

ECONOMIC POLICY SCRUTINY COMMITTEE

Integrity and Accountability Legislation Amendment Bill 2019

DEPARTMENT OF THE CHIEF MINISTER'S RESPONSE TO WRITTEN QUESTIONS FROM THE COMMITTEE

1. The Electoral Commissioner noted that the majority of jurisdictions do not limit the tenure of the Electoral Commissioner. In addition, he drew attention to the lack of alignment between the electoral cycles for the Legislative Assembly and Local Government, and the proposed tenure limit of two five year terms for the NT Electoral Commissioner (clause 15, proposed s 320(1) and (2)). As his second five year term would end in April 2024, the amendment would result in the incoming Electoral Commissioner commencing in the role only four months out from the 2024 election.

a. *What is the rationale for limiting tenure to two five year terms?*

Most jurisdictions provide limitations on the tenure of statutory officers. Limiting the term of appointment and re-appointment for statutory officers reduces the possibility for bias or the perception of bias in the person who is undertaking the role. As the key role of a relevant statutory officer is to keep checks and balances on Government, limitation of tenure ensures that a statutory officer is not tied to the Government of the day. New appointments also allow for robust oversight and introduces new perspectives to the statutory office.

The object of the Integrity and Accountability Legislation Amendment Bill 2019 (the Bill) is to create a consistent legislative approach for statutory officers with an integrity focus in the Northern Territory. The Bill's amendments align the tenure for relevant statutory officers to that of the Independent Commissioner Against Corruption, which is five years, with an option for re-appointment for one further term of five years. These terms are provided in the *Independent Commissioner Against Corruption Act 2017* (ICAC Act).

The ICAC Act is the most contemporary and comprehensive piece of legislation relating to statutory officers in the Northern Territory. The Act represents the high watermark for accountability legislation in the Northern Territory, having undergone an extensive consultation process (including the public release of an Exposure Draft Bill). Aligning the tenure of all relevant statutory officers with the Independent Commissioner Against Corruption creates a more open, accountable and transparent process around the appointment of statutory officers, who are key to upholding integrity in the Northern Territory.

- b. *What consideration has been given to the effect this amendment could have on the efficiency with which elections are conducted when tenure is not aligned with electoral cycles?*

With regards to the legislative amendments impacting the term of appointment of the Electoral Commissioner, the four year electoral cycle was considered in the development of this Bill.

The proposed amendments limit the maximum term of appointment for the Electoral Commissioner to 10 years, that is, five years with an option to be reappointed for one further term of five years. The amendments do not change the current duration of a single term of appointment for the Electoral Commissioner, which is five years. As such, even in the absence of the proposed amendments, the Electoral Commissioner's term of appointment would expire periodically in the lead up to either the commencement of the redistribution process (commencing in February in the year before an election year) or the occurrence of a Northern Territory General Election (every four years in August). For example, in the period between 2019 and 2040, the expiration of the Electoral Commissioner's term will coincide with an NT election once (in 2024) and with the redistribution process once (in 2039).

In any major organisation it is not always possible to align tenure with key events or potential commitments of the organisation, and business continuity arrangements are made to support the transition of incoming/outgoing leadership. In light of the existing timing considerations of the electoral cycle, it was not considered that limiting the Electoral Commissioner's term to a maximum of 10 years would create any new risks to current Northern Territory Electoral Commission procedures or processes, and that existing business continuity arrangements embedded within the organisation would support that transition.

2. There is considerable variation across Australian jurisdictions in the tenure and re-appointment provisions for each of the statutory officer positions being addressed in this Bill. The Committee notes that no other jurisdiction imposes the same conditions for each of these positions. For example, most jurisdictions do not provide for re-appointment of the Auditor-General but do provide for re-appointment of the other positions.

- a. *What is the rationale for providing the same tenure and re-appointment conditions for each statutory officer position despite variations in their purpose and function?*

In line with the NT Government's commitment to 'restore integrity to government', the Bill aligns the legislation relating to the appointment of five 'relevant statutory officers' with an integrity focus in the Northern Territory: the Auditor-General, Electoral Commissioner, Independent Commissioner Against Corruption, Independent Commissioner Against Corruption Inspector and the Ombudsman.

Though there are variations in the legislated roles and responsibilities of the relevant statutory officers, these officers all play a vital integrity role in providing democratic checks and balances to Government. Whilst there are other statutory officer positions in the Northern Territory, such as the NT Children's Commissioner, the relevant statutory officers have the shared purpose and function of upholding integrity in our Northern Territory democracy.

Aligning the tenure and re-appointment conditions of the relevant statutory officers to that of the Independent Commissioner Against Corruption creates legislative consistency and clarity, which is crucial to both demonstrate and preserve the independent and impartial role that the statutory officers have in upholding integrity in the Northern Territory. The amendments in the Bill align the tenure of the relevant statutory officers to the provisions outlined in the ICAC Act, as this Act represents best practice accountability legislation in the Northern Territory.