

**Legislative Council—No 155**

As introduced and read a first time, 20 March 2024

South Australia

**Parliament (Joint Services) (Clerks) Amendment  
Bill 2024**

A BILL FOR

An Act to amend the *Parliament (Joint Services) Act 1985* and to make a related amendment to the *Constitution Act 1934*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

- 5 This Act may be cited as the *Parliament (Joint Services) (Clerks) Amendment Act 2024*.

### 2—Commencement

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

## Part 2—Amendment of *Parliament (Joint Services) Act 1985*

### 3—Amendment of long title

- 10 (1) Long title—delete "both" and substitute:
  - the
- (2) Long title—delete "joint"

#### 4—Amendment of section 1—Short title

Section 1—delete "*Joint Services*" and substitute:

*Services*

#### 5—Amendment of section 4—Interpretation

5 (1) Section 4(1)—after the definition of *chief officer* insert:

*Clerk of the House of Assembly* means the person holding or acting in the office of Clerk of the House of Assembly under Part 1A;

*Clerk of the Legislative Council* means the person holding or acting in the office of Clerk of the Legislative Council under Part 1A;

10 (2) Section 4(1), definition of *the joint parliamentary service*—after "this Act" insert:  
(other than Part 1A)

(3) Section 4(1), definition of *officer*—after "this Act" insert:  
(other than Part 1A)

#### 6—Insertion of Part 1A

15 After Part 1 insert:

### **Part 1A—Clerks**

#### **Division 1—Establishment of office**

##### **4A—Clerk of Legislative Council**

The office of the Clerk of the Legislative Council is established.

20 **4B—Clerk of House of Assembly**

The office of the Clerk of the House of Assembly is established.

#### **Division 2—General provisions**

##### **4C—Terms and conditions of appointment**

25 (1) The Clerk of the House of Assembly is to be appointed by the Speaker of the House of Assembly for a term not exceeding 4 years on conditions determined by the Speaker.

(2) The Clerk of the Legislative Council is to be appointed by the President of the Legislative Council for a term not exceeding 4 years on conditions determined by the President.

30 (3) The Clerk of the Legislative Council and the Clerk of the House of Assembly are, at the end of a term of appointment, eligible for reappointment.

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- (4) A person is only eligible for appointment as the Clerk of the Legislative Council or the Clerk of the House of Assembly if the person—
- (a) holds a degree, diploma or certificate in law determined sufficient by the relevant Presiding Officer; and
  - (b) has extensive knowledge of, and experience in, relevant Parliamentary law, procedure and practice.
- 10
- (5) Before a person is appointed or reappointed as the Clerk of the Legislative Council or the Clerk of the House of Assembly, the Presiding Officer responsible for appointing the Clerk must cause the position to be advertised publicly—
- (a) in a newspaper circulating in the State and in each State and Territory of the Commonwealth; and
  - (b) on a website determined by the relevant Presiding Officer.
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- (6) The office of the Clerk of the Legislative Council or the Clerk of the House of Assembly become vacant if the holder—
- (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by written notice to the Presiding Officer who appointed the Clerk; or
  - (d) has their appointment terminated in accordance with section section 4G; or
  - (e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the
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#### **4D—Remuneration**

The Clerk of the Legislative Council and the Clerk of the House of Assembly are entitled to salary and allowances determined by the Remuneration Tribunal.

#### **4E—Acting Clerk**

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- (1) The President of the Legislative Council may appoint a person to act as the Clerk of the Legislative Council during any period in which the office is vacant or the Clerk is absent from, or unable to undertake, official duties.
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- (2) The Speaker of the House of Assembly may appoint a person to act as the Clerk of the House of Assembly during any period in which the office is vacant or the Clerk is absent from, or unable to undertake, official duties.

#### 4F—Annual performance review

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- (1) The President of the Legislative Council must, at least once in each year, cause a review to be undertaken in relation to the performance of the duties of the Clerk of the Legislative Council during the previous year.
  - (2) The Speaker of the House of Assembly must, at least once in each year, cause a review to be undertaken in relation to the performance of the duties of the Clerk of the House of Assembly during the previous year.

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#### 4G—Termination or suspension

- (1) The Legislative Council may, by resolution passed pursuant to a motion of which notice was given at least 6 sitting days before the day on which the resolution is passed, terminate the appointment of the Clerk of the Legislative Council.
- 15 (2) The House of Assembly may, by resolution passed pursuant to a motion of which notice was given at least 6 sitting days before the day on which the resolution is passed, terminate the appointment of the Clerk of the House of Assembly.
- 20 (3) A resolution terminating the appointment of the Clerk of the Legislative Council or the Clerk of the House of Assembly must state the grounds on which the appointment is to be terminated, which must be 1 or any of the following:
  - (a) contravention of a condition of appointment;
  - (b) misconduct;
  - 25 (c) failure or incapacity to carry out official duties satisfactorily.
- (4) If notice of motion to terminate the appointment of the Clerk of the Legislative Council is given in accordance with this section, the President of the Legislative Council may suspend the Clerk of the Legislative Council pending the resolution of that motion.
- 30 (5) If notice of motion to terminate the appointment of the Clerk of the House of Assembly is given in accordance with this section, the President of the Legislative Council may suspend the Clerk of the Legislative Council pending the resolution of that motion.

#### 7—Relocation of section 24

35 Section 24—relocate the section so that it is under Part 5

#### 8—Amendment of section 27—Officers may be regarded as members of the Public Service in certain situations

Section 27(2), definition of *officer*—after "House of Parliament" insert:

, the Clerk of the Legislative Council, the Clerk of the House of Assembly

## **Part 3—Amendment of *Constitution Act 1934***

### **9—Amendment of section 58—Provision as to President, Speaker, and officers**

- (1) Section 58, heading—delete ", and officers"
- (2) Section 58(2)—delete subsection (2)