

**STATUTORY APPOINTMENTS LEGISLATION  
(PARLIAMENTARY VETO) AMENDMENT ACT 1992 No. 43**

NEW SOUTH WALES



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**STATUTORY APPOINTMENTS LEGISLATION  
(PARLIAMENTARY VETO) AMENDMENT ACT 1992 No. 43**

NEW SOUTH WALES



**Act No. 43, 1992**

An Act to amend certain Acts to provide for the vetoing by certain Parliamentary Committees of proposed appointments to the office of Auditor-General, Commissioner for the Independent Commission Against Corruption, Director of Public Prosecutions and Ombudsman, and for related purposes. [Assented to 19 May 1992]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Statutory Appointments Legislation (Parliamentary Veto) Amendment Act 1992.

**Commencement**

2. This Act commences on the date of assent.

**Amendments**

3. Each Act specified in Schedule 1 is amended as set out in that Schedule.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**Independent Commission Against Corruption Act 1988 No. 35**

(1) Section 5A:

After section 5, insert:

**Veto of proposed appointment as Commissioner**

5A. (1) A person is not to be appointed as Commissioner until:

- (a) a proposal that the person be appointed has been referred to the Joint Committee under section 64A; and
- (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section and section 64A, “**appointment**” includes re-appointment.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 64A:

After section 64, insert:

**Power to veto proposed appointment of Commissioner**

64A. (1) The Minister is to refer a proposal to appoint a person as Commissioner to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

(2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

(3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(3) Section 70 (**Confidentiality**):

After section 70 (1), insert:

(1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Commissioner, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

SCHEDULE 1—AMENDMENTS—*continued*

(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 64A (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Commissioner.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

**Ombudsman Act 1974 No. 68**

(1) Section 6A:

After section 6, insert:

Veto of proposed appointment of Ombudsman

6A. (1) A person is not to be appointed as Ombudsman until:

a proposal that the person be appointed has been referred to the Joint Committee under section 31BA; and

either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

A person may be proposed for appointment on more than one occasion.

(3) In this section and section 31BA, “**appointment**” includes re-appointment.

(2) Section 31BA:

After section 31B, insert:

**Power to veto proposed appointment of Ombudsman or Director of Public Prosecutions**

31BA. (1) The Minister is to refer a proposal to appoint a person as Ombudsman or Director of Public Prosecutions to the Joint Committee and the Committee is empowered to

SCHEDULE 1—AMENDMENTS—*continued*

veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.

(2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.

(3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(5) In this section, a reference to the Minister is:

- (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act; and
- (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986.

(3) Section 31H (**Confidentiality**):

After section 31H (1), insert:

(1A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Joint Committee relates to the proposed appointment of a person as Ombudsman or Director of Public Prosecutions, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(1B) Despite any other provision of this section except subsection (6), the Joint Committee must not, and a person

SCHEDULE 1—AMENDMENTS—*continued*

(including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (1A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(1C) Despite any other provision of this section except subsection (6), the Joint Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 31BA (3), disclose whether or not the Joint Committee or any member of the Joint Committee has vetoed, or proposes to veto, the proposed appointment of a person as Ombudsman or Director of Public Prosecutions.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

**Public Finance and Audit Act 1983 No. 152**

(1) Section 28A:

After section 28, insert:

Veto of proposed appointment of Auditor-General

28A. (1) A person is not to be appointed as Auditor-General until:

- (a) a proposal that the person be appointed has been referred to the Public Accounts Committee under section 57A; and
- (b) either the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Treasurer that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Section 57A:

After section 57, insert:

**Power to veto proposed appointment of Auditor-General**

57A. (1) The Treasurer is to refer a proposal to appoint a person as Auditor-General to the Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Treasurer may withdraw a referral at any time.

(2) The Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Treasurer within that 14 days that it requires more time to consider the matter.

(3) The Committee is to notify the Treasurer, within the time that it has to veto a proposed appointment, whether or not it vetoes it.

(4) A referral or notification under this section is to be in writing.

(3) Section 58 (**Evidence**):

After section 58 (2), insert:

(2A) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to the proposed appointment of a person as Auditor-General, the Committee must (despite any other provision of this section):

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(2B) Despite any other provision of this section except subsection (7), the Committee must not, and a person (including a member of the Committee) must not, disclose any evidence or the contents of a document or that part of a document to which subsection (2A) applies.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.



SCHEDULE 1—AMENDMENTS—*continued*

(2C) Despite any other provision of this section except subsection (7), the Committee (including a member of the Committee) must not, and any person assisting the Committee or present during the deliberations of the Committee must not, except in accordance with section 57A (3), disclose whether or not the Committee or any member of the Committee has vetoed, or proposes to veto, the proposed appointment of a person as Auditor-General.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

**Director of Public Prosecutions Act 1986 No. 287**

Section 4A:

After section 4, insert:

**Veto of proposed appointment of Director**

4A. (1) A person is not to be appointed as Director until:

- (a) a proposal that the person be appointed has been referred to the Committee on the Office of the Ombudsman under section 31BA of the Ombudsman Act 1974; and
- (b) the period that the Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.

(2) A person may be proposed for appointment on more than one occasion.

(3) In this section, “appointment” includes re-appointment.

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*[Minister’s second reading speech made in—  
Legislative Assembly on 5 March 1992  
Legislative Council on 6 May 1992]*