

Schedule 1

[Sections 146I, 156D]

Counting of votes at Legislative Council elections

[Heading inserted by No. 40 of 1987 s. 83.]

1.

The method of counting the votes to be used by the Returning Officer to ascertain the result of an election in a region shall be as provided in this Schedule.

2.

- (1) In this Schedule “**continuing candidate**” means a candidate not already elected or not excluded from the count.
- (2) A reference in this Schedule to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under this Schedule.

3.

The number of first preference votes given for each candidate and the total number of all such votes shall be ascertained and a quota shall be determined by dividing the total number of first preference votes by one more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by one, and any candidate who has received a number of first preference votes equal to or greater than the quota shall be elected.

4.

Unless all the vacancies have been filled, the number (if any) of votes in excess of the quota (in this Schedule referred to as “**surplus votes**”) of each elected candidate shall be transferred to the continuing candidates as follows —

- (a) the number of surplus votes of the elected candidate shall be divided by the number of first preference votes received by him and the resulting fraction shall be the transfer value;
- (b) the total number of ballot papers of the elected candidate that express the first preference vote for him and the next available preference for a particular continuing candidate shall be multiplied by the transfer value, the number so obtained (disregarding any fraction) shall be added to the number of first preference votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate,

and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any such transfer shall be elected.

5.

Unless all the vacancies have been filled, the surplus votes (if any) of any candidate elected under clause 4, or elected subsequently under this clause, shall be transferred to the continuing candidates in accordance with clause 4(a) and (b), and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any such transfer shall be elected.

6.

Where a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under clause 4 or 5 of the surplus votes of a particular elected candidate, no votes of any other candidate shall be transferred to the continuing candidate.

7.

For the purposes of the application of clause 4(a) and (b) in relation to a transfer under clause 5 or 9 of the surplus votes of an elected candidate, each ballot paper of the elected candidate that was obtained by him on a transfer under this Schedule shall be treated as if any vote it expressed for the elected candidate were a first preference vote, as if the name of any other candidate previously elected or excluded had not been on the ballot paper and as if the numbers indicating subsequent preferences had been altered accordingly.

8.

Where, after the counting of first preference votes or the transfer of surplus votes (if any) of elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes shall be excluded and all his votes shall be transferred to the continuing candidates as follows —

- (a) the total number of ballot papers of the excluded candidate that express the first preference vote for him and the next available preference for a particular continuing candidate shall be transferred, each ballot paper at a transfer value of one, to the continuing candidate and added to the number of votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate;
- (b) the total number (if any) of other votes obtained by the excluded candidate on transfers under this Schedule shall be transferred from the excluded candidate in the order of the

transfers on which he obtained them, the votes obtained on the earliest transfer being transferred first, as follows —

- (i) the total number of ballot papers transferred to the excluded candidate from a particular candidate and expressing the next available preference for a particular continuing candidate shall be multiplied by the transfer value at which the votes were so transferred to the excluded candidate;
- (ii) the number so obtained (disregarding any fraction) shall be added to the number of votes of the continuing candidate;
- (iii) all those ballot papers shall be transferred to the continuing candidate.

9.

Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer under clause 8 or 10 of votes of an excluded candidate shall be elected, and, unless all the vacancies have been filled, the surplus votes (if any) of the candidate so elected shall be transferred in accordance with clause 4(a) and (b), except that, where the candidate so elected is elected before all the votes of the excluded candidate have been transferred, the surplus votes (if any) of the candidate so elected shall not be transferred until the remaining votes of the excluded candidate have been transferred in accordance with clause 8(a) and (b) to continuing candidates.

10.

Subject to clause 12, where, after the transfer of all the votes of an excluded candidate, no continuing candidate has received a number of votes greater than the quota, the continuing candidate who has the fewest votes shall be excluded and his votes shall be transferred in accordance with clause 8(a) and (b).

11.

Where a candidate is elected as a result of a transfer of the first preference votes of an excluded candidate or a transfer of all the votes of an excluded candidate that were transferred to the excluded candidate from a particular candidate, no other votes of the excluded candidate shall be transferred to the candidate so elected.

12.

In respect of the last vacancy for which 2 continuing candidates remain, the continuing candidate who has the larger number of votes shall be elected notwithstanding that that number is below the quota, and if those candidates have an equal number of votes —

- (a) the Returning Officer shall make out in respect of each of those candidates, a slip bearing the name of the candidate, and deal with the slips in accordance with Schedule 2; and
- (b) the candidate whose name is on the slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall be excluded and the other candidate shall be elected.

13.

Notwithstanding any other provision of this Schedule, where the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates shall be elected.

14.

Subject to clauses 15 and 16, where, after any count or transfer under this Schedule, 2 or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative sizes of the surpluses, the largest surplus being transferred first.

15.

Subject to clause 16, where, after any count or transfer under this Schedule, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first, but if there has been no such count or transfer —

- (a) the Returning Officer shall make out in respect of each of those candidates, a slip bearing the name of the candidate, and deal with the slips in accordance with Schedule 2; and
- (b) the candidate whose name is on the slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall, as between those candidates, be deemed to have had the largest surplus.

16.

Where, after any count or transfer under this Schedule, a candidate obtains surplus votes, those surplus votes shall not be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.

17.

Where the candidate who has the fewest votes is required to be excluded under clause 8 or 10, and 2 or more candidates (in this clause called the “**tied candidates**”) have an equal number of votes

(each other candidate having a larger number of votes) whichever of the tied candidates had the fewest votes at the last count or transfer at which each of the tied candidates had a different number of votes shall be excluded, but if there has been no such count or transfer —

- (a) the Returning Officer shall make out in respect of each of the tied candidates a slip bearing the name of the candidate, and deal with the slips in accordance with Schedule 2; and
- (b) the candidate whose name is on the slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall be excluded.

18.

Where a candidate is elected by reason that the number of first preference votes received by him, or the aggregate of first preference votes received by him and all other votes obtained by him on transfers under this Schedule, is equal to the quota, all the ballot papers expressing those votes shall be set aside as finally dealt with.

19.

For the purposes of this Schedule, a transfer under clause 4, 5 or 9 of all the surplus votes of an elected candidate, a transfer in accordance with clause 8(a) of all first preference votes of an excluded candidate or a transfer in accordance with clause 8(b) of all the votes of an excluded candidate that were transferred to him from a particular candidate each constitutes a separate transfer.

[Schedule 1 inserted by No. 40 of 1987 s. 83.]

Schedule 2

[Sections 86, 87, 144;
Schedule 1, clauses 12, 15 and 17]

Ballot procedure

[Heading inserted by No. 40 of 1987 s. 83.]

1.

Slips made out for the purposes of section 86(2a), 87(5) or (6) or 144(2)(g) or clause 12, 15 or 17 of Schedule 1 shall be dealt with as provided in this Schedule.

2.

In this Schedule “**ballot**” means a hollow opaque sphere inside which a slip may be enclosed.

3.

The Returning Officer shall place each of the slips in separate ballots of exact similarity, securely close the several ballots, deposit the several ballots in a ballot box, and securely fasten the ballot box.

4.

The Returning Officer shall then shake and rotate the ballot box and shall permit any other person then present to do likewise, if the person so desires.

5.

- (1) The Returning Officer shall then —
 - (a) open the ballot box; and
 - (b) take out and open one of the ballots to obtain the slip enclosed therein.
- (2) Where the proceedings are being conducted for the purposes of section 86(2a) or 87(5) or (6) the Returning Officer shall repeat the procedure mentioned in subclause (1)(b) until no ballots remain in the ballot box.

[Schedule 2 inserted by No. 40 of 1987 s. 83.]

[Schedule 3 repealed by No. 36 of 2000 s. 81(1).]