

South Australia

First Nations Voice Bill 2022

A BILL FOR

An Act to give First Nations people a voice that will be heard by the Parliament of South Australia, the Government of South Australia and other persons and bodies, to establish Local First Nations Voices and the State First Nations Voice, and for other purposes.

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Preamble

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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 *First Nations Voice Act 2022*.

5 **2—Commencement**

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

3—Interpretation

In this Act—

Aboriginal person—see section 4;

10 *administrative unit* has the same meaning as in the *Public Sector Act 2009*;

country, in relation to an Aboriginal person—see section 5;

Local First Nations Voice, in respect of a region, means the Local First Nations Voice for that region established under section 10;

serious offence means—

15 (a) an offence against the following provisions of the *Criminal Law Consolidation Act 1935*:

(i) Part 3;

(ii) Part 3A;

(iii) Part 3B;

20 (iv) Part 3D;

(v) Part 4;

(vi) Part 5;

(vii) Part 6A;

(viii) Part 6B;

25 (ix) Part 7A;

(x) Part 7B (being an offence consisting of aiding, abetting, counselling or procuring the commission of an offence referred to in a preceding subparagraph);

(xi) section 270A (being an offence consisting of attempting to commit an offence referred to in a preceding subparagraph);

(xii) section 270AB;

(xiii) section 270B;

5 (xiv) section 270C;

(xv) section 270D; or

(b) any other offence prescribed by the regulations (being an indictable offence, or a summary offence with a maximum penalty of 12 months imprisonment or more); or

10 (c) an offence against a law of the Commonwealth, or of another State or Territory, corresponding to an offence referred to in a preceding paragraph;

State First Nations Voice means the State First Nations Voice established under section 24.

4—Aboriginal persons

15 (1) For the purposes of this Act, a person will be taken to be an Aboriginal person or be Aboriginal if the person is of Aboriginal descent.

(2) For the purposes of this Act, a person will be taken to be of Aboriginal descent if the person is biologically descended from the persons who inhabited Australia before European settlement.

20 (3) For the purposes of this Act, a reference to an Aboriginal person will be taken to include a reference to a Torres Strait Islander person.

5—Country

(1) For the purposes of this Act, a reference to *country* in respect of an Aboriginal person will be taken to be a reference to the lands and waters to which the person is
25 connected, having regard to the relevant law, place, custom, language, spiritual belief, cultural practice, material sustenance, family and identity.

(2) For the purposes of this Act, whether or not a person has the required connection to *country* is to be determined according to the traditions, practices and customs relating to the relevant country.

30 Part 2—Purposes and principles of Act

6—Purposes of Act

7—State First Nations Voice to represent views of Aboriginal persons in South Australia

35 (1) It is the intention of the Parliament of South Australia that the State First Nations Voice will, as far as is reasonably practicable, in performing functions under this Act, seek to ascertain and represent the views of Aboriginal persons in South Australia.

(2) To the extent that the performance of a function by the State First Nations Voice affects a particular Aboriginal person, or a particular group of Aboriginal persons, the State First Nations Voice must take reasonable steps to consult with, and express the views of, that person or group.

5 (3) However, a failure to comply with this section does not, of itself, invalidate a decision of the State First Nations Voice.

8—Act does not require disclosure of certain information

10 Nothing in this Act requires a Local First Nations Voice, the State First Nations Voice or any Aboriginal person to disclose information (however described) that should not, according to Aboriginal tradition, be disclosed (either generally or in particular circumstances).

Part 3—Local First Nations Voices

Division 1—State to be divided into regions

9—Constitution of regions for elections

15 (1) South Australia is to be divided into the prescribed number of regions for the purposes of this Act.

(2) Each region—

(a) consists of the area or areas from time to time specified by the regulations; and

20 (b) may be known by the name from time to time assigned to the region by the State First Nations Voice.

(3) Without limiting subsection (2), the area or areas comprising a region may be identified by reference to a plan of regions lodged in the General Registry Office from time to time.

25 (4) For the purposes of this section, the *prescribed number of regions* is—

(a) if the regulations from time to time prescribe a number of regions—that number (of which 1 must be a region comprising Adelaide metropolitan area); or

30 (b) if the regulations do not prescribe a number of regions—6 (of which 1 must be a region comprising Adelaide metropolitan area).

Division 2—Local First Nations Voices

10—Establishment of Local First Nations Voices

(1) There is to be a Local First Nations Voice in respect of each region in the State.

(2) Each Local First Nations Voice—

35 (a) is a body corporate with perpetual succession and a common seal; and

(b) is capable of suing and being sued; and

(c) is, for the purpose of carrying out its functions, capable of—

- (i) holding, acquiring, dealing with and disposing of real and personal property; and
 - (ii) acquiring or incurring any other rights or liabilities; and
 - (d) holds its property on behalf of the Crown.
- 5 (3) A Local First Nations Voice is independent of direction or control by the Crown or any Minister or officer of the Crown.
- (4) A Local First Nations Voice is not an agency or instrumentality of the Crown (and is not, to avoid doubt, a public sector agency under the *Public Sector Act 2009*).
- 10 (5) If an apparently genuine document purports to bear the common seal of a Local First Nations Voice, it is to be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Local First Nations Voice has been duly affixed to that document.

11—Composition of Local First Nations Voice

- 15 (1) A Local First Nations Voice consists of such number of members as may be prescribed by the regulations (which may, to avoid doubt, consist of different numbers of members for different Local First Nations Voices) elected in accordance with this Act.
- (2) A Local First Nations Voice must consist of equal numbers of male and female members.

20 12—Joint presiding members

Each Local First Nations Voice must elect 1 male and 1 female member to be joint presiding members of the Local First Nations Voice.

13—Terms and conditions of office

- 25 (1) A member of a Local First Nations Voice holds office until the next election of members of the Local First Nations Voice and is, subject to this Act, eligible for re-election.
- (2) A member of a Local First Nations Voice is entitled to such remuneration, allowances and expenses as may be determined by the Governor.

14—Vacancies

- 30 (1) The office of a member of a Local First Nations Voice becomes vacant if the member—
 - (a) dies; or
 - (b) completes a term of office and is not re-elected or reappointed; or
 - (c) resigns by written notice to the Governor; or
 - 35 (d) is sentenced to imprisonment for an offence; or
 - (e) is found guilty of a serious offence; or
 - (f) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
 - (g) is removed from office by the Governor under subsection (2).

- (2) The Governor may, on the recommendation of the State First Nations Voice made at the written request of the Local First Nations Voice, remove a member of a Local First Nations Voice from office—
- 5 (a) for misconduct or conduct that may bring the Local First Nations Voice into disrepute; or
 - (b) for breach of, or non-compliance with, a condition of office; or
 - (c) for failure to comply with a duty under section 20 or 21; or
 - (d) if the member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
 - 10 (e) if the member has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily.
- (3) A Local First Nations Voice may only make a written request under subsection (2) in accordance with a resolution passed by a majority of members of the Local First Nations Voice.
- 15 (4) The following rules apply to the filling of a casual vacancy that occurs in the office of a member:
- 20 (a) if the vacancy occurs within 12 months after the member's election, and there was more than 1 candidate at the election, the Governor must appoint the male or female person (as the case requires) who received the next highest number of votes at that election;
 - (b) if—
 - (i) there was only 1 candidate at that election; or
 - (ii) the person with the next highest number of votes is no longer suitable, or is unavailable or unwilling to be appointed; or
 - 25 (iii) the vacancy occurs later than 12 months after that election, a supplementary election to fill the vacant office must be held.
- (5) A member appointed to a vacant office under subsection (4) holds office for the balance of the term of the member's predecessor.
- 30 (6) An act or proceeding of a Local First Nations Voice is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

15—Functions of Local First Nations Voices

- (1) A Local First Nations Voice has the following functions:
- 35 (a) to consider and discuss matters of interest to Aboriginal people in its region;
 - (b) to promote, encourage and assist Aboriginal people in its region to communicate their views on matters of interest;
 - (c) to receive the views of Aboriginal people in its region and pass those views on to the State First Nations Voice;
 - (d) to liaise and collaborate with the State First Nations Voice on matters of interest to Aboriginal people in its region;

(e) at the discretion of the Local First Nations Voice, to collaborate with and assist public sector agencies and other organisations in the development of policies and procedures that affect Aboriginal people in its region;

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(f) at the discretion of the Local First Nations Voice, to engage with local government and with other organisations on matters of interest to Aboriginal people in its region;

(g) such other functions as may be assigned to the Local First Nations Voice by or under this Act or by the Minister.

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(2) To avoid doubt, nothing in subsection (1) limits or otherwise affects the functions of any other Aboriginal persons or bodies.

(3) Subject to this Act, a Local First Nations Voice has such powers as may be necessary or expedient for the performance of the Local First Nations Voice's functions.

16—Procedures of Local First Nations Voices

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(1) Subject to this Act, a quorum of a Local First Nations Voice consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1.

(2) Subject to this section, a Local First Nations Voice must meet not less than 4, and not more than 6, times in each year.

(3) A Local First Nations Voice may, with the approval of the Minister, meet more than 6 times in a year.

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(4) The joint presiding members will preside at a meeting of a Local First Nations Voice and, in the absence of 1 of the joint presiding members, the remaining joint presiding member will preside and, in the absence of both joint presiding members, a member chosen by the members present at the meeting will preside.

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(5) A question arising for decision at a meeting of a Local First Nations Voice will be decided by a majority of the votes cast by the members present at the meeting.

(6) Each member present at a meeting of a Local First Nations Voice will be entitled to 1 vote on any question arising for decision at the meeting and, if the votes are equal, the person presiding will have a casting vote.

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(7) A meeting of a Local First Nations Voice may be conducted remotely using 1 or both of the following means of communication:

(a) audio visual;

(b) audio,

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and a member who participates in a meeting in accordance with this subsection is taken to be present at the meeting, and to form part of any quorum for the meeting, even if the member is not physically present at the same place as another member participating in the meeting.

(8) A Local First Nations Voice must have accurate minutes kept of its meetings.

(9) Subject to this Act, a Local First Nations Voice may determine its own procedures.

17—Committees

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(1) A Local First Nations Voice may establish committees—

(a) to advise the Local First Nations Voice; or

- (b) to carry out functions on behalf of the Local First Nations Voice.
- (2) The membership of a committee will be determined by the Local First Nations Voice and may, but need not, consist of, or include, members of the Local First Nations Voice.
- 5 (3) Each member of a committee must (unless the Local First Nations Voice determines otherwise in relation to a particular committee) be an Aboriginal person.
- (4) The Local First Nations Voice will determine who will be the presiding member of a committee.
- 10 (5) The procedures to be observed in relation to the conduct of the business of a committee will be—
 - (a) as determined by the Local First Nations Voice; and
 - (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

18—Delegation

- 15 (1) A Local First Nations Voice may delegate a function under this Act to—
 - (a) a member of the Local First Nations Voice; or
 - (b) a committee of the Local First Nations Voice.
- (2) A delegation under this section—
 - 20 (a) must be by instrument in writing; and
 - (b) may be absolute or conditional; and
 - (c) does not derogate from the ability of the Local First Nations Voice to act in any matter; and
 - (d) is revocable at will.
- 25 (3) A function delegated under this section may, if the instrument of delegation so provides, be further delegated.

19—Accounts and audit

- (1) A Local First Nations Voice must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.
- 30 (2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of a Local First Nations Voice.

20—Duty to act honestly

A member of a Local First Nations Voice must at all times act honestly in the performance of the functions of their office, whether within or outside the State.

21—Duty with respect to conflict of interest

- (1) A member of a Local First Nations Voice who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the Local First Nations Voice—
- 5 (a) must, as soon as reasonably practicable, disclose to the Local First Nations Voice full and accurate details of the interest; and
- (b) must not take part in any discussion by the Local First Nations Voice relating to that matter; and
- (c) must not vote in relation to that matter; and
- 10 (d) must be absent from the meeting room when any such discussion or voting is taking place.
- (2) If a member of a Local First Nations Voice makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
- 15 (a) the contract is not liable to be avoided by the Local First Nations Voice; and
- (b) the member is not liable to account to the Local First Nations Voice for profits derived from the contract.
- (3) If a member of a Local First Nations Voice fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the Local First Nations Voice.
- 20 (4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (5) If a member of a Local First Nations Voice has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with their duties as a member of the Local First Nations Voice, the member must, as soon as reasonably practicable, disclose to the Local First Nations Voice full and accurate details of the interest or office.
- 25 (6) A disclosure under this section must be recorded in the minutes of the Local First Nations Voice.
- 30 (7) If, in the opinion of a Local First Nations Voice, a particular interest or office of a member of the Local First Nations Voice is of such significance that the holding of the interest or office is not consistent with the proper discharge of the duties of the member, the Local First Nations Voice may require the member either to divest themselves of the interest or office or to resign from the Local First Nations Voice (and non-compliance with the requirement constitutes a failure to comply with a duty under this section and hence a ground for removal of the member from the Local First Nations Voice).
- 35 (8) A member of a Local First Nations Voice is exempt from this section in respect of an interest in a matter—
- 40 (a) while they remain unaware that they have an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that they were not, at the material time, aware of their interest; or

- (b) arising by reason of the fact that the member is a member of a community in a region to which the matter relates; or
- (c) that is shared in common with Aboriginal people generally, or a substantial section of Aboriginal people.

5 **Division 3—Elections of members of Local First Nations Voices**

22—Conduct of elections of members of Local First Nations Voices

- (1) Subject to this Act, an election of members of a Local First Nations Voice (including, to avoid doubt, a supplementary election) must be conducted in accordance with Schedule 1.
- 10 (2) Except in the case of a supplementary election, an election of members of a Local First Nations Voice—
 - (a) must (unless the Minister determines otherwise) be conducted in the course of each general election (within the meaning of the *Electoral Act 1985*); and
 - (b) must be conducted by the Electoral Commissioner—
 - 15 (i) in accordance with the rules set out in Schedule 1; and
 - (ii) to the extent that the rules set out in Schedule 1 fail to deal with a matter that, in the opinion of the Electoral Commissioner, is necessary for the proper conduct of the election, or if, in the opinion of the Electoral Commissioner, the circumstances of a particular election require modifications to the rules set out in Schedule 1—in accordance with rules determined by the Electoral Commissioner after consultation with the State First Nations Voice and the Minister in relation to that matter.
- 20 (3) The validity of any election or return may only be disputed in accordance with
- 25 Schedule 1.

Division 4—Annual meeting of Local First Nations Voices

23—Annual meeting of Local First Nations Voices

- (1) Each Local First Nations Voice must, at least once in each year, attend a meeting of all Local First Nations Voices organised by the State First Nations Voice.
- 30 (2) An annual meeting may be held at the time and place determined by the State First Nations Voice.
- (3) An annual meeting is to be conducted in accordance with any procedures determined by the State First Nations Voice.

Part 4—State First Nations Voice

35 **24—Establishment of State First Nations Voice**

- (1) The State First Nations Voice is established.
- (2) The State First Nations Voice—
 - (a) is a body corporate with perpetual succession and a common seal; and

- (b) is capable of suing and being sued; and
- (c) is, for the purpose of carrying out its functions, capable of—
 - (i) holding, acquiring, dealing with and disposing of real and personal property; and
 - (ii) acquiring or incurring any other rights or liabilities; and
- (d) holds its property on behalf of the Crown.

- (3) The State First Nations Voice is independent of direction or control by the Crown or any Minister or officer of the Crown.
- (4) The State First Nations Voice is not an agency or instrumentality of the Crown (and is not, to avoid doubt, a public sector agency under the *Public Sector Act 2009*).
- (5) If an apparently genuine document purports to bear the common seal of the State First Nations Voice, it is to be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the State First Nations Voice has been duly affixed to that document.

25—Composition of State First Nations Voice

- (1) Subject to this section, the State First Nations Voice consists of the joint presiding members of each Local First Nations Voice.
- (2) If—
 - (a) an office of a member of the State First Nations Voice becomes vacant; and
 - (b) the member remains as a joint presiding member of the relevant Local First Nations Voice,then—
 - (c) the member will, for the purposes of subsection (1), be taken not to be a member of the State First Nations Voice; and
 - (d) a reference in that subsection to the joint presiding members of each Local First Nations Voice will be taken to be a reference to a member appointed to fill the vacancy under section 28(4).

26—Joint presiding members

The State First Nations Voice must elect 1 male and 1 female member to be joint presiding members of the State First Nations Voice.

27—Terms and conditions of office

- (1) Subject to this Act, a member of the State First Nations Voice holds office for as long as they are a joint presiding member of the relevant Local First Nations Voice.
- (2) A member of the State First Nations Voice is entitled to such remuneration, allowances and expenses as may be determined by the Governor.

28—Vacancies

- (1) The office of a member of the State First Nations Voice becomes vacant if the member—
 - (a) dies; or

- (b) resigns by written notice to the Governor; or
- (c) is sentenced to imprisonment for an offence; or
- (d) is found guilty of a serious offence; or
- 5 (e) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth; or
- (f) is removed from office by the Governor under subsection (2).
- (2) The Governor may, at the written request of the State First Nations Voice, remove a member from office—
- 10 (a) for misconduct or conduct that may bring the State First Nations Voice into disrepute; or
- (b) for breach of, or non-compliance with, a condition of office; or
- (c) for failure to comply with a duty under section 33 or 34; or
- (d) if the member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- 15 (e) if the member has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily.
- (3) The State First Nations Voice may only make a written request under subsection (2) in accordance with a resolution passed by a majority of members of the State First Nations Voice.
- 20 (4) The Governor may appoint a male or female member of the relevant Local First Nations Voice (as the case requires) recommended by the Local First Nations Voice to fill a casual vacancy in the office of a member of the State First Nations Voice appointed in respect of the Local First Nations Voice.
- (5) To avoid doubt, a member appointed under subsection (4) need not be a joint
- 25 presiding member of the Local First Nations Voice.
- (6) A member appointed under subsection (4) holds office for the balance of the term of the member's predecessor.
- (7) An act or proceeding of the State First Nations Voice is not invalid by reason only of a vacancy in its membership or a defect in the appointment of a member.

30 **29—Functions of State First Nations Voice**

- (1) The State First Nations Voice has the following functions:
- (a) to represent the diversity of Aboriginal people in South Australia;
- (b) to liaise with the Local First Nations Voices to ascertain their views in
- 35 relation to matters of interest and to present those views to the South Australian Parliament and the South Australian Government and other bodies;
- (c) to engage with and provide advice to the South Australian Parliament and the South Australian Government on matters of importance to the social, spiritual and economic wellbeing of Aboriginal people;

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- (d) at the discretion of the State First Nations Voice, to engage with and provide advice to other levels of government and other organisations on policy and procedures that relate to the social, spiritual and economic wellbeing of Aboriginal people;
- 5 (e) to assign names to regions constituted for the purposes of this Act;
- (f) such other functions as may be assigned to the State First Nations Voice by or under this Act or by the Minister.
- (2) The State First Nations Voice must, in carrying out its functions, endeavour to represent the views of Aboriginal persons in the State.
- 10 (3) Subject to this Act, the State First Nations Voice has such powers as may be necessary or expedient for the performance of the State First Nations Voice's functions.

30—Procedures of State First Nations Voice

- (1) Subject to this Act, a quorum of the State First Nations Voice consists of one half the total number of its members (ignoring any fraction resulting from the division) plus 1.
- 15 (2) Subject to this section, the State First Nations Voice must meet not less than 4, and not more than 6, times in each year.
- (3) The State First Nations Voice may, with the approval of the Minister, meet more than 6 times in a year.
- (4) The joint presiding members will preside at a meeting of the State First Nations Voice and, in the absence of 1 of the joint presiding members, the remaining joint presiding member will preside and, in the absence of both joint presiding members, a member chosen by the members present at the meeting will preside.
- 20 (5) A question arising for decision at a meeting of the State First Nations Voice will be decided by a majority of the votes cast by the members present at the meeting.
- 25 (6) Each member present at a meeting of the State First Nations Voice will be entitled to 1 vote on any question arising for decision at the meeting and, if the votes are equal, the person presiding will have a casting vote.
- (7) A meeting of the State First Nations Voice may be conducted remotely using 1 or both of the following means of communication:
- 30 (a) audio visual;
- (b) audio,
- and a member who participates in a meeting in accordance with this subsection is taken to be present at the meeting, and to form part of any quorum for the meeting, even if the member is not physically present at the same place as another member participating in the meeting.
- 35 (8) A member of the State First Nations Voice may, by written instrument, appoint 1 or more members of the Local First Nations Voice to which the office of the member relates (whether or not they are a member of the State First Nations Voice) to act as the member's proxy at a meeting specified in the instrument of appointment.
- 40 (9) An Aboriginal person appointed to act as a proxy for a member at a specified meeting may only so act if the Aboriginal person—
- (a) is present at the specified meeting; and

(b) exercises the proxy vote at the meeting in accordance with any instructions of the appointing member in the instrument of appointment.

5 (10) A member of the State First Nations Voice is not entitled to additional remuneration for acting as a proxy (however a proxy who is not a member of the State First Nations Voice is entitled to receive such remuneration, allowances and expenses as the appointing member would have received had they attended the meeting).

(11) To avoid doubt, a proxy vote that is exercised other than in accordance with this section is void and of no effect.

(12) The State First Nations Voice must have accurate minutes kept of its meetings.

10 (13) Subject to this Act, the State First Nations Voice may determine its own procedures.

31—Committees

(1) The State First Nations Voice may establish committees—

(a) to advise the State First Nations Voice; or

(b) to carry out functions on behalf of the State First Nations Voice.

15 (2) The membership of a committee will be determined by the State First Nations Voice and may, but need not, consist of, or include, members of the State First Nations Voice.

(3) Each member of a committee must (unless the State First Nations Voice determines otherwise in relation to a particular committee) be an Aboriginal person.

20 (4) The State First Nations Voice will determine who will be the presiding member of a committee.

(5) The procedures to be observed in relation to the conduct of the business of a committee will be—

(a) as determined by the State First Nations Voice; and

25 (b) insofar as a procedure is not determined under paragraph (a)—as determined by the committee.

32—Accounts and audit

(1) The State First Nations Voice must keep proper accounting records in relation to its financial affairs, and must have annual statements of account prepared in respect of each financial year.

(2) The Auditor-General may at any time, and must at least once in each year, audit the accounts of the State First Nations Voice.

33—Duty to act honestly

35 A member of the State First Nations Voice must at all times act honestly in the performance of the functions of their office, whether within or outside the State.

34—Duty with respect to conflict of interest

- (1) A member of the State First Nations Voice who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the State First Nations Voice—
- 5 (a) must, as soon as reasonably practicable, disclose to the State First Nations Voice full and accurate details of the interest; and
- (b) must not take part in any discussion by the State First Nations Voice relating to that matter; and
- (c) must not vote in relation to that matter; and
- 10 (d) must be absent from the meeting room when any such discussion or voting is taking place.
- (2) If a member of the State First Nations Voice makes a disclosure of interest and complies with the other requirements of subsection (1) in respect of a proposed contract—
- 15 (a) the contract is not liable to be avoided by the State First Nations Voice; and
- (b) the member is not liable to account to the State First Nations Voice for profits derived from the contract.
- (3) If a member of the State First Nations Voice fails to make a disclosure of interest or fails to comply with any other requirement of subsection (1) in respect of a proposed contract, the contract is liable to be avoided by the State First Nations Voice.
- 20 (4) A contract may not be avoided under subsection (3) if a person has acquired an interest in property the subject of the contract in good faith for valuable consideration and without notice of the contravention.
- (5) If a member of the State First Nations Voice has or acquires a personal or pecuniary interest, or is or becomes the holder of an office, such that it is reasonably foreseeable that a conflict might arise with their duties as a member of the State First Nations Voice, the member must, as soon as reasonably practicable, disclose to the State First Nations Voice full and accurate details of the interest or office.
- 25 (6) A disclosure under this section must be recorded in the minutes of the State First Nations Voice.
- 30 (7) A member of the State First Nations Voice is exempt from this section in respect of an interest in a matter—
- (a) while they remain unaware that they have an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that they were not, at the material time, aware of their interest; or
- 35 (b) arising by reason of the fact that the member is a member of a community in a region to which the matter relates; or
- (c) that is shared in common with Aboriginal generally, or a substantial section of Aboriginal people.

Part 5—Addresses to Parliament

35—Standing orders

- 5 (1) Except as may be provided by this Part, nothing in this Part limits the powers of the Legislative Council and House of Assembly to prepare and adopt Standing Rules and Orders under section 55 of the *Constitution Act 1934*.
- (2) The House of Assembly must, as soon as is reasonably practicable after the commencement of this section, prepare and adopt such Standing Rules and Orders as appear to the Assembly best adapted to give effect to this Part under section 55 of the *Constitution Act 1934*.
- 10 (3) The operation of this Part is subject to such Standing Rules and Orders as may be relevant.

36—State First Nations Voice may deliver annual report and address

- 15 (1) The State First Nations Voice is, on the day or days in each year determined by the Speaker of the House of Assembly after consultation with the State First Nations Voice, entitled to—
- (a) present to the House of Assembly a report setting out a summary of its operations during the preceding year, as well as any other matters of importance to Aboriginal people; and
- (b) address, through the joint presiding members of the State First Nations Voice, the House of Assembly in relation to the report in accordance with this Part.
- 20 (2) The Speaker of the House of Assembly must, on receiving the report, cause a copy of the report to be delivered to the President of the Legislative Council (who must, on the next sitting day, lay it before the Council).
- 25 (3) Nothing in this section prevents the Parliament from convening a joint sitting to receive the address of the State First Nations Voice under this section.

37—State First Nations Voice to be notified of introduction of Bills

- 30 (1) The clerk of the Legislative Council or House of Assembly (as the case requires) must cause the State First Nations Voice to be given notice of the introduction of each Bill in the Council or Assembly that, in the opinion of the clerk, addresses matters of interest to the State First Nations Voice.
- (2) However, a failure to comply with this section does not affect the validity of the Bill or any proceedings of the Parliament.

38—State First Nations Voice entitled to address House of Assembly

- 35 (1) The State First Nations Voice is, by force of this section, entitled to address, through the joint presiding members of the State First Nations Voice, the House of Assembly in relation to any Bill that has been introduced into the Assembly.
- (2) The State First Nations Voice must give to the Speaker of the House of Assembly at least 7 days' written notice of the intention of the State First Nations Voice to address the Assembly.

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- (3) However, the State First Nations Voice need not give notice in accordance with subsection (2) if, in the case where a Bill is to be debated or otherwise progressed urgently through the Assembly, it is not reasonably practicable to do so.
- 5 (4) Subject to this Part, 1 or both of the joint presiding members of the State First Nations Voice may—
- (a) be admitted to the floor of the House of Assembly; and
 - (b) address the Assembly on behalf of the State First Nations Voice in relation to the relevant Bill.
- (5) However, only 1 address may be made in relation to each Bill.
- 10 (6) Nothing in this section prevents the State First Nations Voice or the joint presiding members of the State First Nations Voice from doing any other thing with the permission of the House of Assembly.
- (7) Nothing in this section prevents the House of Assembly from conducting its business (including, to avoid doubt, the consideration or passing of Bills about which State
- 15 First Nations Voice wishes to address the Assembly) prior to being addressed by the State First Nations Voice under this section.

39—State First Nations Voice may request to address Legislative Council

- (1) The State First Nations Voice may make a request to address the Legislative Council in relation to any Bill that has been introduced into the Council.
- 20 (2) A request under this section—
- (a) must be by written notice in a manner and form determined by the President of the Legislative Council; and
 - (b) must specify the Bill to which the address relates; and
 - 25 (c) must set out how the State First Nations Voice wishes to address the Council; and
 - (d) must contain any other information required by the President of the Legislative Council.
- (3) To avoid doubt, nothing in this section requires the Legislative Council to grant permission to the State First Nations Voice to address the Council.
- 30 (4) Nothing in this section prevents the State First Nations Voice or the joint presiding members of the State First Nations Voice from doing any other thing with the permission of the Legislative Council.

40—State First Nations Voice may present report to Parliament

- 35 (1) Without limiting any other provision of this Act, the State First Nations Voice may provide a report on any matter that, in the opinion of the State First Nations Voice, raises issues of importance to Aboriginal people.
- (2) A copy of the report must be delivered to the President of the Legislative Council, the Speaker of the House of Assembly and the Minister.
- 40 (3) The President of the Legislative Council and the Speaker of the House of Assembly must, on the first sitting day after receiving a report, lay it before their respective Houses.

- (4) The Minister must, as soon as is reasonably practicable after receiving the report—
- (a) provide a copy of the report to each Minister responsible for an area identified in the report as requiring action; and
 - (b) prepare a report setting out—
 - (i) each Minister's response to any part of the report that falls within that Minister's responsibility; and
 - (ii) if any action has been taken, or is proposed to be taken, (whether by a Minister, a public sector agency or any other person or body) in response to the report—details of that action or proposed action; and
 - (iii) if no action is to be taken (whether by a Minister, a public sector agency or any other person or body) in response to the report—the reasons for not taking action; and
 - (iv) any other information required by the regulations.
- (5) The Minister must, within 6 sitting days after preparing a report under subsection (4), cause a copy of the report to be laid before both Houses of Parliament.

41—State First Nations Voice may be requested to provide report to Parliament etc

- (1) The President of the Legislative Council or the Speaker of the House of Assembly may, by written notice, request the State First Nations Voice to provide to the Council or Assembly (or both) a report in relation to a specified Bill addressing the matters specified in the notice.
- (2) The President of the Legislative Council or the Speaker of the House of Assembly may, by written notice and with the agreement of the State First Nations Voice, request the State First Nations Voice to attend and address the Council or Assembly (or both) in relation to a specified Bill.
- (3) However, nothing in this section requires the State First Nations Voice to provide a report or attend Parliament.

42—Procedures for address by State First Nations Voice

Subject to this Part, the procedures relating to an address to Parliament by the State First Nations Voice will be as determined from time to time by agreement between the joint presiding members of the State First Nations Voice, and the President of the Legislative Council and the Speaker of the House of Assembly or both (as the case requires).

Part 6—Interaction with South Australian Government

Division 1—Meeting with Cabinet

43—State First Nations Voice to meet regularly with Cabinet

- (1) The State First Nations Voice and the Cabinet must, in accordance with any procedures determined by the State First Nations Voice and the Premier, meet at least twice in each calendar year.

- (2) Despite subsection (1), the State First Nations Voice and the Cabinet may meet less than twice in a calendar year if—
- (a) the joint presiding members of the State First Nations Voice are of the opinion that it is not reasonably practicable for a particular meeting to take place; and
- (b) it is not reasonably practicable to reschedule the meeting to take place in the relevant year.
- (3) The procedures for meetings between the State First Nations Voice and the Cabinet will be as determined by agreement between the State First Nations Voice and the Premier.

44—Protection of communications etc with Cabinet

For the purposes of the *Freedom of Information Act 1991* and any other Act or law, information and documents prepared for, or provided to, the Cabinet by the State First Nations Voice will be taken to have been specifically prepared for submission to Cabinet.

Division 2—Briefings with Chief Executives of administrative units

45—Briefings with Chief Executives of administrative units

- (1) The Premier must, in accordance with any requirements set out in the regulations, cause a meeting (a *Chief Executive's briefing*) to be held at least twice in each year between the State First Nations Voice and the Chief Executives of each administrative unit of the Public Service specified by the State First Nations Voice for the purposes of the Chief Executive's briefing.
- (2) The purposes of a Chief Executive's briefing is to allow the State First Nations Voice to be briefed by, and ask questions of, the Chief Executives present at the Chief Executive's briefing in relation to matters of interest identified by the State First Nations Voice.
- (3) Except where it is not reasonably practicable to do so, the State First Nations Voice must give at least 28 days written notice to the Premier and each affected Chief Executive of the matters to be addressed at each Chief Executive's briefing.
- (4) The procedures relating to a Chief Executive's briefing under this section will be as determined by agreement between the State First Nations Voice and the Premier.

Division 3—Annual engagement hearing with administrative units etc

46—Annual engagement hearing with administrative units etc

- (1) The Premier must, in accordance with any requirements set out in the regulations, cause a meeting (an *engagement hearing*) to be held in each year between the joint presiding members of the State First Nations Voice and—
- (a) each Minister specified by the State First Nations Voice for the purposes of the engagement hearing; and
- (b) the Chief Executive of each administrative unit of the Public Service specified by the State First Nations Voice for the purposes of the engagement hearing.

- (2) The purposes of an engagement hearing is to allow the State First Nations Voice to ask questions of the Ministers and Chief Executives relating to the operations, expenditure, budget and priorities of administrative units as they affect—
- (a) the health, welfare or education of Aboriginal people; or
 - 5 (b) the structure, organisation and efficiency of the administrative unit as they relate to matters affecting Aboriginal people, and the ways in those areas might be enhanced; or
 - (c) any other matter determined by agreement between the joint presiding members of the State First Nations Voice and the Premier.
- 10 (3) The procedures for an engagement hearing under this section will be as determined by agreement between the joint presiding members of the State First Nations Voice and the Premier.
- (4) The Premier must cause a transcript of each engagement hearing to be prepared and published on a website determined by the State First Nations Voice.

15 **Part 7—Administration and resourcing**

47—Secretariat

There will be a secretariat for the Local First Nations Voices and the State First Nations Voice, consisting of such Public Service employees as may be assigned or appointed to the secretariat.

20 **48—Resources**

The Minister must provide each Local First Nations Voice and the State First Nations Voice with the resources that each body reasonably needs for carrying out its functions under this Act.

49—Use of staff etc of Public Service

25 A Local First Nations Voice and the State First Nations Voice may, by agreement with the Minister responsible for an administrative unit of the Public Service, make use of the services of the staff, equipment or facilities of that administrative unit.

Part 8—Miscellaneous

50—Obstruction etc

30 A person must not, without reasonable excuse, obstruct, hinder, resist or improperly influence, or attempt to obstruct, hinder, resist or improperly influence, a Local First Nations Voice or the State First Nations Voice, or a member of those bodies, in the performance or exercise of a function under this Act.

Maximum penalty: \$10 000.

51—Confidentiality

- (1) A person engaged or formerly engaged in the administration of this Act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—
- 5 (a) as required or authorised by or under this Act or any other Act or law; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) in connection with the administration or enforcement of this or any other Act; or
 - (d) for the purposes of referring the matter to a law enforcement agency; or
 - 10 (e) to an agency or instrumentality of this State, the Commonwealth or another State or a Territory of the Commonwealth for the purposes of the proper performance of its functions; or
 - (f) if the disclosure is reasonably necessary for the protection of the lawful interests of that person.

15 Maximum penalty: \$10 000.

- (2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.
- (3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—
- 20 (a) the person to whom the information was disclosed; or
 - (b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: \$10 000.

- (4) The regulations may make further provision in respect of the disclosure of information obtained in the course of the administration of this Act.

52—Protections, privileges and immunities

- (1) No liability attaches to a Local First Nations Voice, the State First Nations Voice, a member of those bodies or any other person or body for any act or omission in good faith in the exercise or purported exercise of functions or powers under this or any other Act.
- (2) Nothing in this Act affects the privileges, immunities or powers of the Legislative Council or House of Assembly or their committees or members.
- (3) Nothing in this Act affects any rule or principle of law relating to—
- 30 (a) legal professional privilege; or
 - 35 (b) "without prejudice" privilege; or
 - (c) public interest immunity; or
 - (d) cabinet in confidence or commercial in confidence information; or
 - (e) any other requirement under a law that information be kept confidential.

53—Regulations and fee notices

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may provide for—
- 5 (a) the exemption of a person, or a class of persons, from the operation of a specified provision or provisions of this Act; and
- (b) fees in respect of any matter under this Act and their payment, recovery or waiver; and
- (c) fines, not exceeding \$10 000, for offences against the regulations; and
- 10 (d) facilitation of proof of the commission of offences against the regulations.
- (3) The regulations may—
- (a) be of general or limited application; and
- (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
- 15 (c) make provisions of a saving or transitional nature; and
- (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of a specified person or body; and
- (e) apply or incorporate, wholly or partially and with or without modification, a
- 20 code, standard, policy or other document prepared or published by the Minister or another specified person or body.
- (4) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
- (5) If a code, standard or other document is referred to or incorporated in the
- 25 regulations—
- (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
- (b) evidence of the contents of the code, standard or other document may be
- 30 given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.

Schedule 1—Rules of election for Local First Nations Voices**Part 1—Preliminary****35 1—Interpretation**

In this Schedule—

closing date, in relation to an election, means the day fixed by the returning officer as the closing date for that election (being a day falling not less than 3 months prior to the polling day for the election);

declaration of eligibility—see clause 3;

election means an election of members of Local First Nations Voices;

returning officer—see clause 5;

5 *State election* means a general election of members of the House of Assembly under the *Electoral Act 1985*;

State electoral roll means the electoral roll (within the meaning of the *Electoral Act 1985*) kept under that Act from time to time for the purposes of a State election.

2—Voters roll

10 The State electoral roll will be taken to be the electoral roll for the purposes of an election under this Act.

3—Declaration of eligibility

For the purposes of this Schedule, a *declaration of eligibility* in relation to an election means—

15 (a) in the case of a declaration of eligibility to vote in an election—a declaration made in a manner and form determined by the returning officer (including, to avoid doubt, a statutory declaration) declaring that a specified person—

(i) is Aboriginal; and

(ii) is, to the best of the person's knowledge, eligible to vote in the election; or

20 (b) in the case of a declaration of eligibility to nominate for an office of member of a Local First Nations Voice—a declaration made in a manner and form determined by the returning officer (including, to avoid doubt, a statutory declaration) declaring that a specified person—

(i) is Aboriginal; and

25 (ii) in the case where the person's nomination relates to the region on the person's country—that the person has the required connection to country;

Note—

See section 5.

30 (iii) is not ineligible to nominate for an office of member of a Local First Nations Voice in the election.

4—False or misleading statements in declaration of eligibility

35 A person must not make a statement knowing that it is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in a declaration of eligibility provided under this Act.

Maximum penalty: Imprisonment for 4 years.

Part 2—Returning officer

5—Returning officer

- (1) The Electoral Commissioner will be the returning officer for the purposes of an election under this Act.
- 5 (2) The returning officer may appoint 1 or more electoral officials to assist in the conduct of an election.
- (3) Without limiting the generality of subclause (2), an electoral official—
 - (a) may hand out nomination forms; and
 - (b) may receive nomination forms up to the close of nominations; and
 - 10 (c) may take a photograph of each candidate and write the name of the candidate on the back.

6—Distribution of information

- (1) The returning officer will be responsible for publicity of an election in each region.
- 15 (2) Without limiting subclause (1), the returning officer may authorise a specified person or body to assist in the publicity of an election (whether in a particular region or generally).
- (3) Publicity of an election under these rules must include—
 - (a) the description of the election process; and
 - (b) the period during which voting may take place; and
 - 20 (c) the location or locations where—
 - (i) nominations will be called; and
 - (ii) voting will take place,in each region; and
 - (d) the eligibility of voters to vote in the election during the period in which
 - 25 voting may take place; and
 - (e) an explanation that each eligible voter can vote for 1 male and 1 female candidate at an election in their region,and may include any other information the returning officer thinks fit in relation to the election.

30 Part 3—Eligibility to vote

7—Eligibility to vote in elections

- (1) An Aboriginal person who—
 - (a) is enrolled on the State electoral roll; and
 - (b) has completed a declaration of eligibility in relation to voting in the election,

is eligible to vote in an election of members of the Local First Nations Voice for the region in which the person's principal place of residence (as recorded on the State electoral roll) is located.

- 5 (2) To avoid doubt, an Aboriginal person is only eligible to vote in relation to the Local First Nations Voice for 1 region.

Part 4—Eligibility and nomination for election to Local First Nations Voice

8—Nominations for office of member of Local First Nations Voice

- 10 (1) An Aboriginal person—
- (a) who is enrolled on the State electoral roll; and
 - (b) either—
 - 15 (i) whose principal place of residence (as recorded on the State electoral roll) is located within a particular region; or
 - (ii) whose country is located wholly or partly within a particular region; and

Note—

See section 5.

- 20 (c) who has completed a declaration of eligibility in relation to nominating for an office of member of the Local First Nations Voice in the election, is eligible to nominate for an office of member of the Local First Nations Voice for that region.

- 25 (2) However, a person is ineligible to nominate for an office of member of a Local First Nations Voice in an election, or to hold office as a member of a Local First Nations Voice, if the person—
- (a) is imprisoned; or
 - (b) has been found guilty of a serious offence within the preceding 10 years; or
 - (c) is, pursuant to a bail agreement, parole or other agreement, restricted from travelling within the State; or
 - 30 (d) is disqualified from managing corporations under Chapter 2D Part 2D.6 of the *Corporations Act 2001* of the Commonwealth.

- (3) Nominations will be called in relation to each region at a time and location or locations determined by the returning officer, and will close 14 days after the nominations are called.
- 35 (4) A person nominates for an office of member of a Local First Nations Voice by lodging with the returning officer—
- (a) a written nomination in a form determined by the returning officer; and

- 5 (b) a confirmation of Aboriginality certificate that has been verified by a formally recognised South Australia traditional owner corporation or an Aboriginal Community Controlled Organisation (or, if it is not reasonably practicable to obtain such a certificate, a statutory declaration made by the person that they are an Aboriginal person); and
- (c) the person's declaration of eligibility in relation to nominating for an office of member of the Local First Nations Voice;
- 10 (d) in the case where the person's nomination relates to the person's country—a statutory declaration made by the person that they have the required connection to country; and
- Note—**
See section 5.
- (e) a photograph of the person of a kind determined by the returning officer; and
- (f) either—
- 15 (i) a criminal history report (such as a National Police Certificate) relating to the person and provided by South Australia Police or a CrimTrac accredited agency or broker within the 6 months immediately preceding the nomination; or
- 20 (ii) an application for, and written consent to the returning officer obtaining, a criminal history report of a kind referred to in subparagraph (i).
- (5) At the close of nominations, the returning officer must forward any applications and consents received under subclause (4)(f)(ii) to South Australia Police.
- 25 (6) The returning officer must bear the cost of obtaining a criminal history report referred to in subclause (4)(f)(ii) (whether or not the person to whom the criminal history report relates is, in fact, elected to an office of member of a Local First Nations Voice).
- 30 (7) The returning officer must, within 8 weeks after the close of nominations, make a declaration in respect of each person who is eligible to stand for election to an office of member of a Local First Nations Voice.
- (8) If more than 1 person nominates in an election for a particular region, a photograph of each candidate may be taken and used to assist voters.

Part 5—General rules relating to election

9—Election timetable

- 35 (1) Subject to this Act, polling for an election under this Act will occur in the course of each State election.
- (2) Polling is to be conducted at the polling places established or determined for the State election under section 77 of the *Electoral Act 1985* (and may be conducted at such other polling places as may be determined by the returning officer).

(3) Without limiting section 77(3) of the *Electoral Act 1985*, the returning officer must, in a manner likely to be seen by Aboriginal people, advise the times and places for polling at a mobile polling booth or other polling place determined by the returning officer.

5 (4) Polling at a polling booth must be conducted at the same times as polling for the State election.

10—Uncontested elections

10 If only 1 nomination is received in relation to any office to be filled at an election under this Act, the returning officer will, subject to this Act, declare the candidate duly elected to the office.

11—Voting

(1) If more than 1 nomination is received in relation to an office to be filled at an election under this Act, an election by secret ballot in relation to the office will be held during the period, and at a location or locations, determined by the returning officer.

15 (2) The method of voting in an election is to be first past the post.

(3) The returning officer must determine such rules as the returning officer considers necessary as to enable the casting of absentee votes in an election.

(4) Without limiting any other rules that may be determined by the returning officer, the rules referred to in subclause (3) must provide for—

20 (a) voting at polling places at the locations determined by the returning officer; and

(b) verification of the identity of persons casting absentee votes in an election; and

(c) verification of the eligibility of persons casting absentee votes in an election.

25 (5) A person may only cast 1 vote in an election of a male member of a Local First Nations Voice and 1 vote in an election for a female member of a Local First Nations Voice.

(6) To avoid doubt, voting is not compulsory.

12—Postal voting may be used

30 (1) Without limiting any other clause in this Schedule, voting at an election under this Act may be conducted partly on the basis of postal voting conducted in accordance with the rules and procedures determined by the returning officer.

(2) Without limiting any other rules or procedures that may be determined by the returning officer, the rules referred to in subclause (1) must provide for—

35 (a) verification of the identity of persons casting postal votes in an election; and

(b) verification of the eligibility of persons casting postal votes in an election.

13—Counting of votes

(1) The following provisions relate to the counting of votes at an election:

(a) an electoral official must count the votes for each candidate;

(b) the male candidate and female candidate receiving the greatest number of votes will be elected;

(c) in the event of a tie, the returning officer will determine who is elected by placing the names of the drawn male or female candidates (as the case requires) into a receptacle and drawing 1 out (and the candidate drawn out will be elected).

(2) A candidate may nominate a person (not being a candidate) to represent them during the counting of votes by signing a scrutineer's form (and the scrutineer may view the counting of votes, but must not view an elector voting).

Part 6—Declaration of results

14—Provisional declarations

When the result of the election becomes apparent, the returning officer must make a provisional declaration of the result.

15—Recounts

(1) At any time within 48 hours after the returning officer has made a provisional declaration, a candidate (not being a candidate in whose favour the provisional declaration was made) may, in a manner determined by the returning officer, request a recount of the votes cast in relation to the relevant vacancy and, in the event of a request being made, the returning officer must cause a recount of votes to be made unless the returning officer considers that there is no prospect that a recount would alter the result of the election.

(2) The returning officer may, on the returning officer's own initiative, during the period of 48 hours referred to in subclause (1), decide to conduct a recount of any votes cast in the election.

(3) The following provisions apply to a recount:

(a) the returning officer should give the candidates reasonable notice of the time and place at which it is to be conducted;

(b) the returning officer may reverse a decision taken at the count;

(c) if the votes of 2 or more candidates are equal and 1 of them was excluded by lot at the count, the same candidate must be excluded at the recount.

16—Declaration of results and certificate

(1) If the period for requesting a recount for an election expires without such a request having been made and the returning officer has not decided to initiate a recount, the returning officer must confirm the relevant provisional declarations, and immediately make out a return to the Minister certifying the election of specified candidates to specified offices.

(2) If a recount is made, the returning officer must, according to the result of the recount—

(a) confirm the relevant provisional declaration; or

(b) revoke the provisional declaration and make a final declaration in accordance with the result of the recount,

and then immediately make out a return to the Minister certifying the result of the election accordingly.

- (3) The returning officer—
- (a) must notify all candidates, in writing, of the result of the election; and
 - (b) must within 1 month after the conclusion of the election cause the result of the election to be published—
 - (i) in the Gazette; and
 - (ii) in a newspaper circulating throughout the State; and
 - (iii) on a website determined by the returning officer; and
 - (iv) in any other manner determined by the returning officer.
- (4) When the returning officer certifies the result of an election under subclause (1) or (2), the election of the candidate or candidates takes effect immediately.

Part 7—Supplementary elections on failure of election

17—Supplementary elections on failure of election etc

- (1) Subject to this clause, if the election of a member of a Local First Nations Voice fails because—
- (a) no person nominates for the office to which the election relates; or
 - (b) no votes are cast in the election,
- then the Minister may (but need not) require a supplementary election to be held in relation to the office.
- (2) Before making a determination to require, or not require, a supplementary election, the Minister must consult with—
- (a) the State First Nations Voice; and
 - (b) the returning officer,
- and may consult with any other person or body the Minister thinks fit.
- (3) A supplementary election under this Part must be conducted in accordance with this Schedule (with such modifications as the returning officer thinks fit).

Part 8—Disputed Returns

18—Constitution of Court

- (1) There will be a Court of Disputed Returns for the purposes of this Act.
- (2) The Court is constituted of a District Court Judge.
- (3) The Court, separately constituted under this clause, may sit contemporaneously to hear separate proceedings.
- (4) The Court is a court of record.
- (5) Subject to this Part, the procedure and powers of the Court are the same as those of the District Court when exercising its civil jurisdiction.

19—Clerk of Court

- (1) There will be a clerk of the Court appointed by the Chief Judge of the District Court.
- (2) The office of clerk of the Court may be held in conjunction with any other office.

20—Jurisdiction of Court

- 5 (1) The Court has jurisdiction to hear and determine any petition addressed to it disputing the validity of an election under this Act.
- (2) The Court may not call into question the eligibility of a person—
 - (a) to nominate for the office of the member of a Local First Nations Voice; or
 - (b) to vote in an election of a member of a Local First Nations Voice,
- 10 on the basis of whether or not they are Aboriginal.

21—Procedure upon petition

- (1) A petition to the Court must—
 - (a) set out the facts relied on to invalidate the election; and
 - (b) set out the relief to which the petitioner claims to be entitled; and
 - 15 (c) be signed by a candidate at the election in dispute or by an elector for that election; and
 - (d) be lodged with the clerk of the Court within 28 days after the conclusion of the election; and
 - 20 (e) set out the respondents in relation to the petition (including, if appropriate, each candidate for election from the relevant region in the disputed election, the Electoral Commission and the relevant Local First Nations Voice); and
 - (f) be accompanied by the prescribed amount as security for costs.
- (2) A copy of the petition must be served on—
 - (a) any person declared elected in the disputed election; and
 - 25 (b) the relevant Local First Nations Voice; and
 - (c) if it is alleged that the election is invalid on account of an act or omission of an electoral official—the returning officer.
- (3) If, having been served under subclause (2), a person proposes to contest the petition, the person must, within 14 days after service, or such further time as may be allowed by the Court (on application made either before or after the expiration of the period of 14 days), lodge with the clerk of the Court, and serve on the petitioner, a reply.
- 30 (4) A reply must—
 - (a) set out the facts on which the applicant proposes to rely; and
 - (b) ask for any relief to which the applicant claims to be entitled; and
 - 35 (c) be executed by the applicant.

22—Powers of Court

- (1) The Court must sit as an open court, and its powers include the following:
- (a) to adjourn;
 - (b) to compel the attendance of witnesses and the production of documents;
 - 5 (c) to examine witnesses on oath, affirmation or declaration;
 - (d) with the consent of the parties to the proceedings, to receive evidence on affidavit or by statutory declaration;
 - (e) subject to this Act and the rules, to determine its procedure in each case;
 - (f) to declare—
 - 10 (i) that a person who was returned as elected was not duly elected; and
 - (ii) that a candidate who was not returned as elected was duly elected;
 - (g) to declare an election void;
 - (h) to dismiss or uphold a petition, in whole or in part;
 - (i) to amend or allow the amendment of a petition or reply;
 - 15 (j) to punish contempt of its authority by fine or imprisonment.
- (2) The Court may exercise all or any of its powers under this clause on such grounds as the Court in its discretion thinks just and sufficient.
- (3) The Court is not bound by the rules of evidence.
- (4) The Court must act according to good conscience and the substantial merits of the case without regard to legal technicalities.
- 20 (5) A decision of the Court is final and without appeal.

23—Effect of decision

- (1) If pursuant to this Part a person returned as elected is declared not to have been duly elected, that person ceases to be a member of the relevant Local First Nations Voice and the person declared to have been duly elected will take their place accordingly.
- 25 (2) If pursuant to this Part an election is declared void, a person returned as elected at the election ceases to be a member of the relevant Local First Nations Voice.

24—Right of appearance

30 A party to proceedings before the Court may appear personally or be represented by counsel.

25—Case stated

The Court may, of its own motion or on the application of a party to proceedings, state a question of law for the opinion of the Court of Appeal.

26—Costs

- 35 (1) The Court may make orders for costs as it thinks just.

(2) If an election is declared void, or a candidate returned as elected is declared not to have been duly elected, on account of an act or omission of an electoral official, any costs in favour of the petitioner must, to the extent to which they are attributable to that act or omission, be awarded against the Crown.

5 (3) An order under this clause may be enforced as an order of the District Court.

27—Rules of Court

The Chief Judge of the District Court may make rules—

- (a) regulating the practices and procedures of the Court; and
- (b) fixing fees to be paid in respect of proceedings before the Court; and
- 10 (c) making any other provision necessary or expedient for the purposes of this Schedule.