

Annexes for Minister’s 2R Speech – Folder 2

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Annex J – Workers’ Party’s Proposed Amendments to the Foreign Interference (Countermeasures) Bill

The Workers’ Party (“WP”) has proposed certain amendments to the Bill. These amendments do not appear to object to the core principles and the large majority of the Bill. In fact, WP confirmed that they believe in the legitimate need to counter malign acts of foreign interference. Below sets out the key provisions of the Bill and what the WP has proposed amendments to.

Part 1: Preliminary and Definitions

No amendments:

- **Clause 4** – Meaning of “foreign principal” and associated terms
- **Clause 5** – Engaging in conduct, etc., on behalf of foreign principal
- **Clause 6** – Meaning of “foreign interference”
- **Clause 7** – Meaning of “in the public interest”
- **Clauses 9, 10, 11, 12, 13, 15 and 16** covering other definitions

Proposed amendments to:

- **Clause 8** – Meaning of “directed towards a political end to Singapore”
 - Specifically, to remove last two parts.
 - Subsection (f) – to influence, or seek to influence, public opinion on a matter which, in Singapore, is a matter of public controversy.
 - Subsection (g) – to influence, seek to influence, any aspect or to promote or oppose political views, or public conduct relating to activities that have become the subject of a political debate, in Singapore.
- **Clause 14** - Meaning of “politically significant person”
 - To include:
 - A member of the central executive council, or its equivalent, of any registered political party in Singapore;
 - A senior public servant holding the office of deputy secretary or above, or its equivalent; and
 - A board member or chief executive of a statutory board or a government company listed on the Fifth Schedule of the Constitution of the Republic of Singapore.

Part 2: Foreign Interference by Electronic Communications Activity

No amendments:

- **Clause 19** – An offence to be preparing for or planning an offence under section 17 or 18

Proposed amendments to:

- **Clause 17 and Clause 18**
- These pertain to offence for clandestine foreign interference by electronic communications activity, and offence for clandestine foreign interference of target using electronic communications activity.
- Seeks to increase threshold of proof required before an offence is committed – remove “or is likely to be/incite/diminish”.
- Amend to remove “Y does not need to have in mind a particular foreign country or foreign principal”.

Part 3: Directions Against Harmful Foreign Online Communications Activity

No amendments to the majority of this Part:

- **Clauses 22 to 28** – Ministerial powers, which includes declaration of a Proscribed Online Location.
- **Clauses 29 to 38** – Part 3 directions including the Technical Assistance Direction, Service Restriction Direction, Disgorgement Direction and App Remove Direction.
- **Clauses 39 and 41** – Operating a Proscribed Online Location and advertising dealings concerning Proscribed Online Location.
- **Clauses 42 to 46** – Supplementary provisions for Part 3 directions, including offence of non-compliance with direction and non-disclosure of Technical Assistance Directions.

Proposed amendments to:

- **Clauses 20 and 21** – Authorisation by Minister for direction to be given
 - Seeks to raise threshold of proof for activation – remove “or is suspect of being or having been undertaken” from online communications limb.
- **Clause 21** – Authorisation by Minister for anticipatory direction
 - Seeks to raise threshold of proof for activation – replace “suspects or has reason to believe” with “has evidence or actionable intelligence indicating”.
 - Replace “is of the opinion that it is in the public interest to authorise the giving of the anticipatory direction” with “has evidence or actionable intelligence indicating that withholding the anticipatory direction presents a real risk to the public interest”.
- **Clause 40** – Providing support to Proscribed Online Location
 - Seeks to increase threshold of proof required before an offence is committed – remove “or is likely to be/incite/diminish”.

Part 4: Designating Politically Significant Persons

Proposed amendments to:

- **Clause 47 and 48** on designating non-individuals and designating individuals as “Politically Significant Persons” (PSP).
- Changes to criteria to designation, reading from their amendments to Clause 8 on definitions of “directed towards a political end to Singapore”.
- Change to specify that the competent authority’s opinion about it being in the public interest to designate an individual as a PSP must be “reasonable”.
- Amendments seek to publish the list of designated persons/entities, and reasons for designation, on a publicly accessible electronic registry, free-of-charge, unless the competent authority considers it not practicable or desirable to do so on national security grounds.
 - MHA has previously said publicly that it will publish the list of designated PSPs, and any additional measures that these PSPs are subjected to.

No change to **Clause 49** – Opportunity to be heard before designation, etc.

Part 5: Countermeasures for Donor Activities

No amendments to the large majority of this Part:

- **Clauses 50 to 55** – General provisions for Part 5
- **Clauses 56 to 61** – Restrictions on accepting political donations
- **Clauses 62 to 66** – Reporting and accounting of political donations
- **Clauses 67 to 69** – Stepped up countermeasures for Part 4 PSPs
- **Clauses 70 to 72** – Donor obligations
- **Clauses 73 and 74** – Offence of late donation report, and false or misleading donation reports and declarations

Proposed amendments:

- **Clause 75** – Evasion and intentional acceptance of impermissible donations, etc.
- Amendments seek to increase threshold of proof required before an offence is committed, by removing “or is likely to facilitate”.

Part 6: Countermeasures for Other Activities

No amendments:

- **Clause 76** – Disclosure of foreign affiliation
- **Clause 77** – When to make foreign affiliations report
- **Clause 79** – Reporting involving in foreign political organisation, etc.
- **Clauses 80 and 82** – Application and interpretation of published-by requirement for foreign-linked political matters
- **Clause 83** – Directive prohibiting foreign membership, responsible officer, etc.
- **Clauses 86 and 87** – Offences for Part 6

Proposed amendments:

- **Clauses 78, 79, 81, 84, and 85.**
- No change to countermeasures provided in these sections.
- Amendments seek to publish the list of reportable arrangements; list of individuals and their declarations of involvement in “foreign policy organisations” (while this appeared in WP’s Notice of Amendments, there is no such term in the Bill; likely to refer to “foreign political organisations”) together with the terms of these relationships; transparency directives, directive modifications, cancelations, disclosures, reports and explanations for the decisions; and any directive to a Part 4 PSP or change thereof, together with explanations for these decisions, on a publicly accessible electronic registry, free-of-charge and in a searchable, sortable and downloadable manner.
 - MHA has previously said publicly that it will publish the list of designated PSPs, and any additional measures that these PSPs are subjected to.

Part 7: Conditions for Stepped up Countermeasures

No amendments to this Part (**Clauses 88 to 91**).

Part 8: Oversight Arrangements

Proposed amendments to entire Part (**Clauses 92 to 104**).

- Amendments seek to replace appeals to the Reviewing Tribunal and to the Minister with appeals to the High Court.

Part 9 and 10: Administration and Enforcement, Miscellaneous

No amendments to the vast majority of this Part (**Clauses 105 to 118, 121 to 123**).

Proposed amendments:

- **Clause 119** – Liability for complying with directions and directives, etc.
 - Remove “No liability shall lie against any competent authority, authorised officer or the Secretary to the Reviewing Tribunals for anything done or intended to be done with reasonable care and in good faith in the execution or purported execution of this Act when assisting a police officer”.

- **Clause 120** – Exempt Activities
 - Include as exempt activities (i) an activity undertaken by Singaporeans to exercise their right to discuss politics by expressing their own views on political matters, unless they are agents of a foreign principal; and (ii) an activity undertaken by foreign individuals or foreign publications reporting or commenting on Singapore politics, in an open, transparent and attributable way, even if their comments may be critical of Singapore or the Government.

Annex K – Key Obligations under Instruction Manual (IM)

Civil servants are subject to various rules and declaration requirements that are cumulatively stricter than the FICA requirements on PSPs:

- Civil servants must be security cleared before being appointed to the Service, and must continue to hold valid security clearance throughout their appointment.
- There are strict restrictions on civil servants working for other employers or engaging in trade or business, unless they have obtained permission to do so. An officer may be directed to cease his participation in an outside activity if there is any conflict of interest with his official duties.
- Civil servants have to make annual declarations of private investment and ownership of and or houses both local and overseas. Officers may be required to divest problematic investments.
- Civil servants are generally encouraged not to accept gifts or entertainment offered to them on account of their official duties. Where impracticable or inappropriate to decline, they must declare all gifts and entertainment received and where possible, surrender these to the Consolidated Fund. Gifts include money, goods, services, passage or any form of benefit.
- In addition, the Public Service has strict rules on financial embarrassment, which require that officers not fall into financial embarrassment, which could render them susceptible to, among other things, foreign interference.
- Disciplinary action may be taken if the IM rules are contravened.

Annex L – Examples of Laws which Vest Powers in the Executive and Relevant Clauses

S/N	Act	Examples where powers are vested in the Executive	Remarks
1.	Broadcasting Act	<p>Power to issue directions to broadcasting licensees, including regarding content; powers to veto shareholding/break up control of licensees</p> <ul style="list-style-type: none"> • Section 3 – Minister may, after consultation with IMDA or a licensee, issue a direction to a licensee: <ul style="list-style-type: none"> ○ In a public emergency, in the public interest, public security, national defence or foreign relations ○ In order to discharge an international obligation, and associated obligations. • Section 16 – IMDA may issue direction to licensees with regard to content, advertising or broadcast standards. • Section 40 – Minister may issue directions in relation to control of licensees – e.g. direct transfer or disposal of shares. 	For Section 3, certificate signed by the Minister as to the existence of a public emergency, act done in the public interest etc. is “conclusive evidence of matters therein.”
2.	Telecommunications Act	<p>Power to issue directions to telecommunications licensees (including taking a telecoms service offline); powers to veto shareholding/break up control of licensees</p> <ul style="list-style-type: none"> • Section 27 – IMDA may issue direction to telecommunications licensees to, inter alia, ensure reliability of service, technical compatibility, safety, fair and efficient market conduct. • Section 32D – IMDA may issue directions in relation to control of licensees – e.g. restrict exercise of voting rights. • Section 58 - Minister may, after consultation with IMDA or a licensee, issue a direction: <ul style="list-style-type: none"> ○ In a public emergency, in the public interest, public security, national defence or foreign relations. ○ In order to discharge an international obligation, and associated obligations. <p>Including power to prohibit or regulate the use of telecommunications.</p>	For Section 58, certificate signed by the Minister as to the existence of a public emergency, act done in the public interest etc. is “conclusive evidence of matters therein”.
3.	Internal Security Act	<p>Power to order preventive detention, prohibit uniforms/emblems, prohibit production and distribution of subversive documents, close schools, bar persons from higher education</p>	Decision of President concerning preventive detention “shall not

S/N	Act	Examples where powers are vested in the Executive	Remarks
		Minister's powers include: <ul style="list-style-type: none"> • Section 3 – Prohibit uniforms of political or quasi-military organisations • Section 7 – Prohibit uniforms or emblems • Section 8 – Preventive detention • Section 20 – Prohibit printing, sale etc. of documents and publications (Min in charge of printing presses and publications) • Section 41 – Power to close schools or educational institutions • Section 42 – Power to control admissions of persons to institutions of higher education 	be called into question by any court” This applies to: <ul style="list-style-type: none"> - Appeals to President for orders under section 20 - Appeals to Minister for orders under section 41, 42
4.	Maintenance of Religious Harmony Act	<i>Power to stop persons from communications that harm religious harmony</i> <ul style="list-style-type: none"> • Section 8, 9 – Minister may make restraining orders 	Section 18 states that all orders and decisions of the President and the Minister and recommendations of the Council made under this Act “shall be final and shall not be called in question in any court.”
5.	Immigration Act	<i>Power to control entry to Singapore by foreigners, and grant/revoke permits (including PR)</i> <ul style="list-style-type: none"> • Section 8 – Controller may declare an immigrant prohibited • Section 9 – Minister may prohibit or limit entry to Singapore by any person or any class of persons, or limit the number of persons of any class entering, or limit the period which any person or class of persons may remain, in the interests of public security or by reason of economic, industrial, social educational or other condition in Singapore. • Section 10, 11, 14 – Controller may issue/cancel Entry Permit/Re-Entry Permit • Section 31 – 34 – Controller may remove prohibited or illegal immigrants 	Section 39A states “no judicial review” for any act or decision by Controller or Minister under the Act
6.	Employment of Foreign Manpower Act	<i>Power to control right to work in Singapore by foreigners, and grant/revoke passes</i> <ul style="list-style-type: none"> • Section 7 – Controller may issue or refuse a work pass • Section 25B – Controller may give directions to bring prescribed infringement to an end 	Under Section 7, “no judicial review” for work pass decisions except for procedural impropriety

S/N	Act	Examples where powers are vested in the Executive	Remarks
7.	Banking Act	<p><i>Power to veto shareholding/break up control of financial institutions</i></p> <ul style="list-style-type: none"> Section 14 – Banks incorporated in Singapore shall not be merged etc. without prior written approval Section 14A – Approval by Minister for merger of certain banks Section 15A – 15E, 16 – Minister may approve/object to control/shareholdings, direct or restrict transfer/disposal 	Under Section 14B, decision to not issue certificate of approval under Section 14A of merger/acquisition “shall not be called into question” by any court
8.	Companies Act	<p><i>Power to refuse registration of companies, reject names,</i></p> <ul style="list-style-type: none"> Section 8A – Minister may direct inspection of books Section 20 – Registrar may refuse registration; appeal to Minister, whose decision is final Section 23 – Minister may allow company formed not for profit to acquire land. 	Under Section 23, Decision of Minister to allow not-for-profit company to acquire land “shall not be called into question” by any court
9.	Casino Control Act	<p><i>Power to cancel casino license in the public interest</i></p> <ul style="list-style-type: none"> Section 4 – Minister may remove any designated site for a casino or cancel any casino licence. Section 121 – Authority or Commissioner of Police may exclude a person from entering or remaining on any casino 	If there is any doubt arises as to whether any act under Section 4 is in the public interest, “a certificate signed by the Minister shall be conclusive evidence of the matters therein”
10.	Housing and Development Act	<p><i>Power of compulsory acquisition of HDB flat</i></p> <ul style="list-style-type: none"> Section 56 – Board may compulsorily acquire any property sold subject to the provisions of the act under certain conditions (e.g. owner failed to observe lease conditions, permitted non-authorized occupiers) 	<p>The following “shall not be called into question” by a court:</p> <ul style="list-style-type: none"> Compulsory acquisition of land pre-Apr 1983 Appeals to Minister re: restrictions to purchase or eligibility to purchase, and transfer of property upon death of owner
11.	Land Acquisition Act	<p><i>Power of declaring the land to be required for specific purposes</i></p> <p>Section 5 – Whenever any particular land is needed:</p> <ol style="list-style-type: none"> for any public purpose; 	Under Section 5, the notification “shall be conclusive evidence” that the land is needed for the purpose specified therein.

S/N	Act	Examples where powers are vested in the Executive	Remarks
		<p>b. by any person, corporation or statutory board, for any work or an undertaking which, in the opinion of the Minister, is of public benefit or of public utility or in the public interest; or</p> <p>c. for any residential, commercial or industrial purposes,</p> <p>President may publish notification in the Gazette to declare the land to be required for the purpose specified in the notification.</p>	
12.	Charities Act	<p><i>Power to permit or prohibit fund-raising by charities</i></p> <ul style="list-style-type: none"> Part VII – Commissioner of Charities may grant permits for fund raising, or prohibit/restrict/suspend fund-raising appeal 	Section 40 states: “no judicial review” for decisions of the Minister or Commissioner in relation to prohibiting fundraising/exemptions

Annex M – Incidents where States were Aware of the Risks but Lacked Powers to Act

1. Besides the recent New Zealand stabbing attack on 3 Sep 2021, there are other examples where security agencies from overseas knew the accused to be involved or actively planning a terrorist attack, but legislation did not allow them to act, and make preventive detention. Following the incidents, some of the countries had taken actions to introduce or reinforce their anti-terror laws, including preventive detention, e.g. Austria.

Country	Recent Examples
UK	<p>London: In Nov 2019, convicted terrorist Usman Khan (Khan), who had been released on licence halfway through his sentence, fatally stabbed two people and wounded three others near the London Bridge before he was shot dead by the police. Khan was on MI5’s list of 3,000 suspects under active investigation at the time, and “trip wires” were supposedly in place if he displayed alarming behaviour.</p> <ul style="list-style-type: none"> • Khan was convicted in 2012 of plotting to bomb the London Stock Exchange, but was freed halfway through his sentence in Dec 2018. • Both MI5 and British police suspected he had not been rehabilitated and posed a danger after his release. As such, he was assessed as a priority three suspect by MI5 – the same as other prisoners released after being imprisoned for serious terrorism offences.
	<p>Austria: In Nov 2020, ISIS sympathiser Fejzulai Kujtim (Kujtim) carried out a terrorist attack in Vienna which left four dead and 22 others wounded. Kujtim was reportedly known to the police for suspected links to terrorists, and was also under the radar of other European intelligence organisations.</p> <ul style="list-style-type: none"> • Austrian intelligence services were later questioned on why they did not place Kujtim under active observation, despite being tipped off by Slovakian authorities that he had tried to purchase ammunition at a shop in Bratislava in July.
France	<p>In Jul 2016, two ISIS-linked attackers killed a priest and seriously wounded another hostage after storming the church in Saint-Etienne-du-Rouvray, a suburb of Rouen in northern France. Both attackers were previously placed on the French authorities’ watchlist, and there was reported intelligence that one of the attackers was actively planning a terrorist attack.</p> <ul style="list-style-type: none"> • The first, Abdel Malik Nabil Petitjean, was known to the French authorities since June 2016 as a potential Islamist militant. • The second, Adel Kermiche, had been required to wear an electronic surveillance tag to allow authorities to trace his movements after being released from prison in March 2016. In the days leading up to the fatal attack, the French authorities reportedly received intelligence that he was preparing to strike, and had specifically threatened churches. • Both attackers had previously attempted to enter Syria from Turkey, but were turned away.

Note: The examples cited in the Annexes are based on open-source reports, or through testimonies provided at the Select Committee on Deliberate Online Falsehoods (which are then attributed to the representator), and are not MHA’s comments.