7.42 (emphasis added).

²¹¹ CCR, at para 7.42.

independent of the holder of the “first key”.²¹² As long as the President is appointed by Parliament, this essential requirement would *not* be met.

- (ii) Second, the President will require a popular mandate if he is to “have the authority to act as the custodian of the nation’s reserves and be an effective check against governmental action, should the occasion arise”.²¹³ An appointed President is unlikely to have the standing or authority to legitimately withhold concurrence to a decision made by a democratically elected government.²¹⁴

122. The Commission then went on to suggest that the Government may wish to consider an alternative approach, by “unbundling” the President’s symbolic and custodial roles, and assigning them to two different institutions. In particular, the Commission observed that:

- (a) There was some tension between the President’s historical and custodial roles, with the former requiring that the President be non-partisan and a unifier of the nation, and the latter potentially requiring him to confront the Government of the day.²¹⁵
- (b) There might be some difficulty in finding a single person who could fulfil both the historical and custodial roles, since persons fulfilling the former may not have the necessary qualifications for the latter, and vice versa.²¹⁶

123. This alternative approach would result in the attendant abolition of national Presidential elections:

- (a) The President would retain his symbolic and ceremonial role as the Head of State, and revert to being appointed by Parliament.
- (b) The custodial role would, in turn, be devolved to an appointed specialist body.²¹⁷

124. The Government has considered this proposal. The Government prefers to retain elections for the Presidential office, for the following reasons:

- (a) First, the Government believes that the “second key” is better held by an elected body with direct mandate from Singaporeans. This ensures that the institution has the moral authority and mandate to veto an elected Government. As then-Prime Minister Lee Kuan Yew observed, when the concept of an Elected Presidency was first mooted:²¹⁸

²¹² CCR, at para 7.50.

²¹³ CCR, at para 7.42.

²¹⁴ CCR, at para 7.42.

²¹⁵ CCR, at para 7.43.

²¹⁶ CCR, at paras 7.45 and 7.46.

²¹⁷ CCR, at paras 7.46 and 7.48.

²¹⁸ Prime Minister Lee Kuan Yew at the National Day Rally 1984, cited in CCR, at para 2.12.

“...[W]e should have a President with a moral authority to block [the spending of past reserves] ... [T]here’s bound to be a row when a President says “no” to a newly-elected Prime Minister. Flushed with victory, he wants to fulfil his election promises. ... I think the President has to be elected. By the people direct ... not in Parliament, so he also has moral authority.”

It is important that the holder of the “second key” is not just *able* to disagree with the elected Government in the identified areas, but that he is *seen as legitimately doing so*. Devolution of the custodial powers to an appointed and unelected body would, in the Government’s view, attract the same attendant difficulties of independence and mandate that led the Commission to reject an *appointed* custodial President (see para 121(c) above).

- (b) Second, under the Commission’s proposal, the appointed body of experts would only be able to “forc[e] a debate on [its] objections”²¹⁹ and would not be able to veto the Government’s initiatives, presumably because it lacks the democratic mandate to do so. This could impair the efficacy and rigour of the “second key”.
- (c) Third, despite the potential tension between the President’s historical and custodial roles as identified by the Commission, all of our elected Presidents have been able to perform these two roles with distinction. This of course depends on the nature, character and qualities of the person elected. All Presidential candidates must aspire towards playing both roles well – developing rapport with Singaporeans and representing our nation with dignity on the one hand, while simultaneously demonstrating the technical competence and expertise required for his custodial function on the other.
- (d) Fourth, the Government accepts that there is inherent tension between an electoral process and a President who discharges a unifying, symbolic function. However, the Government believes that this tension can be mitigated, even if not entirely eliminated. The risk of Presidential elections being politicised can also be dealt with, to some extent, through the rules governing election campaigns (see paras 144 to 148 below).

125. The Government’s view is that a custodial President democratically elected in a national election remains the most workable and effective solution for Singapore for the present. Whether the Government makes decisions with the President’s concurrence, the President vetoes the Government’s decision, or Parliament overrides the President’s veto, it is *always* an elected institution that represents Singaporeans in making important decisions relating to our financial reserves and the integrity of the public service.

²¹⁹ CCR, at para 7.48.

2. *The provisions entrenching the President's discretionary powers*

126. In both the 1988 and 1990 White Papers, it was suggested that the powers of the Elected Presidency be “entrenched”, to safeguard potential curtailment or circumvention of the President’s discretionary powers.²²⁰ As a result, the Constitution currently contains a number of entrenching mechanisms to protect various aspects of the Elected Presidency. In particular, two provisions (*i.e.* Articles 5(2A) and 5A of the Constitution) require a national referendum (supported by two-thirds of the electorate) if the President vetoes a constitutional amendment to the entrenched provisions.²²¹
127. Given the unique nature of our Elected Presidency, the system has had to be refined and tweaked as the Government gained experience in operating it over the years. As such, the entrenching mechanisms for constitutional amendments have not been brought into force.²²²
128. The Commission’s views on the issue were as follows:
- (a) The Elected Presidency is unique; it is not derived from any other jurisdiction.²²³ As a result, refinements and adjustments have been required over the last 25 years.²²⁴ The Elected Presidency has evolved over the years, and continues to do so.²²⁵
 - (b) Entrenching the Elected Presidency could hamstring Singapore’s ability to deal with unforeseen difficulties relating to this institution, as the entrenching provisions would make it “virtually impossible” to effect further constitutional amendments to the Constitution to remedy these difficulties.²²⁶
 - (c) Whilst the Legislature and the Judiciary discharge critically important constitutional functions, the role and place of these other institutions have not been entrenched by way of a similar mechanism. This might support the contention that the entrenchment provisions should be “done away with altogether”.²²⁷
 - (d) The Commission also noted that “indefinite suspension [of the entrenchment framework] may not be appropriate”,²²⁸ and suggested that the Government

²²⁰ 1988 White Paper, at para 48, and 1990 White Paper, at para 47.

²²¹ CCR, at paras 7.21 and 7.22.

²²² *Singapore Parliamentary Debates, Official Report* (9 July 2014) vol 92 (*per* Minister for Law K Shanmugam).

²²³ CCR, at para 7.28.

²²⁴ CCR, at para 7.28.

²²⁵ CCR, at para 7.28.

²²⁶ CCR, at para 7.29.

²²⁷ CCR, at para 7.29.

²²⁸ CCR, at para 7.30.

should decide “whether to bring these provisions into force or repeal them in whole or in part”.²²⁹ However, the Commission did not take a view on whether entry into force or repeal would be preferable, as there were cogent points in favour of either position.²³⁰ The Commission emphasised that this was ultimately a matter for political judgment.²³¹

- (e) If the Government was neither willing to repeal, nor bring the provisions into force, the Commission suggested a further, interim approach. This would entail entrenching only certain provisions in Part IV of the Constitution (relating to fundamental liberties),²³² with the entrenchment of other provisions dealing with the Elected Presidency remaining suspended but with periodic reconsideration every five years.²³³

129. The Government thanks the Commission for highlighting these various considerations.

130. The entrenchment schematic is ultimately a matter of constitutional rigidity, of which there exists a wide range of possibilities. At one extreme, some countries have constitutional provisions that are legally unchangeable, such as the eternity clause in the Basic Law for the Federal Republic of Germany.²³⁴ Other countries, such as the United States, have constitutions that, whilst not legally unchangeable, are nonetheless “almost impossible to amend”.²³⁵ At the other extreme, some countries have constitutions that have been described as “uncontrolled” or “flexible”, and which may be altered by a simple parliamentary majority vote.²³⁶

131. An optimum degree of constitutional rigidity requires carefully balancing the risk of capricious amendment with a Constitution’s need to adapt to changing circumstances. As different United States Presidents have emphasised, the Constitution must be “a living force... a growing thing”.²³⁷ It should be revered “not because it is old but because it is ever new, not in the worship of its past alone but in the faith of the living who keep it young, now and in the years to come”.²³⁸ A failure of a Constitution to evolve and keep pace with the times would be, in the words of United States President Thomas Jefferson, to “require a man to wear still the coat which fitted him when a

²²⁹ CCR, at para 7.27.

²³⁰ CCR, at para 7.30.

²³¹ CCR, at para 7.27.

²³² CCR, at para 7.30.

²³³ CCR, at para 7.31.

²³⁴ Article 79(3) of the Basic Law for the Federal Republic of Germany: “Amendments to this Basic Law affecting the division of the Federation into Länder, their participation on principle in the legislative process, or the principles laid down in Articles 1 and 20 shall be inadmissible.”

²³⁵ Steven Calabresi, “Text vs Precedent in Constitutional Law”, in Steven Calabresi, ed, *Originalism: A Quarter-Century of Debate* (Regnery Publishing, 2007) 199 at 206.

²³⁶ See e.g. *McCawley v The King* (1920) 28 CLR 106 at 114-115.

²³⁷ President Harry Truman, Address at the National Archives Dedicating the New Shrine for the Declaration of Independence, the Constitution, and the Bill of Rights (15 December 1952).

²³⁸ President Franklin Roosevelt, Address on Constitution Day, Washington, D.C. (17 September 1937).

boy”.²³⁹ Therefore, although it is “almost impossible” to amend the Constitution in the United States,²⁴⁰ constitutional adaptation continues to take place through decisions of the United States Supreme Court in interpreting the Constitution. This specific approach for evolving the Constitution has been criticised, not without reason, for potentially politicising the Judiciary. But it illustrates the reality that for a Constitution to be workable, it must remain a living document over time.

132. Our founding fathers were similarly cognisant of the importance of ensuring that our Constitution suits our needs and continually evolves to avoid obsolescence and remain relevant to changing conditions. Then-Prime Minister Lee Kuan Yew alluded to President Thomas Jefferson’s analogy of a coat to emphasise that:²⁴¹

“... constitutions have to be custom-made, tailored to suit the peculiarities of the person wearing the suit. Perhaps, like shoes, the older they are, the better they fit. Stretch them, soften them, resole them, repair them. They are always better than a brand new pair of shoes.”

Similarly, the 1988 White Paper also recognised that “[n]o government can or should be prevented from amending the Constitution”.²⁴²

133. However, while “a Constitution that will not bend will sooner or later be broken ... a Constitution that is too flexible may well turn out to be worse than having no Constitution at all”.²⁴³ Furthermore, a constitution that is too easily amended may not sufficiently play the role of a supreme, paramount and fundamental law.
134. The Government has therefore proceeded cautiously with regard to the entrenchment of specific constitutional provisions, in recognition of the careful balance that must be sought between the adaptability of the Constitution to changing circumstances, and the stability afforded by a sufficiently rigid Constitution.
135. In the Government’s view, the Commission’s observation that the current entrenchment provisions may make it “virtually impossible” to effect further constitutional amendments was presumably informed, at least in part, by the two-thirds majority that the entrenchment provisions currently require at national referendum. A two-thirds majority of the electorate will be difficult to secure on most issues. That will mean that related constitutional amendments will be virtually impossible to make (similar to the situation in the United States). It bears noting that the only other instances in the Constitution which require an equivalent two-thirds majority of the electorate are: (a) provisions that relate to a surrender of Singapore’s sovereignty or relinquishment of

²³⁹ President Thomas Jefferson, in a letter to Samuel Kercheval (12 July 1816).

²⁴⁰ Steven Calabresi, “Text vs Precedent in Constitutional Law”, in Steven Calabresi, ed, *Originalism: A Quarter-Century of Debate* (Regnery Publishing, 2007) 199 at 206.

²⁴¹ *Singapore Parliamentary Debates, Official Report* (24 July 1984) vol 44 (per Prime Minister Lee Kuan Yew).

²⁴² 1988 White Paper, at para 26.

²⁴³ *Report of the Constitutional Commission 1966* (Singapore Government Printer, 1966) at para 74.

control over our Armed Forces or Police Force, and (b) any constitutional amendment of these provisions.²⁴⁴

136. Further, the issues in a referendum to override a Presidential veto are likely to be complex, and may not be capable of being resolved by a binary “Yes” or “No” vote.
137. Recent international experience with referendums also suggest that it is best to take a careful, considered (as opposed to a cavalier) approach to referendums.
138. These considerations have to be borne in mind in the context of the diverse categories of provisions which are presently entrenched.
 - (a) As is evident from the 1988 White Paper,²⁴⁵ the original intent behind the entrenchment framework was *specifically* to entrench the Elected Presidency, and in particular, the President’s *core custodial functions* relating to financial reserves and key public service appointments.
 - (b) Additional provisions were subsequently added to the entrenchment framework, with the result that the current entrenchment framework covers: the core functions of the Elected Presidency; certain operational details relating to the Elected Presidency; and a number of provisions that are not related to the Elected Presidency at all.
 - (c) As the framework stands today, any amendment to these provisions, however minor or process-related, would potentially trigger the requirement of a national referendum.
139. The Government also notes that the current entrenchment framework does not accord any constitutional or legal weight to the advice and recommendations of the Council of Presidential Advisers, *i.e.* the weight accorded to the President’s position on amendments to entrenched provisions does not depend on whether he has the Council’s support.
140. In view of the above, the Government intends to introduce a recalibrated entrenchment framework that aims for a workable balance between preserving the adaptability of the Constitution to changing circumstances, and providing adequate stability through sufficient rigidity in entrenched areas. The revised framework will also accord appropriate weight to the advice and recommendations of the Council. The framework is as follows:
 - (a) *Tier 1 entrenchment.* Tier 1 will comprise provisions establishing the Elected Presidency as well as the entrenchment framework itself. These provisions are deserving of the highest level of entrenchment (as they relate to the institution of

²⁴⁴ See Part III of the Constitution and, in particular, Articles 6 and 8.

²⁴⁵ 1988 White Paper, at para 48.

the Elected Presidency itself). Where the amendments are not supported by the President (and the Council agrees with the President), the Government will have to put the issue to the people through a referendum, if it wants to override the President's veto. Under the proposed framework:

- (i) If the President, with the support of a majority of the Council, refuses to concur with or assent to a Bill seeking to amend a Tier 1 provision, the President's decision can only be overridden by a majority vote at a national referendum.
- (ii) However, if the President's refusal to concur or assent does not have the support of a majority of the Council, the Tier 1 provision in question may be amended as a normal constitutional amendment, with a two-thirds Parliamentary majority vote.

In this regard, amendments to our constitutional framework, which *establish* the institution and powers of the Elected Presidency, stand on a different footing from the discrete instances in which these custodial powers may be *exercised* (see Part III(C)(1) above). Whilst these latter instances are limited in consequence to the specific case at hand, the entrenched constitutional provisions are foundational to the Elected Presidency. A Presidential veto relating to amendments of these provisions therefore has more wide-reaching effects, and should accordingly be required to be supported by at least a majority of the President's advisers.

- (b) *Tier 2 entrenchment.* Other framework provisions relating to the Elected Presidency, and his two custodial functions, will be entrenched in Tier 2. These provisions encapsulate considerable operational detail. It is therefore important that the Government has flexibility to amend these provisions, and to evolve them over time as needs change and unforeseen contingencies arise. Under the proposed framework:

- (i) If the President, with the support of a majority of the Council, refuses to concur with or assent to a Bill seeking to amend a Tier 2 provision, the President's decision can be overridden by a three-quarters supermajority vote in Parliament. Alternatively, if the Government chooses, it can go for a national referendum to try and get a majority of the national electorate to override the President's veto.
- (ii) However, if the President's decision does not have the support of a majority of the Council, the Tier 2 provision in question may be amended as a normal constitutional amendment (also see para 140(a)(ii) above).

141. The entrenchment framework will thus be streamlined to relate to the provisions establishing the Elected Presidency and its core custodial powers on reserves and key appointments. Provisions which do not relate to these core areas, and which were

subsequently added onto the entrenchment framework will be removed from the framework. They will continue to be protected with the rest of the Constitution, and any amendment will require a two-thirds majority of Parliament.

142. In the Government's view, this framework makes it difficult to amend the provisions that are entrenched. In some situations, the matter can only be resolved through referendum. But the framework will not render amendment of the provisions altogether impossible.
143. The next question is *when* the entrenchment provisions should come into operation. The Government has explained previously that it is best to let some time pass, see how the institution works over time, before entrenching. The fact that there are good reasons for revising the entrenchment provisions now shows that it was wise to have not entrenched them. Likewise, the question of when to bring into force the revised entrenchment provisions should be considered some period after the upcoming set of amendments have been in operation.

3. *Rules governing election campaigns for the Presidency*

144. The Commission considered that there was great merit in instituting improvements concerning the rules governing Presidential election campaigns.²⁴⁶ In this regard, the Commission expressed the following views:
- (a) The purpose of an election is to confer the President with the democratic legitimacy and mandate to withhold his concurrence to an elected Government's initiatives in the specified custodial areas.²⁴⁷ The President has no role in formulating or initiating national policies. Candidates for Presidential elections therefore have no policy agenda to advance.²⁴⁸ There is thus no need for the vigorous contest of ideas that takes place during Parliamentary elections, where candidates have to persuade voters on the strengths of their policy proposals and the weaknesses of those put forward by other candidates.²⁴⁹
- (b) Despite this, some candidates at the last Presidential Election in 2011 made claims and promises that went beyond the constitutional remit of the President's functions. The Commission also quoted the views of one commentator, who observed that this was "disappointing, misleading and a great disservice to the electorate".²⁵⁰

²⁴⁶ CCR, at para 7.9.

²⁴⁷ CCR, at para 7.11.

²⁴⁸ CCR, at para 7.11.

²⁴⁹ CCR, at para 7.11.

²⁵⁰ CCR, at para 7.14. See also *Singapore Parliamentary Debates, Official Report* (27 January 2016) vol 94 (per Prime Minister Lee Hsien Loong).

- (c) Presidential candidates ought to conduct their election campaigns “with rectitude and dignity as befits the office”, and which “comports with the unifying role and purpose of the Presidency”.²⁵¹ As the Commission observed elsewhere in the Report, the “inevitably divisive contest”²⁵² which arises in Parliamentary elections could, if translated to the context of Presidential elections, “impinge on the eventual victor’s ability to effectively discharge his historical role as a symbol of national unity”.²⁵³ It is therefore crucial to temper the divisiveness of the Presidential election process, so as to “[preserve] the dignity associated with the highest office in the land”.²⁵⁴

145. The Commission accordingly proposed suggestions to the rules governing campaign methods and preventing misinformation.

146. *Campaign methods.* With regard to campaign methods, the Commission expressed the following views:

- (a) Rules should be introduced to regulate campaigning methods, with a view to tempering the divisiveness of the election process and ensuring that campaigning remains consistent with the President’s role as a symbol of national unity, and the attendant dignity associated with the highest office in the land.²⁵⁵
- (b) In particular, rules should be enacted “to restrict or exclude acts that might inflame emotions, cause divisiveness or encourage invective”, such as a “white list” of approved campaign methods.²⁵⁶
- (c) There is doubt over whether the holding of rallies is necessary or helpful. Indeed, some commentators have suggested that doing away with rallies could reduce the divisiveness of the electoral process.²⁵⁷

147. *Preventing misinformation.* With regard to preventing misinformation relating to the proper role of the President and the functions of the Presidential office, the Commission expressed the following views:

- (a) As stated above (see para 144(b)), during the 2011 Presidential Election, some candidates appeared to have misstated what they could or would do if elected to Presidential office.²⁵⁸ Elsewhere in the Report, the Commission also viewed with “grave concern” that previous elections to the office “may have been contested

²⁵¹ CCR, at para 7.11.

²⁵² CCR, at para 7.11.

²⁵³ CCR, at para 4.14.

²⁵⁴ CCR, at para 7.12

²⁵⁵ CCR, at para 7.12.

²⁵⁶ CCR, at para 7.13.

²⁵⁷ CCR, at para 7.13 and footnote 331.

²⁵⁸ CCR, at para 7.15.

without a correct understanding of the precise scope of the roles and responsibilities of the Presidency”.²⁵⁹

- (b) In order to prevent misinformation concerning the proper role of the President and the functions of his office, laws should be enacted, which:
 - (i) Require candidates to explicitly declare, possibly in the form of a statutory declaration contained within the application form for a Certificate of Eligibility, that they understand the constitutional role of the President before they may be issued a Certificate of Eligibility.²⁶⁰
 - (ii) Make it an offence for candidates to make promises or to take positions that are incompatible with the office of President.²⁶¹
 - (iii) Impose a regime of sanctions where a breach of election rules, including making promises or taking positions that are incompatible with the office of President, could give rise to consequences including criminal sanctions, applications to an Election Judge for declaratory reliefs, and, in appropriate extreme cases, the revocation of a candidate’s Certificate of Eligibility.²⁶²

148. The Government notes the Commission’s views. The Government will study this carefully, and in due course decide what changes are necessary to the rules governing campaign methods and preventing misinformation.

²⁵⁹ CCR, at para 7.34.

²⁶⁰ CCR, at para 7.16(a).

²⁶¹ CCR, at para 7.16(b).

²⁶² CCR, at para 7.16(c).