

South Australia

# **Commission of Inquiry on Electoral Reform Bill 2014**

A BILL FOR

An Act to provide for a Commission of Inquiry into electoral reform; to provide evidentiary powers and immunities in connection with the inquiries; and for other purposes.

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## Contents

- 1 Short title
- 2 Interpretation
- 3 Term of reference of Inquiry
- 4 Constitution of Inquiry
- 5 Procedure
- 6 Staff
- 7 Powers of Inquiry in respect of witnesses etc
- 8 Obligation to give evidence
- 9 Presentation of report
- 10 Protection to commissioners and witnesses

### Schedule 1—Appointment committee

- 1 Members of appointment committee
  - 2 Proceedings of appointment committee
- 

## The Parliament of South Australia enacts as follows:

### 1—Short title

This Act may be cited as the *Commission of Inquiry on Electoral Reform Act 2014*.

### 2—Interpretation

In this Act, unless the contrary intention appears—

5 *appointment committee* means the appointment committee constituted under Schedule 1;

*commissioner* means any person who is appointed as a commissioner by the Governor under section 4(2);

*Inquiry* means the commission of inquiry established under this Act;

10 *recognised coalition*, in relation to a general election of members of the House of Assembly, means a publicly announced, formal alliance between 2 or more political parties endorsing candidates at the election or between a political party endorsing candidates at the election and 1 or more other candidates at the election.

### 3—Term of reference of Inquiry

15 The term of reference of the Inquiry is to inquire into and report on electoral reform that would ensure that the political party or recognised coalition that receives the majority of the State-wide vote at a general election of members of the House of Assembly is elected in sufficient numbers to enable that party or coalition to form a government (whilst also ensuring that the requirements of section 66 of the  
20 *Constitution Act 1934* are maintained).

### 4—Constitution of Inquiry

- (1) A commission of inquiry is established.
- (2) The Inquiry is to be constituted by 3 commissioners appointed by the Governor on the recommendation of the appointment committee.

- (3) An appointment made under subsection (2) will be on conditions determined by the appointment committee.
- (4) If a person appointed by the Governor is a Judge or former Judge within the meaning of the *Judges' Pensions Act 1971* then the following provisions will apply in relation to the person so appointed despite the provisions of that Act:
- 5 (a) the person will, while holding office under this Act, be taken to be in judicial service within the meaning of, and for the purposes of, the *Judges' Pensions Act 1971*;
- 10 (b) if relevant, the person will be taken not to have retired or resigned from judicial service for the purposes of the *Judges' Pensions Act 1971* until he or she completes his or her term of office under this Act.
- (5) The term of office of a commissioner under this Act will be determined to have come to an end on a day fixed by the appointment committee by notice in writing to the commissioner and to the Minister.
- 15 (6) A quorum of the Inquiry consists of 2 commissioners and all questions will be determined according to the opinion of a majority of the commissioners present at the sitting at which the question is to be determined.

## 5—Procedure

In conducting the Inquiry, the commissioners—

- 20 (a) will not be bound by any rules or practices as to procedure or evidence, and may inform themselves in such a manner as they think fit; and
- (b) must seek to adopt procedures that will ensure wide consultation is undertaken, in a cost-effective way, on matters relevant to the Inquiry; and
- 25 (c) may sit at any time and in any place and may adjourn sittings from time to time and from place to place; and
- (d) may take evidence in public or in private; and
- (e) may refer any matter to an expert for advice, investigation or report; and
- (f) may publish any information the commissioners think fit.

## 6—Staff

- 30 (1) The commissioners may employ such staff as the commissioners think necessary for the proper conduct of the Inquiry.
- (2) A person employed under this section is not a Public Service employee.
- (3) The commissioners may, under an arrangement established by the Minister administering an administrative unit of the Public Service, make use of the services or
- 35 staff of that administrative unit.

## 7—Powers of Inquiry in respect of witnesses etc

- (1) A commissioner may issue a summons requiring a person to appear before the Inquiry at a specified time and place to give evidence or to produce evidentiary material (or both).

(2) A summons to produce evidentiary material may, instead of providing for production of evidentiary material before the Inquiry, provide for production of the evidentiary material in a manner specified in the summons.

5 (3) A commissioner may administer an oath or affirmation to a person appearing before the Inquiry.

### **8—Obligation to give evidence**

(1) If a person refuses or fails—

(a) to comply with a summons issued under this Act; or

(b) to make an oath or affirmation when required to do so by a commissioner; or

10 (c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,

the Supreme Court may, on application by a commissioner, compel the attendance of the person before the Court to give evidence or to produce evidentiary material for the purposes of the Inquiry.

15 (2) A person who, without reasonable excuse, refuses or fails—

(a) to comply with a summons issued under this Act; or

(b) to make an oath or affirmation when required to do so by a commissioner; or

(c) to answer a question on a subject relevant to the Inquiry to the best of the person's knowledge, information and belief,

20 is guilty of an offence.

Maximum penalty: \$10 000.

### **9—Presentation of report**

(1) The commissioners must complete the Inquiry, and prepare a report on its outcome—

(a) before 1 July 2015; or

25 (b) if the commissioners determine, by notice in writing to the appointment committee and to the Minister, that it is not reasonably practicable to complete the Inquiry and report before 1 July 2015—as soon as is reasonably practicable after that date.

(2) The report required under this section must be delivered to the Governor.

30 (3) The Minister must cause a copy of the report to be laid before each House of Parliament within 3 sitting days after the receipt of the report by the Governor.

### **10—Protection to commissioners and witnesses**

(1) A commissioner has, in connection with the conduct of the Inquiry and in respect of a report required under section 9, the same protection, privileges and immunities as a Judge of the Supreme Court.

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(2) A person who appears before the Inquiry, or who provides evidentiary material to the Inquiry, has the same protection, privileges and immunities as a witness in proceedings before the Supreme Court.

- (3) A legal practitioner who represents a person in connection with the Inquiry has the same protection, privileges, immunities and obligations as counsel involved in proceedings before the Supreme Court.

## **Schedule 1—Appointment committee**

### **5 1—Members of appointment committee**

The appointment committee is constituted of the following members:

- (a) 1 member of either House of Parliament nominated by the Premier;
- (b) 1 member of either House of Parliament nominated by the Leader of the Opposition in the House of Assembly;
- 10 (c) the leader of the South Australian Greens in the Legislative Council or another South Australian Greens Member of the Legislative Council nominated by the leader of the South Australian Greens in the Legislative Council;
- (d) the leader of the South Australian Family First Party in the Legislative Council or another South Australian Family First Party Member of the Legislative Council nominated by the leader of the South Australian Family First Party in the Legislative Council;
- 15 (e) the Hon John Darley MLC;
- (f) the Hon Kelly Vincent MLC;
- (g) the Hon Bob Such MP;
- 20 (h) the Hon Geoff Brock MP.

### **2—Proceedings of appointment committee**

- (1) A quorum of the appointment committee consists of 6 members of whom—
- (a) 1 must be the member nominated by the Premier; and
- 25 (b) 1 must be the member nominated by the Leader of the Opposition in the House of Assembly.
- (2) A recommendation of the appointment committee is of no effect for the purposes of section 4 unless the recommendation is supported by a majority of the members of the appointment committee, including—
- 30 (a) the member nominated by the Premier; and
- (b) the member nominated by the Leader of the Opposition in the House of Assembly.