

WESTERN AUSTRALIA.

ELECTORAL ACT 1907-1980.

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ELECTORAL.

No. 27 of 1907.

(Affected by Act No. 113 of 1965.)

[As amended by Acts—

No. 44 of 1911¹ assented to 14/2/1911;
No. 5 of 1918 assented to 18/3/1918;
No. 59 of 1919 assented to 17/12/1919;
No. 7 of 1921 assented to 26/10/1921;
No. 38 of 1931 assented to 3/12/1931;
No. 39 of 1934 assented to 4/1/1935;
No. 10 of 1936 assented to 3/12/1936;
No. 18 of 1940 assented to 29/11/1940;
No. 47 of 1940 assented to 30/12/1940;
No. 63 of 1948² assented to 21/1/1949;
No. 26 of 1949 assented to 22/10/1949;
No. 58 of 1951 assented to 7/1/1952;
No. 57 of 1952 assented to 23/12/1952;
No. 34 of 1953 assented to 18/12/1953;
No. 53 of 1957³ assented to 6/12/1957;
No. 59 of 1959⁴ assented to 3/12/1959;
No. 51 of 1962 assented to 20/11/1962;
No. 33 of 1964⁵ assented to 3/11/1964;
No. 68 of 1964⁵ assented to 4/12/1964;
No. 33 of 1967⁶ assented to 17/11/1967;
No. 28 of 1970⁷ assented to 20/5/1970;
No. 94 of 1970⁸ assented to 30/11/1970;
No. 94 of 1972⁹ assented to 4/12/1972;
No. 70 of 1973¹⁰ assented to 6/12/1973;
No. 129 of 1976 assented to 9/12/1976;
No. 39 of 1979¹¹ assented to 25/10/1979;
No. 67 of 1979¹² assented to 21/11/1979;
No. 52 of 1980 assented to 19/11/1980;

and reprinted pursuant to the Amendments Incorporation Act 1938.]

AN ACT to regulate Parliamentary Elections.

[Assented to 20 December 1907.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Electoral Act 1907-1980*.

Short title.
Amended by
No. 52 of
1980, s. 1.

¹Came into operation on 1/5/1911, see s. 1 of No. 44 of 1911.

²Came into operation on 27/5/1949, see *Gazette* of 27/5/1949, p. 1133.

³Came into operation on 14/2/1953, see *Gazette* of 14/2/1958, p. 244.

⁴Came into operation on 15/1/1960, see *Gazette* of 15/1/1960, p. 35.

⁵Came into operation on 31/12/1964, see *Gazette* of 24/12/1964, p. 4094.

⁶Came into operation on 24/11/1967, see *Gazette* of 24/11/1967, p. 3197.

⁷Came into operation on 1/11/1970, see *Gazette* of 30/10/1970, p. 3343.

⁸Came into operation on 5/12/1970, see *Gazette* of 4/12/1970, p. 3705.

⁹Metric Conversion Act 1972. Relevant amendments effective from 1/1/1974; see *Gazette* 7/12/73, p. 4490.

¹⁰Came into operation on 1/1/1974, see *Gazette* 28/12/1973, p. 4725.

¹¹Came into operation on 23/11/1979, see *Gazette* 23/11/1979, p. 3635.

¹²Came into operation on 11/2/1980, see *Gazette* 8/2/1980, p. 383.

In this reprint—

(a) The section numbers of Act No. 27 of 1907 set out in the marginal notes relate to the sections of the reprint of the Electoral Act 1907-1921, contained in the Appendix to the Sessional Volume of the Statutes for the year 1928.

(b) The numbering of parts, sections, etc., as contained in the 1949 reprint (approved for reprint 21/10/49) is retained.

Commence-
ment.

2. This Act shall come into operation on the first day of March, one thousand nine hundred and eight.

Division.
Amended by
No. 33 of
1964, s. 3;
No. 39 of
1979, s. 3.

3. This Act is divided into Parts as follows:—

PART I.—PRELIMINARY, ss. 1-4.

PART II.—ADMINISTRATION, ss. 5-16.

PART III.—ENROLMENT, ss. 17-62.

Division (1)—Qualification of Electors.

Division (2)—Electoral Rolls.

Division (3)—Addition to Rolls.

Division (4)—Objections.

(i) To Claims;

(ii) To Enrolment;

(iii) Powers of Magistrate.

Division (5)—Miscellaneous.

PART IV.—ELECTIONS, ss. 63-156.

Division (1)—Writs.

Division (2) Nominations.

Division (3)—Voting.

(i) Postal and Absent Voting;

(ii) At the Poll.

Division (4)—Counting the Votes.

*Division (5)—Declaration of Poll and
Return of the Writ.*

Division (6)—After the Poll.

Division (7)—Voting to be Compulsory.

See No. 63 of
1948, s. 16.

Cf. No. 10 of
1936, s. 3.

PART V.—DISPUTED RETURNS, ss. 157-173.

PART VI. [*Repealed by No. 39 of 1979, s. 3.*]

PART VII.—ELECTORAL OFFENCES, ss. 179-206.

PART VIII.—MISCELLANEOUS, ss. 207-214.

4. In this Act, unless the contrary intention appears—

“Aboriginal” means a person who is an Aboriginal within the meaning of that expression as defined by section four of the Aboriginal Affairs Planning Authority Act 1972;

“absent voter” means any person who votes under the provisions of section ninety-nine A of this Act;

“absolute majority of votes” means a number of votes greater than one-half of the number of all the electors who vote at an election, exclusive of electors whose ballot papers are rejected as informal, but inclusive of the casting vote of the returning officer, when given;

“Assembly” means the Legislative Assembly;

“Assistant Chief Electoral Officer” means the person appointed under section five A of this Act to be the Assistant Chief Electoral Officer and includes the person for the time being duly discharging the duties of the office of Assistant Chief Electoral Officer;

“by-election” means any election other than a General Election;

“candidate” in Parts II and VII includes any person who, within three months before the day of election, offers himself for election as a member of the Council or Assembly;

“Chief Electoral Officer” means the officer for the time being appointed to that office, and includes a substitute;

“Christian name” means the name or names prefixed to the surname of any person, whether received at Christian baptism or not;

Inter-
pretation.
Amended by
No. 44 of
1911, s. 2;
No. 63 of
1948, s. 3;
No. 34 of
1953, s. 2;
No. 51 of
1962, s. 2;
No. 33 of
1964, s. 4;
No. 68 of
1964, s. 3;
No. 28 of
1970, s. 3;
No. 39 of
1979, ss. 4 &
5.

“Conjoint election” means a general election for the Council and the Assembly that are both to be held on the same day pursuant to writs issued on the same day;

“Council” means the Legislative Council;

“District” in relation to the Assembly means an Electoral District for the election of a member of the Assembly and in relation to the Council means an Electoral District that forms part of a Province;

“elector” means any person whose name appears on a roll as an elector;

“electoral census” means any enumeration of persons eligible as electors for the Council or Assembly, made under the provisions of Part III of this Act;

“General Election” means—

- (1) any election for the Assembly caused by effluxion of time or by the dissolution of the Assembly by the Governor;
- (2) any election for the Council caused by the retirement of the senior member for each Province by effluxion of time;

“local governing body” means the Council of a Municipality and any local board of health;

“Magistrate” means a person appointed or deemed to be appointed a stipendiary magistrate under the Stipendiary Magistrates Act 1957;

“naturalized” means naturalized under a law of the United Kingdom, or of a Colony which has become a State of the Commonwealth, or of the Commonwealth, or of a State;

“officer” includes all persons appointed to any office under this Act, or exercising any power or discharging any duty thereunder, except as an honorary Government electoral agent;

“polling place” means any building or structure in which the polling at elections is appointed to take place;

“President” means the President of the Legislative Council;

“print”, “printed” or “printing” in relation to an electoral roll or a supplementary electoral roll means an electoral roll or supplementary roll printed under the authority of the Government Printer;

“prison” means a prison within the meaning of that expression as defined by section four of the Prisons Act 1903;

“Province” means an Electoral Province for the election of members of the Council;

“Registrar” means an Electoral Registrar, and includes a substitute;

“Returning Officer” includes Deputy Returning Officer;

“roll” means an electoral roll under this Act;

“Speaker” means the Speaker of the Legislative Assembly;

“Sub-district” means a portion of a District the boundaries of which have been defined under the provisions of section one hundred;

“telegraph office” means any office appointed for the receipt and transmission of telegraph messages;

“writ” means a writ issued by the Clerk of the Writs directing a Returning Officer to proceed with the election of a member of the Council or Assembly;

PART II.—ADMINISTRATION.

Chief
Electoral
Officer.

5. (1) The Governor may, from time to time, appoint a Chief Electoral Officer who shall, under the Minister, be charged with the administration of this Act.

(2) The Chief Electoral Officer in office at the commencement of this Act shall be deemed to have been appointed under this Act.

Assistant
Chief
Electoral
Officer.
Inserted by
No. 69 of
1959, s. 3.

5A. The Governor may, from time to time appoint an Assistant Chief Electoral Officer, who, subject to the control of the Chief Electoral Officer, has and may exercise all the powers, duties and functions of the Chief Electoral Officer.

Registrars
and
Returning
Officers.
Substituted
by No. 68 of
1964, s. 4.

6. (1) The Governor may appoint such Registrars and Returning Officers as may be required for the effective administration of this Act.

(2) A person appointed to be a Registrar or Returning Officer shall be deemed to have been appointed, where no date is specified in his appointment as the date of his appointment, on the date on which he is appointed Registrar or Returning Officer, as the case may be.

Substitute.
Amended by
No. 63 of
1948, s. 4;
No. 68 of
1964, s. 5.

7. (1) The Governor may, during the absence or temporary incapacity of the Chief Electoral Officer or of the Assistant Chief Electoral Officer or of any Registrar or Returning Officer, appoint a substitute to discharge the duties of such officer.

(2) The Governor may, for such periods and subject to such conditions, if any, as he may think fit, delegate to the Minister the power to appoint any such substitute, and may, at will, revoke any such delegation.

(3) Every substitute appointed under this section shall, while so acting, have and may exercise all the duties, powers, and functions of the officer for whom he is acting.

8. (1) There shall be a Registrar for each District and Sub-district, who shall also be in relation to a Province the Registrar for the corresponding District or Sub-district situated in that province.

Registrars.
Substituted
by No. 33 of
1964, s. 5.

(2) The same person may be appointed Registrar for two or more District or Sub-districts.

9. There shall be a Returning Officer for each Province and District.

Returning
Officers.

10. The Returning Officer for each District shall be a Deputy Returning Officer for the Province within which his District is situated.

Deputy
Returning
Officers.

11. A Registrar may be appointed Returning Officer for any Province or District.

Registrar
may be
Returning
Officer.

12. Every person shall, upon being appointed to the office of Returning Officer, and before acting in such office, make and subscribe before a Justice of the Peace a declaration in the prescribed form and lodge such declaration with the Chief Electoral Officer, who shall cause the same to be filed in his office.

Returning
Officer's
declaration.
Amended by
No. 44 of
1911, s. 43.

Resignation
of Returning
Officer after
issue of writ.

13. No person being a Returning Officer for any Province or District shall, without the consent of the Governor, resign his office after the issue of any writ for an election for such Province or District until such writ is executed or returned.

Death,
resignation,
or removal
of Returning
Officer after
issue of writ.
Amended by
No. 44 of
1911, s. 5.

14. (1) If the Returning Officer for any Province or District dies, resigns, leaves, or is removed, after the issue of a writ for an election for such Province or District, the Governor may appoint some other person to be the Returning Officer in his place; and such writ, so far as it is not executed, may be executed and returned by the Returning Officer so appointed.

(2) A writ may be lawfully executed and returned by the Returning Officer notwithstanding that the writ may, in the absence of the Returning Officer, have been issued to some other person appointed to be the Returning Officer in his place.

Temporary
assistance.

15. (1) The Minister may, on the recommendation of the Chief Electoral Officer, appoint such temporary assistants as he may consider requisite for the due administration of this Act.

(2) The Public Service Act 1904-1948,¹ shall not apply to temporary assistants appointed under this section.

Disqualifi-
cation of
officers.

16. (1) No candidate, and no person holding any official position in connection with any political organisation or election committee, shall be appointed an officer under this Act.

(2) If any such officer knowingly becomes a candidate, or is elected, appointed, or otherwise becomes an official of any political organisation or election committee, he shall be deemed to have vacated the office held by him under this Act, and some other person shall be appointed in his stead.

¹Now Public Service Act 1978.

PART III.—ENROLMENT.

Division (1)—Qualification of Electors.

17. (1) Subject to the provisions of this Act, any person not under eighteen years of age, who—

- (a) is a natural born or naturalized subject of Her Majesty;
- (aa) has lived in the Commonwealth of Australia for six months continuously;
- (b) has lived in the State for three months continuously; and
- (c) has lived continuously in the District or Sub-district for which he claims to be enrolled as an elector, for a period of one month immediately preceding the date of his claim to be so enrolled,

Qualifica-
tion of
electors.
Substituted
by No. 33 of
1964, s. 6.
Amended by
No. 33 of
1967, s. 3;
No. 94 of
1970, s.3;
No. 39 of
1979, s. 6,
(see 63 Vict.,
No. 19 s. 26).

is entitled—

- (d) to be enrolled as an elector for the Council and the Assembly; and
- (e) when so enrolled and while he continues to live in that District or Sub-district, to vote at any election of a member for the—
 - (i) Council for the province of which the district or sub-district forms part; and
 - (ii) Assembly for the District or the District of which the Sub-district forms part.

(2) Subject to paragraph (c) of subsection (1) of section one hundred and seventy-two of this Act, where an elector changes his place of living to another District he may, until his name is transferred to another roll, vote at any election of a member for the Province or District in respect of which his name continues enrolled if the election is held within three months after he has so changed his place of living.

(3) For the purposes of this Act a person shall be deemed to have lived within a District or Sub-district, if he has his usual place of abode therein and notwithstanding his occasional absence from that District or Sub-district and any period of absence from such usual place of abode by a person who is not disqualified by section eighteen of this Act—

- (a) while serving a sentence of imprisonment for an offence; or
- (b) while otherwise in lawful custody or detention in relation to an offence,

shall be deemed to be such occasional absence, and that person shall be deemed not to have his usual place of abode at the place of imprisonment or custody or detention, as the case may be.

(4) A member—

- (a) of the Council and his spouse may claim to be enrolled for a District or Sub-district that form part of the Province which that member represents; and
- (b) of the Assembly and his spouse may claim to be enrolled for the District which that member represents,

and when so enrolled shall be deemed to live in that province or district and if—

- (c) that Province or District is wholly or partly included, pursuant to the provisions of any Act, in another Province or District, however named, that member and his spouse may claim to be enrolled as an elector in respect of that other Province or District; and
- (d) that member is a candidate for election in respect of that other Province or District, he and his spouse may, while they are enrolled therefor, vote at the general election next following the inclusion of the Province or District in another Province or District and while so enrolled and while the

member is such a candidate they shall be deemed to live in that other Province or District.

(5) Except as provided in subsection (4) of this section a person is not entitled to have his name placed upon any roll other than the roll for the District or Sub-district in which he lives or for the District or Sub-district of the Province in which he lives.

18. Every person, nevertheless, shall be disqualified from being enrolled as an elector, or if enrolled, from voting at any election, who—

- (a) is of unsound mind; or
- (b) [*Deleted by No. 68 of 1964, s. 6.*]
- (c) has been attainted of treason, is under sentence or sentences of imprisonment of or totalling one year or longer, is subject to an order, direction or sentence, as the case may be, to be detained or kept in any kind of custody or prison under any of the following provisions of The Criminal Code—
 - (i) paragraph (6a) of section nineteen;
 - (ii) section six hundred and thirty-one;
 - (iii) section six hundred and fifty-two;
 - (iv) section six hundred and fifty-three or subsection (4) of section six hundred and ninety-three;
 - (v) section six hundred and sixty-one;
 - (vi) section six hundred and sixty-two,

or is subject to a direction to be detained in an approved hospital under subsection (1) of section forty-seven of the Mental Health Act 1962;

Disqualifications.
Amended by
No. 39 of
1934, s. 2;
No. 58 of
1951, s. 3;
No. 51 of
1962, s. 3;
No. 68 of
1964, s. 6;
No. 39 of
1979, s. 7 (see
63 Vict.,
No. 19, s. 28).

(d) is the holder of a temporary entry permit for the purposes of the Migration Act 1958, of the Parliament of the Commonwealth as amended from time to time, or is a prohibited immigrant under that Act.

(e) [*Deleted by No. 51 of 1962, s. 3.*]

Division (2)—Electoral Rolls.

Electoral
rolls.
Substituted
by No. 33 of
1964, s. 7.

19. (1) There shall be a roll for each Province.

(2) There shall be a roll for each District.

(3) There shall be a roll for each Sub-district.

(4) All the rolls for the Sub-districts of a District form the roll for that district.

(5) All the rolls for the Districts in a Province form the roll for that Province.

Entitlement
to vote.

(6) Each person whose name, whether immediately before or at any time after the coming into operation of the Electoral Act Amendment Act 1964, is on the roll for a District is, subject to this Act, entitled to vote at any election of a member of the Assembly for that District and of a member of the Council for the Province of which the District forms part.

(7) Until a new roll is prepared under this Act each roll in existence for a District at the coming into operation of the Electoral Act Amendment Act 1964, shall, as altered from time to time in accordance with this Act, be the roll for that District.

20. The roll for a District shall be kept by the Registrar appointed for that District and the roll for a Sub-district shall be kept by the Registrar appointed for that Sub-district.

Registrar to keep rolls. Substituted by No. 33 of 1964, s. 8.

21. Until new rolls prepared under this Act come into operation, the rolls in existence at the commencement of this Act shall, as altered from time to time, be the rolls of electors.

Existing rolls.

22. Rolls may be in the prescribed form, and shall describe the surname, christian name, sex, residence, and occupation of each elector, and shall contain such other particulars as may be prescribed.

Form of rolls. Amended by No. 44 of 1911, s. 43; No. 33 of 1964, s. 9.

23. (1) The rolls shall be arranged in lexicographical order of surnames, and where the surnames are identical, then in lexicographical order of the christian names.

Arrangement of rolls. Amended by No. 44 of 1911, s. 8.

(2) The names appearing on the printed roll shall be numbered in regular, progressive arithmetical order, commencing with number one for the first name.

(3) In the supplementary printed roll the first name shall have the number next following that which is set against the last name on the general printed roll.

24. (1) The rolls shall be printed, and issued under the hand of the Chief Electoral Officer, whenever he thinks fit.

Printing of rolls. Amended by No. 5 of 1918, s. 2.

(2) An amalgamation of each roll with its supplement shall be made, and shall be printed immediately after the issue of the writs for a general election.

Copies of
rolls to be
available
for public
inspection.
Substituted
by No. 33 of
1964, s. 10.

25. A printed copy of the roll of a—

- (a) Province shall be kept for inspection by the public at the office of the Registrar appointed for a District or a Sub-district that forms part of the Province; and
- (b) District or Sub-district shall be kept for such inspection at the office of the Registrar appointed for that District or Sub-district,

and copies of those rolls shall also be kept at such other convenient places as the Chief Electoral Officer may from time to time determine.

Supplemen-
tary rolls.
Substituted
No. 28 of
1970, s. 4.

26. Supplementary rolls, setting out additions and alterations since the last print, shall be printed and issued under the hand of the Chief Electoral Officer whenever he thinks fit.

Incorporation
of
supplemen-
tary rolls.
Amended by
No. 44 of
1911, s. 11.

27. In the printing of a second or subsequent supplementary roll, all the names in the last preceding supplementary roll shall be incorporated in lexicographical order.

Amalgama-
tion of rolls.

28. (1) Whenever the Minister so directs, the roll and any supplementary roll may be printed in an amalgamated form.

(2) In the preparation of such amalgamated roll, the provisions of section twenty-three shall be observed.

(3) Every amalgamated roll shall have printed upon it in a conspicuous place an indication of what roll and supplementary roll it is an amalgamation, giving the number and date of such rolls.

29. Each new or amalgamated roll shall be dated with the date of its completion.

Rolls to be dated.

30. (1) The supplementary rolls shall be numbered in regular progressive arithmetical order. The first issue following upon a new roll, or an amalgamated roll as aforesaid, shall be supplementary roll No. 1, and subsequent rolls numbered consecutively.

Supplementary rolls to be numbered and dated.

(2) The date to which a supplementary roll is made up shall also appear on such roll.

31. (1) The Governor may arrange with the Governor General of the Commonwealth for the preparation, alteration, and revision of the rolls, in any manner consistent with the provisions of this Act, jointly by the State and the Commonwealth, to the intent that the rolls may be used as electoral rolls for the Commonwealth elections as well as State elections.

Arrangement with Commonwealth. Amended by No. 33 of 1964, s. 12. (See Com. 1918-1925, s. 32.)

(2) When any such arrangement has been made, the rolls may contain, for the purposes of such Commonwealth election—

- (a) the names and descriptions of persons who are not entitled to be enrolled thereon as electors of the State, provided that it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as State electors;
- (b) distinguishing marks against the names of persons enrolled as State electors, to show that those persons are, or are not also enrolled as Commonwealth electors;
- (c) other particulars in addition to the prescribed particulars;

and for the purposes of this Act the names and descriptions, marks, and particulars so contained, shall not be deemed part of the roll.

The rolls.
Amended by
No. 44 of
1911, s. 12;
No. 28 of
1970, s. 5.

32. The latest rolls filed in the office of the Registrar as altered from time to time, as hereinafter provided, shall be deemed to constitute the rolls for the Province or District.

Inspection
of rolls by
public.
Substituted
by No. 33 of
1964, s. 13.
Amended by
No. 113 of
1965, s. 8;
No. 70 of
1973, s. 3.

33. The roll and supplementary roll for a District or Sub-district shall be open for public inspection without fee at the office of the Registrar appointed for that District or Sub-district, on any week day during the hours the office is open, and the latest printed copies thereof shall be obtainable at the prescribed price.

Rolls and
documents
not to be
invalidated.

34. No roll or other document shall be invalidated by reason only that it is not printed, kept, or published in the place or manner or for the time required for such purposes respectively, nor by reason of any error in the copying or printing of the same.

Officers to
furnish
information.

35. All public officers in the service of the State, and all officers in the service of any local governing body are hereby authorized and required to furnish to the Chief Electoral Officer or any of his officers all such information as he requires to enable him to prepare or to revise the rolls.

Chief
Electoral
Officer
to inspect
District
offices and
rolls.

36. The Chief Electoral Officer shall from time to time inspect the various Registrar's offices and the rolls kept by each Registrar, and forward to the Minister such recommendation for the more efficient conduct of such offices, or the keeping of the rolls as he may deem expedient.

New rolls.

37. A new roll for any Province or District, and new rolls generally, shall be prepared under the supervision of, and issued by, the Chief Electoral Officer, whenever directed by proclamation, and shall come into operation at the date stated in the same or any subsequent proclamation.

38. The Governor may by regulations, either general or applicable to any particular roll, specify the method of preparation and prescribe the rules to be observed in regard thereto.

Method of preparation of roll.
Compulsory enrolment.
Amended by
No. 59 of 1919, s. 2;
No. 33 of 1964, s. 14;
No. 68 of 1964, s. 7;
No. 113 of 1965, s. 8.

Any such regulations may provide that any person entitled to enrolment as an elector for the Council or the Assembly shall fill in, sign, and send to the officer indicated therein a claim for enrolment in accordance with this Act, and otherwise comply with the relative provisions of this Act:

Provided that any elector who has been enrolled in pursuance of any claim signed by him and is correctly enrolled shall not be required to sign and send in any further claim for enrolment in connection with the preparation of a new roll unless he has changed his place of living, so as to render a change in his enrolment necessary.

The regulations may prescribe anything necessary or convenient to be prescribed for carrying a system of compulsory enrolment into effect and in particular prescribing the procedure in relation to the imposition and recovery of penalties by the Chief Electoral Officer for offences against the compulsory enrolment provisions of this Act, and may prescribe a penalty not exceeding twenty dollars for the contravention of any regulation.

Penalties.

39. (1) New rolls for the whole or any portion of the State shall, if the Governor so orders, be prepared from the results obtained by means of an electoral census to be taken for that purpose.

Electoral census.

(2) Such electoral census shall be taken under the direction and superintendence of the Chief Electoral Officer, in the manner prescribed by regulations, and at such time or times as the Governor may direct.

(3) In such portion or portions of the State for which an electoral census may be ordered, the result of such census shall alone be used for the purpose of preparing new rolls.

Names to be
inscribed
from existing
rolls, etc.
Amended by
No. 23 of
1964, s. 15;
No. 33 of
1967, s. 4.

40. (1) In preparing new rolls—

(a) the names of all persons who appear to be qualified shall be inserted; and

(b) the names of all persons—

(i) who, from information supplied by the Registrar General appointed under the Registration of Births, Deaths and Marriages Act 1961, appear to be dead, or who, from information supplied by the Director of Mental Health Services, and the Director of the Department of Corrections appear to be disqualified; or

(ii) who appear to be otherwise disqualified; or

(iii) who do not appear to reside in the District for which they are enrolled,

shall be omitted.

(2) The Chief Electoral Officer shall forthwith give notice to any person whose name is omitted, if such name appears on an existing roll for the same District.

(3) If the person to whom such notice is given makes and sends in a claim to be enrolled, and such claim appears to the Chief Electoral Officer to be in order, he shall enrol the claimant.

(4) If the Chief Electoral Officer rejects such claim, he shall forthwith give notice thereof to the claimant, and the claimant may, within the prescribed time, appeal from the rejection of his claim to a magistrate, and the provisions of Division (4) of this Part shall apply.

Division (3)—Additions to Rolls.

Addition of
names.

41. New names may be added to rolls by the Registrars pursuant to claims.

42. (1) Claims—

- (a) may be in the prescribed form;
- (b) shall be signed by the claimant in the presence of—
 - (i) where the claimant's name does not appear on any roll—
 - (I) an Electoral Officer;
 - (II) a Justice of the Peace;
 - (III) a clerk of courts; or
 - (IV) a Police officer; or
 - (ii) in any other case, an elector, or a person qualified to be enrolled as an elector, of the Commonwealth Parliament or of the Legislative Assembly of Western Australia,

who shall sign his name on the claim as a witness to the signing of the claim of the claimant, and state the capacity in which he did so;

- (c) shall be sent to the Registrar keeping the roll on which the claimant claims to be enrolled.

(1a) (2) The prescribed form shall contain immediately above the space for the signature of the claimant, a warning, printed in red lettering, as follows:—

If you claim to have resided in the District for one month when you have not done so, or if you state that you are a natural born or naturalized British subject when you are not, you are liable to a penalty of not less than \$10 nor more than \$100.

(3) Any person who witnesses the signature of a claimant without being personally acquainted with the facts, or satisfying himself by inquiry from the claimant or otherwise that the statements contained in the claim are true, is guilty of an offence and liable to a penalty not exceeding one hundred dollars.

Claims.
Amended by
No. 44 of
1911, ss. 13
and 43;
No. 63 of
1948, s. 6;
No. 113 of
1965, s. 8;
No. 33 of
1967, s. 5;
No. 39 of
1979, s. 8.

(4) In subsection (1) of this section—

“clerk of courts” means a person acting as a clerk of a court of petty sessions pursuant to the Justices Act 1902, or a person appointed under the Local Courts Act 1904 as clerk or assistant clerk for a Local Court;

“Electoral Officer” means a member of the Public Service of the State employed in the Electoral Department of the State, or a member of the Commonwealth Public Service employed in the Australian Electoral Office and includes an “officer” within the meaning of that expression as defined in section four of this Act; and

“Police officer” means a member of the Police Force of the State or the Commonwealth.

Claims, how
dealt with.

43. (1) Immediately upon the receipt of a claim the Registrar shall—

- (a) insert therein the date of its receipt; and
- (b) file the claim provisionally.

(2) Claims shall be open for public inspection, without fee, at the Registrar’s office on any week day during the hours the office is open.

Essential
particulars.
Amended by
No. 44 of
1911, ss. 14
and 43;
No. 63 of
1948, s. 7;
No. 33 of
1964, s. 16;
No. 68 of
1964, s. 8;
No. 33 of
1967, s. 6;
No. 94 of
1970, s. 4;
No. 39 of
1979, s. 9.

44. (1) The essential parts of a claim shall be—

- (a) the surname and christian names in full of the claimant;
- (b) the residence of the claimant;
- (c) the date of birth of the claimant;
- (d) the place of birth of the claimant;
- (e) the usual signature of the claimant in his own handwriting; and
- (f) the usual signature in his own handwriting of the person who, pursuant to the authority of paragraph (b) of subsection

(1) of section forty-two of this Act, witnessed the signing of the claim by the claimant, and the capacity in which he did so.

(2) If the residence of the claimant is within a municipal district or townsite, the name of the street and the number of the house, if numbered, shall be stated, and if not numbered, such particulars shall be given as, in the opinion of the Registrar, are sufficient to enable the exact locality of the claimant's residence to be ascertained.

(3) If the residence of a claimant is not within a municipal district or townsite, his residence shall be stated with such particulars as are, in the opinion of the Registrar, sufficient to enable the exact locality of the claimant's residence to be ascertained.

(4) Any claim that does not comply with this section and paragraph (b) of subsection (1) of section forty-two, shall be rejected, and notice thereof in the prescribed form shall be given by the Registrar to the claimant but where a claim contains a statement that the claimant is unable to insert in his claim the date of his birth, because that date is not known to him, it shall be sufficient compliance with paragraph (c) of subsection (1) of this section, if there is inserted in the claim the year of birth of the claimant and that year establishes that the claimant is not under eighteen years of age.

45. (1) Every person who is entitled to have his name placed on the roll for any District or Sub-district and whose name is not on the roll upon the expiration of twenty-one days from the date upon which he became so entitled, or at any subsequent date while he continues to be so entitled, shall be guilty of an offence unless he proves that his non-enrolment is not in consequence of his failure to send or deliver to the Registrar of the District or Sub-district for which he is entitled to be enrolled, a claim in the prescribed form duly filled in and signed in accordance with the directions printed thereon.

Compulsory
enrolment.
Inserted by
No. 59 of
1919, s. 3 as
s. 44A,
renumbered
s. 45 in
reprint.
Contained in
Vol. 2 of
Reprinted
Acts.
Amended by
No. 58 of
1951, s. 4;
No. 51 of
1962, s. 4;
No. 33 of
1967, s. 7;
No. 28 of
1970, s. 6;
No. 70 of
1973, s. 4;
No. 39 of
1979, s. 5.

Penalty: For a first offence, ten dollars and for a second or subsequent offence, twenty dollars.

(2) Every person who is enrolled on the roll of any District or Sub-district, and who changes his place of living from one address in the District or Sub-district to another address therein, shall make, sign, and deliver a new claim within twenty-one days after the change, to the Registrar of the District or Sub-district.

Penalty: For a first offence, ten dollars, and for a second or subsequent offence, twenty dollars.

(3) The fact that the name of any elector who has become entitled to have his name enrolled on any roll has not been enrolled thereon within twenty-one days after he became so entitled shall be *prima facie* evidence of a contravention on his part of the provisions of subsection (1) of this section.

(3a) Where a person fails to have his name placed on a roll as provided in subsection (1) of this section or fails to comply with the provisions of subsection (2) of this section, if the Chief Electoral Officer is satisfied that such failure was in consequence of the physical incapacity, mental illness or mental disorder of that person, the failure shall be deemed not to be a contravention of this section.

(4) The Chief Electoral Officer or the Registrar of the District to which a claim relates shall issue a receipt to an elector for each such claim received by that Registrar from the elector.

(5) This section except subsection (4) thereof does not apply to an Aboriginal.

Enrolment
of claims.
No. 27 of
1907, s. 45.
Amended by
No. 44 of
1911, s. 15.

46. (1) If the claim is in order, and is not objected to, the Registrar shall, at the expiration of fourteen days from its receipt—

(a) endorse the claim as approved;

- (b) enrol the claimant by entering his name and other prescribed particulars on the roll filed in the Registrar's office under the provisions of section thirty-two;
- (c) send the claim to the Chief Electoral Officer.

(2) If the Registrar has reason to believe that the qualification of the claimant as set out in his claim is insufficient or incorrect he may, if he thinks fit, submit the claim to any officer referred to in section thirty-five, qualified in his opinion to report thereon, and such officer shall forthwith make all necessary inquiries and report to the Registrar.

(3) If such report is adverse to the claimant, the Registrar shall object to the claim, or if the claim has been enrolled, to the enrolment under the provisions of section forty-seven, subsection three (a), or section forty-eight, subsection three (a), respectively.

Division (4)—Objections.

(i) To Claims.

47. (1) The claim of any person to be enrolled may be objected to—

- (a) by any elector enrolled on the same roll; or
- (b) by the Registrar.

It shall be the duty of the Registrar to object to any claim if he has reason to believe that the claimant is not entitled to be enrolled.

Objections to claims.
No. 27 of 1907, s. 46.
Amended by No. 44 of 1911, s. 43; No. 63 of 1948, s. 8; No. 68 of 1964, s. 9; No. 113 of 1985, s. 8.

(2) If the objection is by an elector, the following provisions shall apply:—

By electors.

- (a) The objection shall be in writing lodged in duplicate with the Registrar, setting forth the grounds thereof, and may be in the prescribed form.

- (b) The sum of twenty-five cents shall be deposited with the Registrar, and shall be forfeited if the objection is held not to be reasonable.
- (c) The Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice in writing to the objector, and the person objected to, of the day and place appointed for the hearing, and a copy of the objection, setting forth the grounds thereof, shall be sent therewith to the person objected to.
- (e) The person objected to may, on the hearing of the objection, either—
 - (i) appear in person to prove his claim, or
 - (ii) appear by agent appointed in writing under his hand, or
 - (iii) forward by post, addressed to the Registrar, a statement made by the person objected to and signed before another elector of the same District or Province, setting forth the reasons for his remaining on the roll.
- (f) The magistrate shall hear and determine the objection, and may direct the Registrar to enrol the claimant or to reject the claim, but no grounds of objection shall be entertained except such as are specifically set forth in the objection lodged as aforesaid.
- (g) No objection shall be lodged between the day on which a writ is issued for an election in the Province or District, as the case may be, and either the close of polling at such election or, if only one candidate is nominated, the close of nominations for such election.
- (h) If any objection has not been heard and determined on the fourteenth day next preceding the day fixed for an election

in the Province or District as the case may be, and the claim was received by the Registrar not less than fourteen days before the issue of the writ, it shall be the duty of the Registrar to enrol the claimant:

Provided that the Registrar shall place a mark in the prescribed manner against the claimant's name when enrolled, and no person whose name is so marked shall be entitled at any election to obtain a ballot paper and record his vote unless he has delivered to the presiding officer a declaration duly made by himself in the prescribed form.

(3) If the objection is by the Registrar, the following provisions shall apply:— By the Registrar.

- (a) The Registrar shall give notice of objection to the claimant setting forth—
 - (i) the grounds of objection; and
 - (ii) that unless notice of appeal is given within a time stated (not being less than seven days), the claim will be rejected.

The notice of objection may be in the prescribed form, and a form of notice of appeal shall be annexed thereto.

- (b) If notice of appeal is not duly given, the Registrar may reject the claim.
- (c) If notice of appeal is duly given, the Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice to the claimant of the day and place appointed for the hearing.
- (e) The magistrate shall hear and determine the objection, and may direct the Registrar to enrol the claimant or reject the claim, as he thinks fit, but no grounds of objection

shall be entertained except such as are specifically set forth in the notice of objection.

- (f) No notice of objection shall be given by the Registrar between the day on which a writ is issued for an election in the Province or District, as the case may be, and either the close of polling at such election, or if only one candidate is nominated, the close of nominations for such election, but a claim may be rejected pursuant to paragraph (b) of this subsection at any time before the fourteenth day next preceding the day fixed for an election in the province or District, as the case may be.
- (g) If any appeal has not been heard and determined on the fourteenth day next preceding the day fixed for an election in the Province or District, as the case may be, and the claim was received by the Registrar not less than fourteen days before the issue of the writ, it shall be the duty of the Registrar to enrol the claimant:

Provided that the Registrar shall place a mark in the prescribed manner against the claimant's name when enrolled, and no person whose name is so marked shall be entitled at any election to obtain a ballot paper and record his vote unless he has delivered to the presiding officer a declaration duly made by himself in the prescribed form.

(ii) *To Enrolment.*

Objections
to
enrolment.
No. 27 of
1907, s. 47.
Amended by
No. 44 of
1911, s. 43;
No. 63 of
1948, s. 9;
No. 33 of
1964, s. 17;
No. 68 of
1964, s. 10;
No. 113 of
1965, s. 8.

48. (1) Any name on the roll may be objected to—

- (a) by an elector enrolled on the same roll; or
- (b) by the Registrar.

(2) If the objection is by an elector, the following provisions shall apply:—

- (a) The objection shall be in writing lodged in duplicate with the Registrar, setting forth the grounds thereof, and may be in the prescribed form.

- (b) The sum of twenty-five cents shall be deposited with the Registrar, and shall be forfeited if the objection is held not to be reasonable.
- (c) The Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice to the objector and the person objected to of the day and place appointed for the hearing, and a copy of the objection, setting forth the ground thereof, shall be sent therewith to the person objected to.
- (e) The person objected to, may, on the hearing of the objection, either—
 - (i) appear in person to prove his claim, or
 - (ii) appear by an agent appointed in writing under his hand, or
 - (iii) forward by post, addressed to the Registrar, a statement made by the person objected to and signed before another elector of the same District or Province, setting forth reasons for his remaining on the roll.
- (f) The magistrate shall hear and determine the objection, and may direct the Registrar to retain the name on the roll, or to strike the name off the roll, or to make such amendment as may be necessary according to such determination; but no grounds of objection shall be entertained except such as are specifically set forth in the objection lodged as aforesaid.
- (g) No objection shall be entertained by the magistrate unless notice thereof is served upon the person objected to in sufficient time to admit of the objection being determined not less than fourteen days before an election in the Province or District, as the case may be, and the name of the person so objected to shall not be

removed from the roll, notwithstanding such objection, unless the objection has been so determined.

By the
Registrar.

(3) If the objection is by the Registrar, the following provisions shall apply:—

- (a) The Registrar shall give notice of objection to the person objected to setting forth—
 - (i) the grounds of objection; and
 - (ii) that unless notice of appeal is given within a time stated (not being less than seven days), the name of the elector will be struck off the roll.

The notice of objection may be in the prescribed form, and a form of notice of appeal shall be annexed thereto.

- (b) If notice of appeal is not duly given, the Registrar may strike the name off the roll.
- (c) If notice of appeal is duly given, the Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice to the person objected to of the day and place appointed for hearing.
- (e) The magistrate shall hear and determine the objection, and may direct the Registrar to retain the name on the roll, or to strike the name off the roll, or to make such amendment as may be necessary according to such determination; but no grounds of objection shall be entertained except such as are specifically set forth in the notice of objection.
- (f) If the appeal has not been heard and determined on the fourteenth day next preceding the day fixed for an election in the Province or District, as the case may be, the appeal shall lapse, but the name of the person objected to shall not be removed from the roll:

Provided that the Registrar shall place a mark in the prescribed manner against the elector's name on the roll, and no person whose name is so marked shall be entitled at any election to obtain a ballot paper and record his vote unless he has delivered to the presiding officer a declaration duly made by himself in the prescribed form.

(4) The name of every elector whose enrolment is objected to shall be publicly exhibited outside such place or places as the Chief Electoral Officer may direct, and maintained there until the objection is heard and determined.

(iii) Powers of Magistrate.

49. (1) The magistrate shall, for the purposes of this Part of this Act, be deemed to be and shall have all the powers of a court of petty sessions, and if any objection, except an objection by the Registrar, is held not to be reasonable, may make such order as to costs as he thinks fit.

Powers of
magistrate.
No. 27 of
1907, s. 48.

(2) If the parties to any proceeding appear by an authorized agent, the magistrate may, if he deems it necessary, adjourn the hearing for the attendance of any party in person, and may make an order requiring his attendance accordingly.

(3) The magistrate shall make such order for the forfeiture or return of the sum deposited with the objection as he thinks fit.

Division (5)—Miscellaneous.

50. [*Repealed by No. 33 of 1964, s. 18.*]

51. (1) Whenever in the opinion of the Chief Electoral Officer the name of the same person appears more than once on the same roll, or on more than one District roll, he shall direct the Registrar to remove or may himself remove from the roll every such name except the latest enrolled name, and the Registrar shall forthwith remove such names accordingly.

Removal of
names,
repeated on
roll.
No. 27 of
1907, s. 50.
Amended by
No. 44 of
1911, s. 17;
No. 63 of
1948, s. 10;
No. 33 of
1964, s. 19.

Change of electors from one roll to another on redistribution of seats.

(2) Whenever under any Act for the redistribution of seats at Parliamentary elections, the State is redivided into Provinces or Districts, or the boundaries of Provinces or Districts are altered, the Minister may, by notification in the *Government Gazette*, give such directions to the Chief Electoral Officer as are thereby rendered necessary for the change of electors from one roll to another, and effect shall be given by the Chief Electoral Officer to such directions accordingly.

Power of Chief Electoral Officer to remove names of incapacitated electors.
Inserted by No. 33 of 67, s. 8.

51A. (1) Where the Chief Electoral Officer is satisfied, that in consequence of physical incapacity, mental illness or mental disorder an elector is incapable of complying with the provisions of this Act relating to compulsory voting, the Chief Electoral Officer may remove the name of that elector from the roll.

(2) The Chief Electoral Officer shall not, under subsection (1) of this section, remove the name of the elector from the roll unless,—

- (a) he has, by notice in writing served on the elector, given notice of his intention so to remove the name of the elector;
- (b) he has, in the notice, specified a date being not less than fourteen days from the date of the notice on or before which the elector may by notice in writing served on the Chief Electoral Officer advise him that he objects to his name being so removed; and
- (c) the elector has failed to serve a notice on the Chief Electoral Officer under and in accordance with the provisions of paragraph (b) of this subsection.

(3) A person whose name has been removed from a roll pursuant to this section may claim in the manner prescribed in section forty-two of this Act, to have his name entered upon any roll for which he possesses the necessary qualification.

52. (1) In addition to the other powers of alteration conferred by this Act, rolls may be altered by the Chief Electoral Officer or by the Registrar as follows:—

Alteration
of rolls.
No. 27 of
1907, s. 51.
Amended by
No. 44 of
1911, ss.
18, 43;
No. 63 of
1948, s. 11;
No. 68 of
1964, s. 11;
No. 28 of
1970, s. 7;
No. 39 of
1979, s. 10.

(a) By correcting any obvious mistake or omission, but not to the extent of wholly removing a name from the roll except where a name is repeated.

(aa) By altering the particulars of the enrolment of an elector so as to record any change therein resulting from—

(i) the numbering or renumbering of a street or locality;

(ii) the naming or renaming of a street or locality; or

(iii) any other like circumstance.

(b) By removing the name of any person who requests in writing that his name may be removed from the roll.

(c) By changing, upon the written application of an elector in the prescribed form, the original name or address of the elector to an altered name or address.

(d) By changing the maiden name of a female elector to her married name.

(e) By removing the names of persons reported as being—

(i) dead;

(ii) disqualified by section eighteen of this Act;

(iii) already enrolled in another District or whose names are repeated on the same roll.

(f) By re-instating any name struck off by mistake under the last preceding paragraph.

- (g) By changing the address of an elector from that appearing on the claim, to the addresses inserted by the electoral canvasser on the roll revised by him after an electoral canvass or census taken by order of the Governor or the Minister, if the new address is within the boundaries of the same District.

(2) No alteration under the provisions of paragraphs (d), (e) or (f) of subsection (1) of this section shall be made by the Registrar except pursuant to an order in writing under the hand of the Chief Electoral Officer.

Time for
altering rolls.
No. 27 of
1907, s. 52.
Substituted
by No. 63 of
1948, s. 12.
Amended by
No. 33 of
1964, s. 20.

53. No addition to or alteration of the roll shall be made between the date of the issue of the writ for an election for the Province or the District, as the case may be, and the closing of the poll at such election, or if only one candidate is nominated, the close of nominations for such election, except that—

- (a) claims received not less than fourteen days before the issue of the writ may be enrolled after the issue of the writ if no notice of objection to such claim has been lodged or given under the provisions of section forty-seven of this Act;
- (b) a claimant may be enrolled after the issue of the writ pursuant to the provisions of paragraph (g) of subsection (2), or the provisions of paragraph (f) of subsection (3) of section forty-seven of this Act;
- (c) alterations may be made after the issue of the writ pursuant to the provisions of paragraph (f) of subsection (2), or the provisions of paragraph (b) or paragraph (e) of subsection (3) of section forty-eight of this Act; and
- (d) [*Deleted by No. 33 of 1964, s. 20.*]

- (e) alterations may be made at any time not later than the fourteenth day next preceding the day fixed for the election pursuant to the provisions of sections fifty-one and fifty-two of this Act.

54. All alterations of the rolls shall be made in such manner that the original writing or print shall not be obliterated, and the reason for the alteration, the date thereof, and such reference to authority as may be deemed necessary, shall be set against the alteration together with the initials of the Registrar making such alteration.

Alterations, how to be made.
No. 27 of 1907, s. 53.
Amended by No. 44 of 1911, s. 19.

55. A name shall be deemed to be removed from the roll when a line in ink is drawn through the name and a note stating the ground of removal made opposite thereto, with such reference to authority as may be deemed necessary, and initialled and dated by an officer authorized to remove such name from the roll.

Method of removing names from a printed roll.
No. 27 of 1907, s. 54.

56. The Registrar General appointed under the Registration of Births, Deaths and Marriages Act 1961, shall, so soon as is reasonably practicable after the end of each month in every year, forward to the Chief Electoral Officer—

Registrar General to furnish monthly lists.
No. 27 of 1907, s. 55.
Amended by No. 58 of 1951, s. 5; No. 33 of 1964, s. 21; No. 94 of 1970, s. 5.

- (a) a list, in the prescribed form, containing the names, address, occupation, and age at the time of death of every person not under eighteen years of age, whose death has been registered in each Registry District respectively during the month;
- (b) a list in the prescribed form of the maiden name, residence, and occupation as disclosed by the marriage certificate of every woman not under eighteen years of age whose marriage has been registered in each Registry District respectively during the month, as well as particulars of the name, residence, and occupation of her husband.

Director
of Mental
Health
Services to
furnish
quarterly
lists.
No. 27 of
1907, s. 56.
Substituted
by No. 33 of
1967, s. 9.
Amended by
No. 94 of
1970, s. 6.

57. (1) During each month of January, April, July, and October the Director of Mental Health Services shall forward to the Chief Electoral Officer, a list in the prescribed form, containing the name of each person not under the age of eighteen years who—

- (a) during the last preceding three months has been reported under Part VI of the Mental Health Act 1962, to be incapable of managing his affairs; and
- (b) on the date of the list is an inmate of an approved hospital under that Act.

(2) The list referred to in subsection (1) of this section shall contain the age, address and occupation of each person to whom the list relates, immediately prior to the date of his admission into the approved hospital.

58. [*Repealed by No. 58 of 1951, s. 6.*]

Returns in
respect of
certain
prisoners
and other
persons
under
detention.
Substituted
by No. 39 of
1979, s. 11.

59. During the months of January, April, July and October in each year—

- (a) the Director, within the meaning of that expression as defined in section four of the Prisons Act 1903, shall forward to the Chief Electoral Officer, in the prescribed form, a list containing the names and age of each person of a kind referred in paragraph (c) of section eighteen of this Act and received by him in each of Her Majesty's prisons during the preceding three months, and shall show on the form the address and occupation of each such person prior to the sentence, order or direction, as the case may be, to which he is subject; and
- (b) the Director, within the meaning of that expression as defined in section five of the Mental Health Act 1962, shall forward to the Chief Electoral Officer, in the prescribed form, a list containing the names and age of

each person subject to a direction to be detained in an approved hospital under subsection (1) of section forty-seven of that Act and received by him in an approved hospital, within the meaning of that expression as defined in section five of that Act, during the preceding three months and shall show on the form the address and occupation of each such person prior to the direction.

60. (1) Upon receipt of the lists referred to in section fifty-six, subsection (a), and sections fifty-seven, and fifty-nine, the Chief Electoral Officer shall cause the names of such persons enumerated in such lists, as are enrolled as electors for the Council and Assembly, to be ascertained.

Chief Electoral Officer to cause certain names to be struck off the rolls. No. 27 of 1907, s. 59. Amended by No. 44 of 1911, s. 21; No. 33 of 1964, s. 22; No. 68 of 1964, s. 12.

(2) He shall thereupon cause lists of such names as are, to his satisfaction, identical with the names on the lists above referred to, to be prepared in respect of each District, and shall forward the lists to the Registrars, together with an order in writing under his hand, authorizing the Registrar to strike off the roll the names of the persons who appear on such lists, and the Registrar shall forthwith remove such names accordingly.

61. (1) Upon the receipt of the lists referred to in section fifty-six, subsection (b), the Chief Electoral Officer shall cause the names of the married women enumerated in such lists, who are enrolled as electors for the Council and Assembly, to be ascertained under the maiden surname of such married women.

Chief Electoral Officer to issue forms of claims to married women on notification of marriage. No. 27 of 1907, s. 60. Amended by No. 44 of 1911, s. 22.

(2) He shall thereupon issue to every such elector a form of claim to be made out in her married name, and signed by her in the presence of a person authorized by this Act to witness the signatures of claimants, and returned to the Chief Electoral Officer.

(3) On receipt of any such claim the Chief Electoral Officer shall forward it, if in order, to the proper Electoral Registrar, who shall enrol the claimant forthwith.

(4) The Chief Electoral Officer shall direct the proper Electoral Registrar to remove the maiden name of any such elector from any roll on which it appears, and such name shall be removed accordingly.

Method for re-enrolment when elector no longer disqualified. No. 27 of 1907, s. 61. Amended by No. 28 of 1970, s. 8.

62. Every person whose name has been removed from any roll under the provisions of section sixty, pursuant to the lists furnished under sections fifty-seven and fifty-nine, may, when no longer disqualified, claim, in the manner prescribed in section forty-two, to have his name entered upon any roll for which he possesses the necessary qualification.

PART IV.—ELECTIONS.

Division (1)—Writs.

Appointment of Clerk of the Writs. No. 27 of 1907, s. 62.

63. (1) The Governor may, from time to time, appoint a Clerk of the Writs, by whom writs for the election of members of the Council and Assembly shall be issued, and to whom such writs shall be returned.

(2) There shall be a Deputy Clerk of the Writs, to be appointed in like manner, who shall act when the Clerk of the Writs is unable to act.

Governor to issue warrant directing writs for General Election. No. 27 of 1907, s. 63. Amended by No. 44 of 1911, ss. 23, 43. No. 33 of 1964, s. 23.

64. (1) For every general election the Governor may, within the time prescribed by the Constitution Acts Amendment Act 1899, in the case of the triennial vacancies in the Council, and not later than twenty-one days after the day of the dissolution or expiry of the then last Parliament in the case of the Assembly, by warrant under his hand in the prescribed form direct the Clerk of the Writs to issue writs for the election.

(2) On receipt of such warrant the Clerk of the Writs shall forthwith cause writs to be issued to the several Returning Officers.

65. Before any warrant is issued under the last preceding section fourteen days' notice of the intention to issue the same shall be published in the *Government Gazette*.

Notice to be published.
No. 27 of 1907, s. 64.

66. In the case of a General Election for the Council or the Assembly, the same day shall be fixed by the writ for the polling in each Province or District as the case requires.

For General Elections polling day the same in each Province or District.
No. 27 of 1907, s. 65.
Substituted by No. 33 of 1964, s. 24.

66A. [*Inserted by No. 7 of 1921, s. 2, repealed by No. 47 of 1940, s. 2.*]

67. (1) Whenever a vacancy occurs in either House from any cause (otherwise than by effluxion of time in the case of a member of the Council), the President or Speaker, as the case may be, upon a resolution by the House declaring such vacancy and the cause thereof, shall by warrant under his hand, in the prescribed form, direct the Clerk of the Writs to issue a writ to supply the vacancy.

Issue of writs in cases of vacancy.
No. 27 of 1907, s. 66.
Amended by No. 44 of 1911, ss. 24, 43 (see 63 Vict., No. 19 s. 30).

(2) In the case of any such vacancy when Parliament is not in session, or when the vacancy occurs during any adjournment for a longer period than seven days of the House affected, the President or Speaker may, without such preceding resolution, by warrant under his hand in the prescribed form, direct the Clerk of the Writs to issue a writ to supply the vacancy.

(3) If at the occurrence of any such vacancy there is no President or Speaker of the House affected, and Parliament is not in session, or if the President or Speaker of the House affected is absent from the

State, the Governor shall, if satisfied of the existence of such vacancy, by warrant under his hand direct the Clerk of the Writs to issue a writ for the election of a member for the seat so vacated.

(4) Every such warrant shall be issued by the President or Speaker, or by the Governor, as the case may require, as soon as—

- (a) in the case of death, he shall receive notice by a certificate in the prescribed form, under the hands of two members of the House of which the deceased was a member, of the death of such member and
- (b) in the case of acceptance of any of the principal executive offices of the Government liable to be vacated on political grounds, as soon as the appointment of such member has been published in the *Government Gazette*, and notified by the Minister to the President or Speaker, or to the Governor, as the case may be, and such appointment and notification it shall be the duty of the Minister to publish and give forthwith:

Provided that any such warrant may be issued notwithstanding no such notice has been received or appointment published as aforesaid, if the President or Speaker, or the Governor, as the case may be, is satisfied of the existence of the vacancy.

(5) Whenever a vacancy occurs by reason of any of the disqualifications mentioned in section thirty-one, subsection (5), and section thirty-eight, subsection (2) of the Constitution Acts Amendment Act 1899, it shall be the duty of the Registrar in Bankruptcy forthwith to give notice thereof in writing to the President or the Speaker, as the case may be, if within the State, and otherwise to the Governor, and on receipt of such notice the President or Speaker, as the case may be, if within the State, or otherwise the Governor, shall forthwith, by warrant under his hand, direct the Clerk of the Writs to issue a writ for the election of a member to supply the vacancy.

68. (1) The Clerk of the Writs shall, forthwith after the receipt of a warrant under the hand of the Governor, President, or Speaker, issue the writs or writ for the election.

Issue of writs.
No. 27 of 1907, s. 67.

(2) Every writ shall be deemed to have been issued at the commencement of the day on which it was issued.

69. Writs may be in the prescribed form, and shall fix the dates for—

Form of writs.
No. 27 of 1907, s. 68.
Amended by No. 44 of 1911, s. 43.

- (a) the nomination;
- (b) the polling; and
- (c) the return of the writ.

70. The date fixed for the nomination of candidates shall not be less than seven nor more than forty-five days from the date of the writ.

Date of nominating.
No. 27 of 1907, s. 69.
Amended by No. 63 of 1948, s. 13;
No. 57 of 1952, s. 2;
No. 33 of 1964, s. 25.

71. (1) The date fixed for the polling shall not be less than twenty-one days nor more than forty-five days after the date of nomination.

Date of polling.
No. 27 of 1907, s. 70.
Amended by No. 38 of 1931, s. 2;
No. 63 of 1948, s. 14;
No. 59 of 1959, s. 4.

(2) The day fixed for the polling shall be a Saturday, other than Easter Saturday or the Saturday immediately preceding or succeeding Easter Saturday.

72. The date fixed for the return of the writ shall not be more than ninety days after the issue of the writ.

Date of return of writ.
No. 27 of 1907, s. 71.
Amended by No. 63 of 1948, s. 15.

Notice to Registrars of issue of writ.

No. 27 of 1907, s. 72.

Substituted by No. 33 of 1964, s. 26.

Amended by No. 28 of 1970, s. 9.

73. The Clerk of the Writs shall cause notice of his intention to issue the writ to be sent by telegraph to the Registrar—

- (a) of each District or Sub-district that forms part of the Province in respect of which the election for the Council is to be held; and
- (b) of the District or of any Sub-district thereof in respect of which the election for the Assembly is to be held,

stating the date on which the writ will be issued but where such a Registrar is employed in the Electoral Department in Perth, the notice shall be given to the Registrar forthwith by the Clerk of the Writs, by instrument in writing under his hand.

Address of writs.

No. 27 of 1907, s. 73.

Amended by No. 68 of 1964, s. 13.

74. Writs shall be addressed to the Returning Officer for the Province or District for which an election is to be held, and in the case of an election for the Council, a copy of the writ for the election shall be forwarded by the Clerk of the Writs to each Deputy Returning Officer for the Province for which an election is to be held.

Duty of Returning Officer on receipt of writ.

No. 27 of 1907, s. 74.

Amended by No. 68 of 1964, s. 14.

75. On the receipt of a writ the Returning Officer to whom it is directed shall—

- (a) endorse thereon the date of its receipt; and
- (b) advertise its receipt and particulars in a newspaper circulating in the Province or District, or by placards or otherwise, and the dates fixed for the nomination and the polling, giving at least ten clear days' public notice of the day of polling and the places at which the poll will be taken.
- (c) [*Deleted by No. 68 of 1964, s. 14.*]

Extension of time.

No. 27 of 1907, s. 75.

76. Subject to the provisions of section eight of the Constitution Acts Amendment Act 1899, the Governor may extend the time appointed for the nomination of candidates, the taking of the poll, or the return of the writ for any election.

Provided that—

- (a) public notice shall be forthwith given in the Province or District in which the election is to be held of any extension of time for taking the poll;
- (b) no extension of the time for taking the poll shall be made under this section at any time later than seven days before the time originally appointed.

Division (2)—Nominations.

77. (1) No person shall be capable of being elected as a member of the Council or Assembly unless he—

Candidates
to nominate.
No. 27 of
1907, s. 76.
Amended by
No. 18 of
1940, s. 2;
No. 33 of
1964, s. 27;
No. 113 of
1965, s. 8.

- (a) duly nominates himself; and
- (b) is qualified to be elected and is not disqualified from being elected as a member of the Council or Assembly, as the case may be.

(2) No person shall nominate himself as a candidate for more than one Province or District at the same general or conjoint election.

(3) No person shall nominate himself as a candidate either in an election for the Council or in an election for the Assembly if, prior to and until the hour of nominations, as fixed in accordance with section eighty-six of this Act, he is, either by this Act or by any other Act, disqualified from being elected at such election as, or from being, a member of the Council or of the Assembly, as the case may be, for which the election is being held.

Any person who nominates himself as a candidate in contravention of this subsection shall be guilty of an offence.

Penalty—Two hundred dollars, or imprisonment for six months.

Mode of
nomination.
No. 27 of
1907, s. 77.
Amended by
No. 44 of
1911, s. 43;
No. 51 of
1962, s. 5.

78. Nominations may be in the prescribed form, and shall—

- (a) be signed by the candidate;
- (b) state the surname and each christian name, the place of residence and occupation of the candidate; and
- (c) be addressed to the Returning Officer.

Time for
receipt of
nominations.
No. 27 of
1907, s. 78.

79. Nominations may be received by the Returning Officer at any time after the issue of the writ and before the hour of nomination.

80. [*Repealed by No. 28 of 1970, s. 10.*]

Requisites
for
nomination.
No. 27 of
1907, s. 80.
Amended by
No. 68 of
1964, s. 15;
No. 113 of
1965, s. 8;
No. 28 of
1970, s. 11;
No. 70 of
1973, s. 5.

81. No nomination shall be valid unless—

- (a) the nomination paper is received by the Returning Officer after the issue of the writ and before the hour of nomination; and
- (b) the person nominated, or some person on his behalf, at or before the hour of nomination—
 - (i) deposits with the Returning Officer the sum of one hundred dollars in money or by a cheque for that amount drawn by a bank upon itself and payable to the Returning Officer; or
 - (ii) [*Deleted by No. 28 of 1970, s. 11.*]

Withdrawal
of
nomination.
No. 27 of
1907, s. 81.
Substituted
by No. 33 of
1967, s. 10.

82. A candidate may withdraw his nomination by lodging with the Returning Officer notice in writing of withdrawal of his nomination at any time not later than twelve o'clock noon on the day of nomination, and thereupon the nomination shall be cancelled and the deposit lodged with the nomination shall be forfeited to the Crown.

83. No nomination paper shall be rejected by reason of any defect or error therein, if the Returning Officer is satisfied that the provisions of this Act have been substantially complied with.

Formal defects,
No. 27 of
1907, s. 82.

84. (1) The deposit made by or on behalf of a person nominated shall be retained pending the election, and after the election shall be returned unless the person by or on whose behalf it was made fails to obtain at the election a number of votes above one-fifth of the number of votes polled by the candidate who is leading at the completion of the count of the first preference votes, in which case the deposit shall be forfeited to the Queen.

Deposit to be
forfeited in
certain cases.
No. 27 of
1907, s. 83.
Amended by
No. 68 of
1964, s. 16.

(2) On the death of a candidate before the election, the deposit made on behalf of such candidate shall be paid to his legal representative.

85. The chief polling place for the Province or District, as the case may be, shall be the place of nomination.

Place of
nomination.
No. 27 of
1907, s. 84.

86. (1) Twelve o'clock noon on the day of nomination shall be the hour of nomination, and the Returning Officer shall, on the day of nomination, attend between the hours of eleven a.m. and twelve noon at the place of nomination, for the purpose of receiving nominations.

Hour of
nomination.
No. 27 of
1907, s. 85.
Amended by
No. 68 of
1964, s. 17;
No. 28 of
1970, s. 12.

(2) At the hour of nomination the Returning Officer shall publicly produce all nomination papers received by him between the issue of the writ and the hour of nomination, and declare the names, occupations, and residences of all candidates nominated.

(2a) The order of the names of the candidates as they shall be placed on the ballot papers shall be determined as follows—

- (a) the Returning Officer shall, at the place of nomination, immediately after the close of nominations and before all persons then present, make out in respect of each candidate, a slip bearing his name, enclose each one of the slips in separate blank envelopes of exact similarity and deposit the several envelopes in a locked ballot box;
- (b) the Returning Officer shall then shake and rotate the ballot box and shall permit any other person present to do likewise, if the person so desires;
- (c) the Returning Officer shall, before all persons then present—
 - (i) unlock the ballot box; and
 - (ii) take out, one by one, the envelopes contained therein;
- (d) the candidate whose name appears on the slip enclosed in the envelope first taken from the ballot box shall be placed first on the ballot papers, the candidate whose name appears on the slip enclosed in the envelope secondly taken from the ballot box shall be placed secondly on the ballot papers, and so on, until the placing of all the names of the candidates on the ballot papers has been determined.

(2b) The Returning Officer shall forthwith after the order of the placing of the names of the candidates has been determined in accordance with subsection (2a) of this section, forward to the Chief Electoral Officer at Perth, by telegraph or other expeditious means, the names and other particulars of the several candidates in such order and also advertise those names and particulars in such order in a newspaper circulating within the Province or District for which the candidates have nominated.

(3) Before attending the chief polling place for the purpose of receiving the nominations, the Returning Officer shall ascertain the correct time; and in any dispute that may arise as regards time the Returning Officer's decision shall be final.

(4) The Returning Officer shall give a receipt in the prescribed form to any candidate who has duly nominated, or to his agent, acknowledging that candidate's nomination and deposit received by the Returning Officer, pursuant to section eighty-one of this Act.

87. The Returning Officer shall declare the candidate nominated to be duly elected if no greater number are nominated than are required to be elected; but otherwise the proceedings shall stand adjourned to polling day.

Proceedings on nomination day.
No. 27 of 1907, s. 86.
Amended by No. 59 of 1919, s. 5.

88. (1) [*Repealed by No. 33 of 1967, s. 11.*]

Death of candidate after nomination.
No. 27 of 1907, s. 87.
Substituted by No. 18 of 1940, s. 3.
Amended by No. 58 of 1951, s. 7; No. 33 of 1967, s. 11.

(2) If, after the nominations have been declared and before or on polling day before the hour of closing the poll, any candidate in an election dies, such election shall, by reason of such death, be deemed to have wholly failed and the writ issued in respect thereof shall be deemed to be vacated, and in such case the following provisions shall apply:—

(a) Where the candidate dies before polling day the returning officer shall, upon being satisfied of the fact of the death of the candidate—

- (i) countermand the notice of the poll;
- (ii) report the fact of the death to the Chief Electoral Officer;
- (iii) indorse upon the writ, which is vacated as aforesaid, the fact of the death and the date of the proof thereof and of the countermand of the notice of the poll; and
- (iv) return such writ indorsed as aforesaid to the Clerk of the Writs.

- (b) Where the candidate dies on polling day, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate—
 - (i) immediately close the poll for the election for which the deceased candidate had nominated but shall keep the polling place open for receiving postal and absent votes for candidates for any other elections then being held;
 - (ii) report the fact of the death to the Chief Electoral Officer;
 - (iii) indorse upon the writ, which is vacated as aforesaid, the fact of the death and of the time of the closing of the poll by him as aforesaid; and
 - (iv) return such writ indorsed as aforesaid to the Clerk of the Writs.
- (c) Where any poll is interrupted, in consequence of the death of a candidate, all ballot papers placed in the several ballot boxes in respect of the election for which the deceased candidate had nominated shall be taken out by the several presiding officers, and, being made up into sealed packages, shall be sent by them respectively unopened to the Returning Officer or Deputy Returning Officer, who shall forthwith, in the presence of a magistrate or justice of the peace, burn or otherwise destroy the sealed packages unopened.
- (d) Upon the return to the Clerk of the Writs of a writ which has been vacated as aforesaid a fresh writ shall be issued forthwith for a new election in the place of the election which has failed as aforesaid, and save and except as in this subsection otherwise provided, all proceedings in connection with such new election shall be had and taken anew.

- (e) The roll which was in force and required to be used at the election which has failed shall, without any amendment thereof or addition thereto, be used at the new election.
- (f) Candidates who had duly nominated for the election which has failed shall be deemed to have been duly nominated for the new election and shall not be required to renominate for such new election, but, subject as hereinafter provided, may withdraw their nomination at any time not later than twelve o'clock noon on the day of nomination fixed in relation to the new election.
- (fa) Where a candidate withdraws his nomination at any time not later than twelve o'clock noon on the day of nomination fixed in relation to the new election, the deposit lodged by him with his original nomination shall be forfeited to the Crown.
- (g) The appointment of officials and of polling places as made for and in connection with the election which has failed as aforesaid, shall not merely by reason of the failure of such election, be void or in any way affected, and may continue and apply for and in connection with the new election.

Provided that nothing in this paragraph shall operate so as to prevent the cancellation of any of the appointments aforesaid or the making of new appointments of officials or of polling places for and in connection with the new election.

(3) If, after the close of the poll on polling day and before the counting of the votes in the election has been completed, a candidate dies, and on the completion of the count of the votes it is found that such candidate, if still living, would have been entitled to be declared and to be returned as elected, no candidate shall be returned as elected at the election, and section eighty-nine of this Act shall apply.

Failure of election when no candidate nominated or returned as elected. No. 27 of 1907, s. 88. Substituted by No. 18 of 1940, s. 4.

89. If no candidate is nominated for an election, or if no candidate is returned as elected at an election, the election shall be deemed to have wholly failed, and a new writ shall forthwith be issued for a supplementary election.

Division (3)—Voting.

Heading amended by No. 63 of 1948, s. 16. Voting by post. No. 27 of 1907, s. 89. Substituted by No. 59 of 1959, s. 5. Amended by No. 51 of 1962, s. 6; No. 33 of 1964, s. 28; No. 68 of 1964, s. 18; No. 113 of 1965, s. 8; No. 28 of 1970, s. 13; No. 94 of 1972, Schedule; No. 39 of 1979, s. 12.

(i) Postal and Absent Voting.

90. (1) An elector who—

- (a) being enrolled for a Province or District, has reason to believe that throughout the hours of polling on polling day, he will be more than eight kilometres by the nearest practicable route from any polling place open in the State for the purpose of an election for the Council or the Assembly;
- (b) [*Deleted by No. 33 of 1964, s. 28.*]
- (c) will, throughout the hours of polling on polling day, be travelling under conditions that will preclude him from voting during those hours at any polling place open in the State;
- (d) is seriously ill or infirm and by reason of such illness or infirmity will be precluded from attending to vote during the hours of polling at any polling place open in the State or, being a woman that will by approaching maternity be so precluded;
- (e) is, by reason of his membership of a religious order or his religious beliefs—
 - (i) precluded from attending at a polling place; or
 - (ii) precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours;

(f) is by reason of—

- (i) serving a sentence of imprisonment for an offence; or
- (ii) being otherwise in lawful custody or detention,

precluded from attending at a polling place, may at any time after the tenth day prior to the issue of the writs and before six o'clock in the afternoon of the day immediately preceding polling day make application for a postal ballot paper.

(1a) Where the elector is either within or outside of the State at the time he makes an application for a postal ballot paper, he may make the application at any time during the period referred to in subsection (1) of this section to—

- (a) the Chief Electoral Officer;
- (b) the Assistant Chief Electoral Officer;
- (c) a Returning Officer for any District or Province or the Registrar for any District;
- (d) an officer of the Electoral Department appointed in writing by the Minister to issue postal ballot papers; or
- (e) a person appointed under the Local Courts Act 1904 as clerk or assistant clerk for a Local Court.

(1b) [*Deleted by No. 28 of 1970, s. 13.*]

(1c) [*Deleted by No. 28 of 1970, s. 13.*]

(2) Each of the persons referred to in paragraphs (a), (b), (c), (d), and (e) of subsection (1a) of this section is in this Part of this Act called an “issuing officer”.

(3) (a) The application shall be in writing signed by the elector and may be in the form prescribed by the regulations and shall contain a statement of the grounds on which it is based, but if an elector is blind or his sight is so impaired that he cannot sign the application or he is unable to write or he

is otherwise so physically incapable that he is unable to sign the application, then on satisfying an authorized witness that he is unable to write the elector may make his distinguishing mark on the application which shall be witnessed by the authorized witness.

(b) Where an elector has reason to believe that he will be absent from the address for which he is enrolled at the time that the postal ballot paper will be forwarded to him by the issuing officer, he may in the application state an address to which he requires the postal ballot paper to be forwarded.

(4) On receipt of an application made under this section, the issuing officer—

- (a) shall enter on the application form the date of its receipt and sign the endorsement;
- (b) shall number it in the manner prescribed by the regulations, if it is properly signed and, in the case of an elector making his mark, it is witnessed and the application is otherwise in order; and
- (c) shall after the close of nominations, post to the elector or deliver to him at the place of issue
 - (i) a postal ballot paper printed under the authority of the Chief Electoral Officer in the form prescribed by the regulations and initialled by the issuing officer and attach thereto a declaration in the form so prescribed;
 - (ii) an envelope marked "ballot paper"; and
 - (iii) a further envelope addressed to the Chief Electoral Officer for the purpose of returning therein to him the declaration which was attached to the ballot paper after it is detached and completed by the elector and authorized witness together with the envelope containing the ballot paper.

(5) An elector shall not be issued with a postal ballot paper unless his application is received by the issuing officer before six o'clock in the afternoon of the day preceding polling day.

(6) Applications for postal ballot papers received by an issuing officer shall after being dealt with by him, be sent forthwith by him to the Chief Electoral Officer.

(7) If the application is not in order or the issuing officer is not satisfied that the applicant is entitled to vote by post, he shall forthwith post to the applicant a notice in the form prescribed by the regulations.

(7a) When an application for a postal ballot paper is properly signed by the applicant therefor, if the issuing officer is satisfied that the applicant is entitled to a postal ballot paper, the application shall not be deemed insufficient or invalid by reason only that in the application there is an omission or incorrect description or misdescription in respect of any of the particulars required by law to be contained therein.

(8) (a) An issuing officer shall not visit any elector for the purpose of taking his vote, but if a request is made at any time within seven days before six o'clock in the afternoon on the day immediately preceding polling day to an issuing officer by or on behalf of an elector who is entitled to vote by post under paragraph (d) of subsection (1) of this section, the issuing officer may visit the elector by or on whose behalf the request was made, for the purpose, and shall obtain from the elector an application for a postal ballot paper under and in accordance with this section.

(b) When the issuing officer receives the application he shall if the elector is entitled to a postal ballot paper issue him with one and the vote of the elector shall be taken in accordance with the provisions of this section.

(9) The form of application and declaration as prescribed by the regulations shall be printed in type of a size not smaller than the type known as ten point.

(10) A person who, not being the applicant named in an application for a postal ballot paper,—

(a) signs as the applicant; or

(b) makes a distinguishing mark as the applicant,

on the application with or without the authority of the applicant so named, commits an offence.

Penalty: A fine of two hundred dollars or three months' imprisonment.

(11) In the case of a conjoint election only one application for a postal ballot paper is required to be made by an elector and the issuing officer shall, subject to and in accordance with the provisions of this section, forward to the applicant the declaration and the envelopes referred to in paragraph (c) of subsection (4) of this section together with a prescribed ballot paper for the election to be held for the Assembly and a prescribed ballot paper for the corresponding election to be held for the Council, or if there is only one such election to be held, a prescribed ballot paper for that election.

(12) Notwithstanding the Prisons Act 1903 or any regulation or rule thereunder, correspondence, in relation to a postal vote, entitlement thereto, or guidance thereon permitted by this Act, between the Chief Electoral Officer and an elector entitled to a postal vote by virtue of paragraph (f) of subsection (1) of this section shall not be censored.

91. [*Repealed by No. 53 of 1957, s. 4.*]

92. (1) The directions prescribed by this section for regulating voting by means of postal ballot papers, whether within or outside the State, shall be complied with.

Directions
for postal
voting.
No. 27 of
1907, s. 91.
Substituted
by No. 53 of
1957, s. 5.
Amended by
No. 59 of
1959, s. 6;
No. 51 of
1962, s. 7;
No. 33 of
1964, s. 29;
No. 68 of
1964, s. 19;
No. 113 of
1965, s. 8;
No. 33 of
1967, s. 12;
No. 70 of
1973, s. 6.

(2) (a) The elector shall complete the declaration, detach the declaration from the ballot paper and exhibit his postal ballot paper, unmarked, to an authorized witness.

(b) The authorized witness shall sign his name in his own handwriting on the declaration in the space provided for the purpose and shall add the date he so signs and his address as at that date.

(c) The elector shall in the presence of the authorized witness indicate his vote on the postal ballot paper in the manner prescribed by section one hundred and twenty-eight of this Act, but so that the witness shall not see the vote.

(d) The elector shall fold the ballot paper and in the presence of the authorized witness put it in the envelope marked "ballot paper", and fasten the envelope.

(e) The elector shall enclose the declaration duly completed and the envelope marked "ballot paper" and its contents in the envelope addressed to the Chief Electoral Officer and fasten the envelope.

(3) [*Repealed by No. 59 of 1959, s. 6.*]

(4) The elector shall then post or deliver the envelope or cause it to be posted or delivered to the Chief Electoral Officer, but if the elector believes on reasonable grounds that the envelope cannot in the ordinary course of post, reach the Chief Electoral Officer before the close of the poll, he may send by post or otherwise the envelope and its contents unopened to a Returning Officer or a presiding officer in charge of any polling place open on the day of the election, who, in turn, shall, in accordance with the regulations, send the envelope and its contents unopened to the Chief Electoral Officer.

(5) (a) Where an elector is unable to vote without assistance or is unable to read or write or he is otherwise so physically incapable that he is unable to sign the declaration then the elector may make his distinguishing mark on the declaration which shall be witnessed by the authorized witness and may appoint another elector to mark the ballot paper in accordance with his instructions who shall comply with the directions prescribed by subsection (2) of this section other than completing the declaration, but if no person is appointed by the elector the authorized witness if so requested by the elector shall take the action required by this subsection to be taken by an elector appointed by the elector.

(b) The elector appointed to mark the ballot paper shall state at the foot of the declaration his full name and address and the fact that he has been appointed by the elector issued with the postal ballot paper to mark the ballot paper for him and shall place his signature immediately under such statement.

(c) A person who, not being the declarant named in a declaration made under this section,—

(i) signs as the declarant; or

(ii) makes a distinguishing mark as the declarant,

on the declaration with or without the authority of the declarant so named commits an offence.

Penalty: A fine of two hundred dollars or three months' imprisonment.

(d) An authorized witness shall not witness the signature or mark of any elector on a declaration made under this section unless—

(i) he has satisfied himself as to the identity of the declarant named therein;

(ii) he has seen the declarant—

(I) sign the declaration in his, the declarant's own hand writing; or

(II) make his mark thereon; and

- (iii) he knows the statements contained in the declaration are true, or has satisfied himself, by inquiry from the declarant or otherwise, that the statements contained in the declaration are true.

Penalty: A fine of two hundred dollars or three months' imprisonment.

(6) An elector to whom a postal ballot paper has been issued is not entitled to vote at any polling place unless he first delivers to the presiding officer for cancellation his postal ballot paper, but if the elector states that he has not received the postal ballot paper he may be permitted to vote if he makes a declaration in the form prescribed by the regulations before the presiding officer at the polling place.

(7) The Chief Electoral Officer shall retain at his office in a locked and sealed ballot box all envelopes containing postal ballot papers received by him after the close of nominations and up to eight o'clock in the forenoon on the polling day, until he commences scrutiny of the declarations relating to the postal ballot papers enclosed in those envelopes as provided in subsection (8) of this section.

(8) At any time after the commencement of the poll or as soon as practicable after the close of the poll, the Chief Electoral Officer or an Assistant Returning Officer appointed under section one hundred and forty-two A of this Act, together with such other assistant presiding officer appointed by the Chief Electoral Officer or the Assistant Returning Officer as may be necessary, shall commence the scrutiny of the declarations relating to the postal ballot papers in manner prescribed by the regulations.

(9) Where a declaration relating to a postal ballot paper—

- (a) is not signed by the elector to whom it was issued;
- (b) is not witnessed by an authorized witness in accordance with this Act;
- (c) does not bear the date the authorized witness signed the declaration; or
- (d) does not bear the address of the authorized witness as at the date he signed the declaration as required by paragraph (b) of subsection (2) of this section,
- (e) [*Deleted by No. 70 of 1973, s. 6.*]

the postal ballot paper shall be rejected.

(9a) In the case of a conjoint election a determination of entitlement to vote at the election for the Assembly determines the entitlement to vote for the corresponding election for the Council and only one declaration is required.

(10) (a) A postal ballot paper shall not be rejected for the reason only that the declaration relating to it has been enclosed with the postal ballot paper in the envelope marked "ballot paper".

(b) Where the Chief Electoral Officer has reason to believe that the declaration relating to the postal ballot paper is so enclosed, he may open the enveloped marked "ballot paper" and, without permitting any person to see the ballot paper enclosed therein, and if the declaration is so enclosed, extract the declaration and in any case refasten the envelope containing the postal ballot paper and deal with the postal ballot paper in the prescribed manner.

(11) The decision of the Chief Electoral Officer as to the rejection or admission of any postal ballot paper is subject to review only by the Court of Disputed Returns.

93. (1) Any person who is enrolled as an elector for a Province or District situate within the North-West-Murchison-Eyre Area as defined in the Electoral Districts Act 1947, or who is enrolled as an elector for a Province or District which is wholly or partly in any other portion of the State declared by proclamation to be a remote area to which this section applies, and whose place of living is so distant from the nearest usual polling place at which he might vote, or to whom available means of transport from his place of living to the polling place is so irregular or inadequate as to render it difficult for the elector to attend a polling place to vote in person may, at any time, lodge an application in writing with the Chief Electoral Officer to be registered as a general postal voter.

Registration of general postal voters.
Substituted by No. 53 of 1957, s. 6.
Amended by No. 33 of 1967, s. 13.
Cf. No. 51 of 1947 as amended s. 4 (a) (ii) and Second Schedule.

(2) If it appears to the Chief Electoral Officer that the application is validly made and that the elector is entitled to be registered as a general postal voter, he shall register the elector and notify him to that effect, but if the Chief Electoral Officer is not satisfied that the elector is entitled to be registered as a general postal voter, he shall reject the application and notify the elector of his decision.

(3) Any registration under this section may at any time other than between the issue of the writs for an election and the return of the writs, be cancelled by the Chief Electoral Officer who shall send notice of the cancellation to the elector.

(4) As soon as is practicable after nominations have been declared, the Chief Electoral Officer shall send a postal ballot paper to each elector registered under this section and the provisions of section ninety-two of this Act apply in respect of the ballot paper as if repeated in this section.

(5) Power is hereby conferred on the Governor to declare by proclamation any portion of the State to be a remote area to which this section applies, and by subsequent proclamation to cancel a proclamation so made or from time to time by subsequent proclamation to alter a proclamation so made.

Authorized witnesses.
Substituted by No. 53 of 1957, s. 7.
Amended by No. 59 of 1959, s. 7; No. 51 of 1962, s. 8; No. 70 of 1973, s. 7.

94. (1) Except as provided in subsection (2) of this section any person who has attained the age of eighteen years is an authorized witness for the purposes of this Division.

(2) No person who is a candidate at any election shall be, or act as, an authorized witness in connection with that election.

Offences relating to postal voting.
Substituted by No. 53 of 1957, s. 8.
Amended by No. 59 of 1959, s. 8; No. 113 of 1965, s. 8; No. 39 of 1979, s. 13.

95. (1) A person shall not persuade or induce, or associate with any other person in persuading or inducing, an elector to make application for a postal vote.

(1a) An elector shall not make, and a person shall not induce an elector to make, any false statement in an application for a postal ballot paper.

(2) A person other than the elector to whom the postal ballot paper has been issued, or other than a person appointed or any authorized witness requested by the elector in pursuance of subsection (5) of section ninety-two of this Act, shall not mark a vote on any ballot paper.

(3) A person shall not open any envelope which is addressed to the Chief Electoral Officer, and in which a postal ballot paper has been enclosed, unless authorized to do so by the Chief Electoral Officer.

(4) A person shall not persuade or induce an elector to hand over to him a postal ballot paper upon which a vote has been recorded.

(5) An authorized witness shall not influence or attempt to influence in any way the vote of an elector voting by post before him.

(6) An authorized witness shall not disclose any knowledge of the vote of any elector voting by post before him.

(6a) An elector appointed or an authorized witness requested by an elector to mark the vote of an elector on the ballot paper under the provisions of subsection (5) of section ninety-two of this Act, shall not disclose any knowledge of the vote of the elector on whose behalf he marked the vote on the ballot paper.

(7) Any person present when an elector is before an authorized witness for the purpose of voting—

- (a) shall obey all directions of the authorized witness; and
- (b) shall not, except as provided in subsection (5) of section ninety-two of this Act,
 - (i) make any communication whatever to the elector in relation to his vote;
 - (ii) assist the elector, or in any way interfere with him in relation to his vote; and
 - (iii) look at, or do anything else whereby he may become acquainted with the elector's vote.

(8) Where an elector is an inmate in an institution, which institution is prescribed by the regulations as one to which the provisions of this section apply, or is an inmate in an institution or is a patient in a hospital at which a polling place has been appointed under the provisions of section one hundred of this Act, then notwithstanding any other provision of this Act, a person shall not—

*Institutions
and
hospitals.*

- (a) give to the elector a postal ballot paper;
- (b) be present when the elector indicates his vote on the postal ballot paper;
- (c) sign his name on the declaration which is or was attached to the postal ballot paper;
- (d) take custody of or transmit to the Chief Electoral Officer the envelope containing the postal ballot paper; or

(e) visit the elector in connection with or relative to his voting by post, if such visit is forbidden by or on behalf of a legally qualified medical practitioner, unless, except in the case referred to in paragraph (e) of this subsection, he is authorized in writing by the Chief Electoral Officer to do so.

(9) A person to whom an application for a postal ballot paper or an envelope containing or purporting to contain a postal ballot paper is entrusted by a voter for the purpose of posting it or delivering it to the Chief Electoral Officer or a Returning Officer or delivering it to a Presiding Officer, shall forthwith post or deliver the application or envelope.

(10) A person guilty of any contravention of any of the provisions of this section is liable to a penalty not exceeding two hundred dollars or to imprisonment for three months.

96. [*Repealed by No. 57 of 1952, s. 5.*]

Mistakes.
No. 27 of
1907, s. 96.
Amended by
No. 68 of
1964, s. 20.

97. No postal ballot paper shall be rejected as being informal by reason of any mistake in spelling where the elector's intention is clear.

Officer to
decide.
No. 27 of
1907, s. 97.
Amended by
No. 68 of
1964, s. 21.

98. The decision of the officer conducting the count of the votes as to the allowance or disallowance of any postal ballot paper shall be subject only to review by the Court of Disputed Returns under Part V.

99. [*Repealed by No. 53 of 1957, s. 9.*]

Absent
voting.
Inserted by
No. 63 of
1948, s. 18.
Amended by
No. 52 of
1951, s. 10;
No. 57 of
1952, s. 7;
No. 33 of
1964, s. 30;
No. 33 of
1967, s. 14.

99A. (1) Where, on polling day for an election, an elector is absent from the District for which he is enrolled and has not applied for or obtained a ballot paper under and in accordance with the provisions of section ninety of this Act, such elector shall, subject to the regulations relating to absent voting, be permitted to vote in person in the

prescribed manner as an absent voter at any polling place open outside the District for which he is enrolled.

(2) For the purposes of this section, the Chief Electoral Officer may make all arrangements for the taking of absent votes at any one or more of the polling places appointed by the Minister under the provisions of section one hundred of this Act in any Province or District for which a candidate shall have been declared elected before the polling day under the provisions of sections eighty-seven or eighty-eight of this Act.

[Subsections (3), (4), (5) and (6) repealed by No. 58 of 1951, s. 10 (b).]

99B. (1) In this section, "ballot papers" means postal vote ballot papers mentioned in section ninety, absent vote ballot papers mentioned in section ninety-nine A and ballot papers mentioned in section one hundred and twenty-two A of this Act.

Regulations relating to postal and absent voting and voting pursuant to s. 122A.

Inserted by No. 58 of 1951, s. 11.

Amended by No. 57 of 1952, s. 8; No. 53 of 1957, s. 10.

(2) The regulations relating to postal voting, absent voting and voting pursuant to the provisions of section one hundred and twenty-two A of this Act may prescribe all matters, not inconsistent with this Act, necessary or convenient to be prescribed for carrying the provisions of this Act relating to those methods of voting into effect, and in particular may provide for—

- (a) the forms of ballot papers;
- (b) the manner in which votes are to be marked on ballot papers;
- (c) the method of dealing with ballot papers, including the scrutiny thereof and the counting of votes thereon;
- (d) the grounds upon which ballot papers are to be rejected as informal; and

- (e) the retention and preservation of documents likely to be required in case of a disputed election including envelopes, rejected votes and ballot papers until validity of the election in respect of which they are used is no longer liable to be disputed.

(3) Ballot papers containing votes and enclosed in any prescribed envelope may, if so provided by the regulations, be placed in any ballot box in use at the polling place at which the votes were cast and in the case of postal ballot papers, in any ballot box in use at the place at which they were received but notwithstanding anything contained in this Act a prescribed envelope containing a ballot paper shall, unless the regulations provide otherwise, only be opened and the ballot paper dealt with, as regards the scrutiny thereof and the counting of the votes thereon by the Chief Electoral Officer or an Assistant Returning Officer appointed pursuant to the provisions of section one hundred and forty-two A of this Act.

(4) The Returning Officer or Assistant Returning Officer who is authorized by the provisions of this Act to open the ballot box, shall, without opening the envelope containing any ballot paper, transmit it in the manner prescribed to the Chief Electoral Officer.

(5) Nothing in this section shall authorize any elector to vote more than once at any election.

(ii) *At the Poll.*

100. (1) The Minister may, by notice in the *Government Gazette*—

- (a) appoint a chief polling place for each Province and District;
- (b) appoint such other polling place as he thinks necessary for each Province or District, which polling place may be wholly or partly within the boundaries of—
 - (i) the Province or District;

Polling places.
No. 27 of 1907, s. 99.
Amended by No. 44 of 1911, s. 29; No. 26 of 1949, s. 4; No. 59 of 1959, s. 9; No. 39 of 1979, s. 14.

- (ii) any Province or District adjoining that Province or District;
- (c) appoint such other polling places as he thinks fit in any institution or hospital, or both;
- (d) declare any institution or hospital, or both, so appointed to be a special institution or hospital, or both, for the purposes of this Act;
- (e) declare any area of the State in which he considers attendance of electors at a polling place under usual conditions is difficult by reason of remoteness, to be a remote area for the purposes of this Act;
- (f) abolish any polling place;
- (g) cancel or amend a declaration made under paragraph (d) or (e) of this subsection;
- (h) establish Sub-districts and fix the boundaries thereof, and abolish Sub-districts.

(2) When a Sub-district is established or abolished the Minister may, by notification in the *Government Gazette*, give such directions as are thereby rendered necessary or expedient for the change of electors from one roll to another roll and effect shall be given forthwith to such directions in the manner prescribed by such notice.

(3) Where there is a by-election for any Province or District in the State, the Minister shall by notice in the *Government Gazette* appoint a conveniently situated polling place in the municipal district of the City of Perth for use by absent voters.

100A. (1) Where a polling place has been appointed by the Minister under the provisions of section one hundred of this Act, at any institution or hospital, the presiding officer appointed under paragraph (5) of section one hundred and two of this Act, notwithstanding any other provision of this Act, shall with another officer attend at the

Mobile portable ballot boxes at certain institutions and hospitals. Inserted by No. 59 of 1959, s. 10. Amended by No. 33 of 1964, s. 31; No. 39 of 1979, s. 15.

polling place, at such times or during such hours as are provided by subsection (2) of this section with such number of mobile portable ballot boxes as the Chief Electoral Officer thinks fit and approved by him for the purpose of affording an opportunity to vote to every elector who—

- (a) is for the time being resident in the institution or hospital wherein the polling place is appointed to be; and
- (b) by reason of illness or infirmity or in the case of a woman, by reason of approaching maternity, is unable to attend at another polling place to record his vote.
- (c) [*Deleted by No. 33 of 1964, s. 31.*]

[*Previous subsection (2) repealed by No. 33 of 1964, s. 31.*]

(2) For the purposes of subsection (1) of this section, the attendance of the presiding officer and another officer at any institution or hospital, to which that section applies, shall be—

- (a) where the institution or hospital is a special one for the purposes of this Act by virtue of a declaration under paragraph (d) of subsection (1) of section one hundred of this Act, at such times in the period of fourteen days up to and including polling day as the Chief Electoral Officer thinks fit; or
- (b) where the institution or hospital is not such a special one, during polling hours as provided by paragraph (2) of section one hundred and seventeen of this Act.

(3) On a visit to an elector by the officer in charge of the mobile portable ballot box the vote of the elector shall, so far as is reasonably practicable, be taken in all respects as if the vote were recorded at a polling place under usual conditions.

(4) The presiding officer and another officer shall together be in attendance with the mobile portable ballot box when an elector records his vote thereat and shall be accompanied by such of the scrutineers appointed by candidates to represent them at the polling place during the polling, as choose to accompany them.

100B. (1) Where any area of the State is a remote area of the State for the purposes of this Act by virtue of a declaration under paragraph (e) of subsection (1) of section one hundred of this Act, the presiding officer and other officer appointed under paragraph (5) of section one hundred and two of this Act, notwithstanding any other provision of this Act, shall attend at such places in the remote area, and at such times in the period of fourteen days up to and including polling day, as the Chief Electoral Officer thinks fit, with such number of mobile portable ballot boxes as the Chief Electoral Officer thinks fit and approved by him for the purpose of affording an opportunity to vote to every elector who may have difficulty in attending at a polling place under usual conditions.

Mobile portable ballot boxes in certain remote areas. Inserted by No. 39 of 1979, s. 16.

(2) For the purposes of subsection (1) of this section, subsections (3) and (4) of section one hundred A of this Act apply with such modifications as are necessary.

(3) Where, for reasonable cause, there is a failure to attend a place in a remote area as required by subsection (1) of this section, the election and the result thereof shall be deemed not to be affected thereby.

101. If the proceedings on the day of nomination stand adjourned to polling day, the Returning Officer shall immediately make all necessary arrangements for taking the poll.

Arrangements for taking the poll. No. 27 of 1907, s. 100.

**Duty of
Returning
Officer.**

No. 27 of
1907, s. 101.
Amended by
No. 59 of
1959, s. 11;
No. 68 of
1964, s. 22;
No. 39 of
1979, s. 17.

102. In particular the Returning Officer shall—

- (1) appoint a presiding officer to preside at each polling place at which he will not be continuously present;
- (2) appoint all necessary assistant presiding officers, poll clerks and doorkeepers;
- (3) furnish polling places and provide ballot boxes;
- (4) provide ballot papers and copies of the roll for use at each polling place;
- (5) appoint a presiding officer and another officer to be in attendance with and operate each mobile portable ballot box at each polling place appointed at an institution or hospital, and at each place in a remote area where a presiding officer and another officer are required to attend pursuant to section one hundred B of this Act.

**Conjoint
elections.**

Inserted by
No. 33 of
1964, s. 32.
Amended by
No. 39 of
1979, s. 18.

102A. (1) In the case of a conjoint election, every person appointed as a presiding officer, an assistant presiding officer, a poll clerk or a doorkeeper for any polling place in a district shall, without any further appointment or authority than this subsection, be the presiding officer, the assistant presiding officer, poll clerk or doorkeeper, as the case may be, for that polling place in respect of any election for the province of which the district forms part.

(2) The Chief Electoral Officer may give such directions as he may consider necessary or expedient to implement the provisions of this Act, for the proper and efficient conduct of any election.

(3) Without limiting the generality of subsection (2) of this section, the Chief Electoral Officer may, for the purpose of assisting an elector on request as provided by section one hundred and twenty-nine

of this Act, give such directions as he may consider necessary or expedient on and in relation to methods of—

- (a) conveying details on the ballot paper to the elector without conveying political information;
- (b) translating the voter's instructions; and
- (c) eliciting the exact direction of the voter's preferences.

103. The Returning Officer shall be the presiding officer at the chief polling place unless he appoints some other person to be the presiding officer thereat.

Presiding officer.
No. 27 of 1907, s. 102.

104. (1) The appointment of presiding officers, assistant presiding officers, poll clerks, and doorkeepers shall be made in writing in the prescribed form.

Appointment of presiding officers, assistant presiding officers, poll clerks, and doorkeepers.

(2) Every presiding officer, assistant presiding officer, poll clerk, and doorkeeper shall, before acting as such, make and subscribe before an officer authorized by section two hundred and seven to witness signatures, a declaration in the prescribed form, and lodge such declaration with the Returning Officer, who shall forward the same to the Chief Electoral Officer, to be filed in his office.

No. 27 of 1907, s. 103.
Amended by No. 44 of 1911, s. 43.

105. (1) Any presiding officer may appoint a substitute to perform his duties during his temporary absence, and may, if authorized by the Returning Officer so to do, appoint in writing one or more assistant presiding officers to assist him in presiding at any polling place.

Substitute.
No. 27 of 1907, s. 104.

(2) Any assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of his powers, and shall, in respect of those powers, be deemed to be the presiding officer.

Absence of
Returning
Officer or
presiding
officer
not to
invalidate
election.
No. 27 of
1907, s. 105.

106. (1) In case any Returning Officer or presiding officer is prevented from attendance by illness or other sufficient cause, and time does not permit of a substitute being appointed under the provisions of section seven, he may appoint by writing under his hand, a substitute to act for him, who shall have full power and authority to do all things required by this Act to be done by his principal.

(2) If, by reason of the absence of the presiding officer, the poll is not taken at any polling place, the election shall not therefore be void, but the Returning Officer may appoint another day not later than twenty-one days from the day fixed for the election, for taking the poll at such polling place, of which appointment public notice shall be given, and the poll shall be taken accordingly and be deemed to have been taken on the day previously appointed.

Subdivision
of polling
places.
No. 27 of
1907, s. 106.

107. (1) When a large number of electors is likely to vote at a polling place, the Returning Officer may subdivide a polling place into sections, and shall, in such case, appoint presiding officers to take the poll at each section at which he does not himself preside.

(2) If a polling place is divided into sections there shall be fixed over each such section, a notice indicating the letters of the alphabet for the section of such polling place at which each elector, according to the initial letter of his surname, is to vote; and no elector shall be permitted to vote in any section thereof save that which is so denoted by the initial letter of his surname.

(3) All the provisions of this Act relating to presiding officers shall apply to presiding officers at each section of a polling place.

No licensed
premises to
be used.
No. 27 of
1907, s. 107.

108. No part of any premises licensed for the sale of intoxicating liquors shall be used for the purposes of any polling place.

109. All buildings under the control of the Government, or the property of a Municipality and all Agricultural Halls, Mechanics' and Miners' Institutes, and other buildings which have been or may hereafter be subsidised in their erection by the Government, may be used free of charge, for the purposes of any nomination proceedings or poll.

Certain buildings to be used free. No. 27 of 1907, s. 108. Amended by No. 33 of 1964, s. 33.

110. Polling places shall have separate voting compartments, constructed so as to screen the electors from observation while they are marking their ballot papers, and each compartment shall be furnished by the Returning Officer with a pencil for the use of electors.

Separate compartments. No. 27 of 1907, s. 109.

111. Each polling place or section of a polling place shall be provided with a ballot box, with a lock and key, and with a cleft for receiving the ballot papers.

Ballot boxes. No. 27 of 1907, s. 110. Amended by No. 59 of 1919, s. 5.

112. (1) Prior to an election the Registrar shall, whenever requested by a Returning Officer, supply a sufficient number of copies of the roll for use at such election, such copies to include the names of all electors, if any, enrolled since the last print, and entitled to vote.

Registrar to supply signed rolls. No. 27 of 1907, s. 111. Amended by No. 33 of 1964, s. 34.

(2) The copies of the roll so supplied shall be duly marked in accordance with the proviso to subsections two and three of sections forty-seven and forty-eight respectively and signed and dated by the Chief Electoral Officer or the Registrar.

(3) The Returning Officer shall cause a sufficient number of such copies of the roll to be delivered to each presiding officer before the hour of opening the poll, and such copies shall be signed and dated by the Returning Officer, and the name of the polling place at which they are to be used shall be written on the front page by the Returning Officer.

Ballot
papers.
No. 27 of
1907, s. 112.
Amended by
No. 44 of
1911, s. 43;
No. 28 of
1970, s. 14.

113. (1) Ballot papers may be in the prescribed form, and shall contain the surnames of all the persons nominated as candidates, arranged in large characters in the order determined in accordance with subsection (2a) of section eighty-six of this Act.

(2) Where two or more candidates have the same surname they shall be distinguished upon the ballot papers by their christian names being inserted in smaller characters, and if necessary by such other addition as is sufficient to distinguish them.

Scrutineers.
No. 27 of
1907, s. 113.
Amended by
No. 44 of
1911, s. 43.

114. (1) Scrutineers may be appointed by candidates to represent them at polling places during the polling, but not more than one scrutineer shall be allowed to each candidate at each polling place, or section of a polling place, if divided.

(2) The appointment of scrutineers shall be made by written notice to the Returning Officer or presiding officer, signed by the candidate, giving the names and addresses of the scrutineers, or without such notice by permission of the Returning Officer or presiding officer.

(3) Every scrutineer shall, upon his appointment, make and subscribe a declaration in the presence of the Returning Officer or presiding officer in the prescribed form.

Persons
present at
polling.
No. 27 of
1907, s. 114.
Amended by
No. 68 of
1964, s. 23.

115. No candidate shall in any way take part in the conduct of an election; and no one, other than the Chief Electoral Officer or an officer deputed by him, presiding officer, assistant presiding officer, the poll clerks, doorkeepers, scrutineers, and any member of the police force on duty at a polling place, and the electors voting or about to vote, shall be permitted to enter or remain in the polling place during the polling.

116. (1) The Returning Officer or presiding officer may summon to his assistance in such polling place any member of the police force for the purpose of—

Maintenance
of order.
No. 27 of
1907, s. 115.

- (a) preserving the public peace or preventing any breach thereof, and for removing out of such polling place any person who, in his opinion, is wilfully and unnecessarily obstructing the polling, or wilfully violating any of the provisions of this Act;
- (b) causing to be removed any person who obstructs the approaches to a polling place; or
- (c) causing to be arrested and taken before a justice of the peace, without any other warrant than this Act, any person reasonably suspected by the Returning Officer or presiding officer of committing or attempting to commit at a polling place any of the offences mentioned in this Act.

(2) All members of the police force shall aid and assist the Returning Officer or presiding officer in the performance of his duty.

117. The polling shall be conducted as follows:—

- (1) Before any vote is taken the presiding officer shall exhibit the ballot box empty, and shall then securely fasten and seal it so that nothing can be removed without breaking the seal.
- (2) Subject to sections one hundred A and one hundred B of this Act, the poll shall be open at eight o'clock in the morning, and shall not close until all the electors present in the polling place at eight o'clock in the evening, and desiring to vote, have voted; and in any dispute as regards the time the decision of the presiding officer shall be final.

Conduct of
the poll.
No. 27 of
1907, s. 116.
Amended by
No. 44 of
1911, s. 30;
No. 59 of
1919, s. 5;
No. 10 of
1936, s. 2;
No. 57 of
1952, s. 9;
No. 68 of
1964, s. 24;
No. 39 of
1979, s. 19.

- (3) At the close of the poll the presiding officer shall publicly close, fasten, seal, and take charge of the ballot box, and with the least possible delay forward it to the counting place for the purposes of scrutiny; and it shall on no account be opened except as allowed by this Act. The cleft shall also be closed and sealed unless the ballot box is provided with an outer cover without a cleft.
- (4) The presiding officer shall also forward to the counting place the marked roll or rolls used at the poll, and any other documents received before or during the poll, having first indorsed and signed such rolls to identify them.
- (5) Any scrutineer present may affix his seal to the cover of the ballot box.

Persons
claiming
to vote
to give
name, etc.
No. 27 of
1907, s. 117.

118. Every person claiming to vote shall—

- (a) state his surname and christian name; and
- (b) if so desired by the presiding officer, state any other particulars necessary to be stated in the roll for the purpose of identifying the name upon the roll under which the vote is claimed.

Questions
to be put
to voters.
No. 27 of
1907, s. 118.
Amended by
No. 44 of
1911, secs.
31, 43;
No. 63 of
1948, s. 19;
No. 26 of
1949, s. 5;
No. 53 of
1957, s. 11;
No. 33 of
1964, s. 35;
No. 33 of
1967, s. 15;
No. 94 of
1970, s. 7;
No. 39 of
1979, s. 20.

119. (1) The presiding officer shall put to any person claiming to vote at any election the following question—

- (a) Have you already voted here or elsewhere at this election?

And if question (a) is answered in the negative, the following additional question—

- (b) Do you live in the Electoral District of
..... (*being the Electoral District for which the person claims to vote or the Electoral District that forms part of the Province for which the person claims to vote*)?

And if question (b) is answered in the negative, the following additional questions—

- (c) Have you within the last preceding three months *bona fide* lived within that District?
- (d) Where was your place of living in that Electoral District?
- (e) Does your name appear on the roll for any other Electoral District? ,

but the asking of questions (c), (d), and (e) shall be subject to the provisions of section one hundred and seventy-two of this Act.

(2) The presiding officer may, and at the request of any scrutineer shall, put to any person claiming to vote at any election all or any of the following additional questions:—

- (f) Are you the person whose name appears as [*here state name under which person claims to vote*] on the roll for [*here state District*]?
- (g) Are you of the full age of eighteen years?
- (h) Are you a natural born or naturalized subject of the Queen?
- (i) Have you lived in the Commonwealth of Australia for six months continuously?
- (j) Have you lived in Western Australia for three months continuously?
- (k) Are you disqualified from voting?
- (l) Have you applied for a postal ballot paper? (and if the answer to this question is Yes, the further question, Have you received a postal ballot paper for this election?).
- (m) Where is your place of living in the Electoral District for which you now claim to vote?

but the presiding officer may decline a scrutineer's request for the asking of any one or more of those

questions if the presiding officer considers that the asking of the question or questions would not be reasonable.

(3) The presiding officer shall make a note in writing of the name and number on the roll of each elector questioned under subsection (2), and of each elector under whose name any person questioned claimed to vote, and of each reply or refusal to reply on the part of such elector or person.

(4) The presiding officer may and shall, when requested by a scrutineer, require any person claiming to vote to make a declaration in the prescribed form before receiving a ballot paper.

(5) Subject to the provisions of section one hundred and twenty-two A of this Act, the electoral roll in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector, unless he refuses to answer fully any such question put to him by the presiding officer, or to make the declaration requested of him, or fails by his answers to satisfy the presiding officer that he is entitled to vote.

(6) In the case of a conjoint election a determination of entitlement to vote at the election for the Assembly determines the entitlement to vote at the corresponding election for the Council and only one declaration is required under subsection (4) of this section.

(7) Where it appears to the presiding officer that an elector does not understand any question he is asked pursuant to subsection (1) or (2) of this section—

- (a) the presiding officer shall ask the elector the question in less formal language than the language provided in the subsection but in words to the like effect; and

- (b) if the elector then finds difficulty with the question, the presiding officer may assist him in answering it.

120. If any person refuses to answer fully any such question put to him by the presiding officer, or to make the declaration requested of him, or fails by his answer to satisfy the presiding officer that he is entitled to vote, his claim to vote shall be rejected.

Consequence
of answers.
No. 27 of
1907, s. 119.

121. The elector's answers to the questions shall be conclusive, and the matter shall not be further inquired into during the polling.

Answer
conclusive.
No. 27 of
1907, s. 120.

122. (1) No person whose name on the roll has been objected to and is marked in accordance with the provisions of section forty-seven or forty-eight shall have a right to vote until he has made a declaration in the prescribed form.

Persons
objected to—
how to vote.
No. 27 of
1907, s. 121.
Amended by
No. 44 of
1911, s. 43.

(2) All declarations received under this section shall be forwarded by the Returning Officer to the Chief Electoral Officer.

(3) Every elector who has voted by post shall be deemed to have made such declaration.

122A. (1) Notwithstanding anything contained in this Act, where a person who is entitled to be enrolled on the roll for a Province or District claims to vote at any election in respect thereof at a polling place appointed for that Province or District and which is situated in the District in respect of which he claims to be entitled to be so enrolled or which is appointed for that District and his name has been omitted from or struck off the roll owing to an error of an officer or a mistake of fact, or where any person who is so enrolled so claims to vote at such a polling place and his name cannot be found on the roll by the presiding officer or his name has been struck out on the copy of the roll under the

Vote of
person
whose name
is not on
roll or has
been struck
off roll or is
on roll and
cannot be
found or
has been
struck out
under s. 126.
Inserted by
No. 63 of
1948, s. 20.
Amended by
No. 58 of
1951, s. 12;
No. 33 of
1964, s. 36.

provisions of section one hundred and twenty-six of this Act, he may subject to this Act and the regulations, be permitted to vote if—

- (a) in the case of a person whose name has been omitted from the roll—
 - (i) he sent or delivered to the Registrar of the District, a duly completed claim for enrolment in respect of the Province of which the District forms part or the District, and the claim was received by the Registrar not less than fourteen days before the issue of the writ for the election; and
 - (ii) no circumstances occurred after sending or delivering the claim as would have compelled or authorized the Registrar to reject the claim under the provisions of section forty-seven of this Act or to strike the name off the roll under the provisions of section forty-eight of this Act; or
- (b) in the case of a person whose name has been struck off the roll—
 - (i) his name was not, to the best of his knowledge, struck off the roll for the Province or District as the case may be, owing to objection, or duplication of enrolment or disqualification; and
 - (ii) he had from the time of his enrolment for the Province or District, as the case may be, to the date of the issue of the writ for the election continuously retained his right to enrolment for that Province or district; or
- (c) in the case of a person whose name is on the roll for a Province or District as the case may be but cannot be found by the presiding officer, he claims that his name appears or should appear on the roll; or

- (d) in the case of a person whose name has been struck out of a copy of the roll under the provisions of section one hundred and twenty-six of this Act, he denies that he has been previously handed a ballot paper or has voted at that election,

and if, in every such case, such person makes a declaration in the prescribed form before the presiding officer at the polling place.

(1a) In the case of a conjoint election a determination of entitlement to vote at the election for the Assembly determines the entitlement to vote at the corresponding election for the Council and only one declaration is required under subsection (1) of this section.

[Subsections (2), (3), (4), (5) and (6) repealed by No. 58 of 1951, s. 12.]

123. (1) No elector shall at any election be required to answer any question or to make any declaration, except as herein provided.

No other question or declaration necessary.
No. 27 of 1907, s. 122.

(2) No person claiming to vote at any election shall be excluded from voting thereat except by reason of—

- (a) it appearing to the presiding officer, upon putting the questions hereinbefore prescribed, or any of them—
 - (i) that he is not the person whose name appears on the roll, or
 - (ii) that he has previously voted for the Province or District at the same election, or
 - (iii) that he is otherwise not entitled to vote under this Act; or
- (b) such person refusing to answer any of such questions, or to make the declaration required under sections one hundred and nineteen and one hundred and twenty-two.

Errors not
to forfeit
vote.
No. 27 of
1907, s. 123.

124. (1) No omission from the roll of any name other than the surname, or entry of a wrong name other than the surname, and no misspelling of any name, shall warrant the rejection at any polling of any claim to vote, if the elector is sufficiently identified in the opinion of the presiding officer.

(2) No female elector shall be disqualified from voting under the name appearing on the roll because her surname has been changed by marriage.

Ballot paper
to be
handed to
elector.
No. 27 of
1907, s. 124.
Amended by
No. 113 of
1965, s. 8.

125. (1) If the name under which the elector claims to vote is upon the copy of the roll, and his right to vote is not challenged, or, if challenged, he makes the necessary declaration, or answers the prescribed questions satisfactorily, the presiding officer shall deliver to him a ballot paper.

(2) Before the delivery of the ballot paper to the elector, it shall be marked on the back by the presiding officer with his initials and the name of the Province or District for which the election takes place.

(3) The initials of the presiding officer shall be placed on the back of the ballot paper in such a position as to be easily seen when the ballot paper is folded to conceal the vote.

(4) Every presiding officer who fails faithfully to perform any duty imposed on him by this section by reason whereof any of the requirements of this section are not effectively fulfilled, is liable to a fine not exceeding twenty dollars.

Roll to be
marked on
ballot paper
being issued.
No. 27 of
1907, s. 125.

126. (1) Immediately upon handing the ballot paper to the person claiming to vote, the officer shall strike out the person's name on the copy of the roll.

(2) The mark so made on the copy of the roll shall be *prima facie* evidence of the identity of the person to whom the ballot paper is delivered, with the elector whose name is so marked on the roll, and of the fact that such elector voted at the election.

127. Upon receipt of the ballot paper the elector shall, subject to the provisions of section one hundred and twenty-nine of this Act, without delay—

Vote to be marked in private.
No. 27 of 1907, s. 126.
Amended by No. 58 of 1951, s. 13.

- (a) retire alone to some unoccupied voting compartment and there, in private, mark his vote on the ballot paper in the manner hereinafter described;
- (b) fold the ballot paper so as to conceal the names of the candidates, but to disclose the initials of the presiding officer, and exhibit it so folded to the officer, and then forthwith, without unfolding it, deposit it in the ballot box;
- (c) quit the polling place.

128. (1) The elector shall mark his vote on the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes.

How votes to be marked.
No. 27 of 1907, s. 127.
Amended by No. 44 of 1911, s. 32.

(2) If there are more than two candidates the elector shall mark the ballot paper by placing the numeral 1 opposite the name of the candidate for whom he votes as his first preference and he shall give contingent votes for all the remaining candidates by placing the numerals 2, 3, and so on (as the case requires) opposite their names, so as to indicate by such numerical sequence the order of his preference.

129. On request from an elector the presiding officer, an assistant presiding officer, or a poll clerk, in the presence of such scrutineers as are present, or, if there are no scrutineers present, then in the presence of—

Assistance to electors.
Substituted by No. 39 of 1979, s. 21.

- (a) another electoral officer; or
- (b) if the elector so desires, in the presence of a person, other than an electoral officer, appointed by such elector,

shall mark the elector's ballot paper according to the instructions of the elector, and fold and deposit the ballot paper for him, after which the elector and any person appointed by him, shall quit the polling place.

Spoilt ballot papers.
No. 27 of 1907, s. 129.
Amended by No. 59 of 1919, s. 5.

130. If any elector satisfies the presiding officer, before his ballot paper is deposited in the ballot box that he has spoilt it by mistake or accident, he may, on giving it up, receive a new ballot paper from the presiding officer, who shall there and then destroy the spoilt ballot paper.

Adjournment of polling on account of riot.
No. 27 of 1907, s. 130.

131. The presiding officer may adjourn the polling from day to day in any case where polling is interrupted or obstructed by riot or open violence.

Adjournment in other cases.
No. 27 of 1907, s. 131.

132. If from any cause any polling place is not opened on polling day, or, if opened, the poll cannot be proceeded with, the Returning Officer or the presiding officer may adjourn the polling for a period not to exceed twenty-one days, and shall forthwith give public notice of the adjournment.

Voting at adjourned polling.
No. 27 of 1907, s. 132.

133. Where for any reason the polling is adjourned at any polling place, those electors only who are entitled to vote at such polling place who have not already voted shall be entitled to vote at the adjourned polling at that polling place.

Division (4)—Counting of Votes.

Count of the votes—how conducted.
No. 27 of 1907, s. 133.
Amended by No. 44 of 1911, s. 33.

134. The result of the polling shall be ascertained by scrutiny of the ballot papers and by count of the votes, and shall be conducted in the presence of any candidate or scrutineer that may be present

by the Returning Officer, with the assistance of such officers as he deems necessary in the following manner:—

- (1) The scrutiny and count of votes shall commence as soon as practicable after the closing of the poll.
- (2) The candidates, the scrutineers, and officers may be present, but no other person.
- (3) Where the count of the votes is not commenced immediately after the close of the poll, the scrutineers shall be informed in writing by the Returning Officer as regards the time and place when and where such count will be commenced and conducted by him.
- (4) All the proceedings at the count of the votes shall be subject to the inspection of the scrutineers.
- (5) All informal votes shall be marked “informal” and rejected and the number recorded.
- (6) The count of the votes may, from time to time, be adjourned as the Returning Officer may deem necessary, until it has been duly completed.

135. Each adjournment shall be announced to the scrutineers and officers by the Returning Officer and the time and place for the continuation of the count shall be in a similar manner made known to them.

Adjournment to be announced.
No. 27 of
1907, s. 134.

136. (1) Before every adjournment of the count of the votes all ballot papers and other documents connected with such count shall be placed in one or more ballot boxes, and the Returning Officer shall then, in the presence of such scrutineers and officers as are present, seal such ballot box or boxes with his official seal, if any, or with his private seal, and any scrutineer who shall desire so to do, shall be

Before adjourning, ballot papers, etc., to be sealed in boxes.
No. 27 of
1907, s. 135.
Amended by
No. 59 of
1919, s. 5.

permitted by the Returning Officer to place his special seal upon such ballot box or boxes. The cleft shall also be closed and sealed unless the ballot box is provided with an outer cover without a cleft.

(2) Before recommencing the count such seals shall be exhibited unbroken to the scrutineers and officers.

Power
to appoint
scrutineers.
No. 27 of
1907, s. 136.

137. (1) Each candidate may appoint one scrutineer to represent him at the scrutiny and count of votes at each place where such scrutiny and count are conducted.

(2) Such appointment shall be made in writing and addressed to the Returning Officer, Deputy Returning Officer, or Assistant Returning Officer, as the case may be.

Scrutineer
may object
to vote as
informal.
No. 27 of
1907, s. 137.
Amended by
No. 68 of
1964, s. 25.

138. Any scrutineer may object that any ballot paper is informal, and thereupon the officer conducting the count shall mark the paper "admitted" or "rejected", according to his decision on the objection, and initial such marking; and such decision shall, subject to section one hundred and forty-six of this Act, be final and subject only to reversal by a Judge of the Supreme Court under the provisions of Part V.

Informal
ballot
papers.
No. 27 of
1907, s. 138.
Amended by
No. 44 of
1911, s. 34;
No. 53 of
1957, s. 12;
No. 59 of
1959, s. 12;
No. 68 of
1964, s. 26.

139. A ballot paper shall be informal—

- (a) if it is not initialled by the presiding officer, or, in the case of a postal ballot paper, not initialled by the issuing officer, but where a ballot paper is not initialled by the presiding officer or the issuing officer, if there is a water mark as prescribed by the regulations in the paper of the ballot paper the fact that it is not so initialled shall not of itself render the ballot paper informal; or

- (b) if, subject as hereinafter provided, it is marked in any other manner than in section one hundred and twenty-eight provided; or
- (c) if it has upon it any mark or writing not authorized by this Act which, in the opinion of the Returning Officer, will enable any person to identify the elector; or
- (d) if it does not indicate the elector's vote, or if, when there are more than two candidates, it is not marked as prescribed by section one hundred and twenty-eight so as to indicate by numerical sequence the voter's preference as regards all the candidates:

34/1911
534
534

Provided that if numerals in arithmetical sequence are placed opposite the names of all the candidates but one, the next following numeral shall be deemed to be placed opposite the name of the remaining candidate;

- (e) if no mark is indicated on it or, in the case of a postal ballot paper, absent ballot paper or a ballot paper issued pursuant to section one hundred and twenty-two A of this Act, the name of any candidate is omitted from it, or no name of any candidate is written on it.

140. (1) Subject to subsection (2) of this section, a ballot paper shall not be informal for any reason other than the reasons enumerated in the last preceding section, but shall be given effect to according to the elector's intention so far as his intention is clear.

Ballot
papers not
informal.
No. 27 of
1907, s. 139.
Amended by
No. 58 of
1951, s. 15;
No. 53 of
1957, s. 13;
No. 68 of
1964, s. 27.

(2) In particular, where there are only two candidates a ballot paper is not informal by reason only of the elector having indicated his vote or first preference by a cross instead of the numeral "1", but without prejudice to the operation of section one hundred and thirty-nine of this Act, is

informal if the elector places a cross against the name of one candidate and the numeral "1" against the name of the other candidate.

Appoint-
ment of
Assistant
Returning
Officers and
counting
places.

No. 27 of
1907, s. 140.

Amended by
No. 58 of
1951, s. 16;
No. 57 of
1952, s. 10.

141. The Minister may appoint Assistant Returning Officers to count at counting places appointed by the Minister the votes cast at any one or more polling places—

- (a) in outlying portions of a Province or District; or
- (b) where the polling place is so far distant from the chief polling place that such appointment is necessary to ascertain the result of the election with expedition;
- (c) where in the opinion of the Chief Electoral Officer the appointment will expedite the ascertainment of the result of the election.

The count of
the votes by
Deputy and
Assistant
Returning
Officers.

No. 27 of
1907, s. 141.

Amended by
No. 44 of
1911, s. 35;
No. 59 of
1919, s. 5;
No. 58 of
1951, s. 17;
No. 68 of
1964, s. 28.

142. The procedure at the count of votes by the Deputy and Assistant Returning Officers shall be as follows:—

- (1) Each Deputy Returning Officer shall open all the ballot boxes received by him from polling places within the Province or District for which he is appointed, and each Assistant Returning Officer shall open all ballot boxes received at his counting place.
- (2) The Deputy or Assistant Returning Officer shall count all the votes on the ballot papers found in the boxes opened by himself, rejecting all informal ballot papers, and ascertain—
 - (a) the number of votes for each candidate, if there are only two candidates; or
 - (b) if there are more than two candidates, the number of first preference votes given for each candidate,

Electoral.

and shall make and keep a record of the total number of votes for each candidate counted by him from each of such ballot boxes.

- (3) Each Deputy Returning Officer shall certify by endorsement on the copy of the writ received by him the number of votes or first preference votes, as the case may be, given for each candidate within the district for which he acts, and transmit the copy of the writ so endorsed to the Returning Officer.
- (4) Each Assistant Returning Officer shall certify in writing, addressed to the Returning Officer, the number of votes or first preference votes, as the case may be, given for each candidate in the ballot papers contained in the ballot boxes counted at his counting place.
- (5) A Deputy or Assistant Returning Officer may communicate to the Returning Officer by telegraph the number of votes or first preference votes, as the case may be, recorded for each candidate within the District or at the counting place for which he is appointed, and the Returning Officer, in ascertaining the result of the poll, may act upon the information so received.
- (6) Each Deputy or Assistant Returning Officer shall—
 - (a) enclose in one packet all the used ballot papers, in another packet all unused ballot papers, and in another packet all copies of rolls, books, or other papers and documents used at the election or in connection therewith, and all telegrams, letters, or other papers received from the Returning Officer or any other electoral officer; and

- (b) seal up the several packets and indorse the same with a description and the number of the contents thereof respectively, and the name of the District or the counting place, as the case may be, and the date of the polling, and sign the indorsement, and forthwith forward the said packets to the Returning Officer.
- (c) The packet containing the used ballot papers shall be sealed before the scrutineers, if any, present at the count, and any scrutineer who desires so to do shall be permitted by the Deputy or Assistant Returning Officer to affix his seal upon such packet.

Appoint-
ment of
Assistant
Returning
Officers for
counting
postal and
absent votes
and votes
under
s. 122A.

Inserted by
No. 63 of
1948, s. 21.
Amended by
No. 58 of
1951, s. 18;
No. 57 of
1952, s. 11.

142A. (1) The Minister may appoint Assistant Returning Officers for the purpose of counting, under the direction of the Chief Electoral Officer, postal and absent votes and votes cast under the provisions of section one hundred and twenty-two A of this Act.

(2) Each such Assistant Returning Officer shall certify in writing addressed to the Returning Officer of the Province or District concerned, the number of votes or first preferences votes, as the case may be, given for each candidate on the postal and absent voters' ballot papers and ballot papers used for voting under the provisions of section one hundred and twenty-two A counted by him.

(3) Any such Assistant Returning Officer may communicate by telegraph to the Returning Officer of the Province or District concerned, the number of votes or first preference votes, as the case may be, given for each candidate on the postal and absent voters' ballot papers and ballot papers used for voting under the provisions of section one hundred and twenty-two A counted by him, and the Returning Officer in ascertaining the result of the poll may act upon the information so received.

(4) Each such Assistant Returning Officer shall, as soon as possible after completing the count of the votes on such postal and absent voters' ballot papers and ballot papers used for voting under the provisions of section one hundred and twenty-two A of this Act, transmit the same in the prescribed manner to the Returning Officer of the Province or District concerned.

143. (1) The Returning Officer for the Province or District, as the case may be, shall, in manner hereinafter provided, ascertain the total number of votes given for each candidate.

Returning
Officer
to ascertain
result of
poll.
No. 27 of
1907, s. 142.

(2) In the event of an equality of votes the Returning Officer shall give a casting vote, but otherwise shall not vote at the election in the Province or District in which he presides.

144. (1) The procedure at the count of the votes by the Returning Officer for each Province or District shall, if there are only two candidates, be as follows:—

Counting
of votes by
Returning
Officers.
No. 27 of
1907, s. 143.
Amended by
No. 59 of
1919, s. 5;
No. 63 of
1948, s. 22;
No. 57 of
1952, s. 12.

(a) The Returning Officer shall—

- (i) open all ballot boxes not opened by Deputy or Assistant Returning Officers;
- (ii) count all the votes on the ballot papers found in such ballot boxes, rejecting all informal ballot papers, and ascertain the number of votes given for each candidate; and
- (iii) make and keep a record of the number of votes counted from each ballot box.

(b) The Returning Officer shall then—

- (i) ascertain from the written or telegraphic returns received from Deputy or Assistant Returning Officers the number of votes given for each candidate in District or at polling places where the ballot boxes

have been opened by Deputy or Assistant Returning Officers and by absent votes and persons voting under the provisions of section one hundred and twenty-two A of this Act and persons voting by post; and

- (ii) add the votes so given for each candidate to the votes counted by himself in favour of each such candidate, so as to ascertain, for the whole Province or District, the number of votes given for each candidate respectively.

- (c) The candidate who has received the largest number of votes shall be declared by the Returning Officer duly elected.

Counting
of votes
when more
candidates
than two.

(2) The procedure at the count of the votes by the Returning Officer for each Province or District, if there are more candidates than two, shall be as follows:—

- (a) The Returning Officer shall—

- (i) open all ballot boxes not opened by Deputy or Assistant Officers;
- (ii) arrange the ballot papers under the names of the respective candidates and place in a separate parcel all those on which a first preference is indicated for the same candidate, rejecting informal ballot papers; and
- (iii) count all the first preference votes given for each candidate respectively; and
- (iv) make and keep a record of the number of votes counted by him from each ballot box.

- (b) The Returning Officer shall then—

- (i) ascertain from the written or telegraphic returns received from Deputy or Assistant Returning Officers the number of first preference

votes given for each candidate in Districts or at polling places where the ballot boxes have been opened by such Deputy or Assistant Returning Officers and by absent voters and persons voting under the provisions of section one hundred and twenty-two A of this Act and persons voting by post; and

- (ii) add the first preference votes so given for each candidate to the votes counted by himself in favour of each such candidate, so as to ascertain, for the whole Province or District, the number of first preference votes polled by each candidate respectively.
- (c) The candidate who has received the largest number of first preference votes shall, if such number constitutes an absolute majority of votes, be declared by the Returning Officer duly elected.
- (d) If no candidate has an absolute majority of votes the Returning Officer—
 - (i) shall open the packets of ballot papers received from the Deputy or Assistant Returning Officers, including absent voters' ballot papers and ballot papers used for voting under the provisions of section one hundred and twenty-two A of this Act and postal vote ballot papers and deal with the ballot papers contained therein as prescribed by subsection (1) of this section, adding such ballot papers to those previously counted by himself for each candidate; and
 - (ii) shall then declare the candidate who has obtained the fewest first preference votes to be a defeated candidate, and each ballot paper counted to him shall be distributed among the non-defeated candidates next in order of the elector's preference.

- (e) After such distribution the number of votes given to each non-defeated candidate shall again be ascertained.
- (f) If no candidate then has an absolute majority of votes the process of declaring the candidate who has the fewest votes to be defeated, and distributing each of his ballot papers amongst the non-defeated candidates next in order of the voter's preference shall be repeated, and the votes recounted after every such redistribution until one candidate has obtained an absolute majority of votes, and such candidate shall then be declared duly elected.

(3) [*Repealed by No. 57 of 1952, s. 12 (c).*]

(4) Where the Returning Officer is satisfied that the votes—

- (a) on any ballot papers issued at some remote polling place in connection with the election, which have not been received by him; and
- (b) on any absent voters' ballot papers or ballot papers used for voting under the provisions of section one hundred and twenty-two A of this Act or ballot papers used for voting by post which have not been received by him,

cannot, having regard to the number of those ballot papers, possibly affect the result of the election, he may subject to the concurrence of the Chief Electoral Officer—

- (c) if there are only two candidates, declare the candidate who has received the largest number of votes on the ballot papers then received and counted to be duly elected; or
- (d) if there are more than two candidates and one candidate has received an absolute majority of the votes on the ballot papers then received and counted, declare such candidate duly elected; or

- (e) if no candidate has an absolute majority of the votes, then received and counted, proceed with scrutiny;

without awaiting the receipt of the ballot papers, which have not been received by him.

145. If on any count two or more candidates have an equal number of votes and one of them has to be declared defeated, the Returning Officer shall decide which is to be declared defeated.

Casting vote.
No. 27 of
1907, s. 144.

146. (1) At any time before the declaration of the poll the Returning Officer may, if he thinks fit, at the request of any scrutineer, or of his own motion, re-count the ballot papers contained in any parcel.

Re-count.
No. 27 of
1907, s. 145.
Amended by
No. 44 of
1911, s. 36.

(2) The Returning Officer conducting, the re-count shall have the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance or admission or disallowance or rejection of any ballot paper.

*Division (5)—Declaration of Poll and
Return of the Writ.*

147. (1) As soon as conveniently may be after the result of the election has been ascertained, the Returning Officer shall—

Declaration
of poll and
return of
writ.
No. 27 of
1907, s. 146.
Amended by
No. 59 of
1919, s. 5.

- (a) at the chief polling place declare the result of the election and the name of the candidate elected;
- (b) by indorsement under his hand certify on the original writ the name of the candidate or candidates elected, and return the writ to the Clerk of the Writs according to its exigency.

(2) The day on which the writ was so indorsed shall be deemed to be the day of the return thereof.

(3) As soon as conveniently may be after the return of the writ the Clerk of the Writs shall forward to the President or the Speaker, as the case may require, the name of the member or members elected, together with a copy of the writ indorsed as aforesaid.

Election
not to be
questioned.
No. 27 of
1907, s. 147.

148. No election shall be liable to be questioned by reason of any defect in the title or any want of title of any person by or before whom such election is held, if such person really acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication made under this Act or intended to be so made, nor by reason of any such publication being out of time.

Remedy for
informalities
in election
proceedings.
No. 27 of
1907, s. 148.

149. No election shall be void in consequence solely of any delay in holding the election at the time appointed, or in taking the poll, or in the return of the writ, or in consequence of any impediment of a merely formal nature; and the Governor may adopt such measures as may be necessary for removing any obstacle of a merely formal nature by which the due course of any election might be impeded:

Provided that the validity of the election and the measures so taken shall be forthwith declared by the Governor by proclamation.

Division (6)—After the Poll.

Returning
Officer
to forward
to Chief
Electoral
Officer
statistical
return.
No. 27 of
1907, s. 149.

150. (1) The Returning Officer shall forthwith, after the day of polling at any election, complete and forward to the Chief Electoral Officer a statistical return in the prescribed form.

(2) He shall also forward to the Chief Electoral Officer all the certified copies of the marked and signed rolls used in his Province or District by himself and by the presiding officers, upon which

rolls the names of the electors who voted at the election have been marked in accordance with the provisions of section one hundred and twenty-six.

151. The Returning Officer shall also, as soon as practicable after the day of polling at any election—

Returning
Officer
to send
ballot papers
to Clerk of
Council or
Assembly.
No. 27 of
1907, s. 150.
Amended by
No. 44 of
1911, s. 43;
No. 58 of
1951, s. 19;
No. 68 of
1964, s. 29.

- (a) enclose in one packet all the used ballot papers, including the postal ballot papers, and in another packet all books or other papers or documents used at the election or in connection therewith (with the exception of the signed rolls), and all telegrams, letters, or other papers received from Deputy or Assistant Returning Officers and presiding officers in connection with the poll;
- (b) seal up the said several packets and indorse the same with a description and the number of the contents thereof respectively, and the name of the Province or the District and the date of the polling, and shall sign the indorsement, and forthwith forward the said packets to the Clerk of the Council or the Clerk of the Assembly, as the case may be;
- (c) seal up, indorse, and transmit in a similar manner to the same Clerk a packet containing all ballot papers printed for the said election and not used by him or by Deputy or Assistant Returning Officers or presiding officers;
- (d) seal up, indorse, and transmit to the Chief Electoral Officer the marked rolls used at the election and all declarations in the prescribed form, excluding declarations relating to postal votes, absent votes and votes cast pursuant to section one hundred and twenty-two A of this Act, received by himself and the presiding officers;

- (e) the Clerk of the Council, the Clerk of the Assembly, or the Chief Electoral Officer, as the case may be, shall forthwith give or send to the Returning Officer a receipt under his hand for the said packets.

Preservation
of ballot
papers.
No. 27 of
1907, s. 151.

152. The Clerk of the Council and the Clerk of the Assembly shall preserve and hold in custody all such ballot papers and other documents forwarded by the Returning Officers under the provisions of this Part of this Act until the election concerned can in each case be no longer questioned, when such ballot papers shall be destroyed.

Production
of rolls used
at election.
No. 27 of
1907, s. 152.
Amended by
No. 28 of
1970, s. 15.

153. (1) Any candidate on payment of a fee of ten dollars may give notice to the Returning Officer requiring production of the rolls used by him and any Assistant Returning Officers at any election, and if the notice is so given after the day of the election and before the day when the election can no longer be questioned such Returning Officer or Assistant Returning Officers shall produce such roll or rolls in the presence of the other candidates (if they wish to be present) within thirty-five days of the date of service of the notice.

(2) If the Returning Officer is satisfied that the application was made for a *bona fide* purpose he may direct repayment of the sum deposited.

Ballot
papers, etc.,
to be
delivered to
Court of
Disputed
Returns.
No. 27 of
1907, s. 153.

154. Such ballot papers and other documents as may be required by the Court of Disputed Returns shall, upon an order of the Court, be produced by the Clerk of the Council or the Clerk of the Assembly, but shall not be available for any other purpose.

Papers, etc.,
to be
destroyed.
No. 27 of
1907, s. 154.

155. All books, documents, and papers used for or in connection with any election may, when the election can be no longer questioned, be destroyed by the Chief Electoral Officer, or with his approval, by any Returning Officer or Registrar.

155A. (1) The Chief Electoral Officer shall furnish in writing to the Minister after each general election for the Assembly, a report showing the number of electors on each of the rolls made up for that election.

Report by
Chief
Electoral
Officer.
Inserted by
No. 33 of
1967, s. 16.

(2) The report shall be so furnished within a period of six months of the date of the polling day for the general election for the Assembly to which the report relates.

Division (7)—Voting to be Compulsory.

156. (1) It shall be the duty of every elector to record his vote at any election for the Province or District for which he is enrolled unless he is prevented from doing so by absence from the State, or by illness or infirmity, or any physical incapacity on the day of the election.

Heading
amended by
No. 33 of
1964, s. 37.
Compulsory
voting.
Inserted by
No. 10 of
1936, s. 3,
as s. 154 A.
Amended by
No. 63 of
1948, s. 23;
No. 58 of
1951, s. 20;
No. 33 of
1964, s. 38;
No. 68 of
1964, s. 30;
No. 28 of
1970, s. 16;
No. 70 of
1973, s. 8.

(2) The Returning Officer shall, as soon as practicable after the election prepare a list in duplicate of the names and descriptions of the electors enrolled for his Province or District who have not voted at the election, and certify the list by statutory declaration under his hand and send the list to the Chief Electoral Officer.

(3) Each copy of the list certified by the Returning Officer under the preceding subsection shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the election.

(4) Subject to subsection (4a) of this section, within the prescribed period after the close of each election the Chief Electoral Officer shall send by post to each elector whose name appears on the list prepared in accordance with subsection (2) of this section, at the address mentioned in that list, a notice, in the prescribed form, notifying the elector that he appears to have failed to vote at the election and calling upon him to give a valid, truthful, and sufficient reason why he failed so to vote.

(4a) The Chief Electoral Officer is not required to send a notice to an elector under subsection (4) of this section where he is satisfied that the elector—

- (a) is dead;
- (b) was outside the State on polling day;
- (c) was ineligible to vote at the election; or
- (d) had a valid and sufficient reason for failing to vote.

(5) Before sending any such notice, the Chief Electoral Officer shall insert therein a date, not being less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Chief Electoral Officer.

(6) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed so to vote, sign the form, and post it so as to reach the Chief Electoral Officer not later than the date inserted in the notice.

(7) If any elector is unable by reason of absence from his place of living or physical incapacity to fill up, sign, and post the form within the time allowed under subsection (5) of this section, any other elector who has personal knowledge of the facts may, subject to the regulations, fill up, sign, and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form may be treated as compliance by the firstmentioned elector with the provisions of subsection (6) of this section.

(8) Upon receipt of a form referred to in either of the last two preceding subsections the Chief Electoral Officer shall endorse on both copies of the list prepared in accordance with subsection (2) of this section opposite the name of the elector his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.

(9) The Chief Electoral Officer shall also indorse on both copies of the list opposite the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly filled up, signed, and witnessed has not been received by him, a note to that effect.

(10) [*Repealed by No. 58 of 1951, s. 20 (c).*]

(11) Each copy of the list prepared and endorsed by the Chief Electoral Officer, indicating—

- (a) the names of the electors who did not vote at the election;
- (b) the names of the electors from whom or on whose behalf the Chief Electoral Officer received within the time allowed under subsection (5) of this section, forms properly filled up and signed; and
- (c) the names of the electors who failed to reply within that time,

and any extract therefrom, certified by the Chief Electoral Officer under his hand, shall in all proceedings be *prima facie* evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the election and that the notice specified in subsection (4) of this section was received by those electors, and that those electors did or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed under subsection (5) of this section.

(12) The Chief Electoral Officer may send to any elector whose reason for failure to vote at the election is decided by the Chief Electoral Officer in accordance with subsection (8) of this section not to be a valid and sufficient reason for such failure to vote, a notification in the prescribed form advising him to that effect and indicating that such elector has the option of having the matter dealt with by the Chief Electoral Officer or by a court of summary jurisdiction and such notification may also indicate that if such elector within twenty-eight days from the date of such notification shall advise the Chief

Electoral Officer that he consents to having the matter dealt with by the Chief Electoral Officer and is prepared to abide by the decision of that officer, and at the same time shall remit to the Chief Electoral Officer such sum by way of penalty not exceeding five dollars for a first offence and not exceeding twenty dollars for any subsequent offence as the Chief Electoral Officer shall order, no further proceedings shall be taken against such elector for such failure to vote.

(13) On receipt of any such notification as is referred to in the next preceding subsection of this section, any elector who desires the matter to be dealt with by the Chief Electoral Officer, and who is prepared to abide by the decision of that officer, shall, within the period mentioned, advise the Chief Electoral Officer to that effect in the prescribed form and shall at the same time remit to the Chief Electoral Officer the sum ordered to be paid by way of penalty as mentioned in the notification of the Chief Electoral Officer to him; and on receipt of such advice and sum by the Chief Electoral Officer, no further proceedings shall be taken against such elector.

(14) If, within the time mentioned in subsection (12) of this section, the elector does not forward to the Chief Electoral Officer the advice referred to in subsection (13) of this section and the sum ordered to be paid by way of penalty, such elector shall be deemed to have intimated to the Chief Electoral Officer that he does not consent to the matter being dealt with by such officer, and proceedings may be had and taken against such elector before a court of summary jurisdiction accordingly.

(15) At the conclusion of an election, the Chief Electoral Officer shall remove or shall direct the Registrar to remove from the roll the names of any persons who failed or neglected to fill up and sign and post to the Chief Electoral Officer the form referred to in subsections (6) and (7) of this section,

and any person whose name has been removed from the roll pursuant to this subsection shall be required to furnish a new claim for enrolment before the name of such person shall be reinstated on the roll.

(16) Every elector who—

- (a) fails to vote at an election without a valid and sufficient reason for such failure; or
- (b) on receipt of a notice in accordance with subsection (4) of this section fails to fill up, sign, and post within the time allowed under subsection (5) of this section the form (duly witnessed) which is attached to the notice; or
- (c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, in pursuance of subsection (7) of this section, states in such form a false reason why that other elector did not vote,

shall be guilty of an offence.

Penalty—Twenty dollars.

(17) Proceedings for an offence against this section shall not be instituted except by the Chief Electoral Officer or an officer thereto authorized in writing by the Chief Electoral Officer.

PART V.—DISPUTED RETURNS.

157. (1) The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns, and not otherwise.

Method of
disputing
validity of
elections or
returns.
No. 27 of
1907, s. 155.

(2) A Judge of the Supreme Court sitting in open Court shall constitute the Court of Disputed Returns.

Requisites
of petition.
No. 27 of
1907, s. 156.
Amended by
No. 39 of
1979, s. 22.

158. Every petition disputing an election or return, in this Part of this Act called the petition, shall—

- (1) set out the facts relied on to invalidate the election or return;
- (2) contain a prayer asking for the relief the petitioner claims to be entitled to;
- (3) be signed by the candidate at the election in dispute;
- (4) be attested by two witnesses whose occupations and addresses are stated;
- (5) be filed in the Central Office of the Supreme Court within forty days after the return of the writ.

Presumption
as to date of
return of
writ.
No. 27 of
1907, s. 157.

159. For the purpose of the last preceding section the writ shall be deemed not to have been returned earlier than the date thereby appointed as the day on or before which the same is to be returned.

Deposit as
security for
costs.
No. 27 of
1907, s. 158.
Amended by
No. 113 of
1965, s. 8;
No. 67 of
1979, s. 53.
No proceed-
ings unless
requisites
complied
with.
No. 27 of
1907, s. 159.

160. At the time of filing the petition the petitioner shall deposit with the Principal Registrar of the Supreme Court the sum of one hundred dollars as security for costs.

161. No proceedings shall be had on the petition unless the requirements of the preceding sections are complied with.

Powers of
Court.
No. 27 of
1907, s. 160.
Amended by
No. 63 of
1948, s. 24.

162. (1) The powers of the Court of Disputed Returns shall include the following:—

- (a) To adjourn.
- (b) To compel the attendance of witnesses and the production of documents.
- (c) To examine witnesses on oath.
- (ca) To grant to any party to the petition, leave to inspect in the presence of a prescribed officer, the rolls and other documents (except ballot papers) used at or in

connection with any elections and to take, in the presence of the prescribed officer, extracts from those rolls and documents.

- (cb) To permit, at any stage of the proceedings and on such terms as may be just, all such amendments to the petition or other pleadings, as shall appear to the Court to be necessary or convenient.
- (d) To declare that any person who was returned as elected was not duly elected.
- (e) To declare any candidate duly elected who was not returned as elected.
- (f) To declare any election absolutely void.
- (g) To dismiss or uphold any petition, in whole or in part.
- (h) To award costs.
- (i) To punish any contempt of its authority by fine or imprisonment.

(2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks fit and sufficient.

(3) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connection with the election.

163. (1) The Court shall inquire whether or not the requisites of section one hundred and fifty-eight have been observed, and, so far as the voting is concerned, may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, and whether the result of the polling was correctly ascertained, but the Court shall deem the roll conclusive evidence that the persons enrolled were, at the date of the completion of the roll, entitled to be enrolled.

*Inquiries
by Court.
No. 27 of
1907, s. 161.
Amended by
No. 44 of
1911, s. 37.*

(2) The qualification of any person enrolled shall not be questioned; and no election shall be declared void on the ground that any person whose name appears on the roll for a Province or District, and who has voted as an elector for such Province or District, was not qualified to be enrolled or to continue enrolled as an elector for such Province or District.

Voiding
election for
illegal
practices.
No. 27 of
1907, s. 162.

164. (1) If the Court of Disputed Returns finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate, shall be declared void.

(2) No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.

(3) The Court of Disputed Returns shall not declare that any person returned was not duly elected, or declare any election void—

- (a) on the ground of any illegal practice committed by any person other than the candidate and without his knowledge or authority; or
- (b) on the ground of any illegal practice, other than bribery or corruption or attempted bribery or corruption, unless the Court is satisfied that the result of the election was intended to be and was actually affected thereby, and that it is just that the candidate should be declared not to be duly elected, or that the election should be declared void.

Court to
report cases
of illegal
practices.
No. 27 of
1907, s. 163.
Amended by
No. 67 of
1979, s. 53.

165. When the Court of Disputed Returns finds that any person has committed an illegal practice, the Principal Registrar of the Supreme Court shall forthwith report the finding to the Minister.

166. No election shall be voided on account of any delay in the declaration of nominations, the polling, or the return of the writ, or on account of the absence or error of any officer which shall not be proved to have affected the result of the election.

Immaterial errors not to vitiate election.
No. 27 of 1907, s. 164.

167. All decisions of the Court shall be final and conclusive without appeal, and shall not be questioned in any way.

Decisions to be final.
No. 27 of 1907, s. 165.

168. The Principal Registrar of the Supreme Court shall forthwith, after the filing of the petition, forward to the Clerk of the House of Parliament affected by the petition a copy thereof, and, after the trial of the petition, shall forthwith forward to such Clerk a copy of the order of the Court.

Copies of petition, etc., to be sent to House affected.
No. 27 of 1907, s. 166.
Amended by No. 67 of 1979, s. 53.

169. The Court may award costs against an unsuccessful party to the petition, to be taxed by the Taxing Officer of the Supreme Court, and may in its discretion recommend that costs be paid by the Crown.

Costs.
No. 27 of 1907, s. 167.
Amended by No. 39 of 1979, s. 23.

170. If costs are awarded to any party against the petitioner, the deposit shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Deposit applicable for costs.
No. 27 of 1907, s. 168.

171. All other costs awarded by the Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the Supreme Court, and such order, certified by the Court, may be entered as a judgment of the Supreme Court, and enforced accordingly.

Other costs.
No. 27 of 1907, s. 169.

172. (1) Effect shall be given to any decision of the Court as follows:—

Effect of decision.
No. 27 of 1907, s. 170.
Amended by No. 63 of 1948, s. 25;
No. 39 of 1979, s. 24.

- (a) If any person returned is declared not to have been duly elected, he shall cease to be a Member of the Council or Assembly.

- (b) If any person not returned is declared to have been duly elected he may take his seat accordingly.
- (c) If any election is declared absolutely void a new election shall be held, and, notwithstanding any provisions elsewhere in this Act contained, except where the Court otherwise orders, the same roll as was used for the voided election, shall be used for such new election.

(2) The proceedings of the Legislative Council or Legislative Assembly shall not be invalidated by reason of the presence in that House of any person returned under this Act as elected to that House but later subject to a declaration of the Court that—

- (a) he was not duly elected to that House; or
- (b) his election to that House is void or absolutely void.

(3) Where a person returned under this Act as elected to the Legislative Council or Legislative Assembly receives an appointment to one or more of the principal executive offices of the Government referred to in section forty-three of the Constitution Acts Amendment Act 1899, but later he is subject to a declaration by the Court that—

- (a) he was not duly elected to that House; or
- (b) his election to that House is void or absolutely void,

any act, matter, or thing made, done, or executed in the exercise or purported exercise of the functions of that office or those offices from the time of his appointment until the time of the declaration shall not be invalidated by reason of the effect of that declaration apart from this subsection.

173. (1) The Judges of the Supreme Court or any two of them may make Rules of Court not inconsistent with this Act for carrying this Part of

this Act into effect, and in particular for regulating the practice and procedure of the Court, the forms to be used, and the fees to be paid by parties.

(2) Every such Rule of Court shall be laid before both Houses of Parliament within forty days next after it is made, if Parliament is then sitting, or if Parliament is not then sitting, then within forty days after the next meeting of Parliament.

(3) If an address is presented to the Governor by either House of Parliament within the next subsequent forty sitting days of the House praying that any such rule may be annulled, the Governor may thereupon annul the same.

(4) The rule so annulled shall thenceforth become void and of no effect, but without prejudice to the validity of any proceedings which have in the meantime been taken under it.

PART VI. [*Sections 174-178 (inclusive) repealed by No. 39 of 1979, s. 25.*]

PART VII.—ELECTORAL OFFENCES.

179. To secure the due execution of this Act and the purity of elections, the following acts are hereby prohibited and penalized:—

Offences.
No. 27 of
1907, s. 177.

- (1) Breach or neglect of official duty.
- (2) Illegal practices, including—
 - (a) bribery;
 - (b) undue influence.
- (3) Electoral offences.

180. “Breach or neglect of official duty” includes—

Breach or neglect by officers.
No. 27 of
1907, s. 178.
Amended by
No. 53 of
1957, s. 14;
No. 113 of
1965, s. 8.

- (1) any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election;

- (2) the disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector;
- (3) any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Act;
- (4) [*Repealed by No. 53 of 1957, s. 14.*]

Breach or neglect of official duty is punishable by a penalty not exceeding four hundred dollars, or by imprisonment not exceeding one year.

Bribery.
No. 27 of
1907, s. 179.
Amended by
No. 53 of
1957, s. 15;
No. 51 of
1962, s. 9;
No. 39 of
1979, s. 5.

181. Any person who—

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition;
- (aa) promises, offers or suggests any valuable consideration, advantage, recompense, reward or benefit for or on account of, or to induce—
 - (i) any enrolment, or refraining from enrolment, as an elector by an Aboriginal; or
 - (ii) any promise of any such enrolment or refraining from any such enrolment;
- (b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, opposition, enrolment or refraining from enrolment referred to in either paragraph (a) or paragraph (aa) of this section, or promise thereof;

- (c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward or benefit for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery;
- (d) directly or indirectly makes overtures to any person for the acquiring by gift or purchase, or who acquires by gift or purchase from any person, any postal ballot paper; or
- (e) being an elector directly or indirectly makes overtures to any person for the giving away, or parting with the possession of, or selling, any postal ballot paper; or who gives away any postal ballot paper; or who sells any postal ballot paper; or, except as provided for in subsection (5) of section ninety-two of this Act, parts with the possession of, any postal ballot paper;

shall be guilty of bribery.

182. Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of food, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll, with a view to influencing the vote of an elector or the supply of food, drink, entertainment or transport with a view to influencing enrolment or refraining from enrolment, as an elector by an Aboriginal.

Definition of bribery.
No. 27 of 1907, s. 180.
Amended by No. 51 of 1962, s. 10; No. 39 of 1979, s. 5.

183. Any person who—

- (1) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of or to induce any candidature, or withdrawal of candidature, or any vote or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition;

Undue influence.
No. 27 of 1907, s. 181.
Amended by No. 63 of 1948, s. 26; No. 59 of 1959, s. 13; No. 51 of 1962, s. 11; No. 94 of 1972, Schedule; No. 39 of 1979, s. 5.

- (1a) threatens, offers or suggests any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
 - (a) any enrolment or refraining from enrolment, as an elector by an Aboriginal; or
 - (b) any promise of any such enrolment or refraining from any such enrolment;
- (2) or uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, opposition, enrolment or refraining from enrolment referred to in paragraph (1) or paragraph (1a) of this section;
- (3) or by spoken words, or by written or printed words or signs in any form whatsoever, publishes any matter intended or intending to prevent or restrain the free exercise of the franchise by any person, or which threaten, offer, or suggest any damage, loss, or disadvantage, either in the present or in the future, to any person on account of his political opinions;
- (4) or in any way interferes with any elector, either in the polling place or within six metres from the entrance thereto with the intention of influencing him or advising him as to his vote;
- (5) or at any time between the issue of the writ and the close of the poll publishes or exposes or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any elector;

(6) or, being a candidate, personally solicits the vote of any elector on polling day;

(7) or, being a candidate attends at any meeting of electors other than his committee held for electoral purposes on polling day,

shall be guilty of undue influence.

184. Without limiting the effect of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any voter or with the free exercise by an Aboriginal of his choice whether or not to enrol as an elector.

Definition of undue influence.
No. 27 of 1907, s. 182.
Amended by No. 51 of 1962, s. 12; No. 39 of 1979, s. 5.

185. No declaration of public policy or promise of public action shall be deemed bribery or undue influence.

Exception.
No. 27 of 1907, s. 183.

186. Any person who—

(a) is convicted of bribery or undue influence, or of attempted bribery or undue influence, at an election; or

(b) is found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence when a candidate,

Disqualification for bribery or undue influence.
No. 27 of 1907, s. 184.

shall, during a period of two years from the date of the conviction or finding, be incapable of being chosen or of sitting as a member of the Council or the Assembly.

187. In addition to bribery and undue influence, the following shall be illegal practices:—

(1) Any publication of any electoral advertisement (other than an advertisement in a newspaper announcing the holding of a meeting), handbill, or pamphlet, or any

Illegal practices.
No. 27 of 1907, s. 185.
Amended by No. 68 of 1964, s. 36; No. 39 of 1979, s. 26.

issue of any electoral notice without at the end thereof the name and address of the person authorizing the same.

- (2) Printing or publishing any printed electoral advertisement, handbill, or pamphlet (other than an advertisement in a newspaper), without the name and place of business of the printer being printed at the foot of it.
- (3) [*Repealed by No. 39 of 1979, s. 26.*]
- (4) The attendance by a candidate after nomination day at any committee meeting held for the purpose of promoting or procuring his election on premises on which the sale by retail of any intoxicating liquor is authorized by licence, except where the meeting is held in or on a part of those premises in or on which part, intoxicating liquor is not ordinarily sold by retail to members of the public and is a part that is ordinarily let for the holding of meetings.
- (5) The attendance by any member of a committee formed in the interests and with a view to obtain the return of any candidate at an election at a committee meeting held on any premises licensed to sell by retail spirituous liquors, except where the meeting is held in or on a part of those premises in or on which part spirituous liquors are not ordinarily sold by retail to members of the public and is a part that is ordinarily let for the holding of meetings.

Purposely rendering person unable to vote or incapable of voting.
Inserted by No. 52 of 1980, s. 2.

187A. (1) A person who does any act or engages in any course of conduct intending that as a result thereof another person—

- (a) will be rendered; or
- (b) will be encouraged or assisted to render himself,

unable to vote or mentally incapable of voting commits an offence and is liable to be punished under subsection (2) of section 188 of this Act.

(2) Subject to proof of the other elements of the offence, a person is guilty of an offence under subsection (1) notwithstanding that—

- (a) the other person was not rendered or did not render himself unable or incapable as mentioned therein; or
- (b) the other person did vote.

(3) An act or course of conduct which is made an offence under subsection (1) is also an illegal practice for the purposes of this Act.

188. Any illegal practice shall be punishable as follows:—

Punishment.
No. 27 of
1907, s. 186.
Amended by
No. 113 of
1965, s. 8.

- (1) Bribery or undue influence by a penalty not exceeding four hundred dollars, or by imprisonment not exceeding one year.
- (2) Any other illegal practice by a penalty not exceeding two hundred dollars, or by imprisonment not exceeding six months.

189. Any person who, having announced himself as a candidate, shall, after the date for an election is ascertained, and within three months of the polling day, offer, promise, or give, directly or indirectly, to or for any club or other association, any gift, donation, or prize, shall be guilty of an offence against this Act, unless such gift, donation or prize is similar to one that the person has given to that club or association before the date on which he announced himself as a candidate:

Gifts by
candidates.
No. 27 of
1907, s. 187.
Amended by
No. 68 of
1964, s. 37.

Provided that no proceeding shall be taken for a contravention of this section except within three months after the act complained of.

Electoral offences.
No. 27 of 1907, s. 188.
Amended by No. 5 of 1918, s. 4; No. 63 of 1948, s. 27; No. 57 of 1952, s. 13; No. 68 of 1964, s. 38; No. 113 of 1965, s. 8; No. 33 of 1967, s. 17; No. 39 of 1979, s. 27.

190. The matters mentioned in the first column of the table at the foot of this section are electoral offences, punishable as provided in the second column of the table opposite the statement of the offence.

Table of Electoral Offences and Punishments.

First Column.—Offences.	Second Column.—Punishments.
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting.	Imprisonment not exceeding two years.
Fraudulently destroying or defacing any nomination or ballot-paper.	Imprisonment not exceeding two years.
Fraudulently putting any ballot or other paper into the ballot box.	Imprisonment not exceeding six months.
Fraudulently taking any ballot-paper out of any polling place.	Imprisonment not exceeding six months.
Forging or uttering, knowing the same to be forged, any nomination or ballot-paper.	Imprisonment not exceeding two years.
In any polling place on polling day misconducting himself, or failing to obey the lawful directions of the presiding officer.	Penalty not exceeding one hundred dollars, or imprisonment not exceeding one month.
Supplying ballot-papers without authority.	Imprisonment not exceeding six months.
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers.	Imprisonment not exceeding six months.
Voting more than once at the same election.	Imprisonment not exceeding twelve months.
Wilfully making a false statement in any objection to any claim or to any name on the roll.	Imprisonment not exceeding twelve months.
Wagering on the result of any election.	Penalty not exceeding one hundred dollars.
Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any Returning Officer or by his authority.	Penalty not exceeding four dollars.
Wilfully making false statement in any claim other than a false statement to the effect that the claimant has lived in a District or Sub-district for a continuous period of one month immediately preceding the date of the claim, or that the claimant is a natural born or naturalized subject of Her Majesty, or wilfully making false statement in any application, return, or declaration, or in answer to a question under this Act.	Imprisonment not exceeding twelve months.

Table of Electoral Offences and Punishments.

First Column.—Offences.	Second Column.—Punishments.
Wilfully making false statement in any claim to the effect that the claimant has lived in a District for a continuous period of one month immediately preceding the date of the claim or that the claimant is a natural born or naturalized subject of Her Majesty.	Penalty not less than ten dollars nor more than one hundred dollars.
Signing as the claimant on a claim to be enrolled as an elector the name of any other person with or without the authority of such person.	Imprisonment not exceeding twelve months.
Distributing any advertisement, handbill, or pamphlet published in contravention of section one hundred and eighty-seven.	Penalty not exceeding one hundred dollars, or imprisonment not exceeding one month.
The wearing or displaying by an officer or scrutineer in a polling place on polling day any badge or emblem of a candidate or political party.	Penalty not exceeding fifty dollars.
During the polling at any election wilfully taking any ballot paper out of a polling place except to one of the voting compartments.	Penalty not exceeding one hundred dollars.
Any contravention of this Act for which no other punishment is provided.	Penalty not exceeding one hundred dollars.

191. (1) A person shall not knowingly or wilfully make a false statement in any electoral paper, or in answer to any question under this Act, or in any information supplied to any officer or canvasser for the purposes of the preparation of new rolls.

False statements in electoral papers.
Inserted by No. 5 of 1918, s. 5 as s. 188A.
Amended by No. 59 of 1919, s. 6;
No. 113 of 1965, s. 8.

Penalty—Forty dollars.

(2) Subsection (1) of this section shall not affect the liability of any person to be proceeded against in respect of any other offence, but he shall not be liable to be punished twice in respect of the same offence.

(3) In this section the words "electoral paper" include any prescribed form.

Prohibition
of canvass-
ing near
polling
place.
No. 27 of
1907, s. 189.
Amended by
No. 63 of
1948, s. 28;
No. 59 of
1959, s. 14;
No. 94 of
1972, Sche-
dule; No. 39
of 1979, s. 28.

192. (1) The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited in a polling place or within six metres from the entrance thereto, namely:—

- (a) Canvassing for votes; or
- (b) Soliciting the vote of any elector; or
- (c) Inducing any elector not to vote for any particular candidate; or
- (d) Inducing any elector not to vote at the election.

(2) Subject to subsection (3) of this section, where a polling place has been appointed by the Minister under the provisions of section one hundred of this Act, at any institution or hospital, the acts referred to in subsection (1) of this section are, at all times, prohibited in the institution or hospital, in the grounds thereof, or within six metres from the entrance to the institution or hospital or from the entrance to the grounds thereof, whichever entrance is the furthest distance away from the institution or hospital itself.

(3) Literature relating to political parties may be left at the general office of an institution or hospital referred to in subsection (2) of this section so that such literature may be available on request by any elector who is for the time being resident in the institution or hospital wherein the polling place is appointed to be by reason of illness or infirmity or in the case of a woman, by reason of approaching maternity.

(4) The acts referred to in subsection (1) of this section are, at all times, prohibited in a prison, in the grounds thereof, or within six metres from the entrance to the prison or from the entrance to the grounds thereof, whichever entrance is the furthest distance away from the prison itself.

(5) Subsection (4) of this section does not apply to prohibit in a prison the reading, seeing, or hearing of electoral publicity in such newspapers or other media as are, under the due administration of the prison, permitted there.

192A. During the hours of polling at any election—

Prohibition
on dissemina-
tion of
certain
matter.
Inserted by
No. 28 of
1970, s. 17.

(a) no candidate shall use or permit to be used;

and

(b) no other person shall use

any loud speaker, public address system or amplifier whether fixed or mobile, broadcasting van sound system, radio apparatus or any other apparatus or device for the broadcasting or dissemination of any matter intended or likely to affect the result of the election; and

(c) no person shall make any public demonstration having reference to the election.

Penalty: One hundred dollars.

193. The person witnessing any claim, or application to change the qualification of an elector under this Act shall, if he is not personally acquainted with the facts, satisfy himself by inquiry from the claimant or applicant, that the statements contained in the claim or application are true.

Witness to
application
must satisfy
himself of
truth of
statements.
No. 27 of
1907, s. 190.
Amended by
No. 59 of
1919, s. 5.

194. When any person has signed a claim to be enrolled as an elector, any other person who induces the claimant to let him have custody of the claim for transmission to the Registrar, and fails without just cause or excuse to transmit the claim to the Registrar, shall be guilty of a contravention of this Act.

Failure to
transmit
claim.
No. 27 of
1907, s. 191.

Collection of
information
for prepara-
tion of rolls.

No. 27 of
1907, s. 192.

Amended by
No. 59 of
1919, s. 4;
No. 113 of
1965, s. 8.

195. (1) For the purpose of preparing any roll or ensuring the enrolment of any elector on a roll, the Chief Electoral Officer, any registrar, or any person authorized in this behalf by the Chief Electoral Officer, may require any person to answer any questions or furnish any return or fill in and sign any claim.

(2) Every person to whom any question shall be put under this section shall answer the same truthfully and completely to the best of his knowledge, information, and belief, and shall comply to the best of his ability with any requisition made on him under this section.

Penalty—Four dollars.

Employers
to allow
employees
leave of
absence
to vote.

No. 27 of
1907, s. 193.

196. (1) If an employee who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding two hours as is necessary to enable the employee to vote at the election.

(2) No employee shall, under pretence that he intends to vote at the election, but without the *bona fide* intention of doing so, obtain leave of absence under this section.

(3) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

Offenders
may be
removed
from polling
place.

No. 27 of
1907, s. 194.

197. Whoever in any polling place on polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, may be removed from the polling place by any constable or by any person authorized by the presiding officer.

198. Any person so removed re-entering or attempting to re-enter the polling place, without the permission of the presiding officer, shall be guilty of a further electoral offence punishable, on conviction, by twice the penalties prescribed in the table for the original offence.

Further punishment.
No. 27 of 1907, s. 195.
Amended by No. 57 of 1952, s. 14.

199. If any person purporting to act for and on behalf of a candidate incurs or authorizes any electoral expense without the written authority of the candidate or his agent authorized in writing, he shall be guilty of a contravention of this Act.

Expenditure on behalf of a candidate.
No. 27 of 1907, s. 196.

200. Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge and authority.

Liability for indirect acts.
No. 27 of 1907, s. 197.

201. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence has been committed.

Attempt to commit an offence.
No. 27 of 1907, s. 198.

202. On any prosecution under this Act the certificate of the Chief Electoral Officer or a Returning Officer that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at the election, shall be evidence of the matter stated.

Certificate evidence.
No. 27 of 1907, s. 199.

203. Where imprisonment may be awarded for an offence against this Act, it may be awarded with or without hard labour.

Hard labour may be awarded.
No. 27 of 1907, s. 200.

204. Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

Indictable offences.
No. 27 of 1907, s. 201.

Summary
convictions.
No. 27 of
1907, s. 202.
Amended by
No. 63 of
1948, s. 29.

205. All offences against this Act which are not indictable offences shall be punishable on summary conviction, and for any such offence complaint may be made within twelve months from the time when the matter of complaint arose.

Chapter XIV
of Criminal
Code
not to apply
to Parlia-
mentary
elections.
No. 27 of
1907, s. 203.

206. Nothing contained in Chapter XIV of The Criminal Code shall apply to Parliamentary elections.

PART VIII.—MISCELLANEOUS.

Persons
authorized
to witness
signatures.
No. 27 of
1907, s. 204.
Amended by
No. 44 of
1911, s. 38;
No. 113 of
1965, s. 8;
No. 39 of
1979, s. 29.

207. (1) The signatures to forms other than claims may be witnessed by an elector, or a person qualified to be enrolled as an elector, of the Commonwealth Parliament or of the Legislative Assembly of Western Australia.

(2) Any statutory declaration required under the provisions of this Act may be made before any person authorized to witness signatures to a form of the kind wherein the statutory declaration is made, and shall have the same force and effect, and in the case of a false declaration shall subject the declarant to the same penalty as if such declaration had been made before a justice of the peace.

(3) Section two of the Declarations and Attestations Act 1913 does not apply to or in relation to a claim required to be signed in the presence of a person of a kind referred to in subparagraph (i) of paragraph (b) of subsection (1) of section forty-two.

Service of
notices.
No. 27 of
1907, s. 205.

208. Any notice under this Act may be served by posting it to the last known place of abode of the person to whom such notice is given, or to the place of living of such person appearing on any roll.

Electoral
matter
to be sent
by post.
No. 27 of
1907, s. 206.

209. All electoral papers transmitted through the post, if duly addressed, shall, on proof of posting, be deemed to have been duly served on and received by the person to whom they were addressed on the day when, in the ordinary course of post, they should have been received at his address.

210. In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all purposes of this Act as if the matter telegraphed had been communicated in manner provided by this Act.

Electoral matter may be sent by telegraph. No. 27 of 1907, s. 207.

211. Any person required by this Act to sign his name may, on satisfying an attesting witness that he is unable to write, make his distinguishing mark, which shall be witnessed by the attesting witness and his distinguishing mark when so witnessed, shall, for the purposes of this Act, be deemed to be the personal signature of that person.

A person unable to write may make his mark. No. 27 of 1907, s. 208. Amended by No. 44 of 1911, s. 39; No. 68 of 1964, s. 39.

212. Strict compliance with the prescribed forms shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

Forms. No. 27 of 1907, s. 209. Amended by No. 44 of 1911, s. 40.

213. (1) The Governor may make regulations for carrying out this Act, and prescribing forms for use under this Act.

Regulations. No. 27 of 1907, s. 210. Amended by No. 44 of 1911, s. 41; No. 33 of 1964, s. 39.

(2) [*Repealed by No. 33 of 1964, s. 39.*]

(3) [*Repealed by No. 33 of 1964, s. 39.*]

214. The Electoral Act 1904, and the Electoral Act Amendment Act 1912, and sections twenty-six, twenty-seven, twenty-eight, twenty-nine, and thirty of the Constitution Acts Amendment Act 1899, are hereby repealed.

Repeal. No. 27 of 1907, s. 211. Amended by No. 5 of 1918, s. 6.

Electoral Act 1907-1980.

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