

Commissioner for the Environment Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the Act to come into operation on a day or days to be proclaimed.

Clause 3 provides a definition of certain words and phrases in the Act.

Clause 4 states that the Act binds the Crown.

PART 2—THE COMMISSIONER AND THE COMMISSIONER'S STAFF

Clause 5 provides for appointment of the Commissioner of the Environment to be by Governor in Council and for any person who has reached the age of 65 to be ineligible for appointment.

Clause 6 provides that the period of office of the Commissioner is that specified in the instrument of appointment and must not exceed 5 years or extend beyond their 65th birthday. A Commissioner may be reappointed.

Clause 7 provides the grounds on which the Commissioner may be suspended from or lose office. It also provides for restoration to office after suspension where appropriate.

Clause 8 provides the terms of appointment for the Commissioner.

Clause 9 provides for the terms and period of appointment of an Acting Commissioner during a temporary absence of the Commissioner.

Clause 10 provides for the Commissioner and Acting Commissioner to take an oath or make an affirmation of office.

Clause 11 provides for appointment of staff to the Commissioner.

Clause 12 provides that the Commissioner or Acting Commissioner may delegate their powers and functions.

PART 3—WORK OF THE COMMISSIONER

Division 1—Objectives, Functions and Powers

Clause 13 specifies the objectives of the Commissioner.

Clause 14 specifies the functions of the Commissioner.

Clause 15 details the powers of the Commissioner in relation to seeking information.

Clause 16 provides that the Commissioner has authority to undertake or have undertaken any research he considers necessary.

Clause 17 details what the Commissioner may report on and in what circumstances a report should be suspended. It lists procedures to be followed during preparation of a report.

Division 2—Reports to Parliament

Clause 18 provides that the Commissioner must prepare an annual report about the state of the environment, the contents of the report, and the requirements for tabling.

Clause 19 provides that any actions required to be taken by a public sector agency must be reported on in the next annual report for that agency.

Clause 20 provides that special reports may be prepared on a matter of major public importance either at the instigation of the Minister or the Commissioner.

Clause 21 provides the timing for Government responses to special reports.

PART 4—GENERAL

Division 1—Disclosure of Information

Clause 22 provides for safeguards against disclosure of certain information by the Commissioner, or any other person. It provides an avenue for appeal against the disclosure to the Administrative Appeals Tribunal.

Clause 23 states what information may be disclosed to the Commissioner by the Crown or any public sector agencies.

Clause 24 provides for the Commissioner to exercise the powers of a sole Commissioner under certain provisions of the **Evidence Act 1958** with the approval of the Governor in Council.

Division 2—Miscellaneous Provisions

Clause 25 provides that it is an offence to give false information to the Commissioner.

Clause 26 provides protection for the Commissioner and staff against liability for actions taken in good faith during an enquiry carried out under terms of the Act.

Clause 27 provides for proceedings to be brought for an offence against the Act by the Commissioner and that proceedings against the Commissioner may only be brought by or with the consent of the Director of Public Prosecutions.

Clause 28 provides continuity of employment and superannuation benefits for Commissioners appointed from the public service.

PART 5—REGULATIONS

Clause 29 provides that the Governor in Council may make regulations with respect to the carrying out of the Commissioner's objectives, functions or powers.

PART 6—CONSEQUENTIAL AMENDMENTS

Clause 30 provides for consequential amendments to the **Public Service Act 1974**.

Clause 31 provides for consequential amendments to the **Annual Reporting Act 1983**.