

Government Relations 2020

Contributing editor
Charles L Landgraf



Publisher

Tom Barnes
tom.barnes@lbresearch.com

Subscriptions

Claire Bagnall
claire.bagnall@lbresearch.com

Senior business development manager

Adam Sargent
adam.sargent@gettingthedealthrough.com

Published by

Law Business Research Ltd
Meridian House, 34-35 Farringdon Street
London, EC4A 4HL, UK

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer-client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. The information provided was verified between December 2019 and January 2020. Be advised that this is a developing area.

© Law Business Research Ltd 2020
No photocopying without a CLA licence.
First published 2018
Third edition
ISBN 978-1-83862-346-3

Printed and distributed by
Encompass Print Solutions
Tel: 0844 2480 112



Government Relations 2020

Contributing editor**Charles L Landgraf****Arnold & Porter Kaye Scholer LLP**

Lexology Getting The Deal Through is delighted to publish the third edition of *Government Relations*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editor, Charles L Landgraf of Arnold & Porter Kaye Scholer LLP, for his continued assistance with this volume.



London
January 2020

Reproduced with permission from Law Business Research Ltd
This article was first published in February 2020
For further information please contact editorial@gettingthedealthrough.com

Contents

Argentina	3	Mexico	54
Laura Lafuente Alfaro Abogados		Sergio Chagoya Díaz and Elías Zaga Belzer Santamarina y Steta, SC	
Australia	8	Peru	59
David Moore and Mellissa Lai MinterEllison		José Caro John and Juan Diego Ugaz Payet, Rey, Cauvi, Pérez Abogados	
Brazil	15	Poland	64
Marcos Joaquim Gonçalves Alves, Fernanda Burle, Leandro Modesto Coimbra, Bárbara Rodrigues Lima Teles and Bruna da Cunha Costa Cardoso MJ Alves e Burle Advogados e Consultores Advocacy Brasil		Rudolf Ostrihansky and Mateusz Żuk Sottysiński Kawecki & Szlęzak	
Eurasian Economic Union	21	Russia	70
Yury Panasik, Natalia Malyarchuk and Lilia Nazarova Kesarev		Evgeny Roshkov, Yury Panasik and Pavel Melnikov Kesarev	
France	28	Singapore	78
Jean-Luc Soulier and Geoffroy Lacroix Soulier Avocats		Andre Maniam and Joy Tan WongPartnership LLP	
Germany	33	Taiwan	85
Friedrich Ludwig Hausmann and Matthias von Kaler PwC Legal		Jui-Hua Fan and Lucas (Lung-Kuan) Wang Formosa Transnational, Attorneys at Law	
Greece	38	Ukraine	91
Maria Tranoudi Bahas, Gramatidis & Partners		Mykhailo Sokolov, Oleksandr Sakharenko and Roman Sukhyy Kesarev	
Italy	42	United Kingdom	97
Alberto Pera and Francesco Salerno Gianni, Origoni, Grippo, Cappelli & Partners		John Cooper and Kieran Laird Gowling WLG	
Kazakhstan	49	United States	104
Natalia Malyarchuk and Yury Shikhov Kesarev		Charles L Landgraf Arnold & Porter Kaye Scholer LLP	
		Vietnam	110
		Ngo Thanh Tung Vietnam International Law Firm	

Singapore

Andre Maniam and Joy Tan

WongPartnership LLP

FORM OF GOVERNMENT

Constitution

- 1 | What is the basic source of law? Describe the scope of, and limitations on, government power relevant to the regulation of lobbying and government relations.

The basic source of law is the Constitution of the Republic of Singapore, which is a written document. In terms of article 4, the Constitution is the supreme law of Singapore and any law that is inconsistent with the Constitution is void. Part IV of the Constitution deals with fundamental liberties, which include the liberty of the person (article 9), prohibition from slavery and forced labour (article 10), protection against retrospective criminal laws and repeated trials (article 11), equal protection (article 12), prohibition of banishment and freedom of movement (article 13), freedom of speech, assembly and association (article 14), freedom of religion (article 15) and rights in respect of education (article 16). The High Court may be petitioned for the violation of any of the aforementioned rights.

Legislative system

- 2 | Describe the legislative system as it relates to lobbying.

Singapore has a unicameral legislature. The legislature consists of the President and the Parliament. The latter comprises elected members, non-constituency members and nominated members. The Prime Minister is the head of the cabinet. Along with the Constitution, the Parliamentary Elections Act (Chapter 218 2011 Rev Ed) (PEA) governs the conduct of elections in Singapore for electing Members of Parliament (MPs), and the Presidential Elections Act (Chapter 240A 2011 Rev Ed) governs the conduct of elections for electing the President.

There are three types of members and two types of constituencies. There are: MPs who represent their respective constituencies, who are elected directly during elections; up to 12 non-constituency MPs who are not directly elected, but appointed among the losing opposition candidates who polled the highest votes (article 39); and nominated MPs. The two types of constituencies are: single-member constituencies; and group representation constituencies (GRCs).

A GRC is a constituency where the interests of the residents within are represented by a group of three to six MPs of the same political party (as opposed to an individual MP). Under this system, the President of Singapore may declare any constituency a GRC, as well as the number of candidates required to form a group. Further, at least one candidate in every group shall be a person belonging to one of the racial minorities (article 39A).

The President is the constitutional head of the state, who is required to act on the aid and advice of the cabinet. The Constitution provides that the President is to be elected by the citizens of Singapore

in accordance with any law made by the legislature (article 17A). The President is directly elected by the people, for a term of six years.

Delegated legislation is prevalent in Singapore. The parent legislation is enacted by Parliament and the rule-making functions may be delegated to the administrative bodies.

National subdivisions

- 3 | Describe the extent to which a legislative or rule-making authority relevant to lobbying practice also exists at regional, provincial or municipal level.

Singapore is a unitary state; Parliament has legislative competence over all subjects.

Consultation process

- 4 | Does the legislative process at national or subnational level include a formal consultation process? What opportunities or access points are typically available to influence legislation?

A bill may be introduced by any MP or a private member. When a bill requires special consideration, it is sent to a select committee comprising selected MPs. The public is then given an opportunity to make written submissions to the select committee. The committee may also invite the public to give evidence on the matter. Typically, respondents from the public must identify themselves and the organisations that they represent (if any) and the relevant government bodies may follow up with the respondents to seek clarification.

These public consultations receive varying numbers of respondents, depending on the public interest in the bill at hand.

After public consultation, the bill is reported to Parliament to be read for a third time, which is when any amendments may be proposed. The bill is put to vote after the third reading.

The Presidential Council for Minority Rights (PCMR) has to draw attention to any bill, which it considers to be a differentiating measure (article 77, Constitution). After the bill has been given a third and a final reading and is passed by Parliament, it has to be sent to the PCMR before it receives presidential assent. The PCMR has to make a report to the Speaker if any provision in the bill would operate as a differentiating measure. If Parliament receives an adverse report from the PCMR, and carries out amendments to the bill, the amended version of the bill has to be sent back to the PCMR (article 78, Constitution).

A bill becomes legislation on receiving presidential assent.

Judiciary

- 5 | Is the judiciary deemed independent and co-equal? Are judges elected or appointed? If judges are elected, are campaigns financed through public appropriation or candidate fundraising?

The judicial power in Singapore is vested in the Supreme Court and in the subordinate courts (article 93, Constitution). The Supreme Court consists of the Court of Appeal, which exercises appellate civil and criminal jurisdiction, and the High Court, which exercises original and appellate civil and criminal jurisdiction (section 3, Supreme Court of Judicature Act (Chapter 322 2007 Rev Ed)). The Court of Appeal consists of the Chief Justice and the judges of appeal, the High Court consists of the Chief Justice and the judges of the High Court (article 94, Constitution).

The Chief Justice, the judges of appeal and the judges of the High Court shall be appointed by the President if he or she, acting in his or her discretion, concurs with the advice of the Prime Minister (article 95, Constitution).

The judiciary is independent in Singapore. The High Court has a general supervisory and revisionary jurisdiction over all subordinate courts (section 27, Supreme Court of Judicature Act).

REGULATION OF LOBBYING

General

- 6 | Is lobbying self-regulated by the industry, or is it regulated by the government, legislature or an independent regulator? What are the regulator's powers? Who may issue guidance on lobbying? What powers of investigation does the regulator have? What are the regulators' or other officials' powers to penalise violators?

Lobbying activity in Singapore is indirectly regulated through the Political Donations Act (Chapter 236 2001 Rev Ed) (PDA), the PEA and the Presidential Elections Act, along with the Election Advertising Regulations under the PEA and the Presidential Elections Act. No prosecution for any offences under these Acts shall be instituted without the consent of the Public Prosecutor.

The PDA provides for mandatory disclosure of donations, and seeks to prevent foreign influence on local politics by prohibiting foreign donations. Summarily, only Singaporean individuals and Singapore-controlled companies are permissible donors as defined by section 2 of the PDA. The government is also able to keep track of donations made by companies and individuals. Sections 12 and 18 of the PDA mandate political associations and candidates to file an annual donation report.

The PEA and the Presidential Elections Act provide for a limit on the time for campaigning and the limit on campaign expenses.

In relation to a limit on the time for campaigning, where more than one candidate is nominated, the returning officer will adjourn the election to a date when a poll will be taken (ie, polling day). The returning officer will then issue the notice of contested elections giving:

- the date of the poll (not earlier than the 10th day, and not later than the 56th day after publication of the notice);
- the names of candidates, their symbols, proposers and seconders; and
- the names and locations of all polling stations.

Candidates can start campaigning after the notice of contested election is issued, up to the start of cooling-off day (which is the day before polling day).

Definition

- 7 | Is there a definition or other guidance as to what constitutes lobbying?

There is no legislation in Singapore that expressly defines lobbying and there is also no legislation expressly governing the conduct of lobbying. Financial contributions by Singapore-controlled companies towards local politics are governed by the PDA.

Registration and other disclosure

- 8 | Is there voluntary or mandatory registration of lobbyists? How else is lobbying disclosed?

Apart from the mandatory annual donations report, there is no mandatory registration or disclosure of lobbyists.

Activities subject to disclosure or registration

- 9 | What communications must be disclosed or registered?

There is no legislation in Singapore mandating disclosure and registration of communications with officials of the legislature or the executive.

Entities and persons subject to lobbying rules

- 10 | Which entities and persons are caught by the disclosure rules?

There are no lobbying rules and regulations in Singapore.

However, there are provisions generally prohibiting foreign influence on domestic politics. Examples of these prohibitions may be found in the Public Order Act (Chapter 257A, 2012 Rev Ed) (POA), the Newspaper and Printing Presses Act (Chapter 206 2002 Rev Ed) (NPPA), the Broadcasting Act (Chapter 28 2012 Rev Ed), the PDA and the PEA.

Under the POA, the Commissioner of Police may refuse to grant a permit for a public assembly or procession if he or she has reasonable grounds to believe that it is directed towards a political end and involves foreign entities and individuals (section 7(2)).

The NPPA and the Broadcasting Act empower the government to restrict and control the ownership of newspapers and broadcast media so as to prevent foreigners from manipulating Singapore media platforms to influence local politics.

Section 19(1) of the NPPA sets out that ministerial approval is required for a newspaper to receive funds directly or indirectly from a foreign source. Section 19(8) makes it an offence for any journalist to have received funds and failed to declare the receipt within seven days to the managing director of his or her newspaper.

Section 24(2) of the NPPA prohibits the sale, distribution or import or possession for sale or distribution of any declared foreign newspaper, unless ministerial approval is obtained. Section 25(1) also prohibits the reproduction for sale or distribution in Singapore of any copy of a declared foreign newspaper, unless ministerial approval is obtained.

Section 31(1) of the Broadcasting Act prohibits the rebroadcast of any declared foreign broadcasting service, unless ministerial approval is obtained. Section 43(1) prohibits the receipt of funds from any foreign source in order to finance a broadcasting service, unless consent from the Info-communications Media Development Authority (IMDA) is obtained. Section 44 also contains restrictions on foreign ownership of broadcasting companies.

Finally, the PEA prevents persons who have taken any oath or declaration or acknowledgement of allegiance, obedience or adherence to any foreign power or state from voting in Singapore's election process (section 6(1)). The PDA also prohibits election candidates and political parties from accepting foreign funding.

Lobbyist details

- 11 | What information must be registered or otherwise disclosed regarding lobbyists and the entities and persons they act for? Who has responsibility for registering the information?

There are no lobbying rules and regulations in Singapore.

Content of reports

- 12 | When must reports on lobbying activities be submitted, and what must they include?

There are no lobbying rules and regulations in Singapore.

Financing of the registration regime

- 13 | How is the registration system funded?

There are no lobbying rules and regulations in Singapore.

Public access to lobbying registers and reports

- 14 | Is access to registry information and to reports available to the public?

There are no lobbying rules and regulations in Singapore.

Code of conduct

- 15 | Is there a code of conduct that applies to lobbyists and their practice?

In a letter on Rules of Prudence from Prime Minister Lee Hsien Loong to the People's Action Party (PAP) issued to MPs on September 2015, the Prime Minister set out various guidelines that should be adhered to by PAP MPs in relation to lobbying and gifts.

PAP MPs are prohibited from lobbying any ministry or statutory board on behalf of anyone who is not their constituent or grass-roots activist. PAP MPs are not to use parliamentary questions as a means to lobby the government on behalf of their businesses or clients, and are not allowed to accept directorships that may result in them having to use their public position to champion the interests of the company, or to lobby the government on the company's behalf.

PAP MPs are not to accept gifts that may place them under obligations in conflict with their public duties. If gifts are received from persons other than close personal friends or relatives, they must be declared to the Clerk of Parliament who will have them valued. If the PAP MP wishes to keep the gifts, he or she must pay the government for them at the valuation price.

Media

- 16 | Are there restrictions in broadcast and press regulation that limit commercial interests' ability to use the media to influence public policy outcomes?

Broadcast and press media in Singapore is subject to regulations and censorship by the IMDA.

Publishing and printing of newspapers in Singapore is governed by the NPPA. There can be no printing and publishing of newspapers unless the company is properly licensed as provided for by section 21(1) of the NPPA. Similarly, broadcasting in Singapore is governed by the Broadcasting Act and any broadcasting service must be properly licensed (section 3, Broadcasting Act). Licences are granted by the IMDA, and newspaper and broadcasting companies are subject to codes issued by the IMDA.

The codes restrict advertising content. For example, commercial interest groups may publish advertisements in the media, with the aim

of influencing public policy. These advertisements are governed by the TV Advertising Code, which sets out restrictions on the type of advertisements allowed and the various subject matters that advertisers are prohibited from addressing in advertising.

POLITICAL FINANCE

General

- 17 | How are political parties and politicians funded in your jurisdiction?

The PDA regulates funding for political associations, candidates and election agents. The PDA provides for the appointment of a registrar of political donations (the registrar) and assistant registrars, by notification in the Gazette.

Donations may be accepted only from permissible donors. A permissible donor is defined as:

- an individual who is a citizen of Singapore and is not less than 21 years of age;
- a Singapore-controlled company that carries on business wholly or mainly in Singapore; or
- in relation to a candidate, any political party he or she is standing for at an election (section 2).

According to section 3, a donation in relation to a candidate or political association includes the following:

[A]ny gift of money or other property, any money spent in paying any expenses incurred, directly or indirectly, by the candidate, election agent, political association, as the case may be or any person so authorised by them, any money lent to the candidate or his election agent or political association otherwise than on commercial terms, the provision otherwise than on commercial terms of any property, services or facilities (including the services of any person) or the provision of any sponsorship in relation to the candidate, which is given, spent, lent or provided (whether before or after he becomes a candidate) for the purposes of the candidate's election or in relation to the political association.

A donation further includes any subscription or other fee paid for affiliation to, or membership of, the political association. Furthermore, any money or other property that is transferred to a candidate, election agent or political association for a consideration that is less than the value of the money or (as the case may be) the market value of the property shall be regarded as constituting a gift to the candidate, election agent or political association, as the case may be.

Registration of interests

- 18 | Must parties and politicians register or otherwise declare their interests? What interests, other than travel, hospitality and gifts, must be declared?

The PDA mandates political associations and candidates to file an annual donation report with the registrar with all requisite details of donations including the identity of the donors (sections 12 and 18). Candidates are also required to make a declaration, in the prescribed form, that no other donations have been accepted during the relevant period, no donation has been accepted from other than permissible donors and no anonymous donations in excess of the prescribed sum have been accepted (section 18). Every donation that is accepted during the relevant period must be recorded:

- if it is a single donation of not less than S\$10,000 or the prescribed sum; or

- if, when it is added to any other donation from the same permissible donor, the aggregate amount of the donations is not less than S\$10,000.

Upon receipt of the donation report and declaration, the registrar will issue a political donation certificate to the person concerned, stating compliance. The PDA also mandates the filing of a post-election donation report and declaration by the candidate and his or her election agent or principal election agent, as the case may be.

Under the PDA, the value of any donation that is a gift to a candidate, election agent or political association is the market value of the property in question.

Contributions to political parties and officials

19 | Are political contributions or other disbursements to parties and political officials limited or regulated? How?

Political contributions to associations, candidates and election agents are regulated by the PDA. In terms of this Act, a donation is 'accepted' by a candidate or his or her election agent if it is received and retained by the candidate or his or her election agent for the purpose of the candidate's election; or by a political association if it is received and retained by the political association for its use and benefit (section 6).

Donations may be accepted from permissible donors only (sections 8 and 14). No donation should be accepted if the identity of the person offering the donation cannot be ascertained. However, during one financial year for political associations and during the relevant period for a candidate or election agent, anonymous donations less than a total sum of S\$5,000, or such other prescribed sum, may be accepted.

If a political association receives any donation that it is prohibited from accepting, or that the association, candidate or election agent has decided that he or she should for any reason refuse, then the donation must be returned in accordance with the PDA (sections 9 and 15).

If any anonymous donation is made and it is prohibited under the PDA, the whole donation must be returned, either to the person (other than the donor) who transmitted the donation or to the financial institution, whose facility was used to transmit the donation. In all other cases, the whole donation must be sent to the registrar, who will, in turn, pay it into the Consolidated Fund (sections 10 and 16).

If any donation that is prohibited under the PDA is made and has been accepted by the association, candidate or election agent, a district court may, on the application of the public prosecutor, order the forfeiture of an amount equal to the value of the donation. Any amount forfeited by an order under the PDA shall be paid into the Consolidated Fund (sections 11 and 17).

Parties and political officials would also fall under the Prevention of Corruption Act (Chapter 241 1993 Rev Ed) (PCA).

Sources of funding for political campaigns

20 | Describe how political campaigns for legislative positions and executive offices are financed.

The PDA regulates donations to candidates, election agents and political associations, and mandates the filing of an annual donation report with the registrar.

The PEA limits the expenses that may be incurred by a candidate or his or her election agent at an election. Expenses in excess of the maximum (in relation to a candidate in an election in any GRC – an amount equal to S\$4 for each elector on the register for that constituency divided by the number of candidates in each group nominated for that election; or in relation to any other candidate – an amount equal to S\$4 for each elector on the register, as specified in the Third Schedule, PEA) are considered to be an illegal practice (section 69).

Similarly, under the Presidential Elections Act, expenses in excess of the permissible limit (S\$600,000 or an amount equal to 30 cents for each elector on the register, whichever is greater), would be considered an illegal practice (section 50).

The PEA and the Presidential Elections Act mandate declaration and publication of election expenses. Within 31 days of the date of publication of the result of an election in the Gazette, the election agent or principal election agent, as the case may be, of every candidate, is required to transmit a return consisting of detailed statements with respect to the election expenses of the candidate, to the returning officer. The return should consist of detailed statements regarding every donation accepted by the election agent or by the candidate for the purpose of expenses incurred or to be incurred on account of the election, naming every person from whom the donation may have been received (section 74, PEA and section 56, Presidential Elections Act). Failure to comply with the declaration requirement constitutes an illegal practice.

The PEA and the Presidential Elections Act mandate the publication of the return of election expenses (section 75, PEA and section 57, Presidential Elections Act). The returning officer shall affix a notice displaying the date on which the return and statements were received, and of the time and place at which they can be inspected, in some conspicuous place in his or her office. The notice will also be published in the Gazette. The returning officer is also required to permit any person to inspect and make extracts of the returns and statements or obtain copies of any part of the returns, on payment of a prescribed fee, at all reasonable times during six months after the publication of the notice in the Gazette.

The PEA mandates that a candidate or his or her election agent must maintain all supporting documents for the return of election expenses for a period of one year after notice of the return is published by the returning officer in the Gazette under section 75. During this one-year period, the returning officer may, by written notice, require the candidate or election agent to furnish any supporting documents or any other information relating to the return (section 75A). Failure to comply with the maintenance requirements or notice to furnish constitutes an illegal practice.

Lobbyist participation in fundraising and electioneering

21 | Describe whether registration as a lobbyist triggers any special restrictions or disclosure requirements with respect to candidate fundraising.

Singapore does not have a system of registration for lobbyists.

Independent expenditure and coordination

22 | How is parallel political campaigning independent of a candidate or party regulated?

Political campaigning in Singapore is regulated by the PEA, the Presidential Elections Act, Parliamentary Elections (Election Advertising) Regulations and the Presidential Elections (Election Advertising) Regulations (the Regulations).

All election advertising in a print document, during the period beginning with the day the writ of election is issued for an election and ending with the start of the polling day, has to bear on its face, and if more than one side of printed matter, on the first and the last page of the document, the names and addresses of its printer, publisher and the person for whom or at whose direction the election advertising is published (section 61(c)(i), PEA). Section 78A of the PEA and section 60AA of the Presidential Elections Act empower the relevant minister (ie, the Prime Minister) to make regulations for election advertising.

The Regulations prescribe that for non-print advertising, the particulars of any election advertising agency in any website shall be shown conspicuously on:

- the opening page of the website containing any election advertising; and
- the page first displayed for every subdirectory of the website if the relevant particulars of the election advertising in the subdirectory are not the same as the first page.

The Regulations prescribe the mode of display of the relevant particulars in election advertisements by electronic transmission, blog post, social networking service, electronic mail, chat-room discussion, text message, multimedia message, etc. Relevant particulars refer to:

- the name and address of the publisher of the election advertising; and
- the name and address of every person for whom or at whose direction the election advertising is published.

The Regulations prohibit the display of posters and banners without obtaining a permit to do so from the returning officer. The returning officer shall prescribe the permissible size of posters and banners and determine the maximum number of posters and banners that may be displayed during the campaign period of an election in respect of each candidate or group of candidates in their respective electoral divisions. No poster or banner may be displayed without affixing a stamp issued by the returning officer bearing his or her official mark.

During the campaign period of an election, election advertising through a television broadcast, exhibiting in a place where the public has access or through publication in any newspaper, magazine or periodical, may be carried out only by a person so authorised and acting in accordance with the written directions of the returning officer.

Publication or display of election advertising and canvassing in an electoral division is prohibited on the polling day and on the eve of the polling day (sections 78B and 80, PEA and sections 60A and 62, Presidential Elections Act).

ETHICS AND ANTI-CORRUPTION

Gifts, travel and hospitality

- 23 Describe any prohibitions, limitations or disclosure requirements on gifts, travel or hospitality that legislative or executive officials may accept from the public.

Legislative and executive officials in Singapore are subject to the PCA.

Sections 11 and 12 of this Act prohibit the bribery of domestic public officials such as MPs and members of a public body. Section 11(a) prohibits a person from offering gratification to an MP as an inducement or reward for the member doing or forbearing to do any act in his or her capacity as a member. Section 11(b) prohibits the member from accepting said gratification. Section 12 prohibits members of a public body from the same.

Gratification is very widely defined to include money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, any office, employment or contract, any payment, release, discharge or liquidation of any loan, obligation or other liability, any other service, favour or advantage including protection from any penalty or disability or from any action or disciplinary or penal proceedings, and including the exercise or the forbearance from the exercise of any right or any official power or duty and any offer, undertaking or promise of any gratification.

Further sections 161 to 165 of the Penal Code (Chapter 224 2008 Rev Ed) make it an offence for public servants to accept bribery.

There is no legislation requiring government or legislative officials to declare or disclose any gifts received (as any receipt would be an offence in the first place under the PCA). However, legislative and executive officials would be subject to further codes of conduct published by the various ministries and statutory bodies. These codes of conduct might govern the receipt of small friendly gifts and business meals.

Anti-bribery laws

- 24 What anti-bribery laws apply in your jurisdiction that restrict payments or otherwise control the activities of lobbyists or holders of government contracts?

Sections 5 and 6 of the PCA prohibit bribery in general. Section 5 makes active and passive bribery by individuals and companies in the public and private sectors an offence. Section 6 makes it an offence when an agent is corruptly offered or corruptly accepts gratification in relation to the performance of the principal's affairs or for the purpose of misleading the principal.

There is no specific provision restricting payment or controlling the activities of lobbyists or holders of government contracts. Arguably, such people will be subject to sections 5 and 6 of the PCA.

In terms of international treaties, Singapore became a signatory to the United Nations Convention against Corruption (UNCAC) on 11 November 2005 (ratified on 6 November 2009) and to the United Nations Convention against Transnational Organized Crime on 13 December 2000 (ratification on 28 August 2007).

Singapore has been a member of the Financial Action Task Force since 1992. It was one of the founding members of the Asia-Pacific Group on Money-Laundering in 1997 and was admitted as a member of the Egmont Group of Financial Intelligence Units in 2002. Singapore is also a member of the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, which it endorsed on 30 December 2001, and participates in a number of international anti-corruption initiatives including the International Anti-Corruption Co-ordination Centre, the APEC Anti-Corruption and Transparency Experts' Working Group and the G20's Anti-Corruption Working Group.

Revolving door

- 25 Are there any controls on public officials entering the private sector after service or becoming lobbyists, or on private-sector professionals being seconded to public bodies?

There is no specific legislation regulating movement of individuals from public to private bodies and vice versa. However, government bodies carry out extensive background checks on their employees, and private-sector individuals being seconded to public bodies. Potential employees are required to fully disclose their previous employment background. Section 117 of the Penal Code makes it an offence to furnish false information to a public servant.

Prohibitions on lobbying

- 26 Is it possible to be barred from lobbying or engaging lobbying services? How?

As stated, there are no lobbying rules and regulations in Singapore, and foreigners are generally prohibited from being involved in domestic politics. Therefore, notwithstanding the lack of a specific statute prohibiting lobbying, if lobbying is conducted by foreigners it may seek to influence domestic politics, which would be contrary to legislative provisions as addressed in question 10.

Additionally, the state has the means and power to deny entry into Singapore, and to expel undesirable foreign individuals. The relevant

provisions with regard to denying entry into Singapore can be found in the Immigration Act (Chapter 133 2008 Rev Ed) (IA).

Section 8(1) of the IA provides that any person who is not a citizen of Singapore, who is a member of any of the prohibited classes as defined in section 8(3) or who, in the opinion of the Controller of Immigration, is a member of any of the prohibited classes, is a prohibited immigrant. Generally, under section 8(2), no prohibited immigrant shall enter Singapore unless he or she is able to obtain a valid pass. A prohibited immigrant shall be prohibited from disembarking or he or she may be detained (section 31(1)) and shall be liable to be removed from Singapore (section 31(2)).

Section 5(1) of the Banishment Act (Chapter 18 1985 Rev Ed) provides that where the relevant minister is satisfied (in this case the Minister for Home Affairs), after an enquiry or from any written information that he or she considers necessary or sufficient, that the banishment from Singapore of any person who is not a citizen of Singapore would be conducive to the good of the country, her or she may order that person to be banished. If the minister thinks fit, in place of making a banishment order, he or she may order that any person whom he or she is not satisfied is a citizen of Singapore or is an exempted person leave Singapore before the expiration of a period of 14 days from the date of service of a copy of the order (section 8(1)).

In the past, there have been instances of individuals interfering with domestic politics, for example, E Mason Hendrickson and Huang Jing, who were both made to leave Singapore in the late 1980s and 2017 respectively.

RECENT CASES AND SANCTIONS

Recent cases

- 27 | Analyse any recent high-profile judicial or administrative decisions dealing with the intersection of government relations, lobbying registration and political finance?

In 2011, under section 2(1) of the PDA, the internet content providers of the website The Online Citizen were declared as a political association.

The Online Citizen was an independent website run by individuals in their private capacity, which published online petitions and articles on a myriad of local issues. Therefore, under the Political Donations (Political Associations) Order, the individual persons responsible for the website were defined as a political association.

This demonstrates that the Prime Minister has wide discretionary powers to determine what entity or even individuals can be a political association. By doing so, the government is able to keep a tab on vocal interest groups and individuals that lobby and petition for various causes that seek to influence public policy and legislation.

Following changes to its management structure, The Online Citizen was de-gazetted in 2018 – it no longer met the definition of a political association as it was now owned by a company and operated by one individual, as opposed to being run by a community of writers and editors.

Remedies and sanctions

- 28 | In cases of non-compliance or failure to register or report, what remedies or sanctions have been imposed?

As stated, there are no lobbying rules and regulations in Singapore. Lobbying by foreign individuals or commercial or interest groups may fall under legislative prohibitions on foreigners influencing domestic politics.



Andre Maniam

andre.maniam@wongpartnership.com

Joy Tan

joy.tan@wongpartnership.com

Marina Bay Financial Centre, Tower 3, Level 28
12 Marina Boulevard
018982 Singapore
Tel: +65 6416 8000
Fax: +65 6532 5711/5722
www.wongpartnership.com

UPDATE AND TRENDS

Key developments of the past year

- 29 | Are there any emerging trends or hot topics in government relations, lobbying or related law and regulation? Have changes occurred recently or are changes expected in the near future (through either legislation or court decisions) that will have an impact on the practice of government relations or lobbying disclosure?

Speaking in Parliament on 12 February 2019, Senior Minister of State for Law Edwin Tong noted that there was a need to update Singapore's laws to minimise the possibility of foreign interference in domestic politics. At the S Rajaratnam School of International Studies Conference on Foreign Interference Tactics and Countermeasures on 25 September 2019, Home Affairs and Law Minister K Shanmugam spoke about the growing use of Hostile Information Campaigns worldwide and highlighted Singapore's need for legislation to counter foreign interference in domestic politics and public opinion. On 7 October 2019, amendments to the Maintenance of Religious Harmony Act (MRHA) were passed by Parliament. The amendments, which have yet to be assented to, are aimed at safeguarding against foreign interference in domestic religious organisations and dealing more effectively with the growing influence of social media. In light of this, it is expected that new legislation governing foreign interference or influence in domestic politics will be introduced in the near future.

The Protection from Online Falsehoods and Manipulation Act 2019 (POFMA) came into force on 2 October 2019. POFMA's primary objective is to prevent the electronic communication in Singapore of false statements of fact (falsehoods) and to counteract the effects of such communication. Under POFMA, it is an offence to knowingly communicate a falsehood in Singapore that is against the public interest (section 7). It is also an offence to make or alter a bot with the intention of spreading falsehoods in Singapore (section 8) as well as to provide services for the same purposes (section 9). The 'public interest' includes national security, public health and the prevention of electoral interference, social discord and diminution of public confidence in public institutions (section 4).

A minister can take action against falsehoods communicated in Singapore where it is in the public interest to do so. Examples of such action include the issuance of a Direction ordering the communicator

or intermediary to put up a correction notice, stop communication of the falsehood or block the account or sites that are spreading the falsehood. Failure to comply with a Direction is an offence.

Further, Prescribed Intermediaries (which are prescribed by regulations made under section 62 of POFMA) must comply with the due diligence and disclosure obligations set out in the Code of Practice for Transparency of Online Political Advertisements. For instance, during election periods, Prescribed Intermediaries must verify the identity, location and eligibility of advertisers, and remove any advertisements that are in violation of the PEA and the Presidential Elections Act when notified by the relevant authority. Examples of Prescribed Intermediaries include MediaCorp Pte Ltd, Whatsapp and Instagram.

Other titles available in this series

Acquisition Finance	Domains & Domain Names	Investment Treaty Arbitration	Public M&A
Advertising & Marketing	Dominance	Islamic Finance & Markets	Public Procurement
Agribusiness	Drone Regulation	Joint Ventures	Public-Private Partnerships
Air Transport	e-Commerce	Labour & Employment	Rail Transport
Anti-Corruption Regulation	Electricity Regulation	Legal Privilege & Professional Secrecy	Real Estate
Anti-Money Laundering	Energy Disputes	Licensing	Real Estate M&A
Appeals	Enforcement of Foreign Judgments	Life Sciences	Renewable Energy
Arbitration	Environment & Climate Regulation	Litigation Funding	Restructuring & Insolvency
Art Law	Equity Derivatives	Loans & Secured Financing	Right of Publicity
Asset Recovery	Executive Compensation & Employee Benefits	Luxury & Fashion	Risk & Compliance Management
Automotive	Financial Services Compliance	M&A Litigation	Securities Finance
Aviation Finance & Leasing	Financial Services Litigation	Mediation	Securities Litigation
Aviation Liability	Fintech	Merger Control	Shareholder Activism & Engagement
Banking Regulation	Foreign Investment Review	Mining	Ship Finance
Cartel Regulation	Franchise	Oil Regulation	Shipbuilding
Class Actions	Fund Management	Partnerships	Shipping
Cloud Computing	Gaming	Patents	Sovereign Immunity
Commercial Contracts	Gas Regulation	Pensions & Retirement Plans	Sports Law
Competition Compliance	Government Investigations	Pharma & Medical Device Regulation	State Aid
Complex Commercial Litigation	Government Relations	Pharmaceutical Antitrust	Structured Finance & Securitisation
Construction	Healthcare Enforcement & Litigation	Ports & Terminals	Tax Controversy
Copyright	Healthcare M&A	Private Antitrust Litigation	Tax on Inbound Investment
Corporate Governance	High-Yield Debt	Private Banking & Wealth Management	Technology M&A
Corporate Immigration	Initial Public Offerings	Private Client	Telecoms & Media
Corporate Reorganisations	Insurance & Reinsurance	Private Equity	Trade & Customs
Cybersecurity	Insurance Litigation	Private M&A	Trademarks
Data Protection & Privacy	Intellectual Property & Antitrust	Product Liability	Transfer Pricing
Debt Capital Markets		Product Recall	Vertical Agreements
Defence & Security Procurement		Project Finance	
Dispute Resolution			
Distribution & Agency			

Also available digitally

[lexology.com/gtdt](https://www.lexology.com/gtdt)