

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to ensure that, as far as possible, public money is not expended on government publicity for a partisan political purpose, and
- (b) to enable the Auditor-General to scrutinise government publicity that appears to the Auditor-General to have the capacity or to be likely to have the capacity to be used for that purpose.

Outline of provisions

Part 1 Preliminary

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

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

Clause 3 contains a brief description of the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act. These include **government publicity** (which is defined to include all methods of publicising governmental activities, programs or initiatives for public authorities that are paid for with public money) and **public authority** (which is defined so as to include Divisions of the Government Service and certain statutory bodies such as State owned corporations, but not universities or local councils). **Guidelines** are defined as the guidelines for government publicity set out in Schedule 1. These are that government publicity should be accurate, factual and truthful, it should be fair, honest and impartial, and lawful and proper.

Part 2 Scrutiny of publicity and guidelines

Clause 5 provides that the Auditor-General:

- (a) may review any government publicity that the Auditor-General considers may be government publicity for political purposes, and
 - (b) must review any government publicity on which a public authority incurs or will incur \$200,000 or more in expenditure,
- in order to determine whether the Auditor-General should make an order regarding the government publicity under clause 8.

Government publicity for political purposes is government publicity that promotes governmental activities, programs or initiatives in such a partisan or biased manner that it has the capacity, or is likely to have the capacity, to influence public support for a political party or for candidates for election to, or members of, Parliament. The Auditor-General may carry out a review on the Auditor-General's own initiative or if a complaint is made to the Auditor-General under the proposed Act. The Auditor-General may also provide advice, at the request of a public authority, concerning publicity on which it proposes to incur expenditure that may be outside the guidelines. In exercising these functions, the Auditor-General is to have regard to the guidelines for government publicity. The guidelines are also to be followed by heads of public authorities in determining whether the public authorities should incur expenditure on government publicity (clause 8).

Clause 6 sets out the other functions of the Auditor-General under the proposed Act. These include monitoring and reviewing expenditure on government publicity that appears to the Auditor-General to be for political purposes.

Clause 7 provides for the guidelines as set out in Schedule 1 to the proposed Act to be amended by regulations made on the recommendation of the Auditor-General. The guidelines as amended may include recommendations as to the appropriate content, style, method of dissemination and cost of government publicity and for inclusion of a "termination provision" in contracts for dissemination of government publicity so that the Auditor-General may order the dissemination to stop if the publicity does not comply with the guidelines. Regulations made under the proposed section may be disallowed by either House of Parliament under section 41 of the

Interpretation Act 1987.

Clause 8 requires the head of a public authority to ensure that the public authority does not incur expenditure on government publicity that does not comply with the guidelines and that it complies with any orders made by the Auditor-General in connection with deviations from the guidelines. It also enables the Auditor-General to order a public authority to stop the dissemination of government publicity in certain circumstances. The Auditor-General may further order that a political party pay back the amount of any expenditure on government publicity for political purposes incurred by a public authority where that party is held to be responsible for the publicity.

Clause 9 enables the Auditor-General to require a public authority to submit a report to the Auditor-General detailing expenditure on government publicity that the Auditor-General believes may be government publicity for political purposes.

Clause 10 enables complaints to be made to the Auditor-General in relation to government publicity and provides for the Auditor-General to inquire into such a complaint if the Auditor-General believes the complaint is justified. The Auditor-General is required to give written reasons to a complainant if the Auditor-General decides not to investigate a complaint.

Clauses 11–13 require the Auditor-General to make an annual report to each House of Parliament and enable the Auditor-General to make special reports to Parliament in relation to matters concerning the Auditor-General's functions that the Auditor-General feels should be brought to the public notice.

Part 3 Miscellaneous

Clause 14 provides for the making of regulations. The regulations may exempt a public authority from compliance with any provision of the proposed Act but such a regulation may only be made on the recommendation of the Auditor-General.

Clause 15 provides for a review of the operation of the proposed Act to be conducted by the Minister after 5 years from the date of assent.

Schedule 1 Guidelines for government publicity

Schedule 1 sets out the guidelines for government publicity.