

LEGISLATIVE COUNCIL

Modern Slavery Amendment Bill 2021

First print

Proposed amendments

No. 1 **Anti-slavery Commissioner**

Page 3, Schedule 1. Insert after line 28—

[9A] Sections 6–6F

Omit section 6. Insert instead—

6 Appointment of Anti-slavery Commissioner

- (1) The Governor may appoint an Anti-slavery Commissioner.
- (2) The Commissioner holds office for the term, not exceeding 5 years, specified in the instrument of appointment, but is eligible for re-appointment.
- (3) A person is not eligible to be appointed for more than 2 terms of office as Commissioner, whether or not consecutive terms.
- (4) The office of Commissioner is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.

6A Employment and remuneration

- (1) The employment of the Commissioner is, subject to this Act, to be governed by a contract of employment between the Commissioner and the Minister.
- (2) The following provisions of, or made under, the *Government Sector Employment Act 2013* relating to the employment of Public Service senior executives apply to the Commissioner, but in the application of those provisions a reference to the employer of a Public Service senior executive is to be read as a reference to the Minister—
 - (a) provisions relating to the band in which an executive is to be employed,
 - (b) provisions relating to the contract of employment of an executive,
 - (c) provisions relating to the remuneration, employment benefits and allowances of an executive.

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- (3) The office of Commissioner is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office, except as provided by this section.

6B Vacancy in office

- (1) The office of Commissioner becomes vacant if the Commissioner—
- (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Governor under section 6C, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Commissioner's creditors or makes an assignment of the Commissioner's remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
 - (h) is imprisoned in respect of a conviction for an offence punishable in New South Wales by imprisonment or for an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of Commissioner becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

6C Removal from office

- (1) The Governor may remove the Commissioner from office, but only for incompetence, incapacity or misbehaviour.
- (2) The Commissioner cannot be removed from office under the *Government Sector Employment Act 2013*, Part 6.

6D Acting Commissioner

- (1) The Minister may appoint a person to act as the Commissioner during the illness or absence of the Commissioner or during a vacancy in the office of Commissioner.
- (2) A person, while acting as Commissioner, has and may exercise the functions of the Commissioner and is taken to be the Commissioner.
- (3) The Minister may, at any time, remove a person from office as acting Commissioner.
- (4) An acting Commissioner is entitled to be paid the remuneration, including travelling and subsistence allowances, that the Minister may from time to time determine.
- (5) A person must not be appointed to act as the Commissioner for a period that exceeds 6 months or that in total exceeds 6 months in any 12-month period.

No. 2 **Independence of Anti-slavery Commissioner**
Page 3, Schedule 1. Insert before line 29—

[9B] Section 7

Omit the section. Insert instead—

7 Independence of Commissioner

The Commissioner is not subject to the control and direction of the Minister in respect of the exercise of the Commissioner's functions under this Act.