

## LEGISLATIVE COUNCIL

### Electoral and Lobbying Legislation Amendment (Electoral Commission) Bill 2014

#### First Print

#### Proposed amendments

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- No. 1 Page 3, Schedule 1, lines 17 and 18. Omit all words on those lines. Insert instead:  
(c) the Auditor-General.
- No. 2 Pages 5–7, Schedule 1, line 14 on page 5 to line 18 on page 7. Omit all words on those lines. Insert instead:

#### 1 Definitions

In this Schedule:

*acting Chairperson* means a person appointed under clause 5 to act in the place of the Chairperson.

*Chairperson* means the Chairperson of the Electoral Commission.

*member* means a member of the Electoral Commission.

#### 2 Persons not eligible for appointment as Chairperson

- (1) A person is not eligible for appointment as the Chairperson if the person is (or was at any time during the period of 5 years immediately preceding the proposed appointment) any of the following:
  - (a) a member or officer of a party,
  - (b) a member of any legislature (in Australia or in any other country) or a candidate for election as such a member,
  - (c) a councillor or mayor of a council, or the chairperson or a member of a county council, under the *Local Government Act 1993* or a candidate for election to such an office,
  - (d) a party agent or official agent under the *Election Funding, Expenditure and Disclosures Act 1981*.
- (2) A person who is a member of a public authority constituted by an Act or of the governing body of any such public authority is also not eligible for appointment as the Chairperson.

#### 3 Term of office of Chairperson

Subject to this Schedule, a person holds office as the Chairperson for such period (not exceeding 7 years) as is specified in the person's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

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#### **4 Part-time appointment**

The Chairperson holds office part-time.

#### **5 Acting Chairperson**

- (1) The Governor may, in the absence of the Chairperson, appoint a person to act in the place of the Chairperson, and may revoke any such appointment.
- (2) A person appointed as acting Chairperson must be a person who is eligible for appointment as the Chairperson.
- (3) While acting in the place of the Chairperson, the acting Chairperson has all the functions of the Chairperson and is taken to be a member.
- (4) For the purposes of this clause, a vacancy in the office of Chairperson is taken to be an absence of the Chairperson.

#### **6 Remuneration of Chairperson and acting Chairperson**

A person who is the Chairperson or an acting Chairperson is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

#### **7 Vacancy in office of Chairperson or acting Chairperson**

- (1) The office of Chairperson or acting Chairperson becomes vacant if the person holding that office:
  - (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 Governor, or
  - (d) is removed from office by the Governor under clause 8 (in relation to the Chairperson) or clause 5 (in relation to an acting Chairperson), or
  - (e) in the case of the Chairperson, is absent from 3 consecutive meetings of the Electoral Commission of which reasonable notice has been given to the Chairperson personally or by post, except on leave granted by the Governor or unless the acting Chairperson was present at any or all of those meetings, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (g) becomes a mentally incapacitated person, or
  - (h) 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
  - (i) 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, or
  - (j) becomes a person who is not eligible under clause 2 to be appointed as the Chairperson or an acting Chairperson.
- (2) Section 47 (1) (b) of the *Interpretation Act 1987* does not apply to, or to the office of, the Chairperson.

#### **8 Suspension and removal from office of Chairperson**

A person may be suspended from office as Chairperson by the Governor for misbehaviour or incompetence, but cannot be removed from office except in the following manner:

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- (a) The Minister is to cause to be laid before each House of Parliament a full statement of the grounds of suspension within 7 sitting days of that House after the suspension.
  - (b) A person suspended under this clause is restored to office as Chairperson by force of this Act unless each House of Parliament at the expiry of the period of 21 days from the day when the statement was laid before that House declares by resolution that the person ought to be removed from office.
  - (c) If each House of Parliament does so declare within the relevant period of 21 days, the person is to be removed from office by the Governor accordingly.

#### **9 Filling of vacancy in office of Chairperson**

If the office of Chairperson becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

- No. 3 Page 8, Schedule 1, lines 14 and 15. Omit “an appointed member”. Insert instead “the Chairperson”.
- No. 4 Page 8, Schedule 1, line 22. Omit “an appointed member”. Insert instead “the Chairperson”.
- No. 5 Page 8, Schedule 1, line 37. Omit “of the Commission or the deputy of the”. Insert instead “or acting”.
- No. 6 Page 8, Schedule 1, line 39. Omit “the deputy of the”. Insert instead “an acting”.