

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the Parliamentary Electorates and Elections Act 1912:

(a) to require candidates for election to Parliament to declare whether they have been convicted of the murder of a child or a child sexual offence or have ever been the subject of proceedings for such an offence or the subject of an apprehended violence order for the purposes of protecting a child from sexual assault, and

(b) to make it an offence, punishable by imprisonment for up to 5 years, to make a false declaration, and

(c) to require the Commission for Children and Young People to audit the declarations for accuracy and to report on the audit to Parliament, and

(d) to make other consequential amendments to that Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

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Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the Parliamentary Electorates and Elections Act 1912 (the Principal Act) set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act on the day after the proposed Act commences. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] amends section 79 of the Principal Act to require a nomination paper of a candidate for election to the Legislative Assembly to be accompanied by a child-related conduct declaration.

Schedule 1 [2] amends section 79 of the Principal Act to make it clear that a failure to provide a child-related conduct declaration will result in a nominated person being taken not to be a candidate.

Schedule 1 [3] amends section 81B of the Principal Act to require a nomination paper of a candidate for election to the Legislative Council to be accompanied by a child-related conduct declaration.

Schedule 1 [4] amends section 81B of the Principal Act to make it clear that a failure to provide a child-related conduct declaration will result in a nominated person being taken not to be a candidate.

Schedule 1 [5] inserts proposed Division 5A of Part 5 (proposed sections 81J–81P). Proposed section 81J applies the proposed Division to child-related conduct declarations that are required to accompany the nomination of candidates for election to Parliament.

Proposed section 81K defines expressions used in the proposed Division. The definition of child sexual offence lists the offences that are required to be disclosed under the proposed Division. The definition of relevant apprehended violence order limits the apprehended violence orders covered by the proposed Division to those made for the protection of a child from sexual activity or acts of indecency. The definition of conviction extends the application of the proposed Division to findings of guilt where a court does not proceed to a conviction.

Proposed section 81L requires a child-related conduct declaration by a candidate to state whether or not the candidate has ever been convicted of the murder of a child or a child sexual offence or criminal proceedings for such an offence have ever been commenced against the candidate and whether or not a relevant apprehended

violence order has ever been made against the candidate. It will be an offence (punishable by imprisonment for up to 5 years) to make a declaration knowing it to
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be false or not believing it to be true. The effect of conviction of a member of Parliament for the offence will be that the member's seat becomes vacant, as a result of the operation of section 13A of the Constitution Act 1902.

Proposed section 81M requires the Electoral Commissioner to make public child-related conduct declarations in such manner as the Commissioner thinks fit and to provide copies of the declarations of candidates who are elected to the Commission for Children and Young People (the CYP Commission).

Proposed section 81N provides that the CYP Commission must audit the accuracy of a child-related conduct declaration as soon as practicable after the Commission receives the declaration. For that purpose, the Commission may exercise functions conferred on it under the Commission for Children and Young People Act 1998. The Commission must consult with a member of Parliament if the Commission has reason to believe that a child-related conduct declaration made by the member is inaccurate. The Commission is to present its report on the results of audits carried out by it to the Presiding Officer of the relevant House of Parliament who is to lay the report before the House of Parliament.

Proposed section 81O makes it an offence to disclose information obtained in connection with the conduct of an audit or consultation under proposed section 81N, except in specified circumstances, and also makes it an offence to dishonestly obtain confidential information relating to the conduct of an audit or consultation.

Proposed section 81P provides a procedure for making a report by the CYP Commission on audits public if a House of Parliament is not sitting.

Schedule 1 [6] amends section 183 of the Principal Act as a consequence of the enactment of the offence contained in proposed section 81L.