

205      AGO0170/04CSTEMP1      Amendments to the Electoral Act 1985 and  
Constitution Act 1934 (Michael Atkinson)  
**DEFERRED UNTIL MONDAY, 5/6/2006**

Not Relevant

## CABINET COVER SHEET

1. **TITLE** Amendments to the *Electoral Act 1985* and *Constitution Act 1934*
2. **MINISTER** **Michael Atkinson M.P.**  
Attorney-General
3. **PURPOSE** To seek Cabinet approval for the drafting of a bill to amend the *Electoral Act 1985* and the *Constitution Act 1934* and for the drafting of regulations under the *Electoral Act 1985*
4. **IDENTIFY RELEVANT GOVERNMENT POLICY OR STATE STRATEGIC PLAN TARGET OR BOTH** Most of the proposed amendments arise from recommendations of the former State Electoral Commissioner ("S.E.C.") in his reports on the 1997 and 2002 elections
5. **RESOURCES REQUIRED FOR IMPLEMENTATION** Carrying out the proposals will require these resources:  
  
**\$170,500** in 2006-2007:  
  
**\$56,000** (indexed) each financial year from 2007-2008  
  
The Department for Administrative and Information Services advises that the amendments to section 27A may result in more Members of Parliament using the information service provided by the Parliamentary Network Services Group ("P.N.S.G."). If so, P.N.S.G. may have to seek additional funding to cope with the extra demand for its services. DAIS has not been able to quantify the extra funding that may be required  
  
Administration of the amendments to section 36 of the *Electoral Act* will require the employment of an ASO3 on a 0.5 FTE basis

## 6. PUBLIC EFFECTS

### Family Impacts

There are no specific effects on families of the proposed amendments to the *Electoral Act* or the *Constitution Act*

### Small Business Impacts

The impact of the proposed amendments on business will be small. Businesses that rely on information taken from the electoral roll for marketing purposes will be unable to buy copies of the electoral roll after subsection 26(2) is repealed

### Environmental Impacts

There are no environmental effects of the proposed amendments

### Regulatory Impacts

There are some important regulatory impacts of the proposed amendments for parties seeking registration under the *Electoral Act* and political parties and candidates registered under the Act. Specifically, parties seeking registration under the Act will have to comply with more stringent registration and reporting requirements, such as higher minimum membership numbers, new constitutional standards and annual reporting requirements. Existing parties will have six months within which to comply with these new requirements. New parties will also be required to pay a \$500 registration fee and wait six months from the date of registration before contesting an election

### Regional Impacts

There are some regional effects arising from the proposed amendments to sections 47 (timetabling), 74 and 82 (Declaration votes) of the *Electoral Act*

Amendments to sections 47 and 48 will allow greater certainty for electors in remote and pastoral areas to receive and return ballot materials by post

New subsection 74(2) will improve the system for dispatching declaration voting papers to regional voters on the register of declaration voters

Under subsection 74(3)(iii), a person is entitled to be placed on the register of declaration voters because of the remoteness of his place of residence. The amendments to subsection (3)(iii) will replace *remoteness of their place of residence* with *not within 20kms of a polling booth*

The S.E.C. advises that there are about 50 voters who are currently on the list of declaration voters by dint of subsection 74(3)(iii) whose place of residence, although remote, is within 20 kms of a polling station by the shortest practicable route. To ensure these voters remain on the register of declaration voters, I propose the Bill contain a transitional provision protecting voters currently registered as declaration voters under subsection 74(3)(iii). However, in future, voters who would have qualified under the current provision may not under the proposed amended provision. I have no information about the number of potential voters affected by this

New subsection 74(7) and new subsection 82(4) will help improve the timeliness with which declaration voting papers are dispatched to and received from regional voters using an intermediary

Otherwise, the proposed amendments have no specific regional impact

## 7. RISKS

### **Risk Management Strategy**

There are some risks with the proposed amendments

The proposed new registration standards for registered political parties, in particular, the increase in the minimum number of members required for registration, and the imposition of a registration fee, are unlikely to be supported by the minor parties and some pressure groups and may be opposed by the Opposition. I will address any concerns with these amendments during the debates in Parliament in accordance with the arguments set out in this submission

The amendments ensuring House of Assembly Members, Legislative Council Party Leaders and, in particular, registered political parties, are given

monthly electronic updates of the relevant electoral rolls may be criticised on privacy grounds. There is public sentiment (evidence by more than 18% of electors enrolled since section 27A(2) was inserted in 1997 indicating on their enrolment form that they want information to Members of Parliament restricted) against politicians and political parties having access to information about people. The S.E.C. also advises that organisations may seek to register as political parties to obtain the roll data. I will deal with such criticisms as and when they arise by explaining the public benefits of Members of Parliament and political parties having access to information about electors and by noting that the amendments to sections 36, 39 and 42 will make registration of sham parties more difficult and, hence, unlikely

The amendments restricting access to, and commercial exploitation of, electoral roll information (s26) may be opposed by business. They should, however, be well received by the public

I expect SSABSA and the Residential Tenancies Tribunal to oppose the amendments to section 27 on privacy grounds. I will deal with any concerns from these bodies as and when they arise

The amendments to section 27A to allow a Member of Parliament to access an elector's age rather than age band raises privacy concerns and may be unpopular with voters and, as such, may be the subject of criticism in Parliament. I will deal with such criticisms as and when they arise by explaining the public benefits of Members of Parliament and political parties having access to information about electors

## 8. CONSULTATION

The S.E.C. has been consulted about the amendments to the *Electoral Act* and the *Constitution Act* proposed to be included in the bill

Those amendments, discussed in Part A of this Cabinet Submission, were originally included in the *Electoral (Miscellaneous) Amendment Bill 2001*, a bill introduced by the former Liberal Government and have already been the subject of Parliamentary consideration during the debates on the former Government's bill in 2001

9. **COMMUNICATION STRATEGY**

I will advise stakeholders, including the S.E.C., members of Parliament and registered political parties, once the bill is introduced into Parliament

10. **URGENCY**

10-day rule

11. **RECOMMENDATIONS**

Clause 10



## **Drafting Instructions to Parliamentary Counsel**

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**Exempt clause 10(1) – legal professional privilege**

I declare that I have no actual or potential conflict of interest about the proposals contained in this submission except insofar as they benefit all members of parliament and members of registered political parties.

SIGNATURE OF MINISTER:



Michael Atkinson  
Attorney-General

DATE:

18 May, 2006

Contact Officer

Andrew Thompson  
Senior Legal Officer  
Policy & Legislation  
ATTORNEY-GENERAL'S DEPARTMENT  
Ph: 8207 1521

**TO: THE HON. PREMIER FOR CABINET**

**RE: AMENDMENTS TO THE ELECTORAL ACT 1985 AND CONSTITUTION ACT 1934**

**1. PROPOSALS**

- 1.1 That Cabinet approve the drafting of a bill, in accordance with the attached drafting instructions (A), to amend the *Electoral Act 1985* and *Constitution Act 1934*.
- 1.2 That Cabinet approve additional appropriation and expenditure authority to the State Electoral Office of \$170,500 in 2006-07 and \$56,000 from 2007-08 indexed annually.

**2. BACKGROUND**

- 2.1 The former Government's *Electoral (Miscellaneous) Amendment Bill 2001* (the "2001 Bill") passed the Legislative Council and was read a first time in the House of Assembly. The Bill was not proceeded with in the House of Assembly owing to opposition from Independents. It lapsed when Parliament was dissolved before the 2002 election.
- 2.2 The 2001 Bill contained amendments to the *Electoral Act 1985*. The original Bill was based largely on recommendations made by the former State Electoral Commissioner (the "S.E.C."). Some of these amendments arose from the 1997 election and others drew on experiences interstate. Most of the amendments were of a technical nature and sought to streamline existing electoral processes.
- 2.3 Important amendments were made to the Bill in the Legislative Council. These included amendments about the provision of information to the S.E.C., the registration of parties, the display of electoral advertisements and the disclosure of campaign funds.
- 2.4 The Government when in Opposition supported the 2001 Bill as passed by the Legislative Council.
- 2.5 After the 2002 election, the former S.E.C. prepared a report on that election. He recommended further amendments to the *Electoral Act* and amendments to the *Constitution Act 1934*.

## **Drafting Instructions to Parliamentary Counsel**

**28 pages removed**

**Exempt clause 10(1) – legal professional privilege**

## IMPACT STATEMENTS

### Identify relevant government policy or State strategic plan target or both

- 3.148 Most of the proposed amendments arise from specific recommendations of the former S.E.C. in his reports on the 1997 and 2002 elections. The amendments about his recommendations are identified in the Cabinet Submission. The overall thrust of the amendments, to improve the electoral process in South Australia, is consistent with Objective 5 of the State Strategic Plan *Building Communities*.<sup>16</sup>
- 3.149 The proposed amendments to section 26 and 27A of the *Electoral Act* may discourage people from enrolling to vote and the proposed amendments to sections 63 and 94, although unlikely, could increase the number of informal votes. Arguably this is contrary to Objective 5 of the State Strategic Plan *Building Communities*.<sup>17</sup>

### Economic, Financial And Budget Implications

- 3.150 The S.E.C. and the Department for Administrative and Information Services have advised that the proposed amendments will have resource implications for the S.E.O. and the Parliamentary Network Services Group that will require additional funds from Treasury.
- 3.151 The amendments to section 26 of the *Electoral Act* to require the S.E.O. to provide electronic roll updates free of charge will cost the S.E.O. \$6,000 per year to carry-out, based on \$500 per month to produce 20 copies of the full State Roll extract for each registered party officer who also asks for a copy.

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<sup>16</sup> Priority Action: Educate our people to improve awareness of our democratic processes and their importance.

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- 3.152 The amendments to section 27A of the *Electoral Act* to exempt Members of Parliament from fees charged by the S.E.C. will cost the S.E.O. \$18,800 per year to carry-out based on:
- 3.152.1 \$3,760 per year for monthly data extracts (plus processing costs) for each of the 47 House of Assembly Members<sup>18</sup>;
  - 3.152.2 \$15,040 per year for monthly data extracts (plus processing costs) for the full State roll.<sup>19</sup>
- 3.153 The amendments to section 27A to require the disclosure of an elector's age rather than age band will mean:
- 3.153.1 that the enrolment forms will have to be amended. Currently, the form advises applicants for enrolment to: *Mark this box if you agree to your gender, place of birth and **age range** being given to members of State Parliament.* The cost of recalling, reprinting and redistribution of electoral enrolment forms is estimated by the S.E.O. to be \$110,000; and
  - 3.153.2 a programming change to the RMANS (Roll Management System), maintained by the Australian Electoral Commission. This is expected to cost around \$5,500.
- 3.154 The Department for Administrative and Information Services advises that the amendments to section 27A may result in more Members of Parliament using the information service provided by the Parliamentary Network Services Group ("P.N.S.G."). If so, P.N.S.G. may have to seek additional funding to cope with the extra demand for its services. DAIS has not been able to quantify the extra funding that may be required.
- 3.155 The S.E.O. advises that administration of amended section 36 (criteria for registration as a political party), in particular, ongoing monitoring to ensure that a party's membership stays above 500, will occupy an AS03 level employee on a 0.5 FTE basis at \$30,000 per annum.
- 3.156 No lower funding priorities within the Justice portfolio can be identified. As such I request the provision of these additional expenditure authorities to the S.E.O:
- 3.156.1 \$170,500 in 2006-07;
  - 3.156.2 \$56,000 per year indexed from 2007-08 on<sup>20</sup>.
- 3.157 Treasury and Finance accepts that the costs identified are reasonable estimates of the resources required.

<sup>18</sup> Based on \$320 per term for each of the 47 HA members.

<sup>19</sup> Based on \$1,253 per month for one State Roll extract plus processing costs.

<sup>20</sup> These figures include \$30,000 per annum necessary to employ an AS03 on a 0.5 FTE basis.

**Staffing Implications**

3.158 See paragraph 3.155.

**Family Impacts**

3.159 There are no specific effects on families of the proposed amendments to the *Electoral Act* or the *Constitution Act*.

**Small Business Impacts**

3.160 The impact of the proposed amendments on business will be small. Businesses that rely on information taken from the electoral roll for marketing purposes will be unable to purchase copies of the electoral roll after subsection 26(2) is repealed.

**Environmental Impacts**

3.161 There are no direct environmental impacts of the proposed amendments.

**Regulatory Impacts**

3.162 There are some important regulatory effects of the proposed amendments for parties seeking registration under the *Electoral Act* and political parties and candidates registered under the Act. Specifically, parties seeking registration under the Act will have to comply with more stringent registration and reporting requirements, such as higher minimum membership numbers, new constitutional standards and annual reporting requirements. Existing parties will have six months within which to comply with these new requirements. New parties will also be required to pay a \$500 registration fee and wait six months from the date of registration before contesting an election.

3.163 There are no restrictions on competition in the proposed changes.

**Regional Impacts**

3.164 There are some regional effects arising from the proposed amendments to sections 47 (timetabling), 74 and 82 (declaration votes) of the *Electoral Act*.

3.165 As to sections 47 and 48, these amendments will allow certainty for electors in remote and pastoral areas about receiving and returning ballot materials.

3.166 New subsection 74(2) will improve the system for dispatching declaration-voting papers to regional voters on the register of declaration voters.

3.167 Under subsection 74(3)(iii), a person is entitled to be placed on the register of declaration voters because of the remoteness of his place of

residence. The amendments to subsection (3)(iii) will replace *remoteness of their place of residence* with *not within 20kms of a polling booth*.

- 3.168 The S.E.C. advises that there are about 50 voters who are currently on the list of declaration voters by dint of subsection 74(3)(iii), whose place of residence, although remote, is within 20 kms of a polling station. To ensure these voters remain on the register of declaration voters, I propose the Bill contain a transitional provision protecting voters currently registered as declaration voters under subsection 74(3)(iii). However, in future, voters who would have qualified under the current provision may not under the proposed amended provision. I have no information about the number of potential voters affected by this.
- 3.169 New subsection 74(7) and new subsection 82(4) will help improve the timeliness with which declaration-voting papers are dispatched to and received from regional voters using an intermediary.
- 3.170 Otherwise, the proposed amendments have no specific regional effect.

### **Risk Management Strategy**

- 3.171 There are some risks to the Government from the proposed amendments.
- 3.172 The proposed new registration standards for registered political parties, in particular, the increase in the minimum number of members required for registration and the imposition of a registration fee, are unlikely to be supported by the minor parties and some pressure groups and may be opposed by the Opposition. I will address any concerns with these amendments during the debates in Parliament in accordance with the arguments set out in this submission.
- 3.173 The amendments ensuring House of Assembly Members, Legislative Council Party leaders and, in particular, registered political parties, are provided with monthly electronic updates of the relevant electoral roll information may be criticised on privacy grounds. More than 38%<sup>21</sup> of electors enrolled since section 27A(2) was enacted in 1997 have indicated on their enrolment form that they want information to Members' of Parliament restricted. The State Electoral Commissioner also advises that organisations may seek to register as a political party for the purpose of obtaining the roll data. I will deal with such criticisms as and when they arise by explaining the public benefits of Members of Parliament and political parties having access to information about electors and by noting that the amendments to sections 36, 39 and 42 will make registration of sham parties more difficult and, hence, unlikely.

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<sup>21</sup> The percentage of electors who indicate that they do not want information passed on has risen since 1997.

- 3.174 The amendments restricting access to, and commercial exploitation of, electoral roll information (s26) may be opposed by business. They should, however, be well received by the public on privacy grounds.
- 3.175 I would expect SSABSA and the R.T.T to oppose the amendments to section 27 on privacy grounds. I will deal with any concerns from these bodies as and when they arise.
- 3.176 The amendments to section 27A to allow a Member of Parliament to access an elector's age rather than age band raises privacy concerns and may be unpopular with voters and, as such, may be the subject of criticism in Parliament. I will deal with such criticisms as and when they arise by explaining the public benefits of Members of Parliament and political parties having access to information about electors.

### **Consultation**

- 3.177 The S.E.C. has been consulted about the amendments to the *Electoral Act* and the *Constitution Act* proposed to be included in the main bill.
- 3.178 Those amendments discussed in Part (A) of this Cabinet Submission were originally included in the *Electoral (Miscellaneous) Amendment Bill 2001*, a bill introduced by the former Liberal Government and have already been the subject of Parliamentary consideration in the Legislative Council during the debates on the former Government's bill in 2001.
- 3.179 Consultation on the proposals inside the South Australian Government has occurred with D.A.I.S., the S.E.O., B.M.T., D.P.C., Office of Regional Affairs, D.H.S., D.E.H. and D.T.F.

### **Implementation Plan**

- 3.180 Once drafted I will seek Cabinet approval to introduce the Bill into Parliament.

### **Communication Strategy**

- 3.181 Stakeholders, including the S.E.C., members of Parliament and registered political parties will be advised about the amendments once the Bill is introduced into Parliament.

## **4. RECOMMENDATIONS**

## **Drafting Instructions to Parliamentary Counsel**

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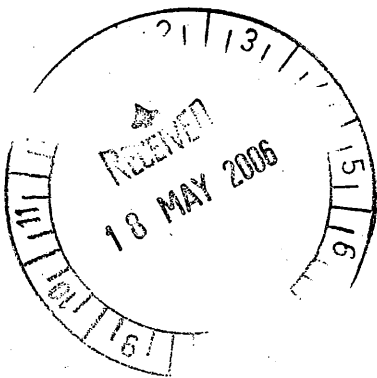
**Exempt clause 10(1) – legal professional privilege**


I declare that I have no actual or potential conflict of interest about the proposals contained in this submission except insofar as they benefit all members of parliament and members of registered political parties.



MICHAEL ATKINSON M.P.  
Attorney-General

18 May, 2006



Def One week  


## **Drafting Instructions to Parliamentary Counsel**

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**Exempt clause 10(1) – legal professional privilege**