

LEGISLATIVE COUNCIL

VICTORIAN INDEPENDENT REMUNERATION TRIBUNAL AND IMPROVING
PARLIAMENTARY STANDARDS BILL 2019

(Amendments to be proposed in Committee by Dr RATNAM)

1. Clause 1, page 3, after line 13 insert—
 - "(iia) establishing the office of the Independent Parliamentary Standards Commissioner; and".
2. Clause 74, after line 27 insert—

"Commissioner means the Independent Parliamentary Standards Commissioner appointed under section 3B;".
3. Clause 75, line 6, omit all words and expression on that line and insert—

"75 New section 3 and new Part 1A inserted".
4. Clause 75, line 12, omit "standards." and insert "standards."
5. Clause 75, after line 12 insert—

"Part 1A Office of the Independent Parliamentary Standards Commissioner

3A Office of the Independent Parliamentary Standards Commissioner established

There is established the office of the Independent Parliamentary Standards Commission.

3B Appointment of the Commissioner

 - (1) The Governor in Council, on the recommendation of the Minister, may by instrument appoint an eligible person to be the Commissioner.
 - (2) Subject to subsection (3), a person is eligible to be appointed as the Commissioner if the person—
 - (a) is or has been, or is qualified for appointment as, a judge of—
 - (i) the High Court; or
 - (ii) the Federal Court; or
 - (iii) the Supreme Court of Victoria or another State or a Territory; or
 - (b) has extensive or specialist knowledge, expertise or experience in—

- (i) Government, law, public administration or public ethics; or
 - (ii) any other field the Minister considers relevant.
- (3) A person is not eligible to be appointed as the Commissioner if the person—
- (a) is a Member; or
 - (b) nominates for election as a Member.

3C Independence of the Commissioner

- (1) The Commissioner must act independently and impartially in performing their functions and exercising their powers.
- (2) The Commissioner is not subject to the direction or control of any person, including but not limited to the Minister, in respect of the performance of their functions or exercise of their powers.

3D Conflict of interest

The Commissioner must avoid any actual or potential conflict of interest with their function as the Commissioner.

3E Functions and powers of the Commissioner

- (1) The Commissioner has the following functions—
 - (a) overseeing the maintenance of the Register;
 - (b) overseeing Members' observance of the Code of Conduct;
 - (c) providing confidential advice to Members regarding compliance with Part 4 and observance of the Code of Conduct;
 - (d) providing advice to Presiding Officers on the interpretation of the Code of Conduct;
 - (e) providing training and advice to Members regarding conduct, propriety and ethics;
 - (f) recommending to the Presiding Officers appropriate changes to the Code of Conduct;
 - (g) investigating any alleged contravention of a requirement under Part 3 or 4 by a Member or former Member.
- (2) The Commissioner has power to do all things that are necessary or convenient to be done for or in connection with the performance of the Commissioner's functions.

3F Investigation by Commissioner of alleged contraventions

- (1) The Commissioner may investigate an alleged contravention of a requirement under Part 3 or 4 by a Member or former Member—
 - (a) on the Commissioner's own initiative; or

- (b) on the referral of an allegation to the Commissioner by a Member.
- (2) If the Commissioner investigates an alleged contravention under subsection (1), the Commissioner must—
 - (a) prepare a report of the Commissioner's findings in relation to the alleged contravention; and
 - (b) submit that report to the Privileges Committee of the House of which the Member or former Member who is alleged to have contravened the requirement is or was a Member; and
 - (c) if the Commissioner determines that the alleged contravention may involve conduct that may constitute a criminal offence, refer the alleged contravention to the appropriate law enforcement agency.

3G Terms and conditions of the Commissioner's appointment

- (1) The Commissioner holds office for the period not exceeding 5 years as is specified in the instrument of appointment.
- (2) The Commissioner—
 - (a) is appointed on a sessional basis; and
 - (b) is not eligible for re-appointment; and
 - (c) is entitled to be paid the prescribed remuneration; and
 - (d) subject to this Act, is appointed on the terms and conditions that are specified in the instrument of appointment.
- (3) The remuneration of the Commissioner cannot be reduced during their term of office unless they consent to the reduction.
- (4) The **Public Administration Act 2004** does not apply to the Commissioner in respect of the office of Commissioner.

3H Vacancy, resignation and removal from office of Commissioner

- (1) The Commissioner ceases to hold office if the Commissioner—
 - (a) resigns by writing delivered to the Governor in Council; or
 - (b) becomes an insolvent under administration; or
 - (c) is convicted, or found guilty, of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence; or
 - (d) nominates for election as a Member or otherwise becomes a Member; or
 - (e) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or

- (f) is removed from office in accordance with subsection (2);
or
 - (g) dies.
- (2) The Governor in Council may remove the Commissioner from office on any of the following grounds—
- (a) misconduct;
 - (b) neglect of duty;
 - (c) inability to perform the duties of the office;
 - (d) any other ground on which the Governor in Council is satisfied that the Commissioner is unfit to hold office.

3I Annual report of Commissioner

- (1) As soon as practicable after the end of the financial year but not later than the following 31 October, the Commissioner must submit to the Presiding Officers an annual report containing the following in relation to the period of 12 months ending on the preceding 30 June—
- (a) the number of requests for confidential advice made by Members to the Commissioner;
 - (b) details of any advice the Commissioner provided to Presiding Officers relating to the interpretation of the Code of Conduct;
 - (c) details of any changes to the Code of Conduct recommended by the Commissioner to the Presiding Officers;
 - (d) the number of requests for training or advice regarding conduct, propriety and ethics made by Members to the Commissioner;
 - (e) the subject matter of any training or advice described in paragraph (d);
 - (f) the number of investigations conducted by the Commissioner into alleged contraventions of requirements under Part 3 or 4;
 - (g) any other prescribed matter.
- (2) The Commissioner must cause an annual report under subsection (1) to be laid before each House of Parliament within 5 sitting days after submitting the report to the Presiding Officers.

3J Confidentiality

A person who is or was the Commissioner must not knowingly disclose any information acquired by the person by reason of being the Commissioner or in the course of the performance of functions under this Act, except—

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- (a) for the performance of the functions of the Commissioner under this Act; or
- (b) if the information is in the public domain at the time of the disclosure, otherwise than as a result of a disclosure that the person knows or ought to have known was unlawful; or
- (c) as is otherwise authorised or required under this Act or any other Act."."