



ELECTORAL (MISCELLANEOUS) AMENDMENT ACT 1997

No. 22 of 1997

SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Substitution of s. 5
 5. Appointment of Electoral Commissioner and Deputy Electoral Commissioner
4. Amendment of s. 7—Remuneration and conditions of office
5. Amendment of s. 27—Power to require information
6. Insertion of Part 4 Division 5A
 - DIVISION 5A—PROVISION OF CERTAIN INFORMATION**
 - 27A. Provision of certain information
7. Amendment of s. 32—Transfer of enrolment
8. Insertion of s. 42A
 - 42A. Registered officers
9. Amendment of s. 43—Changes to Register
10. Substitution of s. 53
 53. Multiple nominations of candidates endorsed by political party
 - 53A. Nomination of single candidate
11. Substitution of s. 55
 55. Proceedings on nomination day
12. Amendment of s. 66—Display of certain electoral material
13. Amendment of s. 74—Issue of declaration voting papers by post
14. Amendment of s. 77—Times and places for polling
15. Insertion of s. 80A
 - 80A. Voting near polling booth in certain circumstances
16. Amendment of s. 91—Preliminary scrutiny
17. Amendment of s. 109—Bribery
18. Substitution of s. 110
 110. Undue influence
19. Substitution of ss. 112 and 113
 112. Printing and publication of electoral advertisements, notices, etc.
 113. Misleading advertising
20. Insertion of s. 116A
 - 116A. Evidence
21. Substitution of s. 119
 119. Offender may be removed from polling booth
22. Amendment of s. 126—Prohibition of advocacy of forms of voting inconsistent with Act
23. Substitution of s. 127
 127. Failure to transmit claim
24. Amendment of s. 130—Employers to allow employees leave of absence to vote

- 25. Substitution of s. 132
132. Injunctions
- 26. Amendment of s. 139—Regulations
- 27. Further amendments of principal Act

SCHEDULE 1

Amendment of Penalties for Offences Against Principal Act

SCHEDULE 2

Further Amendments of Principal Act

SCHEDULE 3

Consequential Amendments



ANNO QUADRAGESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1997

No. 22 of 1997

An Act to amend the Electoral Act 1985; and to make consequential amendments to the Freedom of Information Act 1991, the Ombudsman Act 1972 and the Parliamentary Committees Act 1991.

[Assented to 27 March 1997]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Electoral (Miscellaneous) Amendment Act 1997*.

(2) The *Electoral Act 1985* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Substitution of s. 5

3. Section 5 of the principal Act is repealed and the following section is substituted:

Appointment of Electoral Commissioner and Deputy Electoral Commissioner

5. (1) The Governor may—

- (a) on a recommendation made by resolution of both Houses of Parliament, appoint a person to be the Electoral Commissioner; and
- (b) appoint a person to be the Deputy Electoral Commissioner.

(2) On a vacancy occurring in the office of Electoral Commissioner, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*.

(3) Neither the Electoral Commissioner nor the Deputy Electoral Commissioner may, without the consent of the Minister, engage in any remunerative employment outside the functions and duties of their respective offices.

Amendment of s. 7—Remuneration and conditions of office

4. Section 7 of the principal Act is amended by striking out subsections (1), (3) and (4) and substituting the following subsections:

(1) The Electoral Commissioner and the Deputy Electoral Commissioner hold office, subject to this Act, on terms and conditions determined by the Governor.

(2) The Electoral Commissioner and the Deputy Electoral Commissioner are entitled to the remuneration determined by the Remuneration Tribunal in relation to the respective offices.

(3) A salary determined by the Remuneration Tribunal for the Electoral Commissioner or the Deputy Electoral Commissioner cannot be reduced by subsequent determination during the term of office of the Electoral Commissioner or the Deputy Electoral Commissioner (as the case may be).

Amendment of s. 27—Power to require information

5. Section 27 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) A person who fails to provide information required under this section within the time allowed in the notice is guilty of an offence.

Maximum penalty: \$250.

Insertion of Part 4 Division 5A

6. The following Division is inserted after section 27 of the principal Act:

DIVISION 5A—PROVISION OF CERTAIN INFORMATION**Provision of certain information**

27A. (1) The Electoral Commissioner may, on application by a prescribed authority, provide the authority with any information in the Electoral Commissioner's possession about an elector.

(2) The Electoral Commissioner may, on application by a person of a prescribed class, provide the person with any of the following information about an elector:

- (a) the elector's sex;
- (b) the elector's place of birth;
- (c) the age band within which the elector's age falls.

[For the purposes of this subsection, electors' ages will be divided into age bands in accordance with the regulations.]

(3) However, information is not to be disclosed to a person of a prescribed class if the elector has requested the Electoral Commissioner in writing not to do so.

(4) The Electoral Commissioner—

- (a) may provide information under this section subject to conditions notified in writing to the authority or person to whom the information is given; and
- (b) may charge a fee (to be fixed by the Electoral Commissioner) for providing information.

(5) An authority or person who contravenes or fails to comply with a condition under subsection (4)(a) is guilty of an offence.

Maximum penalty: \$1 250.

Amendment of s. 32—Transfer of enrolment

7. Section 32 of the principal Act is amended by striking out subsection (3) and substituting the following subsection:

(3) An elector who fails, without proper excuse, to give a notification under this section is guilty of an offence.

Maximum penalty: \$75.

Insertion of s. 42A

8. The following section is inserted after section 42 of the principal Act:

Registered officers

42A. (1) A registered political party must have a registered officer.

(2) The registered officer and any deputy registered officer of a registered political party must be an elector.

(3) If a registered officer of a registered political party ceases to be an elector, he or she ceases to be the registered officer of the party.

(4) A registered political party must not be without a registered officer for a period longer than one month.

Maximum penalty: \$750.
Expiation fee: \$105.

(5) A registered political party must, within one month after any change in the identity or address of its registered officer, give notice in writing to the Electoral Commissioner containing details of the change.

Maximum penalty: \$750.
Expiation fee: \$105.

(6) It is a defence to a charge of an offence against subsection (4) or (5) for the registered political party to prove that the matters alleged against it did not arise from a failure by the party to exercise proper diligence.

Amendment of s. 43—Changes to Register

9. Section 43 of the principal Act is amended by striking out subsection (3).

Substitution of s. 53

10. Section 53 of the principal Act is repealed and the following sections are substituted:

Multiple nominations of candidates endorsed by political party

53. (1) The registered officer of a registered political party may, after the issue of the writ for the election, nominate on the same nomination paper candidates endorsed by the party for election as members of the House of Assembly or the Legislative Council.

(2) In order to make a nomination under subsection (1), the registered officer of the party must, at least 48 hours before the hour of nomination, lodge at the office of the Electoral Commissioner—

- (a) a duly completed nomination paper; and
- (b) a deposit of the prescribed amount in cash or a banker's cheque in respect of each candidate nominated.

(3) A nomination paper must be in a form approved by the Electoral Commissioner and—

- (a) be signed by the registered officer of the party; and
- (b) contain a declaration, signed by each candidate, that he or she—
 - (i) consents to stand as a candidate in the election; and
 - (ii) is qualified to stand as a candidate in the election; and
 - (iii) authorises the registered officer to make an application under section 62(1), and to lodge a voting ticket under section 63(1), on behalf of the candidate.

(4) The Electoral Commissioner must in respect of each district for which a candidate has been nominated under this section—

- (a) deliver to the returning officer a copy or facsimile of the nomination paper; and
- (b) deposit with the returning officer the prescribed amount,

as soon as practicable after the receipt of the nomination paper under this section (and in any event before the hour of nomination).

(5) If a nominated candidate, by notice in writing lodged with the appropriate district returning officer before the hour of nomination, withdraws consent to stand as a candidate in an election, the nomination of that candidate is revoked.

(6) The returning officer must immediately inform the registered officer of the party of the revocation of the nomination.

(7) The registered officer of the party may, if—

- (a) the nomination of a candidate is revoked; or
- (b) a nominated candidate dies before the hour of nomination,

nominate some other person as the candidate endorsed by the party for the district by lodging with the appropriate district returning officer before the hour of nomination a duly completed nomination paper.

(8) If the registered officer does not nominate another candidate under subsection (7), the deposit paid in respect of a candidate whose nomination has been revoked or a candidate who has died must be returned to the party.

(9) A nomination is not invalid because of a formal defect or error if the provisions of this Act have been substantially complied with.

(10) A person who is endorsed by a registered political party as a candidate for election but is not nominated under subsection (1) may be nominated as a single candidate for election under section 53A.

Nomination of single candidate

53A. (1) A person may, after the issue of the writ for the election, nominate on a nomination paper a candidate for election as a member of the House of Assembly or the Legislative Council.

(2) In order to make a nomination under subsection (1), the person must, before the hour of nomination, lodge at the office of the appropriate district returning officer—

- (a) a duly completed nomination paper; and
- (b) a deposit of the prescribed amount in cash or a banker's cheque.

(3) A nomination paper must be in a form approved by the Electoral Commissioner and—

- (a) be signed by 2 electors enrolled for the relevant district; and
- (b) contain a declaration, signed by the candidate, that he or she—
 - (i) consents to stand as a candidate in the election; and
 - (ii) is qualified to stand as a candidate in the election.

(4) If a nominated candidate, by notice in writing lodged with the appropriate district returning officer before the hour of nomination, withdraws consent to stand as a candidate in an election, the nomination of that candidate is revoked and the candidate's deposit must be returned.

(5) A nomination is not invalid because of a formal defect or error if the provisions of this Act have been substantially complied with.

Substitution of s. 55

11. Section 55 of the principal Act is repealed and the following section is substituted:

Proceedings on nomination day

55. (1) In the case of a Legislative Council election, if the number of candidates nominated is not greater than the number of candidates required to be elected—

- (a) the returning officer will make a declaration to that effect; and
- (b) the candidate or candidates will be taken to be duly elected as from polling day.

(2) In the case of a House of Assembly election, if one candidate only is nominated—

- (a) the returning officer will make a declaration to that effect; and
- (b) the candidate will be taken to be duly elected as from polling day.

(3) If, in any election, the number of candidates nominated is greater than the number required to be elected, the proceedings will, subject to this Act, stand adjourned to polling day.

Amendment of s. 66—Display of certain electoral material

12. Section 66 of the principal Act is amended—

- (a) by striking out from subsection (1) "returning officer for a district shall" and substituting "Electoral Commissioner must";
- (b) by striking out from subsection (2)(b) "returning officer" and substituting "Electoral Commissioner";
- (c) by striking out paragraph (c) of subsection (2) and substituting the following paragraph:
 - (c) must be received by the Electoral Commissioner not later than 4 days after the day for nomination; and.

Amendment of s. 74—Issue of declaration voting papers by post

13. Section 74 of the principal Act is amended—

- (a) by striking out subsections (3) and (4) and substituting the following subsections:
 - (3) If an elector, on application to the Electoral Commissioner, satisfies the Electoral Commissioner that—
 - (a) the elector's address has been suppressed from publication under Part 4 Division 2; or
 - (b) because of—
 - (i) physical disability; or
 - (ii) membership of a religious order or religious beliefs; or

(iii) the remoteness of his or her place of residence,

the elector is likely to be precluded from attending at polling booths to vote,

the Electoral Commissioner may register the elector as a declaration voter.

(4) The Electoral Commissioner must maintain a register of electors who are declaration voters containing the following information in relation to each elector:

(a) the surname; and

(b) the Christian or given names; and

(c) other than in the case of an elector whose address has been suppressed from publication under Part 4 Division 2—the address of the principal place of residence.;

(b) by striking out subsection (6) and substituting the following subsection:

(6) A person may inspect the register of declaration voters at the office of the Electoral Commissioner and, on payment of a fee to be determined by the Electoral Commissioner, may be given a copy of, or of any part of, the register.

Amendment of s. 77—Times and places for polling

14. Section 77 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Polling at a polling booth must be conducted at the following times:

(a) in the case of polling at a polling booth at an appointed polling place—

(i) the poll must open at 8 a.m. on polling day and must not close until all electors present in the polling booth at 6 p.m., and desiring to vote, have voted; and

(ii) the doors of the polling booth must be closed at 6 p.m. and no person may be admitted after that hour to the polling booth for the purpose of voting;

(b) in the case of polling at a mobile polling booth in a remote subdivision—the poll must open and close at such times (being times that fall within the 12 days up to and including polling day) as may be determined by the Electoral Commissioner.

Insertion of s. 80A

15. The following section is inserted after section 80 of the principal Act:

Voting near polling booth in certain circumstances

80A. (1) If a voter satisfies the presiding officer that the voter is unable (because of illness, disability, advanced pregnancy or other condition) to enter the polling booth to vote, the presiding officer may allow the voter to vote at or near the polling place outside of the polling booth.

(2) The presiding officer must, before issuing the voter with a ballot paper, inform any scrutineers present of the proposed action and invite 1 scrutineer for each candidate to be present at the place where the voting will occur.

(3) After the voter has marked a vote on the ballot paper, the presiding officer must, in the presence of the scrutineers, ensure—

- (a) that the ballot paper is folded to conceal the vote and placed in an envelope that is then sealed; and
- (b) that the envelope is opened inside the polling booth and the folded ballot paper is placed in the ballot box.

Amendment of s. 91—Preliminary scrutiny

16. Section 91 of the principal Act is amended—

- (a) by striking out subparagraph (ia) of subsection (1)(a);
- (b) by striking out from subsection (1)(b) "locked" and substituting "securely closed";
- (c) by inserting after subsection (1) the following subsections:

(1a) However, if a ballot paper for a House of Assembly election and a ballot paper for a Legislative Council election are contained in the same envelope, and the ballot paper for the Legislative Council election is to be accepted for further scrutiny but not the ballot paper for the House of Assembly election, the returning officer must—

- (a) withdraw the ballot paper for the Legislative Council election and place it in the securely closed and sealed ballot box reserved for declaration ballot papers accepted for further scrutiny; and
- (b) seal up the envelope with the disallowed ballot paper for the House of Assembly election; and
- (c) place the envelope with the other envelopes containing disallowed declaration ballot papers.

(1b) The returning officer, when acting under subsection (1a), must comply with the following provisions:

- (a) the returning officer must, if practicable, avoid removing the disallowed House of Assembly ballot paper from the envelope but, if not, both ballot papers may be removed from the envelope but the disallowed ballot paper for the House of Assembly must be returned to the envelope; and
- (b) the returning officer must, if practicable, avoid unfolding the ballot papers before dealing with them as required by this section but, if not, the returning officer may unfold them to the extent necessary to separate them; and

- (c) the returning officer must, as far as practicable, avoid looking at votes recorded on the ballot papers and must not allow anyone else to do so before dealing with them as required by this section.

Amendment of s. 109—Bribery

17. Section 109 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

- (1) A person must not offer or solicit an electoral bribe.

Maximum penalty: Imprisonment for 7 years.

Substitution of s. 110

18. Section 110 of the principal Act is repealed and the following section is substituted:

Undue influence

110. A person must not, by violence or intimidation, influence or attempt to influence—

- (a) the vote of an elector; or
 (b) the candidature of any person in an election; or
 (c) the course or result of an election.

Maximum penalty: Imprisonment for 7 years.

Substitution of ss. 112 and 113

19. Sections 112 and 113 of the principal Act are repealed and the following sections are substituted:

Printing and publication of electoral advertisements, notices, etc.

112. (1) A person must not publish or distribute, or cause or permit to be published or distributed, an electoral advertisement in printed form unless—

- (a) the name and address (not being a post office box) of the author of the advertisement, or the person who authorised its publication, appears at the end; and
 (b) in the case of an electoral advertisement that is printed but not in a newspaper—the name and place of business of the printer appears at the end.

Maximum penalty: If the offender is a natural person—\$1 250;
 If the offender is a body corporate—\$5 000.

(2) Subsection (1) does not apply in relation to—

- (a) a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
 (b) an article included in a prescribed class of articles.

Misleading advertising

113. (1) This section applies to advertisements published by any means (including radio or television).

(2) A person who authorises, causes or permits the publication of an electoral advertisement (an "advertiser") is guilty of an offence if the advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent.

Maximum penalty: If the offender is a natural person—\$1 250;
If the offender is a body corporate—\$10 000.

(3) However, it is a defence to a charge of an offence against subsection (2) to establish that the defendant—

- (a) took no part in determining the content of the advertisement; and
- (b) could not reasonably be expected to have known that the statement to which the charge relates was inaccurate and misleading.

(4) If the Electoral Commissioner is satisfied that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Electoral Commissioner may request the advertiser to do one or more of the following:

- (a) withdraw the advertisement from further publication;
- (b) publish a retraction in specified terms and a specified manner and form,

(and in proceedings for an offence against subsection (2) arising from the advertisement, the advertiser's response to a request under this subsection will be taken into account in assessing any penalty to which the advertiser may be liable).

(5) If the Supreme Court is satisfied beyond reasonable doubt on application by the Electoral Commissioner that an electoral advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Court may order the advertiser to do one or more of the following:

- (a) withdraw the advertisement from further publication;
- (b) publish a retraction in specified terms and a specified manner and form.

Insertion of s. 116A

20. The following section is inserted after section 116 of the principal Act:

Evidence

116A. In proceedings for an offence against this Division—

- (a) an electoral advertisement that includes a statement that its publication was authorised by a specified person; or
- (b) an electoral advertisement that includes a statement that it was printed by a specified person; or

- (c) material consisting of, or containing, a commentary on a candidate or political party, or the issues being submitted to electors, that includes a statement that a specified person takes responsibility for the publication of the material; or
- (d) an apparently genuine document purporting to be a certificate of the Electoral Commissioner certifying that the Electoral Commissioner made a request for the withdrawal of a misleading advertisement or the publication of a retraction,

is, in the absence of proof to the contrary, proof of that fact.

Substitution of s. 119

21. Section 119 of the principal Act is repealed and the following section is substituted:

Offender may be removed from polling booth

119. (1) A person who engages in disorderly conduct in a polling booth, or fails to obey the lawful directions of the presiding officer, is guilty of an offence.

Maximum penalty: \$750.

(2) A person who contravenes subsection (1) may be removed by a member of the police force or a person authorised by the presiding officer to remove him or her.

(3) A person who has been removed from a polling booth by direction of the presiding officer under subsection (2) and who re-enters the polling booth without the permission of the presiding officer is guilty of a further offence.

Maximum penalty: \$2 500 or imprisonment for 6 months.

Amendment of s. 126—Prohibition of advocacy of forms of voting inconsistent with Act

22. Section 126 of the principal Act is amended by striking out subsection (1) and substituting the following subsection:

(1) A person must not publicly advocate that a voter should mark a ballot paper otherwise than in the manner set out in section 76(1) or (2).

Maximum penalty: \$2 500.

Substitution of s. 127

23. Section 127 of the principal Act is repealed and the following section is substituted:

Failure to transmit claim

127. A person who accepts an electoral paper for transmission to an officer must immediately transmit it to the appropriate officer.

Maximum penalty: \$1 250.

Amendment of s. 130—Employers to allow employees leave of absence to vote

24. Section 130 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) An employee must not, under pretence that he or she intends to vote at the election but without a genuine intention of doing so, obtain leave of absence under this section.

Maximum penalty: \$750.

Substitution of s. 132

25. Section 132 of the principal Act is repealed and the following section is substituted:

Injunctions

132. (1) If a person contravenes or fails to comply with this Act or some other law of the State applicable to elections, or there are reasonable grounds to suppose that a person may contravene or fail to comply with this Act or some other law of the State applicable to elections, the Supreme Court may, on application by the Electoral Commissioner, grant an injunction for one or more of the following purposes:

- (a) to restrain the person from engaging in conduct in breach of this Act or the other law; or
- (b) to require the person to comply with this Act or the other law; or
- (c) to require the person to take specified action to remedy non-compliance with this Act or the other law.

(2) However, an injunction cannot be granted under this section in relation to a contravention of, or non-compliance with, Division 2 of Part 13.¹

¹ For power to give injunctive relief in relation to electoral advertising, see section 113.

(3) The Court may—

- (a) grant an injunction restraining conduct of a specified kind on an interim basis; or
- (b) discharge or vary an injunction (whether or not granted on an interim basis).

(4) No undertaking as to damages is to be required as a condition of granting an injunction under this section.

Amendment of s. 139—Regulations

26. Section 139 of the principal Act is amended—

- (a) by striking out from subsection (2)(b) "\$500" and substituting "\$750";
- (b) by striking out subsection (2)(c).

Further amendments of principal Act

27. The principal Act is further amended in the manner set out in Schedules 1 and 2.

SCHEDULE 1*Amendment of Penalties for Offences Against Principal Act***Amendment of s. 82—Declaration vote, how made**

1. Section 82 of the principal Act is amended by striking out the penalty provision at the foot of subsection (6) and substituting the following penalty provision:

Maximum penalty: \$2 500 or imprisonment for 6 months.

Amendment of s. 83—Taking of declaration votes by electoral visitors

2. Section 83 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (5) and substituting the following penalty provision:

Maximum penalty: \$750.;

(b) by striking out the penalty provision at the foot of subsection (6) and substituting the following penalty provision:

Maximum penalty: \$750.

Amendment of s. 111—Interference with political liberty

3. Section 111 of the principal Act is amended by striking out the penalty provision at the foot of the section and substituting the following penalty provision:

Maximum penalty: Imprisonment for 1 year.

Amendment of s. 114—Heading to electoral advertisements

4. Section 114 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: If the offender is a natural person—\$750;
 If the offender is a body corporate—\$2 500.

Amendment of s. 115—Size of electoral advertisements

5. Section 115 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$1 250.

Amendment of s. 116—Published material to identify person responsible for political content

6. Section 116 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: If the offender is a natural person—\$750;
 If the offender is a body corporate—\$2 500.

Amendment of s. 117—Candidates not to take part in elections

7. Section 117 of the principal Act is amended by striking out the penalty provision at the foot of subsections (1) and (2) and substituting, in each case, the following penalty provision:

Maximum penalty: \$1 250.

Amendment of s. 118—Persons present at polling

8. Section 118 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$250.

Amendment of s. 120—Secrecy of vote

9. Section 120 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$1 250 or imprisonment for 3 months.;

(b) by striking out the penalty provision at the foot of subsection (2) and substituting the following penalty provision:

Maximum penalty: \$750.

Amendment of s. 121—Conduct of officers, scrutineers, etc.

10. Section 121 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsections (1) and (2) and substituting, in each case, the following penalty provision:

Maximum penalty: \$2 500 or imprisonment for 6 months.;

(b) by striking out the penalty provision at the foot of subsection (3) and substituting the following penalty provision:

Maximum penalty: \$1 250.;

(c) by striking out the penalty provision at the foot of subsections (4) to (6) (inclusive) and substituting, in each case, the following penalty provision:

Maximum penalty: \$2 500 or imprisonment for 6 months.

Amendment of s. 122—Cards in polling booth

11. Section 122 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$750.

Amendment of s. 123—Witnessing electoral papers

12. Section 123 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$1 250.

Amendment of s. 124—Other offences relating to ballot papers, etc.

13. Section 124 of the principal Act is amended—

(a) by striking out the penalty provision at the foot of subsections (1), (3) and (4) and substituting, in each case, the following penalty provision:

Maximum penalty: \$2 500 or imprisonment for 6 months.;

- (b) by striking out the penalty provision at the foot of subsection (2a) and substituting the following penalty provision:

Maximum penalty: \$250.;

- (c) by striking out the penalty provision at the foot of subsection (5) and substituting the following penalty provision:

Maximum penalty: \$750.

Amendment of s. 125—Prohibition of canvassing near polling booths

14. Section 125 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$750.

Amendment of s. 126—Prohibition of advocacy of forms of voting inconsistent with Act

15. Section 126 of the principal Act is amended by striking out the penalty provision at the foot of subsection (2) and substituting the following penalty provision:

Maximum penalty: \$2 500.

Amendment of s. 128—Forging or uttering electoral papers

16. Section 128 of the principal Act is amended by striking out the penalty provision at the foot of the section and substituting the following penalty provision:

Maximum penalty: \$10 000 or imprisonment for 2 years.

Amendment of s. 129—Protection of the official mark

17. Section 129 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$1 250.

Amendment of s. 130—Employers to allow employees leave of absence to vote

18. Section 130 of the principal Act is amended by striking out the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

Maximum penalty: \$1 250.

SCHEDULE 2
Further Amendments of Principal Act

Provision Amended	How Amended
Section 4(1) Definition of "election period"	Strike out "o'clock in the afternoon" and substitute "p.m."
Definition of "hour of nomination"	Strike out "o'clock".
Section 6	After "his" (wherever occurring) insert, in each case, "or her".
Section 7	After "his" (wherever occurring) insert, in each case, "or her". After "he" (wherever occurring) insert, in each case, "or she".
Section 7(5)	Strike out "1974" and substitute "1988".
Section 7(6)	Strike out "shall be" and substitute "is".
Section 7(8)	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 7(10)	Strike out this subsection and substitute: (10) The Electoral Commissioner and the Deputy Electoral Commissioner may only be removed or suspended from office as provided in this section. (11) Subject to this section, the office of— (a) the Electoral Commissioner; and (b) the Deputy Electoral Commissioner, may not become vacant.
Section 8(2)	After "him" insert "or her".
Section 9	After "his" insert "or her".
Section 10	Strike out "shall" (wherever occurring) and substitute, in each case, "must". After "his" insert "or her".
Section 11	Strike out "shall" and substitute "may".
Section 12(1)	Strike out "in pursuance of the <i>Public Service Act 1967</i> " and substitute "under the <i>Public Sector Management Act 1995</i> ".
Section 12(3)	Strike out "shall" and substitute "must".
Section 13(1)	Strike out "shall" and substitute "may".
Section 13(2)	After "his" insert "or her". Strike out "shall be" and substitute "is".
Section 14(1)(b)	Strike out ", subject to subsection (3)".

Section 14(3) to (5) (inclusive)	Strike out these subsections and substitute: (4) If a by-election is to be held in a House of Assembly electoral district— (a) the district will be taken to be as it existed at the previous general election of members of the House of Assembly; and (b) the electoral rolls must be prepared for the purposes of the by-election accordingly.
Section 16	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 17	Strike out "shall" (wherever occurring) and substitute, in the first case, "must".
Section 18(1)	Strike out "shall" and substitute "must".
Section 18(2)	After "he" insert "or she".
Section 18(3)	Strike out "shall" and substitute "may".
Section 18(4)	Strike out "shall" and substitute "must".
Section 19(1)	Strike out "shall" and substitute "must".
Section 19(2)	Strike out "shall consist" and substitute "consists".
Section 20	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 21	After "he" insert "or she".
Section 22	Strike out "shall" and substitute "must".
Section 23	Strike out "shall" and substitute "must".
Section 25	Strike out "shall" and substitute "must".
Section 26	Strike out "shall" (wherever occurring) and substitute, in each case, "must". After "him" insert "or her".
Section 27(1)	After "him" insert "or her". Strike out "that he requires" and substitute "required".
Section 28(2)	Strike out "shall not, for the purposes of this Act, be" and substitute "are not, for the purposes of this Act, to be".
Section 29(2)	After "he" (wherever occurring) insert "or she".
Section 29(4) and (5)	Strike out "shall" (wherever occurring) and substitute, in each case, "will".
Section 30(1)	Strike out "shall" and substitute "must".
Section 31(1) and (3)	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 31(2)	Strike out "shall" and substitute "may".
Section 32(1)	Strike out "shall" and substitute "must".
Section 32(2)	Strike out "shall" and substitute "must".

Section 32(4)	Strike out "shall" and substitute "may".
Section 33(3)	Strike out "2 dollars" and substitute "\$2".
Section 33(4)	Strike out "shall" (first occurring) and substitute "must". Strike out "shall" (second occurring) and substitute "will".
Section 34(1)	Strike out "shall" and substitute "must".
Section 34(2)	After "he" insert "or she".
Section 35(2)	Strike out "shall" and substitute "may".
Section 35(3)	Strike out "shall" and substitute "must".
Section 36(2) and (3)	Strike out "shall" (wherever occurring) and substitute, in each case, "will".
Section 36(3)	After "he" insert "or she".
Section 38(1)	Strike out this subsection and substitute: (1) The Electoral Commissioner must establish and maintain a register, to be known as the <i>Register of Political Parties</i> , (the "Register") setting out a list of the political parties that are registered under this Part.
Section 38(2)	Strike out "shall" and substitute "must".
Section 40	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 41(1) and (2)	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 42	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 42(5) and (6)	After "he" (wherever occurring) insert, in each case, "or she".
Section 43(2)	Strike out "shall" and substitute "must".
Section 44(1)	Strike out "shall" and substitute "must".
Section 45(2)	Strike out "shall" and substitute "may". After "his" insert "or her".
Section 46(1)	Strike out "shall" and substitute "may".
Section 46(2)	Strike out "shall" and substitute "must".
Section 47(2)	Strike out "shall" and substitute "must".
Section 47(3)	Strike out "shall" and substitute "will".
Section 48(7)(b)	Strike out "shall" and substitute "must".
Section 49(1)	Strike out "Notwithstanding" and substitute "Despite".
Section 49(2)	Strike out "shall be deemed" and substitute "will be taken".
Section 49(3)	Strike out "shall" and substitute "will".
Section 50(1)	Strike out "shall forthwith" and substitute "must immediately".

Section 50(2) and (3)	Strike out "shall be deemed" (twice occurring) and substitute, in each case, "will be taken".
Section 50(4)	Strike out "shall" and substitute "must".
Section 52(1)	Strike out "he" and substitute "the person".
Section 52(2)	Strike out this subsection and substitute: (2) If 2 or more elections are to be held under this Act on the same day, a person is not entitled to be a candidate in more than 1 of those elections and, if on the declaration of nominations the same person is nominated as a candidate in more than 1 of those elections, each of those nominations is invalid.
Section 54(1)	Strike out this subsection and substitute: (1) The returning officer for each district must, at the hour of nomination, attend at the district office where the returning officer must— (a) publicly produce all nomination papers received by the returning officer; and (b) declare the names and addresses of all candidates duly nominated for the election in that district.
Section 54(3)	Strike out "shall" and substitute "must".
Section 56	Strike out "shall be deemed" (wherever occurring) and substitute, in each case, "will be taken".
Section 57(1)	Strike out "shall" (first and third occurring) and substitute, in each case, "will". Strike out "shall" (second occurring) and substitute "must".
Section 57(2)	Strike out this subsection and substitute: (2) If a candidate dies before polling day, his or her deposit must be returned to the candidate's personal representative.
Section 58(1)	Strike out "shall" and substitute "must".
Section 58(3)	After "his" insert "or her".
Section 59	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 60	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 61(1)	Strike out "shall" and substitute "must".
Section 62(1)	Strike out "shall" and substitute "must".
Section 64(1)	Strike out "shall" and substitute "may".
Section 64(3)	Strike out "shall" and substitute "must".
Section 65(2)	Strike out "shall" and substitute "may".
Section 66(3)	Strike out "shall" and substitute "will".
Section 66(4)	Strike out "shall" and substitute "must".
Section 66(5)	Strike out "shall" and substitute "must".

Section 66(6)	Strike out "shall" and substitute "must".
Section 67(1)	After "his" insert "or her".
Section 67(4)	After "him" insert "or her".
Section 68	Strike out "shall" and substitute "must".
Section 69	After "he" (wherever occurring) insert, in each case, "or she".
Section 71	After "he" (wherever occurring) insert, in each case, "or she".
Section 71(2)(f)	Strike out "this Act" and substitute "Part 4 Division 2".
Section 72(1)	Strike out "shall" and substitute "must". After "him" insert "or her".
Section 72(2)	After "he" insert "or she". Strike out "his claim to vote shall" and substitute "the person's claim to vote must".
Section 73	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 74	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 75	Strike out "he shall, on delivering up the spoiled voting papers to the officer, be" and substitute "the person is, on delivering up the papers to the officer,".
Section 76(1)	Strike out "shall mark his vote on his" and substitute "must mark his or her vote on the".
Section 76(1)(a)	After "he" insert "or she". After "his" (first occurring) insert "or her". Strike out "his" (second occurring).
Section 76(2)	Strike out "shall mark his vote on his" and substitute "must mark his or her vote on the". After "he" insert "or she". After "his" (next occurring) insert "or her". Strike out "his" (last occurring).
Section 76(3)	Strike out "shall be deemed" and substitute "will be taken to be".
Section 77(1)	Strike out "shall" and substitute "is to".
Section 78	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 78(2)	Strike out "him" and substitute "the person".
Section 79	Strike out "shall" (wherever occurring) and substitute, in each case, "must". After "his" (wherever occurring) insert, in each case, "or her".

- Section 80(1) After "he" insert "or she".
- After "his" insert "or her".
- Section 80(2) Strike out "his".
- Section 80(3) Strike out this subsection and substitute:
- (3) The assistant may assist the voter in any of the following ways:
- (a) by acting as an interpreter;
 - (b) by explaining the ballot paper, and the voter's obligations under this Act in relation to the marking of the ballot paper, to the voter;
 - (c) by assisting the voter to mark the ballot paper, or by marking the ballot paper at the voter's direction;
 - (d) by folding and depositing the ballot paper in the ballot box.
- Section 81(1) After "he" (wherever occurring) insert, in each case, "or she".
- Strike out "him" and substitute "the person".
- Section 81(2) Strike out "shall" and substitute "must".
- Section 82 Strike out "shall" (wherever occurring) and substitute, in each case, "must".
- Section 82(1)(a) Strike out "it shall be taken in the manner prescribed by Division IV" and substitute "it must be taken in the manner set out in Division 4".
- Section 82(2) After "he" insert "or she".
- After "his" insert "or her".
- Strike out "forthwith" and substitute "immediately".
- Section 82(3) After "he" (wherever occurring) insert, in each case, "or she".
- Section 82(4) Strike out this subsection and substitute:
- (4) The assistant may assist the voter in any of the following ways:
- (a) by acting as an interpreter;
 - (b) by explaining the ballot paper and the voter's obligations under this Act in relation to the marking of the ballot paper;
 - (c) by assisting the voter to mark the ballot paper, or by marking the ballot paper at the voter's direction;
 - (d) by folding the ballot paper, placing it in the appropriate envelope and sealing the envelope;
 - (e) by assisting the voter to complete the appropriate declaration on the envelope;
 - (f) by depositing the envelope in a ballot box, or lodging it with, or forwarding it by post to, the appropriate district returning officer (as the case may require).
- Section 83(2) Strike out "shall" and substitute "must".
- Section 83(4) After "him" insert "or her".

Section 83(5)	Strike out "his".
	Strike out "shall be" and substitute "is".
Section 83(6)	Strike out "shall" and substitute "must".
Section 84	Strike out "shall" and substitute "must".
Section 85(1)	After "his" insert "or her".
	Strike out "he" and substitute "the elector".
Section 85(3)	Strike out "shall" and substitute "must".
	After "he" insert "or she".
	After "him" (wherever occurring) insert, in each case, "or her".
Section 85(4)	Strike out "shall" and substitute "must".
Section 85(5) to (7) (inclusive)	Strike out these subsections and substitute: <p style="margin-left: 40px;">(5) Every elector to whom a notice under this section has been sent must complete the form at the foot of the notice by stating in it the reasons (if any) why proceedings for failing to vote at the election should not be instituted against him or her, sign the form and return it to the Electoral Commissioner not later than the date inserted in the notice.</p> <p style="margin-left: 40px;">(6) If an elector is absent or unable, by reason of physical incapacity, to complete, sign and return the form, within the time allowed under subsection (4), any other elector who has personal knowledge of the facts may complete, sign and return the form, duly witnessed, within that time, and, in that case, the elector will be taken to have complied with subsection (5).</p> <p style="margin-left: 40px;">(7) An elector must not—</p> <p style="margin-left: 80px;">(a) fail to vote at an election without a valid and sufficient reason for the failure; or</p> <p style="margin-left: 80px;">(b) on receipt of a notice under subsection (3), fail to complete, sign and return the form (duly witnessed) that is attached to the notice within the time allowed under subsection (4).</p> <p style="margin-left: 40px;">Maximum penalty: \$50. Expiation fee: \$10.</p>
Section 86(1)	Strike out "his" and substitute "the".
Section 86(2)	Strike out this subsection and substitute: <p style="margin-left: 40px;">(2) A person appointed under subsection (1) has, while acting in the position of the presiding officer, all the powers, functions and responsibilities of the presiding officer.</p>
Section 87	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 88(2)	Strike out "shall be" and substitute "are".
Section 89(1)	Strike out "shall" and substitute "is to".
Section 89(2)	Strike out "shall" and substitute "must".

- Section 90(1) Strike out "shall be" and substitute "are".
- Section 90(2) Strike out "shall" and substitute "must".
- After "his" insert "or her".
- Section 91(1) Strike out "At the scrutiny, the returning officer or a deputy returning officer shall produce all applications for declaration voting papers, and shall produce unopened all envelopes containing declaration ballot papers received up to the end of the period of 7 days immediately following the close of the poll by him, or received up to the close of the poll by any other officer and shall" and substitute "At the scrutiny, the returning officer or a deputy returning officer must produce all applications for declaration voting papers, and produce unopened all envelopes containing declaration ballot papers received up to the end of the period of 7 days immediately following the close of the poll by him or her, or received up to the close of the poll by any other officer and must".
- Section 91(2) Strike out "shall" (first occurring) and substitute "must".
- Strike out "shall be".
- Section 92(2) Strike out "shall be deemed" and substitute "will be taken".
- Section 92(3) Strike out "shall" (first occurring) and substitute "is to".
- Strike out "shall be deemed" (wherever occurring) and substitute, in each case, "will be taken".
- Section 92(4) Strike out "shall" (wherever occurring) and substitute, in each case, "will".
- Section 93(2) Strike out "shall be deemed" and substitute "will be taken".
- Section 93(3) Strike out "shall" (first occurring) and substitute "is to".
- Strike out "shall be deemed" (wherever occurring) and substitute, in each case, "will be taken".
- Section 93(4) Strike out "shall be deemed" and substitute "will be taken".
- Section 93(5) Strike out "shall" (first occurring) and substitute "will".
- Strike out "shall be deemed" and substitute "will be taken".
- Section 94(1)(c) Strike out "upon" and substitute "on".
- Section 94(3) After "his" (wherever occurring) insert, in each case, "or her".
- Strike out "shall" and substitute "will".
- Section 94(5) Strike out "shall" (first occurring) and substitute "must".
- Strike out "shall be".
- Section 94(6) Strike out "notwithstanding" and substitute "despite".
- Section 94(7) Strike out "shall not be" and substitute "is not".

Section 95(1) to (3)	Strike out "shall" (wherever occurring) and substitute, in each case, "must". After "him" insert "or her". After "he" insert "or she".
Section 95(4)	Strike out "shall" (first occurring) and substitute "must". Strike out "shall" (second occurring). Strike out "he shall have" and substitute "he or she has". After "him" insert "or her".
Section 95(5)	Strike out "shall" and substitute "must".
Section 95(6)	Strike out "shall" (first occurring) and substitute "is to". Strike out "shall be". Strike out "shall" (third occurring) and substitute "will".
Section 95(7) to (11)	Strike out "shall" (wherever occurring) and substitute, in each case, "will". After "him" (wherever occurring) insert, in each case, "or her". After "his" insert "or her". After "he" insert "or she".
Section 95(12)	Strike out "shall be" (first occurring) and substitute "is". Strike out "shall" (second and third occurring) and substitute, in each case, "will".
Section 95(13)	Strike out "shall be" (first occurring) and substitute "is". After "his" insert "of her". Strike out "shall be" (second occurring).
Section 95(14)	Strike out "shall" and substitute "will".
Section 95(15)	Strike out "shall" (first occurring) and substitute "will". Strike out "notwithstanding" and substitute "despite the fact".
Section 95(15)(a) to (c)	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 95(15)(d)	Strike out "shall" (twice occurring) and substitute, respectively, "must" and "will".
Section 95(17)	Strike out "Notwithstanding" and substitute "Despite". Strike out "shall be" and substitute "are".
Section 95(18)	Strike out "shall" and substitute "must".
Section 95(18)(a)	Strike out "shall".

Section 95(19) and (20)	Strike out "shall" (wherever occurring) and substitute, in each case, "will".
Section 95(21)	Strike out "shall" (first occurring) and substitute "will". Strike out "shall" (second occurring) and substitute "must". Strike out "shall" (third occurring) and substitute "are to".
Section 95(22)	Strike out "shall" and substitute "must".
Section 95(23)	Strike out "shall" (first occurring) and substitute "will". Strike out "shall" (second occurring) and substitute "must". Strike out "shall" (third occurring) and substitute "is to".
Section 95(24)	Strike out "him" (wherever occurring) and substitute, in each case, "the candidate". Strike out "shall" and substitute "must".
Section 95(25)	Strike out "shall" and substitute "must". Strike out "shall be deemed" and substitute "will be taken".
Section 95(26)	After "him" insert "or her".
Section 96(1)	Strike out "shall" and substitute "must".
Section 96(2)	Strike out "shall" (first occurring) and substitute "must". After "him" insert "or her". After "he" insert "or she". Strike out "his".
Section 96(2)(h)	Strike out "shall" (first occurring) and substitute "must". Strike out "shall" (second occurring).
Section 96(3)	Strike out "shall" and substitute "will".
Section 96(4)	Strike out "shall, if that number constitutes an absolute majority of votes, be" and substitute "is, if that number constitutes an absolute majority of votes,".

Section 97(4)	Strike out "shall" and substitute "must".
Section 97(5)	Strike out "shall" and substitute "must".
	Strike out "his" and substitute "the Electoral Commissioner's".
Section 98	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 99	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 100	After "he" (wherever occurring) insert, in each case, "or she".
	After "his" (wherever occurring) insert, in each case, "or her".
Section 101	After "he" insert "or she".
	Strike out "shall" and substitute "must".
Section 103(1)	Strike out "shall be" and substitute "is".
Section 104	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 105	Strike out "shall be" and substitute "is".
Section 106(1)	Strike out "shall" and substitute "is to be".
Section 107(1)	After "his" insert "or her".
Section 107(3)	Strike out "shall" and substitute "will".
Section 108	Strike out "shall be" and substitute "are".
	Strike out "shall not" and substitute "may not".
Section 111	Strike out "shall" and substitute "must".
Section 114(1)	Strike out "shall" and substitute "must".
Section 115(1)	Strike out "shall" and substitute "must".
Section 115(2)	Strike out "shall be deemed" and substitute "will be taken".
Section 116(1)	Strike out "shall" and substitute "must".
Section 117(1)	Strike out "shall" and substitute "must".
	After "he" insert "or she".
Section 117(2)	Strike out "shall" and substitute "must".
Section 118(1)	Strike out "shall" and substitute "may".
Section 118(2)	After "him" insert "or her".
Section 120(1)	Strike out "shall" and substitute "must".
Section 120(2)	Strike out "shall" and substitute "may".
Section 121	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 122(1)	Strike out "shall" and substitute "must".

Section 123(1)	Strike out "shall" and substitute "must". After "his" (wherever occurring) insert, in each case, "or her". After "he" (wherever occurring) insert, in each case, "or she".
Section 124(1)	Strike out "shall" and substitute "must". After "he" insert "or she". After "his" insert "or her".
Section 124(3) to (5) (inclusive)	Strike out "shall" (wherever occurring) and substitute, in each case, "must".
Section 125(1)	Strike out "shall" and substitute "must".
Section 125(2)	Strike out this subsection and substitute: (2) If— (a) a building used as a polling booth is situated in grounds within an enclosure; and (b) the appropriate district returning officer causes to be displayed throughout the hours of polling at each entrance to those grounds a signed notice stating that those grounds are, for the purposes of subsection (1), part of the polling booth, those grounds are, for the purposes of that subsection, to be taken to be part of the polling booth.
Section 126(2)	Strike out "shall" and substitute "must".
Section 128	Strike out "shall" and substitute "must".
Section 129(1)	Strike out "shall" and substitute "must". After "his" (wherever occurring) substitute, in each case, "or her".
Section 129(2)	Strike out this subsection and substitute: (2) A person who, without lawful authority, makes on or in any ballot paper, or on or in any paper purporting to be a ballot paper, an official mark, will be taken to have forged a ballot paper, and will be punishable accordingly.
Section 129(3)	Strike out "shall" and substitute "will".
Section 129(4)	Strike out "include" and substitute "includes".
Section 130(1)	After "his" insert "or her". After "he" insert "or she". After "him" (wherever occurring) insert, in each case, "or her". Strike out "shall" and substitute "must".
Section 130(3)	Strike out "shall" and substitute "does". Strike out "he" and substitute "the employee".

Section 131(1)	After "his" insert "or her".
Section 131(2)	Strike out this subsection and substitute: (2) If a person who is unable to sign his or her name in writing makes a mark as his or her signature to an electoral paper, the mark will be taken to be the personal signature, if it is identifiable as such and is made in the presence of a witness who signs the electoral paper as witness.
Section 132(6)	Strike out "shall" and substitute "may".
Section 133	Strike out "shall, during a period of 2 years from the date of the conviction, be" and substitute "is, during a period of 2 years from the date of the conviction,".
Section 135	Strike out "shall" and substitute "must".
Section 137	Strike out this section.
Section 139(2)(a)	Strike out "shall" and substitute "will".

SCHEDULE 3
Consequential Amendments

Amendment of Freedom of Information Act 1991

1. The *Freedom of Information Act 1991* is amended by inserting after clause 6 of Schedule 1 the following clause:

Exempt electoral records

6A. A document is an exempt document if it is a record of information about an elector obtained in the course of the administration of the *Electoral Act 1985*; but not recorded on an electoral roll (as defined in that Act).

Amendment of Ombudsman Act 1972

2. The *Ombudsman Act 1972* is amended—

- (a) by striking out the definition of "Committee" in section 3(1);
- (b) by striking out subsections (1) and (1a) of section 6 and substituting the following subsections:

(1) The Governor may, on a recommendation made by resolution of both Houses of Parliament, appoint a person to be the Ombudsman.

(1a) On a vacancy occurring in the office of the Ombudsman, the matter of inquiring into and reporting on a suitable person for appointment to the vacant office is referred by force of this subsection to the Statutory Officers Committee established under the *Parliamentary Committees Act 1991*.;

- (c) by striking out the Schedule.

Amendment of Parliamentary Committees Act 1991

3. The *Parliamentary Committees Act 1991* is amended—

- (a) by inserting after paragraph (g) of the definition of "Committee" in section 3 the following paragraph:
 - (h) the Statutory Officers Committee;;
- (b) by inserting after Part 5B the following Part:

PART 5C
STATUTORY OFFICERS COMMITTEE

DIVISION 1—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEE

Establishment of Committee

15G. The *Statutory Officers Committee* is established as a committee of the Parliament.

Membership of Committee

15H. (1) The Committee consists of six members of whom—

- (a) three must be members of the House of Assembly appointed by the House of Assembly (of whom at least one must be appointed from the group led by the Leader of the Opposition and at least one must be appointed from the group led by the Leader of the Government); and

- (b) three must be members of the Legislative Council appointed by the Legislative Council (of whom at least one must be appointed from the group led by the Leader of the Opposition and at least one must be appointed from the group led by the Leader of the Government).

(2) The members of the Committee are not entitled to remuneration for their work as members of the Committee.

DIVISION 2—FUNCTIONS OF STATUTORY OFFICERS COMMITTEE

Functions of Committee

15I. (1) The functions of the Statutory Officers Committee are—

- (a) to inquire into, consider and report—
- (i) on a suitable person for appointment to an office under an Act vacancies in which are to be filled by appointment on the recommendation of both Houses; and
 - (ii) on other matters relating to the performance of the functions of that office; and
 - (iii) on any other matter referred to the Committee by the Minister responsible for the administration of any such Act; and
- (b) to perform other functions assigned to the Committee under this or any other Act or by resolution of both Houses.

(2) Matters disclosed to or considered by the Committee for the purposes of determining a suitable person for appointment to a statutory office must not be made the subject of public disclosure or comment.

(3) In considering matters relating to the performance of functions of a statutory office, the Committee must not engage in a review of any particular decision of a person occupying the office.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL, Governor