

Authorised Version

Parliamentary Budget Officer Act 2017

No. 27 of 2017

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Authorised Version



Victoria

Parliamentary Budget Officer Act 2017[†]

No. 27 of 2017

[Assented to 27 June 2017]

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The purposes of this Act are—

- (a) to provide for the appointment of a Parliamentary Budget Officer; and
- (b) to give that Officer the functions of providing policy costing and advisory services for members of Parliament; and

- (c) to amend the **Parliamentary Administration Act 2005** to establish the Parliamentary Budget Office; and
- (d) to make miscellaneous amendments to section 24 of the **Constitution Act 1975** and to the **Independent Broad-based Anti-corruption Commission Act 2011**, the **Ombudsman Act 1973** and the **Parliamentary Committees Act 2003**.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 July 2017, it comes into operation on that day.

3 Definitions

- (1) In this Act—

Annual Appropriation Bill has the meaning given in section 65(1) of the **Constitution Act 1975**;

annual report means a report prepared under section 28(1);

business day means, in relation to a place in which an act or thing is to be done, a day other than—

- (a) a Saturday or Sunday; or
- (b) a day appointed under the **Public Holidays Act 1993** as a public holiday in that place;

confidential commercial information, in relation to a public sector body, means information acquired by the public sector body from a business, commercial or financial undertaking that relates to matters of a

business, commercial or financial nature, the disclosure of which would be likely to expose the undertaking unreasonably to disadvantage;

election costing period means—

- (a) the period beginning on the moving of the second reading of the Annual Appropriation Bill in an election year and ending at 5 p.m. on the Thursday immediately preceding the date of the general election in that year; or
- (b) if, before the moving of the second reading of the Annual Appropriation Bill in an election year, the Legislative Assembly is dissolved in accordance with section 8A of the **Constitution Act 1975** or in accordance with advice given under section 65E(2) of that Act, the period beginning on that dissolution and ending at 5 p.m. on the Thursday immediately preceding the resulting general election;

election policy costing means a costing prepared by the Parliamentary Budget Officer under section 37;

election policy costing request means a request submitted under section 36 to the Parliamentary Budget Officer for the preparation of an election policy costing;

election year means a calendar year in which a general election is scheduled to be held as determined under section 38A(1)(a) of the **Constitution Act 1975**;

general election has the same meaning as in section 3 of the **Electoral Act 2002**;

material—see subsection (2);

Parliamentary Budget Office means the Parliamentary Budget Office established by section 17A of the **Parliamentary Administration Act 2005**;

Parliamentary Budget Officer means the person appointed under section 6;

Parliamentary Committee means the Public Accounts and Estimates Committee established by section 5(h) of the **Parliamentary Committees Act 2003**;

parliamentary leader means any of the following—

- (a) the Premier;
- (b) the Leader of the Opposition;
- (c) a member of Parliament who is the recognised parliamentary leader of a registered political party (other than a party, and any coalition party, whose parliamentary leader is the Premier or the Leader of the Opposition);
- (d) a member of Parliament who—
 - (i) is not a member of a registered political party that has a recognised parliamentary leader; and
 - (ii) has not publicly stated an intention not to contest the next general election;

PBO officer means—

- (a) the Parliamentary Budget Officer; or
- (b) a member of staff referred to in section 17; or
- (c) a consultant referred to in section 18;

PBO protocols means protocols prepared under section 24;

policy costing means—

- (a) an election policy costing; or
- (b) a policy costing prepared under section 45;

pre-election report means a report prepared under section 39;

protected information means information acquired by reason of, or in the course of, the performance of duties or exercise of powers under this Act;

post-election report means a report prepared under section 41;

public sector body means a public sector body within the meaning of the **Public Administration Act 2004** other than VCAT;

public sector body Head has the same meaning as in the **Public Administration Act 2004**;

registered political party means a political party within the meaning of the **Electoral Act 2002** that is registered under Part 4 of that Act;

report of PBO operations means a report prepared by the Parliamentary Budget Officer under section 27(1).

- (2) If this Act refers to something as material, its materiality is to be determined in accordance with the Parliamentary Budget Officer's best professional judgment.

- (3) A reference in this Act to a member of Parliament includes, during the period that the Legislative Assembly has expired or is dissolved, a reference to a person who was a member of Parliament immediately before that expiry or dissolution.

4 How does the Parliamentary Budget Officer publicly release documents and information?

For the purposes of this Act, the Parliamentary Budget Officer publicly releases a document or other information by publishing it—

- (a) on a website maintained by the Parliamentary Budget Officer; or
- (b) in any other way the Parliamentary Budget Officer considers appropriate.

5 Objectives of Act

The objectives of this Act are—

- (a) for members of Parliament to be provided with ongoing, authoritative, independent and credible policy costing and advisory services; and
- (b) for those policy costing and advisory services to be delivered in a timely, relevant and readily understandable manner; and
- (c) to inform policy development and public debate in Parliament and the Victorian community.

Part 2—Parliamentary Budget Officer

Division 1—Appointment and functions

6 Appointment of Parliamentary Budget Officer

- (1) There is to be a Parliamentary Budget Officer for Victoria.
- (2) The Parliamentary Budget Officer is to be appointed by the Governor in Council on the advice of the Minister.
- (3) The Minister must not advise the Governor in Council to appoint a particular person as the Parliamentary Budget Officer unless the Parliamentary Committee has given the Minister a recommendation that the person be appointed as the Parliamentary Budget Officer.
- (4) A recommendation under subsection (3)—
 - (a) must be in writing; and
 - (b) may specify the terms and conditions that the Parliamentary Committee recommends should apply to the appointment to which the recommendation relates.
- (5) The Parliamentary Budget Officer holds office, subject to this Division, on the terms and conditions determined by the Governor in Council.
- (6) A person is not eligible to be appointed or reappointed as the Parliamentary Budget Officer if the person previously held that office for more than 5 years.

7 Functions of Parliamentary Budget Officer

- (1) The functions of the Parliamentary Budget Officer are—
 - (a) to prepare election policy costings, pre-election reports and post-election reports under Division 1 of Part 3; and
 - (b) to prepare costings of other policies under Division 2 of Part 3; and
 - (c) to provide other services to members of Parliament under Division 3 of Part 3; and
 - (d) the functions conferred under the **Parliamentary Administration Act 2005**; and
 - (e) any other functions conferred under this Act.
- (2) In performing the functions specified in subsection (1), the Parliamentary Budget Officer must have regard to the objectives of this Act specified in section 5.

8 Independence of Parliamentary Budget Officer

- (1) The Parliamentary Budget Officer is an independent officer of Parliament.
- (2) The functions, powers, immunities and obligations of the Parliamentary Budget Officer are as specified in this Act and other laws of the State.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the Parliamentary Budget Officer being an independent officer of Parliament.
- (4) The powers of Parliament to act in relation to the Parliamentary Budget Officer are as specified in or applying under this Act, the **Constitution Act 1975** and other laws of the State.

- (5) There are no implied powers of Parliament arising from the Parliamentary Budget Officer being an independent officer of Parliament.
- (6) Subject to this Act and other laws of the State, the Parliamentary Budget Officer has complete discretion in the performance or exercise of the duties, functions and powers of office.
- (7) In particular, and without limiting subsection (6), the Parliamentary Budget Officer is not subject to the direction or control of the Minister in respect of the performance or exercise of the duties, functions or powers of office.

9 Term of office

- (1) The Parliamentary Budget Officer holds office for the period determined by the Governor in Council and specified in the instrument of appointment.
- (2) The period specified under subsection (1) must be—
 - (a) no less than 4 years; and
 - (b) unless subsection (3) applies, no more than 8 years.
- (3) If the person has previously held office as the Parliamentary Budget Officer, the period specified under subsection (1) must not, when added to the periods for which the person has previously held that office, be more than 9 years.
- (4) If the last day of the period specified under subsection (1) falls within an election costing period, the period specified under subsection (1) is taken to be extended until the earlier of—
 - (a) the first anniversary of that day; or
 - (b) the date that the appointment of a person as Parliamentary Budget Officer takes effect.

- (5) Subject to section 6(5), the Parliamentary Budget Officer is eligible for reappointment.

10 Remuneration, allowances and outside employment

- (1) The Parliamentary Budget Officer is eligible to receive the remuneration and allowances specified in the instrument of appointment.
- (2) Subject to this section, the Parliamentary Budget Officer must not—
- (a) engage in any paid employment outside the duties of office, whether directly or indirectly; or
 - (b) hold any other position or office.
- (3) The Parliamentary Budget Officer may engage in outside employment or hold another position or office with the prior consent of the Parliamentary Committee.
- (4) The Parliamentary Committee may consent under subsection (3) only if satisfied that—
- (a) the responsibilities of the outside employment, position or office will not prevent or restrict the Parliamentary Budget Officer from carrying out the duties of the office; and
 - (b) engaging in that employment, or holding that position or office, will not give rise to any conflict of interest.

11 Vacancy and resignation

The Parliamentary Budget Officer ceases to hold office if the Officer—

- (a) resigns by writing delivered to the Governor in Council; or
- (b) becomes an insolvent under administration;
or

- (c) is convicted of an indictable offence or an offence that, if committed in Victoria, would be an indictable offence; or
- (d) nominates for election for the Parliament of the Commonwealth or of a State (including Victoria) or a Territory; or
- (e) becomes a represented person within the meaning of the **Guardianship and Administration Act 1986**; or
- (f) is removed from office under section 12.

12 Suspension and removal from office

- (1) The Governor in Council may suspend the Parliamentary Budget Officer from office on the advice of the Minister.
- (2) The Minister must not advise the Governor in Council to suspend the Parliamentary Budget Officer from office unless the Parliamentary Committee has given the Minister its recommendation in writing that the Officer be suspended on any of the following grounds—
 - (a) misconduct;
 - (b) neglect of duty;
 - (c) inability to perform the duties of office;
 - (d) any other ground on which the Parliamentary Committee has determined that the Officer is unfit to hold office.
- (3) If the Parliamentary Budget Officer is suspended from office, the chairperson of the Parliamentary Committee must cause a full statement of the grounds of suspension to be laid before each House of Parliament on or before the third sitting day of that House after the suspension.

- (4) The Governor in Council must remove the Parliamentary Budget Officer from office if each House on or before the seventh sitting day of that House after the statement is laid before it, declares by resolution that the Parliamentary Budget Officer ought to be removed from office.
- (5) The Governor in Council must remove the suspension and restore the Parliamentary Budget Officer to office unless each House makes a declaration of the kind specified in subsection (4) within the time specified in that subsection.
- (6) The Parliamentary Budget Officer can only be removed from office in accordance with this section.

13 Acting Parliamentary Budget Officer

- (1) As soon as practicable after being appointed, the Parliamentary Budget Officer must nominate to the Parliamentary Committee another PBO officer to act as Parliamentary Budget Officer during any period when the Officer is absent from duty, suspended or for any other reason is unable to perform the duties of office.
- (2) If there is a vacancy in the office of Parliamentary Budget Officer, the Governor in Council may appoint a PBO officer to act as Parliamentary Budget Officer until a new Parliamentary Budget Officer is appointed under section 6.
- (3) An acting appointment under subsection (2) may be made for a maximum period of 6 months except that, if the period of 6 months would end during an election costing period, the maximum period is extended to the expiration of 3 months after the date of the general election.

- (4) While a person nominated or appointed under this section acts as Parliamentary Budget Officer—
- (a) the person has all the rights and powers, and must perform all the duties, of the Parliamentary Budget Officer; and
 - (b) section 8 applies to the person.

14 Conflicts of interest

- (1) If the Parliamentary Budget Officer has a personal interest (whether pecuniary or otherwise) in a matter that appears to raise a conflict of interest with the proper performance of the duties of the office, the Officer, as soon as practicable after becoming aware of the relevant facts, must declare the nature of the interest to the chairperson of the Parliamentary Committee.
- (2) If the chairperson of the Parliamentary Committee become aware (other than because of a declaration under subsection (1)) that the Parliamentary Budget Officer has a personal interest (whether pecuniary or otherwise) in a matter that appears to raise a conflict of interest with the proper performance of the duties of the office, the chairperson must notify the Officer.
- (3) The Parliamentary Committee, in consultation with the Parliamentary Budget Officer, must determine how a matter referred to in subsection (1) or (2) is to be dealt with so as to avoid a conflict of interest.

15 Right of return—Public Administration Act 2004

- (1) This section applies to a person if—
- (a) the person was an employee (within the meaning of the **Public Administration Act 2004**) immediately before the person's first appointment as Parliamentary Budget Officer; and

- (b) since that first appointment the person has continually held appointment as Parliamentary Budget Officer; and
- (c) the person ceases to be the Parliamentary Budget Officer—
 - (i) on the expiry of the person's term of office; or
 - (ii) by resigning in accordance with section 11(a).
- (2) If the person was an executive immediately before the person's first appointment as Parliamentary Budget Officer, the person is entitled to be re-employed under Part 3 of the **Public Administration Act 2004** as an executive as if the person were transferred under Division 6 of that Part.
- (3) If the person was not an executive immediately before the person's first appointment as Parliamentary Budget Officer, the person is entitled to be re-employed under Part 3 of the **Public Administration Act 2004** as if section 27 of that Act applied to the person.
- (4) In this section—

executive has the same meaning as in the **Public Administration Act 2004**.

16 Right of return—Parliamentary Administration Act 2005

- (1) This section applies to a person if—
 - (a) the person was a Parliamentary officer immediately before the person's first appointment as Parliamentary Budget Officer; and

- (b) since that first appointment the person has continually held appointment as Parliamentary Budget Officer; and
 - (c) the person ceases to be the Parliamentary Budget Officer—
 - (i) on the expiry of the person's term of office; or
 - (ii) by resigning in accordance with section 11(a).
- (2) The person is entitled—
- (a) to be employed, under Part 3 of the **Parliamentary Administration Act 2005** as a Parliamentary officer—
 - (i) in the person's previous Parliamentary Department; and
 - (ii) in a position with the same classification as the person's previous classification; and
 - (iii) with the remuneration that applies to that classification on and after the day the person is employed in accordance with this section; or
 - (b) if there is no position available in the person's previous Parliamentary Department with the same classification as the person's previous classification, to be employed, under Part 3 of the **Parliamentary Administration Act 2005** as a Parliamentary officer—
 - (i) in a different Parliamentary Department; and
 - (ii) in a position with the same classification as the person's previous classification; and

- (iii) with the remuneration that applies to that classification on and after the day the person is employed in accordance with this section; or
 - (c) if there is no position available in any Parliamentary Department with the same classification as the person's previous classification, to be transferred, under Part 3 of the **Parliamentary Administration Act 2005**, to duties in a public entity or public service body with no less remuneration than applied to that classification; or
 - (d) if there is no position in which the person may be employed under paragraph (a) or (b) or transferred to under paragraph (c), to be taken to be a Parliamentary officer in the Department of Parliamentary Services whose employment is terminated on the ground of redundancy.
- (3) A transfer under subsection (2)(c) is to be effected by the Secretary of the Department of Parliamentary Services as if the person were a Parliamentary officer within the Department of Parliamentary Services.
 - (4) The person may waive the entitlement under this section.
 - (5) The entitlement under this section may be waived in consideration of the making of any payment to the person who waives that entitlement.
 - (6) In this section—

Parliamentary Department means a Department within the meaning of the **Parliamentary Administration Act 2005**;

Parliamentary officer has the same meaning as it has in the **Parliamentary Administration Act 2005**;

previous classification means the classification of the position the person occupied as a Parliamentary officer immediately before the person's first appointment as Parliamentary Budget Officer;

previous Parliamentary Department means the Parliamentary Department in which the person was a Parliamentary officer immediately before the person's first appointment as Parliamentary Budget Officer;

public entity has the same meaning as it has in the **Public Administration Act 2004**;

public service body has the same meaning as it has in the **Public Administration Act 2004**.

Division 2—Staffing and administration

17 Staff

- (1) Any staff that are necessary for the purposes of this Act may be employed under Part 3 of the **Parliamentary Administration Act 2005**.
- (2) The Parliamentary Budget Officer may make an arrangement for the use of the services of any staff of—
 - (a) a public service body within the meaning of the **Public Administration Act 2004**; or
 - (b) a public body within the meaning of the **Financial Management Act 1994**.
- (3) An arrangement under subsection (2) must be made with the appropriate officer of the body whose staff are the subject of the arrangement.

- (4) For the purposes of subsection (3)—
- (a) the *appropriate officer* of a public service body within the meaning of the **Public Administration Act 2004** is the public service body Head, within the meaning of that Act, of that body; and
 - (b) the *appropriate officer* of a public body within the meaning of the **Financial Management Act 1994** is the chief executive officer, by whatever name called, of that body.

18 Consultants

- (1) The Parliamentary Budget Officer may engage persons with suitable qualifications and experience as consultants.
- (2) An engagement under subsection (1) may be on any terms and conditions the Parliamentary Budget Officer considers appropriate.

19 Confidentiality requirements for PBO officers— general

- (1) A person who is or was a PBO officer must not, directly or indirectly, provide or disclose any protected information except—
 - (a) for the performance of the functions or exercise of the powers of the person or the Parliamentary Budget Officer under this Act; or
 - (b) as is otherwise authorised or required by or under this Act.

Penalty: 50 penalty units.

- (2) A person who is or was a PBO officer must not provide or disclose any information or document given to the Parliamentary Budget Officer if the public sector body Head who gave the information

or document requested under section 26(4) that it be kept confidential.

Penalty: 50 penalty units.

- (3) Subsections (1) and (2) do not apply in relation to the provision or disclosure of information or a document—
- (a) to or in a court or a tribunal; or
 - (b) to an authority or person who has the power to require the production of documents or the answering of questions.
- (4) In making a request to any person (other than the parliamentary leader concerned) for information for the purposes of preparing a costing, a PBO officer must, as far as practicable, not disclose any information that is not in the public domain regarding—
- (a) the policy that is the subject of the costing; or
 - (b) the identity of the parliamentary leader who requested the costing.
- (5) In making a request to any person (other than the member of Parliament concerned) for information for the purposes of preparing analysis, advice or a briefing that is to be provided under section 47, a PBO officer must, as far as practicable, not disclose any information that is not in the public domain regarding—
- (a) the matter that is the subject of the analysis, advice or briefing; or
 - (b) the identity of the member of Parliament who requested the analysis, advice or briefing.

20 Confidentiality requirements for PBO officers— courts, tribunals and other authorities

- (1) A person who is or was a PBO officer must not provide or disclose any protected information to or in a court or a tribunal, or to a relevant authority, except—
- (a) for the performance of the functions or exercise of the powers of the person or the Parliamentary Budget Officer under this Act; or
 - (b) as is otherwise authorised or required by or under this Act.

Penalty: 50 penalty units.

- (2) A person who is or was a PBO officer must not provide or disclose to or in a court or a tribunal, or to a relevant authority, any information or document given to the Parliamentary Budget Officer if the public sector body Head who gave the information or document requested under section 26(4) that it be kept confidential.

Penalty: 50 penalty units.

- (3) In this section—

court does not include the Supreme Court;

relevant authority means an authority or person who has the power to require the production of documents or the answering of questions.

21 Protection of PBO officers from liability

- (1) A PBO officer is not personally liable for anything done or omitted to be done in good faith—
- (a) in the performance of a function or exercise of a power under this Act; or

- (b) in the reasonable belief that the act or omission was in the performance of a function or exercise of a power under this Act.
- (2) Any liability resulting from an act or omission that, but for subsection (1), would attach to a PBO officer attaches instead to the State.

Division 3—Operations

22 Operational plan

- (1) The Parliamentary Budget Officer, in consultation with the Parliamentary Committee, must prepare an operational plan for each financial year.
- (2) The operational plan for a financial year must set out—
 - (a) the priorities of the Parliamentary Budget Officer for the financial year; and
 - (b) an outline of the PBO protocols prepared or to be prepared under section 24.
- (3) The operational plan may include any other matters the Parliamentary Budget Officer, in consultation with the Parliamentary Committee, considers appropriate.
- (4) The Parliamentary Budget Officer must prepare the operational plan for a financial year—
 - (a) before the commencement of that financial year; or
 - (b) if the period for preparing the operational plan is extended under subsection (5), within 3 months of the date that the appointment of the Officer takes effect.

- (5) The period for preparing the operational plan for a financial year is extended if—
- (a) the appointment (not being a reappointment) of the Parliamentary Budget Officer takes effect within 3 months before the start of the financial year; and
 - (b) no operational plan for the financial year was prepared by the previous Parliamentary Budget Officer.

23 Transmission of operational plan to Parliament

- (1) The Parliamentary Budget Officer must cause the operational plan for a financial year to be transmitted to each House of the Parliament as soon as is practicable after it has been prepared.
- (2) The clerk of each House of the Parliament must cause the operational plan to be laid before the House on the day on which it is received or on the next sitting day of the House.
- (3) If the Parliamentary Budget Officer proposes to transmit the operational plan to the Parliament on a day on which neither House of the Parliament is actually sitting, the Officer must—
 - (a) give one business day's notice of intention to do so to the clerk of each House of the Parliament; and
 - (b) give the operational plan to the clerk of each House on the day indicated in the notice; and
 - (c) publicly release the operational plan as soon as practicable after giving it to the clerks.
- (4) The clerk of each House must—
 - (a) notify each member of the House of the receipt of a notice under subsection (3)(a) on the same day that the clerk receives the notice; and

- (b) give a copy of the operational plan to each member of the House as soon as practicable after the plan is received under subsection (3)(b); and
- (c) cause the operational plan to be laid before the House on the next sitting day of the House.

24 PBO protocols

- (1) The Parliamentary Budget Officer must prepare protocols for requests for policy costing and advisory services.
- (2) The PBO protocols must set out—
 - (a) timelines for the submission of requests for policy costing or advisory services; and
 - (b) procedures for consultation between the Parliamentary Budget Officer and parliamentary leaders or other members of Parliament; and
 - (c) an outline of how the Parliamentary Budget Officer will, consistently with section 43, determine the priority of requests for policy costing or advisory services and the equitable allocation of resources to deal with requests; and
 - (d) the form and content of, and information to be provided in connection with—
 - (i) requests for policy costing or advisory services; and
 - (ii) policy costings; and
 - (iii) pre-election reports.
- (3) The PBO protocols may include any other matters the Parliamentary Budget Officer considers appropriate.

- (4) The Parliamentary Budget Officer may revise the PBO protocols at any time.
- (5) The Parliamentary Budget Officer must publicly release the PBO protocols and each revision of them.

25 Arrangements for obtaining information or documents from public sector bodies

- (1) The Parliamentary Budget Officer may make an arrangement with a public sector body Head for the Officer to obtain from the public sector body information and documents relevant to the Officer's functions.
- (2) Without limiting subsection (1), an arrangement made under that subsection may make provision for the confidentiality of information and documents given to the Parliamentary Budget Officer in accordance with the arrangement.
- (3) The Parliamentary Budget Officer must publicly release an arrangement made under subsection (1).
- (4) A public sector body Head may advise the Parliamentary Budget Officer that information or a document provided in accordance with an arrangement under subsection (1) is subject to Cabinet confidentiality if the public sector body Head is satisfied that—
 - (a) the document is an exempt document under section 28 of the **Freedom of Information Act 1982**; or
 - (b) if the information were in the form of a document, it would be an exempt document under section 28 of the **Freedom of Information Act 1982**.

26 Request for information or documents from public sector bodies

- (1) The Parliamentary Budget Officer may, in writing, request a public sector body Head to give the Officer any information or document of the public sector body relevant to the Officer's functions.
- (2) The Parliamentary Budget Officer may make a request under subsection (1) only if the Officer—
 - (a) has attempted unsuccessfully to obtain the information or document in accordance with an arrangement made under section 25(1); or
 - (b) has been unable to make an arrangement with the public sector body Head under section 25(1) despite making reasonable efforts to do so.
- (3) A public sector body Head must comply with a request under subsection (1) within 3 business days after receiving it, unless—
 - (a) the public sector body Head considers that complying with the request would—
 - (i) not be practicable; or
 - (ii) be unlawful; or
 - (iii) require the public sector body Head to disclose information that could prejudice national security; or
 - (b) complying with the request would require the public sector body Head to disclose confidential commercial information.
- (4) A public sector body Head may request that information or a document given to the Parliamentary Budget Officer in response to a request under subsection (1) be kept confidential.

- (5) A public sector body Head may advise the Parliamentary Budget Officer that information or a document provided in response to a request under subsection (1) is subject to Cabinet confidentiality if the public sector body Head is satisfied that—
- (a) the document is an exempt document under section 28 of the **Freedom of Information Act 1982**; or
 - (b) if the information were in the form of a document, it would be an exempt document under section 28 of the **Freedom of Information Act 1982**.
- (6) If a public sector body Head declines to comply with a request under subsection (1), the public sector body Head must, within 3 business days after receiving it, give the Parliamentary Budget Officer a written statement of reasons for doing so.

Division 4—Reporting requirements

27 Report of PBO operations during election costing periods

- (1) After each general election, the Parliamentary Budget Officer must prepare a report setting out—
- (a) the cost of the operations of the Parliamentary Budget Officer and the Parliamentary Budget Office during the election costing period; and
 - (b) how many members of staff are employed or engaged during the election costing period in accordance with section 17; and
 - (c) how many consultants are engaged during the election costing period in accordance with section 18; and

- (d) the number of election policy costing requests received and the number of election policy costings prepared; and
- (e) the number of pre-election reports prepared; and
- (f) any significant issues or problems encountered in dealing with election policy costing requests or preparing election policy costings or pre-election reports; and
- (g) each statement publicly released in accordance with a request under section 38(2) or 40(2) in relation to the election costings period; and
- (h) subject to subsection (2)—
 - (i) the number of times the Parliamentary Budget Officer decided, under section 37(5), to stop preparing an election policy costing for the election costings period (excluding decisions for which a statement was released under section 38); and
 - (ii) the number of times the Parliamentary Budget Officer decided, under section 39(6), to stop preparing a pre-election report for the election costings period (excluding decisions for which a statement was released under section 40); and
 - (iii) the number of times that the Parliamentary Budget Officer decided, under section 43(2)(a), to defer the exercise of a function under section 45 or 47 in relation to the election costings period; and

- (iv) the number of times that the Parliamentary Budget Officer decided, under section 43(2)(b), to decline to exercise a function under section 45 or 47 in relation to the election costings period; and
 - (i) any recommendations for the future operations of the Parliamentary Budget Officer and the Parliamentary Budget Office; and
 - (j) any other information the Parliamentary Budget Officer considers appropriate.
- (2) The Parliamentary Budget Officer must not include in the report of PBO operations any information that enables the identification of—
- (a) a parliamentary leader who was informed that the Officer would stop preparing an election policy costing (unless the parliamentary leader requested the public release of a statement under section 38(2)); or
 - (b) a parliamentary leader who was informed that the Officer would stop preparing a pre-election report (unless the parliamentary leader requested the public release of a statement under section 40(2)); or
 - (c) a person who requested the exercise of a function under section 45 or 47 that was deferred or declined under section 43(2); or
 - (d) the nature of a request referred to in paragraph (c).
- (3) The Parliamentary Budget Officer must give the report of PBO operations to the chairperson of the Parliamentary Committee before the later of—

- (a) the day that is 3 months after the date of the general election; or
 - (b) the first day on which a member of the Parliamentary Committee is elected chairperson.
- (4) The chairperson of the Parliamentary Committee must cause the report of PBO operations to be laid before each House of Parliament on the first sitting day of that House after the chairperson receives it.

28 Annual reports

- (1) The Parliamentary Budget Officer must prepare a report of the operations of the Parliamentary Budget Officer and Parliamentary Budget Office for each financial year.
- (2) The annual report must—
 - (a) record each occasion on which a public sector body Head declines to comply with a request under section 26; and
 - (b) specify the number of policy costings the Parliamentary Budget Officer stopped preparing under section 45(5) in the financial year to which the report relates; and
 - (c) include each statement publicly released in accordance with a request under section 46(2) in the financial year to which the report relates.
- (3) The Parliamentary Budget Officer must give the annual report to the chairperson of the Parliamentary Committee on or before 31 October next following the financial year to which it relates.

- (4) The chairperson of the Parliamentary Committee must cause the annual report to be laid before each House of Parliament on the first sitting day of that House after the chairperson receives it.

Division 5—Transfer of records

29 Definitions

In this Division—

public office has the same meaning as in the **Public Records Act 1973**;

public officer has the same meaning as in the **Public Records Act 1973**;

public record has the same meaning as in the **Public Records Act 1973**;

record has the same meaning as in the **Public Records Act 1973**.

30 Parliamentary Budget Officer may transfer records to Public Record Office

- (1) The Parliamentary Budget Officer may from time to time cause records made or received by a PBO officer in the course of the PBO officer's duties to be transferred to the custody of the Public Record Office.
- (2) If a record referred to in subsection (1) is not transferred to the custody of the Public Record Office in accordance with that subsection within a period of 25 years after the creation of the record, the Parliamentary Budget Officer must transfer the record as soon as practicable after the end of that period.
- (3) Subject to section 32, the **Public Records Act 1973** (other than sections 8A and 10) applies to and in respect of a record referred to in subsection (1) as if—

- (a) the record were a public record of a public office; and
 - (b) the record were required by that Act to be transferred to the Public Record Office; and
 - (c) the Parliamentary Budget Officer were the officer in charge of a public office; and
 - (d) each PBO officer were a public officer.
- (4) A transfer made under subsection (1) or (2) must be made in accordance with arrangements approved by the Keeper of Public Records.

31 Application of Public Records Act 1973 in relation to arrangements and requests for information or documents

- (1) This section applies in relation to a record that—
- (a) is held by a public sector body; and
 - (b) was either—
 - (i) created for the sole purpose of an arrangement under section 25 or a request under section 26; or
 - (ii) received from the Parliamentary Budget Officer in relation to an arrangement under section 25 or a request under section 26.
- (2) Except as provided by this Act, the **Public Records Act 1973** does not apply to or in respect of the record.
- (3) The public sector body Head for the public sector body that holds the record may cause the record to be transferred to the custody of the Public Record Office in accordance with arrangements approved by the Keeper of Public Records.

- (4) If the record is not transferred to the custody of the Public Record Office in accordance with subsection (3) within a period of 25 years after the creation of the record, the public sector body Head must transfer the record as soon as practicable after the end of that period.
- (5) Subject to section 32, the **Public Records Act 1973** (other than sections 8A and 10) applies to and in respect of the record as if—
 - (a) the record were a public record of a public office; and
 - (b) the record were required by that Act to be transferred to the Public Record Office; and
 - (c) the public sector body Head for that public sector body were the officer in charge of a public office; and
 - (d) each employee of the public sector body were a public officer.
- (6) A transfer made under subsection (3) or (4) must be made in accordance with arrangements approved by the Keeper of Public Records.

32 Transferred records not available for public inspection for 30 years

- (1) This section applies to the following records—
 - (a) a record that is transferred to the Public Record Office by the Parliamentary Budget Officer under section 30; or
 - (b) a record that is transferred to the Public Record Office by a public sector body Head under section 31.
- (2) The record is not available for public inspection for a period of 30 years after the date of its transfer to the Public Record Office.

- (3) Nothing in subsection (2) affects the operation of sections 9 and 10AA of the **Public Records Act 1973** in relation to a record transferred to the Public Record Office under this Division.

33 Inspection of transferred records by Parliamentary Budget Officer

- (1) The Keeper of Public Records must permit the Parliamentary Budget Officer to inspect or obtain a copy of a record transferred to the Public Record Office under section 30 or 31 if the Parliamentary Budget Officer requires the record for the performance of functions.
- (2) This section applies despite anything to the contrary in section 32 or in the **Public Records Act 1973**.

34 Inspection of transferred costing records by members of Parliament

- (1) This section applies to a record—
- (a) that relates to a policy costing request made by a member of Parliament; and
 - (b) that the member of Parliament either provided to or received from the Parliamentary Budget Officer; and
 - (c) that was transferred to the Public Record Office under section 30.
- (2) Any of the following persons may request that the Parliamentary Budget Officer provide, or permit the inspection of, a copy of the record—
- (a) the member of Parliament who made the policy costing request to which the record relates;

- (b) if the policy costing request was made by a member of Parliament who, at that time, was the recognised parliamentary leader of a registered political party, a subsequent parliamentary leader of that party;
 - (c) if the policy costing request was made by a member of Parliament who was a member of a registered political party that did not have a recognised parliamentary leader at the time of the request, any other member of Parliament who is a member of that registered political party.
- (3) On receiving a request under subsection (2), the Parliamentary Budget Officer must—
- (a) obtain a copy of the record in accordance with section 33; and
 - (b) comply with the request.
- (4) This section applies despite anything to the contrary in section 32 or in the **Public Records Act 1973**.

35 Inspection of transferred advisory records by members of Parliament

- (1) This section applies to a record—
- (a) that relates to the provision of analysis, advice or a briefing to a member of Parliament under section 47; and
 - (b) that was transferred to the Public Record Office under section 30.
- (2) The member of Parliament may request that the Parliamentary Budget Officer provide, or permit the inspection of, a copy of the record.

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- (3) On receiving a request under subsection (2), the Parliamentary Budget Officer must—
 - (a) obtain a copy of the record in accordance with section 33; and
 - (b) comply with the request.
- (4) This section applies despite anything to the contrary in section 32 or in the **Public Records Act 1973**.

Part 3—Policy costings and other functions of the Parliamentary Budget Officer

Division 1—Election policy costings, pre-election and post-election reports

36 Parliamentary leader may request an election policy costing

- (1) At any time after the start of an election costing period and before 5 p.m. on the Wednesday immediately preceding the date of the general election, a parliamentary leader may, in accordance with the PBO protocols, request the Parliamentary Budget Officer to prepare a costing of a policy.
- (2) The parliamentary leader may include in the request any information that the leader thinks relevant to assist the Parliamentary Budget Officer to prepare a costing of the policy.
- (3) A parliamentary leader, by giving written notice to the Parliamentary Budget Officer, may withdraw an election policy costing request at any time before the Officer publicly releases the election policy costing under section 38.
- (4) After receiving a notice under subsection (3), the Parliamentary Budget Officer—
 - (a) is to stop preparing the election policy costing; and
 - (b) must as soon as practicable inform any entity (other than the parliamentary leader who requested the election policy costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.

- (5) Subsection (4)(b) does not apply if the information or document is also relevant to another current election policy costing request.

37 Parliamentary Budget Officer to prepare election policy costings

- (1) Subject to subsections (5) and (6), after receiving an election policy costing request, the Parliamentary Budget Officer must, in accordance with the PBO protocols—
- (a) prepare a costing of the policy; and
 - (b) provide the costing to the parliamentary leader who requested the costing.
- (2) An election policy costing—
- (a) must summarise the policy to which it relates; and
 - (b) must summarise the information that—
 - (i) was provided by the parliamentary leader under section 36(2) or in accordance with a request under subsection (4); and
 - (ii) is materially relevant to the costing; and
 - (c) must set out the material net financial impact of the policy on the forward budget estimates and key financial indicators contained in the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; and
 - (d) must disclose any existing costing that is accepted and relied on as required by subsection (3)(b); and
 - (e) must disclose any circumstances in which the Parliamentary Budget Officer has exercised a judgement that would have a material impact on the costing; and

- (f) may contain any other explanatory information the Parliamentary Budget Officer considers appropriate, other than any information referred to in paragraph (g); and
- (g) must not include any information—
 - (i) referred to in section 19(2); or
 - (ii) contained in a document referred to in section 19(2); or
 - (iii) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (iv) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (v) that states or implies that, in preparing the election policy costing, the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a document, would be an exempt document under that provision; and
- (h) must include the following information if the costing was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—
 - (i) a statement to that effect; and

- (ii) a statement identifying the nature of that information or assumption.
- (3) In preparing an election policy costing, the Parliamentary Budget Officer must—
- (a) use the financial information and economic and other assumptions contained in—
 - (i) the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; or
 - (ii) a more recent financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; and
 - (b) if an element of the policy has been costed in statements laid before each House of the Parliament under section 27E of the **Financial Management Act 1994**, accept and rely on that costing; and
 - (c) have regard to any information provided by the parliamentary leader under section 36(2) or in accordance with a request under subsection (4).
- (4) If the Parliamentary Budget Officer needs more information for the purpose of preparing an election policy costing, the Officer may request in writing the parliamentary leader who made the election policy costing request to provide that information.
- (5) If the Parliamentary Budget Officer neither has nor expects to have sufficient information or time to prepare an election policy costing before the end of the election costing period, the Officer—
- (a) is to stop preparing the costing; and

- (b) must, as soon as practicable—
 - (i) inform the parliamentary leader who requested the costing that the Officer will stop preparing the costing because of insufficient time or information (as the case requires); and
 - (ii) inform any entity (other than the parliamentary leader who requested the costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (6) If the policy for which the costing is requested has already been costed in statements laid before each House of the Parliament under section 27E of the **Financial Management Act 1994**, the Parliamentary Budget Officer—
 - (a) is not to prepare the costing; and
 - (b) must, as soon as practicable—
 - (i) inform the parliamentary leader who requested the costing that the policy has already been costed; and
 - (ii) inform any entity (other than the parliamentary leader who requested the costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (7) Subsections (5)(b) and (6)(b) do not apply if the information or document is also relevant to another current election policy costing request.

38 Public release of election policy costing or statement of insufficiency

- (1) A parliamentary leader who has received an election policy costing from the Parliamentary Budget Officer may request the Officer to publicly release the costing.
- (2) A parliamentary leader who has been informed that the Parliamentary Budget Officer will stop preparing an election policy costing because of insufficient time or information may request the Officer to publicly release a statement explaining that decision.
- (3) The Parliamentary Budget Officer must comply with a request under subsection (1) or (2) as soon as practicable after receiving it.

39 Pre-election reports on costed policies

- (1) A parliamentary leader who has requested the Parliamentary Budget Officer to prepare an election policy costing for more than one policy during an election costing period may, in accordance with the PBO protocols, request the Officer to prepare a pre-election report.
- (2) The parliamentary leader must specify in a request under subsection (1) which of the leader's policies are to be covered in the pre-election report.
- (3) Subject to subsection (7), on a request under subsection (1), the Parliamentary Budget Officer must, in accordance with the PBO protocols—
 - (a) prepare a pre-election report; and
 - (b) provide the pre-election report to the parliamentary leader who requested the report.

- (4) A pre-election report—
- (a) must list the policies covered by the report;
and
 - (b) must summarise the information that—
 - (i) was provided by the parliamentary leader in accordance with a request under subsection (6); and
 - (ii) is materially relevant to the pre-election report; and
 - (c) must set out the impact of those policies on the forward budget estimates and key financial indicators contained in the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994** by—
 - (i) summarising the material net financial impact of each policy on the estimates and indicators; and
 - (ii) specifying the material net aggregate financial impact of all the policies on the estimates and indicators; and
 - (d) must disclose any existing costing that is accepted and relied on as required by subsection (5)(b); and
 - (e) must disclose any circumstances in which the Parliamentary Budget Officer has exercised a judgement that would have a material impact on the pre-election report;
and
 - (f) may contain any other explanatory information the Parliamentary Budget Officer considers appropriate, other than any information referred to in paragraph (g); and

- (g) must not include any information—
 - (i) referred to in section 19(2); or
 - (ii) contained in a document referred to in section 19(2); or
 - (iii) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (iv) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (v) that states or implies that, in preparing the pre-election report, the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a document, would be an exempt document under that provision; and
- (h) must include the following information if the pre-election report was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—
 - (i) a statement to that effect; and
 - (ii) a statement identifying the nature of that information or assumption.

- (5) In preparing a pre-election report, the Parliamentary Budget Officer must—
- (a) use the financial information and economic and other assumptions contained in—
 - (i) the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; or
 - (ii) a more recent financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; and
 - (b) have regard to any information provided by the parliamentary leader in accordance with a request under subsection (6).
- (6) If the Parliamentary Budget Officer needs more information for the purpose of preparing a pre-election report, the Officer may request in writing the parliamentary leader who made the request to provide that information.
- (7) If the Parliamentary Budget Officer neither has nor expects to have sufficient time or information to prepare a pre-election report before the end of the election costing period, the Officer—
- (a) is to stop preparing the report; and
 - (b) must inform the parliamentary leader who requested the report as soon as practicable.

40 Public release of pre-election report or statement of insufficiency

- (1) A parliamentary leader who has received a pre-election report from the Parliamentary Budget Officer may request the Officer to publicly release the report.

- (2) A parliamentary leader who has been informed that the Parliamentary Budget Officer will stop preparing the pre-election report because of insufficient time or information may request the Officer to publicly release a statement explaining that decision.
- (3) Subject to subsection (4), the Parliamentary Budget Officer must comply with a request under subsection (1) or (2) as soon as practicable after receiving it.
- (4) The Parliamentary Budget Officer must not publicly release a pre-election report, or a statement referred to in subsection (2), after the end of the election costing period to which the report or statement relates.

41 Post-election reports

- (1) The Parliamentary Budget Officer must, in accordance with the PBO protocols, prepare a post-election report on the policies of each parliamentary leader that were publicly announced before the date of the general election, whether or not those policies were the subject of an election policy costing request.
- (2) A post-election report—
 - (a) must list the policies covered by the report; and
 - (b) must set out the impact of those policies on the forward budget estimates and key financial indicators contained in the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994** by—
 - (i) summarising the material net financial impact of each policy on the estimates and indicators; and

- (ii) specifying the material net aggregate financial impact of all the policies on the estimates and indicators; and
- (c) must disclose any existing costing that is accepted and relied on as required by subsection (3)(b); and
- (d) must disclose any circumstances in which the Parliamentary Budget Officer has exercised a judgement that would have a material impact on the post-election report; and
- (e) may contain any other explanatory information the Parliamentary Budget Officer considers appropriate, other than any information referred to in paragraph (f); and
- (f) must not include any information—
 - (i) referred to in section 19(2); or
 - (ii) contained in a document referred to in section 19(2); or
 - (iii) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (iv) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (v) that states or implies that, in preparing the post-election report, the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a

document, would be an exempt
document under that provision; and

- (g) must include the following information if the post-election report was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—
 - (i) a statement to that effect; and
 - (ii) a statement identifying the nature of that information or assumption.
- (3) In preparing a post-election report, the Parliamentary Budget Officer must—
 - (a) use the financial information and economic and other assumptions contained in—
 - (i) the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; or
 - (ii) a more recent financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; and
 - (b) if an element of the policy covered in the post-election report has been costed in statements laid before each House of the Parliament under section 27E of the **Financial Management Act 1994**, accept and rely on that costing.
- (4) If a post-election report would not differ materially from a pre-election report publicly released under section 40, the Parliamentary Budget Office may prepare a statement to that effect, stating where the pre-election report is

available, instead of preparing a post-election report.

- (5) The Parliamentary Budget Officer must publicly release each post-election report or each statement under subsection (4) within 2 months after the date of the general election.

42 Nominee may act for parliamentary leader

- (1) A parliamentary leader may nominate another person to perform a function or exercise any power under this Act on the leader's behalf.
- (2) A nomination under subsection (1) must be—
 - (a) in writing; and
 - (b) given to the Parliamentary Budget Officer.
- (3) A nomination under subsection (1) may include any of the following conditions—
 - (a) a condition that the nominee may only perform a specified function or exercise a specified power;
 - (b) a condition that the nominee may only perform a function or exercise a power in relation to a specified policy or matter.
- (4) A parliamentary leader may make more than one nomination under subsection (1).

43 Functions under this Division to be prioritised above other functions

- (1) During an election costing period, the Parliamentary Budget Officer must prioritise the exercise of functions under this Division above the exercise of functions under sections 45 and 47.

- (2) For the purpose of prioritising the exercise of functions under this Division during an election costing period, the Parliamentary Budget Officer may decide to—
 - (a) defer the exercise of a function under section 45 or 47; or
 - (b) decline to exercise a function under section 45 or 47.
- (3) If the Parliamentary Budget Officer decides under subsection (2) to defer the exercise of a function under section 45 or 47, the Officer must inform the member of Parliament who requested the exercise of that function as soon as practicable.
- (4) If the Parliamentary Budget Officer decides under subsection (2) to decline to prepare a policy costing under section 45, the Officer must, as soon as practicable—
 - (a) inform the member of Parliament who requested the costing that the Officer will not prepare the costing because the exercise of functions under this Division must be prioritised; and
 - (b) inform any entity (other than the member of Parliament who requested the costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (5) Subsection (4)(b) does not apply if the information or document is also relevant to another current policy costing request.
- (6) If the Parliamentary Budget Officer decides under subsection (2) to decline to provide analysis, advice or a briefing under section 47, the Officer must, as soon as practicable, inform the member of Parliament that the analysis, advice or briefing

will not be provided because the exercise of functions under this Division must be prioritised.

Division 2—Other policy costings

44 Requests by members of Parliament for policy costings

- (1) A member of Parliament may, in accordance with the PBO protocols, request the Parliamentary Budget Officer to prepare a costing of a policy or a proposed policy.
- (2) The member of Parliament may include in the request any information that the member thinks relevant to assist the Parliamentary Budget Officer to prepare a costing of the policy.
- (3) A member of Parliament, by giving written notice to the Parliamentary Budget Officer, may withdraw a request for a policy costing at any time before the Officer publicly releases the policy costing.
- (4) After receiving a notice under subsection (3), the Parliamentary Budget Officer—
 - (a) is to stop preparing the policy costing; and
 - (b) must as soon as practicable inform any entity (other than the member of Parliament who requested the policy costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (5) Subsection (4)(b) does not apply if the information or document is also relevant to another current request for a policy costing.

45 Parliamentary Budget Officer to prepare policy costings

- (1) Subject to section 43 and subsections (5) and (6), after receiving a request under section 44 for a policy costing, the Parliamentary Budget Officer must, in accordance with the PBO protocols—
 - (a) prepare a costing of the policy; and
 - (b) provide the costing to the member of Parliament who requested the costing.
- (2) A policy costing—
 - (a) must summarise the policy to which it relates; and
 - (b) must summarise the information that—
 - (i) was provided by the member of Parliament under section 44(2) or in accordance with a request under subsection (4); and
 - (ii) is materially relevant to the costing; and
 - (c) must set out the material net financial impact of the policy on the forward budget estimates and key financial indicators contained in the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; and
 - (d) must disclose any existing costing that is accepted and relied on as required by subsection (3)(b); and
 - (e) must disclose any circumstances in which the Parliamentary Budget Officer has exercised a judgement that would have a material impact on the costing; and

- (f) may contain any other explanatory information the Parliamentary Budget Officer considers appropriate, other than any information referred to in paragraph (g); and
- (g) must not include any information—
 - (i) referred to in section 19(2); or
 - (ii) contained in a document referred to in section 19(2); or
 - (iii) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (iv) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (v) that states or implies that, in preparing the policy costing, the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a document, would be an exempt document under that provision; and
- (h) must include the following information if the costing was prepared using financial information or economic or other assumptions contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**—
 - (i) a statement to that effect; and

- (ii) a statement identifying the nature of that information or assumption.
- (3) In preparing a policy costing, the Parliamentary Budget Officer must—
 - (a) use the financial information and economic and other assumptions contained in—
 - (i) the financial report or budget update most recently released under Part 5 of the **Financial Management Act 1994**; or
 - (ii) a more recent financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; and
 - (b) if an element of the policy has been costed in statements laid before each House of the Parliament under section 27E of the **Financial Management Act 1994**, accept and rely on that costing; and
 - (c) have regard to any information provided by the member of Parliament under section 44(2) or in accordance with a request under subsection (4).
- (4) If the Parliamentary Budget Officer needs more information for the purpose of preparing a policy costing, the Officer may request in writing the member of Parliament who made the request to provide that information.
- (5) If the Parliamentary Budget Officer neither has nor expects to have sufficient information to prepare a policy costing, the Officer—
 - (a) is to stop preparing the costing; and

- (b) must, as soon as practicable—
 - (i) inform the member of Parliament who requested the costing that the Officer will stop preparing the costing because of insufficient information; and
 - (ii) inform any entity (other than the member of Parliament who requested the costing) that the Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (6) If the policy for which the costing is requested has already been costed in an estimated financial statement laid before each House of the Parliament under section 27E of the **Financial Management Act 1994**, the Parliamentary Budget Officer—
 - (a) is not to prepare the costing; and
 - (b) must, as soon as practicable—
 - (i) inform the member of Parliament who requested the costing that the policy has already been costed; and
 - (ii) inform any entity (other than the member of Parliament who requested the costing) that the Parliamentary Budget Officer requested to provide information or a document relevant to the request that the information or document is no longer required.
- (7) Subsections (5)(b) and (6)(b) do not apply if the information or document is also relevant to another current request for a policy costing.

46 Public release of policy costing, revised costing or statement of insufficiency

- (1) A member of Parliament who has received a policy costing from the Parliamentary Budget Officer may request the Officer to publicly release the costing.
- (2) A member of Parliament who has been informed that the Parliamentary Budget Officer will stop preparing a policy costing because of insufficient information may request the Officer to publicly release a statement explaining that decision.
- (3) The Parliamentary Budget Officer must comply with a request under subsection (1) or (2) as soon as practicable after receiving it.

Division 3—Advisory functions of Parliamentary Budget Officer

47 Advisory services to members of Parliament

- (1) Subject to section 43, at the request of a member of Parliament, the Parliamentary Budget Officer must take all reasonable steps to provide to the member technical analysis or advice, or a briefing of a technical nature, on financial, fiscal or economic matters (including in relation to the costing of proposals included in the State budget).
- (2) If the Parliamentary Budget Officer needs more information for the purpose of complying with a request under subsection (1), the Officer may request in writing the member of Parliament who made the request to provide that information in writing.
- (3) If the Parliamentary Budget Officer is unable to comply with a request under subsection (1), the Officer must inform the member of Parliament who made the request of the reasons that the request cannot be complied with.

- (4) In providing analysis, advice or a briefing as requested under subsection (1), the Parliamentary Budget Officer must not provide any information—
- (a) referred to in section 19(2); or
 - (b) contained in a document referred to in section 19(2); or
 - (c) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (d) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (e) that states or implies that, in preparing the analysis, advice or briefing, the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a document, would be an exempt document under that provision.
- (5) The functions of the Parliamentary Budget Officer under this section do not extend to—
- (a) providing any analysis, advice or briefing to assist a committee of Parliament; or
 - (b) developing policy proposals on behalf of members of Parliament.

48 Public release of specified information

- (1) A member of Parliament who receives analysis, advice or a briefing as requested under section 47(1) may request that the Parliamentary Budget Officer publicly release specified

information contained in the analysis, advice or briefing.

- (2) The Parliamentary Budget Officer must publicly release the information as soon as practicable after receiving a request to do so under subsection (1).

Division 4—Correction of errors and misrepresentations

49 Correction of material errors in policy costing or pre-election report

- (1) If the Parliamentary Budget Officer becomes aware that there is a material error in a policy costing or pre-election report, the Officer must, as soon as practicable—
 - (a) notify the member of Parliament who requested the costing or report of the error and its correction; and
 - (b) prepare a revised costing or report in which the error is corrected; and
 - (c) provide the revised costing or report to the member of Parliament.
- (2) If the Parliamentary Budget Officer publicly released the erroneous policy costing or pre-election report, the Officer must publicly release the revised costing or report as soon as practicable after providing the revised costing or report to the member of Parliament who requested it.
- (3) If the Parliamentary Budget Officer did not publicly release the erroneous policy costing or pre-election report, section 38, 40 or 46 (as the case requires) applies to the revised costing or report and not to the erroneous costing or report.

- (4) Nothing in this section authorises the Parliamentary Budget Officer to include in a revised costing or report anything that section 37(2)(g), 39(4)(g) or 45(2)(g) prohibited the Officer from including in the costing or report when it was first prepared.

50 Correction of material errors in post-election report

- (1) If the Parliamentary Budget Officer becomes aware that there is a material error in a post-election report, the Officer must, as soon as practicable—
- (a) prepare a revised report in which the error is corrected; and
 - (b) publicly release the revised report.
- (2) Nothing in this section authorises the Parliamentary Budget Officer to include in a revised post-election report anything that section 41(2)(f) prohibited the Officer from including in the report when it was first prepared.

51 Correction of material errors in specified information

- (1) If the Parliamentary Budget Officer becomes aware that there is a material error in information provided under section 47(1), the Officer must, as soon as practicable—
- (a) notify the member of Parliament to whom the information was provided of the error and its correction; and
 - (b) prepare a revision of the information in which the error is corrected; and
 - (c) provide the revised information to the member of Parliament; and

- (d) if that information has been publicly released under section 48, publicly release the revised information.
- (2) Nothing in this section authorises the Parliamentary Budget Officer to provide to a member of Parliament, or to publicly release, anything that section 47(4) prohibited the Officer from including in the information when it was first provided as requested under section 47(1).

52 Correction of misrepresentations

- (1) This section applies if the Parliamentary Budget Officer considers—
 - (a) that any of the following things has been publicly misrepresented—
 - (i) a policy costing;
 - (ii) a pre-election report;
 - (iii) a post-election report;
 - (iv) information contained in analysis, advice or a briefing provided by the Officer under section 47 (whether or not the information is publicly released under section 48); or
 - (b) that a policy costing prepared by someone other than the Officer has been publicly misrepresented as being prepared by the Officer; or
 - (c) that information that was not provided by the Officer under this Act has been publicly misrepresented as being provided by the Officer; or
 - (d) that the process by which the Officer has taken or not taken any action the Officer is empowered to take under this Act has been publicly misrepresented.

- (2) The Parliamentary Budget Officer may publicly release a statement to correct the misrepresentation.
- (3) The Parliamentary Budget Officer must not, in a statement publicly released under subsection (2), include any information—
 - (a) referred to in section 19(2); or
 - (b) contained in a document referred to in section 19(2); or
 - (c) contained in a financial report or budget update that has been prepared, but not yet released, under Part 5 of the **Financial Management Act 1994**; or
 - (d) that is an excerpt from information or a document that a public sector body Head advised, under section 25(4) or 26(5), is subject to Cabinet confidentiality; or
 - (e) that states or implies that, in preparing either the thing that has been publicly misrepresented or the statement publicly released under subsection (2), the Parliamentary Budget Officer used either an exempt document under section 28 of the **Freedom of Information Act 1982** or information that, if it were in the form of a document, would be an exempt document under that provision.

Part 4—General

53 Parliamentary Budget Officer not to question the merits of policies

Nothing in this Act entitles the Parliamentary Budget Officer, whether in a policy costing, a report under this Act or otherwise, to question the merits of a policy that is or has been the subject of a request for a policy costing.

54 Functions of the Parliamentary Committee

- (1) The Parliamentary Committee has the following functions under this Act—
 - (a) to recommend to the Minister the appointment and terms and conditions of appointment of the Parliamentary Budget Officer;
 - (b) to review the operational and resourcing arrangements for the Parliamentary Budget Officer, including reviewing the draft budget for the Officer;
 - (c) to consult the Parliamentary Budget Officer on an operational plan under section 22;
 - (d) to review reports of PBO operations and annual reports;
 - (e) to review and assess how well the Parliamentary Budget Officer's functions are being performed;
 - (f) to report to both Houses of Parliament on any matter connected with the operational and resourcing arrangements for the Parliamentary Budget Officer that requires the attention of Parliament.

- (2) Nothing in subsection (1) authorises the Parliamentary Committee to direct the activities of the Parliamentary Budget Officer or to question—
- (a) a policy costing; or
 - (b) a pre-election report; or
 - (c) a post-election report; or
 - (d) information contained in analysis, advice or a briefing provided under section 47.

55 Confidentiality requirements for preliminary documents

- (1) A person must not publish any of the following information relating to a costing unless the Parliamentary Budget Officer consents to that publication—
- (a) information contained in a draft of the costing;
 - (b) information contained in correspondence with a PBO officer regarding the preparation of the costing;
 - (c) information provided to the Parliamentary Budget Officer in response to a request under section 37(4), 39(5) or 45(4).

Penalty: 50 penalty units.

- (2) The Parliamentary Budget Officer must not consent to a publication referred to in subsection (1) unless the Officer is satisfied that the publication is necessary to assist in explaining a policy costing.

56 Exemption from Freedom of Information Act 1982

- (1) The **Freedom of Information Act 1982** does not apply to a document that is in the possession of any person or body that was created for the sole purpose of—

- (a) an arrangement under section 25; or
 - (b) a request under section 26; or
 - (c) an election policy costing request; or
 - (d) an election policy costing; or
 - (e) a request under section 44 for a policy costing; or
 - (f) a policy costing prepared under section 45;
or
 - (g) an advisory service request under section 47:
or
 - (h) analysis, advice or a briefing provided under section 47.
- (2) In this section—

document has the same meaning as in the
Freedom of Information Act 1982.

Part 5—Amendment of other Acts

57 Constitution Act 1975

In section 24 of the **Constitution Act 1975**—

- (a) in subsections (1) and (3), after "whether or not that House" **insert** "expires or";
- (b) in subsection (5)—
 - (i) after "the Assembly" **insert** "expires or";
 - (ii) after "immediately before the" **insert** "expiry or";
- (c) in subsection (6)—
 - (i) after "the Assembly has" **insert** "expired or";
 - (ii) after "immediately before the" **insert** "expiry or".

58 Independent Broad-based Anti-corruption Commission Act 2011

In section 6(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**, in the definition of *public officer*, after paragraph (v) **insert**—

"(va) the Parliamentary Budget Officer;".

59 Ombudsman Act 1973

After clause 18 of Schedule 2 to the **Ombudsman Act 1973** **insert**—

"19 The Parliamentary Budget Officer".

**60 Parliamentary Administration Act 2005—
definitions**

In section 4(1) of the **Parliamentary
Administration Act 2005**—

(a) **insert** the following definition—

"Parliamentary Budget Officer has the same
meaning as in the **Parliamentary
Budget Officer Act 2017**";

(b) in the definition of *Parliamentary officer*,
after "Department Head" **insert** "other than
the Parliamentary Budget Officer".

**61 Parliamentary Administration Act 2005—new
Division inserted in Part 3**

After Division 2 of Part 3 of the **Parliamentary
Administration Act 2005** insert—

**"Division 2A—Parliamentary Budget
Office**

17A Establishment

The Parliamentary Budget Office is
established as an administrative office of the
Parliament.

17B Purpose

The purpose of the Parliamentary Budget
Office is to enable the Parliamentary Budget
Officer to perform the Officer's functions.

**17C Parliamentary Budget Officer has
Department Head functions**

(1) Despite anything to the contrary in this Act,
the Parliamentary Budget Officer has all the
functions of a Department Head in relation to
Parliamentary officers employed in the
Parliamentary Budget Office.

- (2) This Act applies to the Parliamentary Budget Office as if a reference in this Act to—
- (a) a Department were a reference to the Parliamentary Budget Office; and
 - (b) a Parliamentary officer were a reference to a Parliamentary officer in the Parliamentary Budget Office; and
 - (c) a Department Head were a reference to the Parliamentary Budget Officer.
- (3) However, nothing in Division 2 (except section 13) applies to the Parliamentary Budget Officer."

62 Parliamentary Committees Act 2003

For section 14(1)(b) of the **Parliamentary Committees Act 2003** substitute—

- "(b) the functions conferred on the Committee under the **Audit Act 1994**, Part V of the **Constitution Act 1975** and the **Parliamentary Budget Officer Act 2017**."

63 Repeal of Part

This Part is **repealed** on 1 July 2018.

Note

The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 25 February 2016

Legislative Council: 24 March 2016

The long title for the Bill for this Act was "A Bill for an Act to provide for the appointment of a Parliamentary Budget Officer, to give that Officer the functions of providing policy costing and advisory services for members of Parliament, to amend the **Parliamentary Administration Act 2005** to establish the Parliamentary Budget Office, to make miscellaneous amendments to section 24 of the **Constitution Act 1975** and to the **Independent Broad-based Anti-corruption Commission Act 2011**, the **Ombudsman Act 1973** and the **Parliamentary Committees Act 2003** and for other purposes."