

## Parliamentary Electorates and Elections Amendment (Joint Parliamentary Committee) Bill 2003

### Explanatory note

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* to establish a Joint Parliamentary Committee (to be known as the Committee on the State Electoral Office) which will:

- (a) have the power to veto the proposed appointment of a person as Electoral Commissioner, and
- (b) monitor and review the exercise by the Electoral Commissioner of the Commissioner's functions under the *Parliamentary Electorates and Elections Act 1912* and any other Act. However, the Committee's functions will not extend to the monitoring or review of a decision made by an electoral official in the scrutiny of votes in a particular election. The powers, functions and procedures of the proposed Joint Committee are similar to those of existing Joint Committees under the *Ombudsman Act 1974*, the *Independent Commission Against Corruption Act 1988* and the *Health Care Complaints Act 1993*.

#### Outline of provisions

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

**Clause 2** provides for the proposed Act to commence on its assent.

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

#### Schedule 1 Amendments

**Schedule 1 [3]** inserts a new Part 9, consisting of proposed sections 189–200, into the *Parliamentary Electorates and Elections Act 1912*. Proposed section 189 provides for the establishment of the Committee on the State Electoral Office as a Joint Committee of Parliament. Proposed section 190 sets out the functions of the Joint Committee. These include the following:

- (a) monitoring and reviewing the exercise by the Electoral Commissioner of his or her functions,
- (b) reporting to Parliament on such matters relating to the Electoral Commissioner as the Joint Committee considers should be brought to Parliament's attention,
- (c) examining annual and other reports of the Electoral Commissioner and reporting to Parliament on those reports,
- (d) reporting to Parliament any changes that the Joint Committee considers desirable to the functions, structures and procedures of the State Electoral Office,
- (e) inquiring into any question in connection with its own functions that is referred to it by Parliament, and reporting accordingly.

The functions may be exercised in respect of matters that occurred before the establishment of the proposed Joint Committee. However, the functions of the Joint Committee will not extend to the monitoring or review of a decision made by an electoral official in the scrutiny of votes in a particular election. Proposed section 191 enables the Joint Committee to veto the proposed appointment of a person as Electoral Commissioner. Proposed section 192 provides that the Joint Committee is to consist of 9 members (4 being members of the Legislative Council (appointed by the Council) and 5 being members of the Legislative Assembly (appointed by the Assembly)). Proposed section 193 specifies the circumstances in which a member of the Joint Committee ceases to hold office, and provides for the filling of any vacancies. Proposed section 194 provides for a Chairperson and Vice-Chairperson of the Joint

Committee. Proposed section 195 sets out the procedure of the Joint Committee. Proposed section 196 provides a mechanism by which the Joint Committee can report to Parliament when Parliament is not sitting. Proposed section 197 enables the Joint Committee to send for persons, papers and records and requires the Joint Committee to take evidence in public (unless reasons of confidentiality dictate otherwise). Proposed section 198 deals with confidentiality and sets out the circumstances in which evidence must be taken in private, documents produced to the Joint Committee must be treated as confidential and the members of the Joint Committee are prohibited from disclosing evidence or the contents of documents. (Matters relating to the proposed appointment of a person as Electoral Commissioner are confidential.) Proposed section 199 specifies the way in which the Joint Committee is to be regarded for certain purposes (such as the purposes of the *Parliamentary Evidence Act 1901*). Proposed section 200 makes it clear that acts and proceedings of the Joint Committee are valid despite any technical deficiency in the Joint Committee as constituted at the time of the act or proceeding.

**Schedule 1 [2]** inserts a new section 21AA, which prohibits a person from being appointed as Electoral Commissioner while the Joint Committee is considering the proposed appointment or if the Joint Committee has exercised its right to veto the proposed appointment.

**Schedule 1 [1]** inserts a definition of **Joint Committee** into section 3 of the *Parliamentary Electorates and Elections Act 1912*.