House of Assembly—No 131
As laid on the table and read a first time, 5 December 2019

South Australia

Government Advertising Bill 2019

A BILL FOR

An Act to regulate government advertising, and for other purposes.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Government Advertising Act 2019*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Interpretation

(1) In this Act, unless the contrary intention appears—

cost, in relation to government advertising, includes costs incurred in connection with—

(a) production and distribution; and

(b) research for the purposes of the advertising; and

(c) evaluation of the likely or actual effectiveness of the advertising;

government advertising means—

(a) advertising purchased by a government agency under a contract or arrangement for commercial media distribution; or

(b) advertising of a kind prescribed by the regulations for the purposes of this paragraph paid for (either in part or in full) by a government agency,

but does not include advertising of a kind excluded by the regulations from the ambit of this definition;

government agency means—

(a) a Minister; or

(b) an administrative unit of the Public Service; or

(c) an agency or instrumentality of the Crown; or

(d) a person or body declared under subsection (2) to be a government agency,

but does not include a person or body declared under subsection (2) not to be a government agency.

(2) The Minister may, by notice in the Gazette—

(a) declare that a specified person or body is or is not a government agency for the purposes of this Act; or

(b) vary or revoke a notice under this subsection.

(3) The regulations may provide that this Act does not apply to government advertising of a prescribed kind or of a prescribed class.

Part 2—Government communications guidelines

4—Government communications guidelines

(1) The Minister must prepare and maintain guidelines (the ***government communications guidelines***) relating to government communications, including government advertising.

(2) The Minister must ensure that the government communications guidelines are published on a website determined by the Minister.

(3) Without limiting subsection (1), the government communications guidelines may include the following:

(a) requirements relating to the style and content of government communications;

(b) matters relating to approvals required for government communications;

(c) requirements relating to the manner in which government communications may be disseminated;

(d) matters relating to the cost of government communications;

(e) any other matter the Minister thinks fit.

Part 3—Regulation of government advertising

5—Ministers and MPs not to be in government advertising

Government advertising must not contain the voice or any image of a Minister or a Member of Parliament.

6—Auditor-General to conduct audits of government advertising

(1) Subject to this section, the Auditor-General may—

(a) on the Auditor-General's own initiative in relation to a financial year, conduct an audit of government advertising undertaken by a government agency in that year; or

(b) on the written request of a Member of Parliament, conduct an audit of particular government advertising identified in the request.

(2) Without limiting subsection (1), the Auditor-General must, in conducting an audit under this section, determine whether the content of government advertising constitutes a breach of section 5.

(3) The content of government advertising will not constitute a breach of section 5 if—

(a) the voice or image of the Minister or Member of Parliament contained in the relevant government advertising was recorded or taken while the person was not a Minister or Member of Parliament; or

(b) the Minister or Member of Parliament did not know, and could not reasonably be expected to have known, that their voice or image was to be used in the government advertising.

(4) In conducting an audit under this section, the Auditor-General may exercise the Auditor-General's functions and powers under Part 3 of the *Public Finance and Audit Act 1987* as if the audit under this section were an audit under that Act.

7—Auditor-General to report on government advertising breach

(1) If the Auditor-General determines, under section 6(2), that the content of government advertising constitutes a breach of section 5, the Auditor-General must prepare a report on the matter setting out the following:

(a) the name of each Minister or Member of Parliament whose voice or image is contained in the government advertising the subject of the breach;

(b) the cost of the government advertising the subject of the breach;

(c) the reasons for the determination;

(d) any other matter the Auditor-General thinks relevant.

(2) The Auditor-General must deliver copies of the report prepared under subsection (1) to the President of the Legislative Council and the Speaker of the House of Assembly.

(3) If the President of the Legislative Council or the Speaker of the House of Assembly is absent at the time the Auditor-General delivers to the Parliament a report under this section, the Clerk of the relevant House will receive the report on behalf of the President or the Speaker (as the case may be) and the report will then be taken to have been delivered to the President or the Speaker.

(4) The President of the Legislative Council and the Speaker of the House of Assembly must, not later than the first sitting day after a report has been delivered (or is taken to have been delivered) to the President or the Speaker by the Auditor-General under this section, lay them before their respective Houses.

(5) Subject to subsection (6), the Auditor-General may, after a report has been delivered (or is taken to have been delivered) to the President of the Legislative Council and the Speaker of the House of Assembly under this section, publish the report on a website determined by the Auditor-General or in such other manner as the Auditor-General thinks fit.

(6) If the day immediately following the day on which the report is delivered (or is taken to have been delivered) is a sitting day for either House of the Parliament, the Auditor-General must not publish the report and other documents in accordance with subsection (5) until the report has been laid before a House of the Parliament.

Part 4—Miscellaneous

8—Delegation

(1) The Minister may delegate powers or functions under this Act to any person.

(2) A delegation under this section—

(a) may be absolute or conditional; and

(b) does not derogate from the power of the Minister to act personally in any matter; and

(c) is revocable at will; and

(d) may, if the instrument of delegation so provides, be further delegated.

9—Regulations

(1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) The regulations may—

(a) be of general or limited application; and

(b) make different provision according to the persons, things or circumstances to which they are expressed to apply.