

Western Australia

Electoral Amendment Act 2000

As at 10 Oct 2000

No. 36 of 2000

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Electoral Amendment Act 2000

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Western Australia

Electoral Amendment Act 2000

No. 36 of 2000

An Act to amend the *Electoral Act 1907* and to make related amendments to other Acts.

[Assented to 10 October 2000]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Electoral Amendment Act 2000*.

2. Commencement

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.

3. The Act amended

The amendments in this Act are to the *Electoral Act 1907** unless otherwise indicated.

[* *Reprinted as at 22 April 1997.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, p. 77.]

Part 2 — Amendments about writs

4. Section 4 amended

Section 4 is amended as follows:

- (a) by inserting in the appropriate alphabetical position —

“

“general polling place” has the meaning given by
section 100(3);

”;

- (b) in both paragraphs of the definition of “general election”
by deleting “writs for which are issued pursuant to a
warrant” and, in each case, inserting instead —

“ writ for which is issued ”;

- (c) by deleting the definition of “writ” and inserting
instead —

“

“writ” means a writ directing the Electoral
Commissioner to proceed with an election in a
district, elections in all the districts, an election in
a region or elections in all the regions.

”.

5. Section 13 amended

Section 13 is amended by deleting “an election for such region
or district until such writ is executed or returned” and inserting
instead —

“

a general election, or an election in that region or
district, before sending any statement required under
section 147(1)(b)

”.

6. Section 14 amended

(1) Section 14(1) is amended as follows:

(a) by inserting after “writ for” —
“ a general election or ”;

(b) by deleting “such writ, so far as it is not executed, may be executed and returned” and inserting instead —

“

so far as the Returning Officer’s functions under this Act in relation to the writ and the election have yet to be completed, those functions may be performed

”.

(2) Section 14(2) is repealed.

7. Section 63 repealed

Section 63 is repealed.

8. Section 64 amended

(1) Section 64(1) is amended by deleting “by warrant under his hand in the prescribed form direct the Clerk of the Writs to issue writs” and inserting instead —

“ cause a writ to be issued ”.

(2) Section 64(2) is amended as follows:

(a) by deleting “for writs” and inserting instead —
“ for a writ ”;

(b) by deleting “by warrant under his hand in the prescribed form direct the Clerk of the Writs to issue those writs” and inserting instead —

“ cause that writ to be issued ”.

(3) Section 64(3) is repealed.

9. Section 65 replaced

Section 65 is repealed and the following section is inserted instead —

“

65. Notice to be published

- (1) The Electoral Commissioner is to publish notice of the issue of a writ under section 64, 67 or 156E in the *Gazette*.
- (2) The notice is to state the day of issue of the writ.

”.

10. Section 67 amended

- (1) Section 67(1) is amended by deleting “by warrant under his hand, in the prescribed form, direct the Clerk of the Writs to issue a writ” and inserting instead —
“ cause a writ to be issued ”.
- (2) Section 67(2) is amended by deleting “by warrant under his hand in the prescribed form, direct the Clerk of the Writs to issue a writ” and inserting instead —
“ cause a writ to be issued ”.
- (3) Section 67(3) is amended by deleting “by warrant under his hand direct the Clerk of the Writs to issue a writ” and inserting instead —
“ cause a writ to be issued ”.
- (4) Section 67(4) and the proviso to it are repealed and the following subsections are inserted instead —
“
 - (4) In the case of a vacancy caused by death, the Speaker or the Governor, as the case may require, is to cause the writ to be issued on receiving notice of the death in the prescribed form signed by 2 members of the Assembly of which the deceased was a member.

s. 11

(4a) However, subject to section 39(4) of the *Constitution Acts Amendment Act 1899*, if the Speaker or Governor, as the case may be, is satisfied of the existence of the vacancy, the writ can be issued whether or not notice has been received under subsection (4).

”.

(5) Section 67(5) is amended by deleting “by warrant under his hand, direct the Clerk of the Writs to issue a writ” and inserting instead —

“ cause a writ to be issued ”.

(6) Section 67(6) is repealed.

11. Section 69 replaced

Section 69 is repealed and the following section is inserted instead —

“

69. Form of writ

A writ is to be in the prescribed form and is to fix —

- (a) the last day for the nomination of candidates;
- (b) the day for the polling (“**polling day**”); and
- (c) the last day for the return of the writ.

”.

12. Section 72 amended

(1) Section 72(1) is amended by inserting after “fixed” —

“ as the last day ”.

(2) Section 72(2) is repealed.

13. Section 73 repealed

Section 73 is repealed.

14. Section 74 replaced

Section 74 is repealed and the following section is inserted instead —

“

74. Address and distribution of writs

A writ is to be addressed to the Electoral Commissioner and the Electoral Commissioner is to forward a copy of the writ —

- (a) in the case of a general election for the Council, to the Returning Officer and Deputy Returning Officers for each region;
- (b) in the case of any other election in a region, to the Returning Officer and Deputy Returning Officers for the region;
- (c) in the case of a general election for the Assembly, to the Returning Officer for each district;
- (d) in the case of any other election in a district, to the Returning Officer for the district.

”.

15. Section 75 amended

Section 75(1), (2) and (3) are repealed and the following subsections are inserted instead —

“

- (1) Having received a writ for an election in a region or an election in a district the Electoral Commissioner is to —
 - (a) advertise in the region or district the day of issue of the writ and the writ's particulars;
 - (b) as soon as practicable after receiving the writ, advertise in the region or district the place of nomination appointed under section 85(1) for the election; and

- (c) publish whatever information the Electoral Commissioner considers necessary to adequately inform electors about polling places at which the poll will be taken and polling areas declared under section 100(1)(i) in relation to polling places.
- (2) The advertisement under subsection (1)(a) must give at least 10 clear days' public notice of polling day.
- (3) In the case of a general election the Electoral Commissioner is to comply with subsections (1) and (2) in respect of each region or district.

”.

16. Section 76 amended

Section 76(3) is amended by deleting “a writ” and inserting instead —

“ the writ ”.

17. Section 88 amended

Section 88(2) is amended as follows:

- (a) by deleting “and the writ issued in respect thereof shall be deemed to be vacated”;
- (b) in paragraph (a) by deleting subparagraphs (ii) to (iv) and “and” after subparagraph (iii) and inserting instead —

“

and

- (ii) report the fact of the death and the date of the countermand of the notice of the poll to the Electoral Commissioner.

”;

- (c) in paragraph (b) by deleting subparagraphs (ii) to (iv) and “and” after subparagraph (iii) and inserting instead —

“

and

- (ii) report the fact of the death and the time of the closing of the poll to the Electoral Commissioner.

”;

- (d) after paragraph (b) by inserting —

“

- (ba) On receipt of a report under paragraph (a)(ii) or (b)(ii) the Electoral Commissioner is to send a notice, with a copy of the report, to the Speaker or the Governor, whichever of them caused the writ to be issued.

- (bb) If there is no Speaker, and Parliament is not in session, or if the Speaker is absent from the State, a notice under paragraph (ba) may be sent to the Governor in any case.

”;

- (e) in paragraph (d) by deleting “Upon the return to the Clerk of the Writs of a writ which has been vacated as aforesaid” and inserting instead —

“ When a notice is sent under paragraph (ba) ”.

18. Section 147 replaced

Section 147 is repealed and the following section is inserted instead —

“

147. Declaration of poll and certification and return of writ

- (1) As soon as practicable after the result of the election has been ascertained, the Returning Officer is to —
- (a) at a place in the region or district, as the case requires, appointed by the Returning Officer

declare the result of the election and the name of the candidate, or names of the candidates, elected; and

- (b) send to the Electoral Commissioner a written statement setting out —
 - (i) the result of the election;
 - (ii) the day on which the result was declared; and
 - (iii) the name of the candidate, or names of the candidates, elected.
- (2) A statement under subsection (1)(b) is not required if the election in the region or district has wholly failed or the Returning Officer has given the Electoral Commissioner a notification under section 145(3).
- (3) In the case of a general election for the Council, when all the statements required under subsection (1)(b) have been received the Electoral Commissioner is to certify on the writ, in respect of each region —
 - (a) the names of the candidates elected; and
 - (b) the day on which the result of the election was declared.
- (4) In the case of any other election in a region, when the statement required under subsection (1)(b) has been received the Electoral Commissioner is to certify on the writ —
 - (a) the name of the candidate, or names of the candidates, elected; and
 - (b) the day on which the result of the election was declared.
- (5) In the case of a general election for the Assembly, when all, or all except not more than 5, of the statements required under subsection (1)(b) have been

- received the Electoral Commissioner is to certify on the writ, in respect of each district for which a statement has been received —
- (a) the name of the candidate elected; and
 - (b) the day on which the result of the election was declared.
- (6) In the case of any other election in a district, when the statement required under subsection (1)(b) has been received the Electoral Commissioner is to certify on the writ —
- (a) the name of the candidate elected; and
 - (b) the day on which the result of the election was declared.
- (7) A certificate under (3), (4), (5) or (6) is to be signed and dated by the Electoral Commissioner.
- (8) The writ is to be regarded as having been returned on the date of the certificate.
- (9) As soon as practicable after the return of the writ the Electoral Commissioner is to forward to the Clerk of the Council or the Clerk of the Assembly, as the case may require, the name of the member, or names of the members, elected together with a copy of the certified writ.
- (10) If in the case of a general election for the Assembly a statement required under subsection (1)(b) is received after the writ has been certified under subsection (5), the Electoral Commissioner is to —
- (a) comply with subsections (5) and (7) in respect of the district for which the statement was received; and

- (b) forward to the Clerk of the Assembly the name of the member elected together with a copy of the writ as further certified,

but the writ is still regarded as having been returned on the date of the original certificate.

”.

19. Section 156E amended

- (1) Section 156E(1) is amended by deleting “by warrant under his hand direct the Clerk of the Writs to issue a writ” and inserting instead —

“ cause a writ to be issued ”.

- (2) Section 156E(2) is amended by deleting “warrant” and inserting instead —

“ writ ”.

- (3) Section 156E(3) is repealed.

20. Section 175Y amended

Section 175Y(b) is amended by deleting “writs for a general election are” and inserting instead —

“ writ for a general election is ”.

21. Section 191A amended

Section 191A(4) is amended in the definition of “relevant period” by deleting “warrant for the issue of the writs” and inserting instead —

“ writ ”.

22. Constitution Act 1889 amended

Section 13 of the *Constitution Act 1889** is amended by deleting “that any of the writs of election not exceeding 5 shall not have been returned, or”.

[* *Reprinted as at 1 March 1993.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 45-6.]

23. Constitution Acts Amendment Act 1899 amended

Section 8(6) of the *Constitution Acts Amendment Act 1899** is amended by deleting “writs” and inserting instead —

“ a writ ”.

[* *Reprinted as at 15 April 1999.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 49-50.]

24. Public Sector Management Act 1994 amended

Section 72(1)(b) of the *Public Sector Management Act 1994** is amended by deleting “writs” and inserting instead —

“ writ ”.

[* *Reprinted as at 26 March 1999.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 203-4.]

25. Referendums Act 1983 amended

- (1) The amendments in this section are to the *Referendums Act 1983**.

[* *Reprinted as at 21 January 2000.*]

- (2) Section 2(1) is amended by deleting the definition of “Clerk of the Writs”.

- (3) Section 4(1) is amended by deleting “, by warrant under his hand, direct the Clerk of the Writs to issue a writ” and inserting instead —
“ cause a writ to be issued ”.
- (4) Section 4(2) is amended as follows:
(a) by deleting “warrant” and inserting instead —
“ writ ”;
(b) by inserting after “published” —
“ by the Electoral Commissioner ”.
- (5) Section 4(3) is repealed.
- (6) Section 8(a) is amended as follows:
(a) by deleting “, by his warrant under section 4(1), direct the Clerk of the Writs to attach to the writ” and inserting instead —
“ cause ”;
(b) by deleting “and the Clerk of the Writs shall give effect to that direction” and inserting instead —
“ to be attached to the writ ”.

26. *Salaries and Allowances Act 1975* amended

Section 11A(5) of the *Salaries and Allowances Act 1975** is amended as follows:

- (a) by deleting “writs for a general or” and inserting instead —
“ writ for a general election or writs for a ”;
(b) by deleting “those” and inserting instead —
“ the writ or ”.

[* *Reprinted as at 26 April 1994.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, p. 224.]

27. Tobacco Control Act 1990 amended

Section 26(6) of the *Tobacco Control Act 1990** is amended by deleting “writs” and inserting instead —

“ writ ”.

[* *Act No. 104 of 1990.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, p. 250.]

**Part 3 — Amendments about Registrars,
enrolment and rolls**

**28. Various provisions as to Registrars and their functions
amended**

- (1) Amendments are made as set out in the Table to this subsection.

Table of amendments

s. 4(1)	Delete the definition of “Registrar”.
s. 6(1)	Delete “Registrars”, insert instead — “ enrolment officers ”.
s. 6(2)	Delete “a Registrar”, insert instead — “ an enrolment officer ”. Delete “appointed Registrar”, insert instead — “ appointed as an enrolment officer ”.
s. 7	Delete “Registrar or” in both places.
s. 8	Repeal the section.
s. 11	Repeal the section.
s. 20	Repeal the section.
s. 31(2)(b)	Delete “Registrar of a district or sub-district”, insert instead — “ Electoral Commissioner or an enrolment officer ”.
s. 31A(3)	Delete “Registrar for the district or sub-district for which that person is enrolled to remove the name of the person”, insert instead — “ name of the person to be removed ”.
s. 31B(2)(b)	Delete “a Registrar”, insert instead — “ the Electoral Commissioner ”.
s. 32	Repeal the section.
s. 33	Repeal the section.
s. 36	Repeal the section.

- s. 37 After “prepared” insert —
“ by enrolment officers ”.
- s. 39 After “prepared” insert —
“
 , by enrolment officers under the
 supervision of the Electoral
 Commissioner,
 ”.
- s. 40(2) Delete “Registrar for the district for which the roll is
 being prepared”, insert instead —
“
 enrolment officer preparing a roll for a
 district
 ”.
- s. 41 Delete “the Registrars”, insert instead —
“ enrolment officers ”.
- s. 42(c) Delete the paragraph, insert instead —
“
 (c) is to be sent to the Electoral
 Commissioner who shall
 cause the claim, and any
 request lodged with it under
 section 51B(1), to be
 referred to and recorded by
 an enrolment officer (in this
 Division and section 47
 called “**the enrolment
 officer**”).
 ”.
- s. 44A(2) Delete “filed in the Registrar’s office under
 section 32”.

s. 28

- s. 45(1) Delete “Registrar of the district or sub-district for which he is entitled to be enrolled”, insert instead —
“ Electoral Commissioner ”.
- s. 45(2) Delete “Registrar of the district or sub-district”, insert instead —
“ Electoral Commissioner ”.
- s. 45(4) Delete the subsection, insert instead —
“

(4) The Electoral Commissioner or the enrolment officer shall issue a receipt to an elector for each claim received from the elector.
”.
- s. 45(5) Delete “Registrar keeping the roll on which the person claims to be enrolled”, insert instead —
“

Electoral Commissioner for enrolment on the relevant roll
”.
- s. 45(6) Delete “Registrar keeping the roll on which the person is enrolled”, insert instead —
“ Electoral Commissioner ”.
- s. 48(2)(a) Delete “Registrar”, insert instead —
and (b) “ Electoral Commissioner ”.
- s. 48(2) After paragraph (b) insert —
“

(ba) The Electoral Commissioner shall cause the objection to be referred to an enrolment officer.
”.

- s. 51(1) Repeal the subsection, insert instead —
“
 (1) If the name of the same person appears more than once on the same roll, or on more than one district roll, the Electoral Commissioner is to cause all but the latest enrolled name to be removed.
”.
- s. 51AA(1) Delete “remove the name of that elector”, insert instead —
“
 cause the name of that elector to be removed
”.
- s. 51B(2) Delete “Registrar keeping the roll”, insert instead —
“ Electoral Commissioner ”.
After “on the roll” insert —
“
 and the Electoral Commissioner is to cause the request to be referred to an enrolment officer
”.
- s. 51B(4)(b) Delete “made”, insert instead —
“ referred ”.
- s. 51B(5) Delete “a Registrar”, insert instead —
“ an enrolment officer ”.
- s. 51B(7) Delete “A Registrar for a district or sub-district”, insert instead —
“ An enrolment officer ”.
Delete “the roll for that district or sub-district”, insert instead —
“ a roll ”.

s. 28

- s. 54 Delete “Registrar”, insert instead —
“ person ”.
- s. 60(1) After “ascertained” insert —
“ and removed from the rolls ”.
- s. 60(2) Repeal the subsection.
- s. 62A(1), (2) and (4) Delete “a Registrar”, insert instead —
“ an enrolment officer ”.
- s. 62A(3) Repeal the subsection.
- s. 90(1a)(c) Delete “or the Registrar for any district”.
- s. 112(1) Delete “the Registrar shall provide”.
Delete “with a roll”, insert instead —
“ shall cause a roll to be provided ”.
- s. 122A(1)(a) Delete subparagraph (i) and “and” after it, insert instead —
“
(i) a duly completed claim for the enrolment of the person in respect of the region of which the district forms part, or the district, was received under section 42 before the close of the roll for the election; and
”.
- s. 155(1) Delete “or Registrar”.
- s. 156(15)(b) Delete “remove, or direct the Registrar to remove, the name of that person”, insert instead —
“
cause the name of that person to be removed
”.
- s. 194 Delete “Registrar” in both places, insert instead —
“ Electoral Commissioner ”.
- s. 208(b) Delete “or the Registrar”.

- (2) In each place listed in the Table to this subsection “Registrar” is deleted and the following is inserted instead —

“ enrolment officer ”.

Table of provisions amended

- s. 40(3) and (4)
- s. 44(2) and (3)
- s. 44A(2) (in each of the 4 places), (3), (4) and (5)
- s. 46(1), (2) and (3)
- s. 47(1), (3) and (3)(a), (b), (ba) (in both places), (c) (in both places), (d), (e), (f) and (g) (in each place)
- s. 48(1)(b) (in the second place), (2)(c), (d), (e)(iii) and (f) and (3)(a), (b), (ba) (in both places), (c) (in both places), (d) and (e)
- s. 51B(4) (in both places), (5) (in the second place) and (7) (in the second and third places)
- s. 62A(1) (in the second place), (2) (in the second place) and (4) (in the second and third places)
- s. 195(1)

- (3) In each place listed in the Table to this subsection “the Registrar” is deleted and the following is inserted —

“ an enrolment officer ”.

Table of provisions amended

- s. 48(1)(b) (in the first place)
- s. 48(3) (in the first place)
- s. 49(1)
- s. 52(1)
- s. 122A(1)(a)(ii)

29. Various provisions as to arrangements with the Commonwealth amended

Amendments are made as set out in the Table to this section.

Table of amendments

- s. 31(2)(a) Delete “Electoral Registrar”, insert instead —
“ Assistant Divisional Returning Officer ”.
- s. 31(6) Delete “4 of the *Australian Electoral Office Act 1973*”, insert instead —
“
20 of the *Commonwealth Electoral Act 1918*
”.
- s. 31B(2)(c) Delete “46A”, insert instead —
and (3) “ 104 ”.
- s. 46(1)(b) Delete “Office (within the meaning of section 4 of
the *Australian Electoral Office Act 1973* of the
Commonwealth Parliament)”, insert instead —
“
Commission established by section 6
of the *Commonwealth Electoral Act 1918*
”.
- Delete “office”, insert instead —
“ Commission ”.

30. Section 22 amended

Section 22(2) is amended by deleting “or supplied under section 112” and inserting instead —

“
, made available under section 25, provided under section 25A or supplied under section 112 or when information on or derived from rolls is made available under section 25 or provided under section 25A
”.

31. Section 25 replaced

Section 25 is repealed and the following section is inserted instead —

“

25. Inspection and purchase of rolls

- (1) The Electoral Commissioner is to make rolls available, in any form the Electoral Commissioner thinks fit, for inspection by the public, without fee, at the office of the Electoral Commissioner.
- (2) Copies of rolls in printed form and in any other form the Electoral Commissioner thinks fit are to be available for purchase by the public at the office of the Electoral Commissioner.
- (3) The Electoral Commissioner may also make rolls or information on rolls available, in any form the Electoral Commissioner thinks fit, for inspection and purchase at any other place or in any other manner determined by the Electoral Commissioner.
- (4) If by virtue of section 51B information is not shown on a roll, that information is not to be made available under this section.
- (5) The regulations may provide that if by virtue of section 51B information relating to a person is not shown on a roll, that person's name may be omitted when the Electoral Commissioner makes rolls or information on rolls available under this section.

”.

32. Sections 17 and 119 amended

- (1) Section 17(2) is amended by deleting “section” and inserting instead —

“ sections 145(7) and ”.

- (2) Section 119(1) is amended by deleting “section 172” and inserting instead —
- “ sections 145(7) and 172(1)(c) ”.

Part 4 — Amendments about nominations

33. Section 70 amended

Section 70 is amended by inserting after “fixed” —
“ as the last day ”.

34. Section 78 amended

Section 78(1) is amended as follows:

- (a) by deleting “the prescribed form” and inserting instead —
“ a form approved by the Electoral Commissioner ”;
- (b) after paragraph (a) by inserting —
“ and ”;
- (c) at the end of paragraph (b) by deleting “; and” and inserting a full stop instead;
- (d) by deleting paragraph (c).

35. Section 81A inserted

After section 81 the following section is inserted —

“

81A. Centralised nomination procedure

- (1) In this section —
“**party nomination**” means the nomination for an election of a candidate publicly recognised by a particular registered political party as being an endorsed candidate of that party.
- (2) A party nomination is to be regarded as having been made in accordance with sections 79 and 81 if —
 - (a) it contains a declaration by the secretary of the registered political party that the candidate is publicly recognised by the party as being an endorsed candidate of the party;

- (b) it is received by the Electoral Commissioner after the issue of the writ and not later than 24 hours before the hour of nomination; and
 - (c) not later than 24 hours before the hour of nomination, the required deposit (or an amount that includes that deposit) for the purposes of section 81(1)(b) is lodged with the Electoral Commissioner on behalf of the candidate in money or by a cheque drawn by a bank on itself and payable to the Electoral Commissioner.
- (3) Nothing in this section prevents a party nomination from being made in accordance with sections 79 and 81.
- (4) If 2 or more party nominations for an election in a region are made in accordance with subsection (2), a claim under section 80(1) may be made to the Electoral Commissioner together with the nominations.
- (5) If a party nomination has been made in accordance with subsection (2), the Electoral Commissioner is to —
 - (a) give the secretary of the registered political party a notice acknowledging receipt by the Electoral Commissioner of the candidate's nomination and the deposit lodged on behalf of the candidate; and
 - (b) give the Returning Officer, as soon as practicable before the hour of nomination —
 - (i) a copy of the nomination paper;
 - (ii) advice that the required deposit for the purposes of section 81(1)(b) has been lodged with the Electoral Commissioner on behalf of the candidate; and

(iii) details of any claim under section 80(1) made under subsection (4).

(6) The reference in subsection (5)(b)(i) to a copy of the nomination paper includes a reference to a copy generated by way of transmission by facsimile or other electronic means under section 210(2).

”.

36. Section 83 amended

Section 83 is amended by inserting after “Officer” —

“ or Electoral Commissioner receiving it ”.

37. Section 84 amended

(1) Section 84(1) is amended by inserting after “returned” the following —

“ in accordance with subsection (3) or (4) ”.

(2) Section 84(2) is repealed and the following subsections are inserted instead —

“

(2) On the death of a candidate before polling day, or on polling day before the close of the poll, the deposits made by or on behalf of that candidate and the other candidates shall be returned in accordance with subsection (3) or (4).

(3) If a candidate was nominated under subsection 81A(2) the deposit (or an amount that includes the deposit) shall be returned to the person who paid it, or to a person authorised in writing by the person who paid it.

(4) In all other cases, the deposit shall be returned to the candidate, or to a person authorised in writing by the candidate or, if the candidate is dead, to the candidate’s legal representative.

”.

38. Section 85 replaced

Section 85 is repealed and the following section is inserted instead —

“

85. Place of declaration of nominations and hour of nomination

- (1) The Electoral Commissioner is to appoint a place as the place of declaration of nominations for an election for the purposes of section 86 or 87, as the case may be.
- (2) The hour of nomination for an election is 6 p.m. on the last day for the nomination of candidates.

”.

39. Various provisions amended

The provisions listed in the Table to this section are amended by deleting “place of nomination” in each place where it occurs and inserting instead —

“ place of declaration of nominations ”.

Table of provisions amended

- s. 86(1a) and (2a)(a)
- s. 87(2), (5)(a) and (6)(a)
- s. 87A(1)

40. Section 86 amended

Section 86(2) is amended by inserting after “him” —

“ under section 81 or 81A(5)(b) ”.

41. Section 87 amended

Section 87(3) is amended by inserting after “him” —

“ under section 81 or 81A(5)(b) ”.

42. Section 113D amended

- (1) Section 113D is amended by inserting before “Where” the subsection designation “(1)”.
- (2) At the end of section 113D the following subsection is inserted —

“

- (2) This section does not affect the operation of section 81A.

”.

Part 5 — Amendments about early voting

43. Section 4 amended

Section 4(1) is amended by inserting in the appropriate alphabetical position —

“

“**early ballot paper**” means a ballot paper issued under section 90 and “**early vote**” has a corresponding meaning;

”.

44. Section 90 amended

(1) After section 90(1)(d) the following paragraphs are inserted —

“

(da) will be precluded from attending to vote during the hours of polling at any polling place open in the State because the elector will be caring for a person who is seriously ill or infirm or who is expected shortly to give birth;

(db) is an elector whose residence is not shown on the roll because a request under section 51B has been granted;

”.

(2) Section 90(1a) is amended by deleting “Where the elector is either within or outside the State at the time he makes an application for a postal ballot paper, he may make the application” and inserting instead —

“

An elector may make an application for an early ballot paper

”.

- (3) Section 90(3) is amended by inserting after “writing” —
“
and, if made in writing, may be made whether the elector is within or outside the State at the time of applying
”.
- (4) Section 90(3e) is amended by deleting “a postal ballot” and inserting instead —
“ an early ballot ”.
- (5) Section 90(4aa) is amended by inserting after “officer” —
“ under subsection (4)(c)(i) or (4b)(a) ”.
- (6) Section 90(4b) is repealed and the following subsection is inserted instead —
“
(4b) Where an oral application for an early ballot paper is made to an issuing officer and the issuing officer is satisfied that the application is properly made, the issuing officer shall deliver to the elector —
(a) an early ballot paper printed under the authority of the Electoral Commissioner in the form prescribed by the regulations and initialled by the issuing officer and a declaration in the form so prescribed; and
(b) the envelopes specified in subsection (4)(c)(ii) and (iii),
and make a record of the name of the elector and of such other particulars as are prescribed.
”.
- (7) Section 90(7a) is amended by deleting “an application” and inserting instead —
“ a written application ”.

s. 45

- (8) Section 90(7)(b) and (8)(a) are amended by deleting “vote by post” and inserting instead —
“ an early ballot paper ”.
- (9) Section 90(11) is amended by deleting “a postal ballot” and inserting instead —
“ an early ballot ”.
- (10) Section 90(13) is amended by deleting “The” and inserting instead —
“ Notwithstanding anything in this section, the ”.

45. Section 92 amended

- (1) Section 92(5)(a) and (b) are repealed and the following paragraphs are inserted instead —
“
 - (a) If an elector (“**the elector**”) cannot read or write or is so disabled as to be unable to vote without assistance, another elector appointed by the elector (being an elector who is not a candidate at the election) may, according to the directions of the elector, do for the elector any act required or authorised by subsection (2), (4) or (4a).
 - (b) An elector appointed under paragraph (a) is to state in the declaration his full name and address and the fact that he has been appointed by the elector to mark the ballot paper for the elector.
 - (ba) Without limiting paragraph (a), if the elector completes the declaration but is so disabled as to be unable to vote without assistance the authorised witness may, according to the directions of the elector, mark the ballot for the”

elector and do for the elector any other act required or authorised by subsection (2)(d) or (e), (4) or (4a).

”.

- (2) Section 92(5)(c) is amended by deleting “A” and inserting instead —

“ Subject to paragraph (a), a ”.

- (3) Section 92(6) is repealed and the following subsection is inserted instead —

“

- (6) An elector to whom an early ballot paper has been issued is not entitled to vote at any polling place unless the early ballot paper has been delivered to the presiding officer for cancellation, but if the elector claims not to have received the early ballot paper, the elector may be permitted to vote after making a declaration in the prescribed form before the presiding officer at the polling place.

”.

- (4) Section 92(7) is amended as follows:

- (a) by deleting “locked and”;
(b) by deleting “8 a.m. on the polling day, until” and inserting instead —
“ the time when ”.

- (5) Section 92(8) is amended as follows:

- (a) by deleting “after the commencement of the poll or as soon as practicable after the close” and inserting instead —

“

not earlier than 72 hours before the commencement

”;

- (b) by deleting “manner prescribed by the regulations” and inserting instead —
 - “ the prescribed manner ”.
- (6) Section 92(9)(a) is amended by inserting after “issued” —
 - “ or a person appointed under subsection (5)(a) ”.
- (7) Section 92(10)(a) is amended by deleting “A postal” and inserting instead —
 - “ An early ”.
- (8) After section 92(11) the following subsection is inserted —
 - “
 - (12) At any time after an envelope containing an early ballot paper has been dealt with in accordance with —
 - (a) the regulations made for the purposes of subsection (8); or
 - (b) subsection (10),
 - an officer or officers referred to in subsection (8) may, in the prescribed manner, open the envelope and deal with the ballot paper in it.
 - ”.

46. Section 93 amended

After section 93(1)(a) the following paragraphs are inserted —

- “
- (aa) who is, by reason of caring for a person who is seriously ill or infirm, precluded from attending at a polling place;

- (ab) whose residence is not shown on the roll because a request under section 51B has been granted;

”.

47. Section 211 amended

After section 211(3) the following subsection is inserted —

“

- (4) A certificate referred to in subsection (2) is not required in relation to a declaration completed under section 92(5)(a).

”.

48. Consequential amendments

- (1) The provisions listed in the Table to this subsection are amended by deleting “postal”, in each place where it occurs, and inserting instead —

“ early ”.

Table of provisions amended

- s. 88(2)(b)(i)
- s. 90(1a)(d) and (13)(a)
- s. 92(1), (2)(a) and (c), (7), (8), (10)(b) and (11)
- s. 93(1) and (2)
- s. 95(2) and (8)(b), (c) and (d)
- s. 98
- s. 99B(2) and (3)
- s. 142A(1), (2), (3) and (4)
- s. 151(d)
- s. 181(d) and (e)

- (2) The provisions listed in the Table to this subsection are amended by deleting “a postal”, in each place where it occurs, and inserting instead —

“ an early ”.

Table of provisions amended

s. 90(1), (3), (3a), (3c), (3d), (4)(c)(i), (5),
(5)(a) and (b), (6), (7), (7a), (8)(a) and
(b), (9), (10) and (13)(b)
s. 92(4b), (4c) and (9)
s. 93(4)
s. 95(1a), (3), (4), (8)(a) and (9)
s. 97
s. 139(a)

- (3) The provisions listed in the Table to this subsection are amended by deleting “the postal” and inserting instead —

“ the early ”.

Table of provisions amended

s. 90(3c)
s. 92(4c), (9) and (10)(a)

- (4) The provisions listed in the Table to this subsection are amended by deleting “a postal vote”, in each place where it occurs, and inserting instead —

“ an early ballot paper ”.

Table of provisions amended

s. 90(3b), (3e)(a)(i), (11) and (12)
s. 95(1)

- (5) The heading to Part IV Division (3)(i) is amended by deleting “*Postal*” and inserting instead —

“ **Early** ”.

- (6) Section 95(2) is amended by deleting “or any authorized witness requested”.
- (7) Section 95(6a) is amended by deleting “An elector appointed or an authorized witness requested” and inserting instead —
“ A person appointed ”.
- (8) The provisions listed in the Table to this subsection are amended by deleting “post” and inserting instead —
“ early vote ”.

Table of provisions amended

- s. 95(5), (6) and (8)(e)
- s. 122(3)
- s. 144(1)(b)(i), (2)(b)(i) and (4)(b)

- (9) Sections 99B(1) and 144(2)(d)(i) are amended by deleting “postal vote” and inserting instead —
“ early ”.

49. Referendums Act 1983 amended

- (1) The amendments in this section are to the *Referendums Act 1983**.

[* *Reprinted as at 21 January 2000.*]

- (2) Section 19(a) is amended by deleting “a postal” and inserting instead —
“ an early ”.
- (3) Section 30(1) and (4) are amended by deleting “postal” and inserting instead —
“ early ”.

Part 6 — Amendments about polling places

50. Section 100 amended

- (1) Section 100(1)(a) and (b) are deleted and the following paragraph is inserted instead —

“

- (a) appoint such polling places for regions and districts as the Electoral Commissioner considers necessary;

”.

- (2) Section 100(1)(i) is amended by deleting “or (b) or under subsection (3)”.

- (3) Section 100(3) is repealed and the following subsections are inserted instead —

“

- (3) If a polling place is appointed under subsection (1) for all regions, or all districts, for the purposes of a general election, that polling place is referred to as a “**general polling place**”.

- (3a) The Electoral Commissioner may, in relation to a general polling place, perform the functions of the Returning Officers for the regions, or districts, under the provisions listed in the Table to this subsection.

Table of provisions

section 102	section 112(3)
section 105(1)	section 115(1a)
section 106(2)	section 116
section 107(1)	section 132
section 110	section 141(4)

- (3b) References in this Act to the Returning Officer may be read as references to the Electoral Commissioner where necessary for the purposes of subsection (3a).

”.

51. Section 112 amended

After section 112(3) the following subsection is inserted —

“

- (4) The Electoral Commissioner shall cause copies of the rolls to be delivered to the presiding officer at each general polling place.

”.

52. Section 142A amended

- (1) Section 142A(1) is amended by inserting after “Commissioner,” —

“ votes cast at general polling places, ”.

- (2) Section 142A(2) and (3) are amended by inserting after “on the” —

“ ballot papers used for voting at general polling places, ”.

- (3) Section 142A(4) is amended by inserting after “on such” —

“ ballot papers used for voting at general polling places, ”.

53. Section 144 amended

- (1) Section 144(1)(b)(i) and (2)(b)(i) are amended by inserting before “absent” —

“ persons voting at general polling places, ”.

- (2) Section 144(2)(d)(i) is amended by inserting before “absent” —

“ ballot papers used for voting at general polling places, ”.

- (3) Section 144(4)(b) is amended by inserting before “absent” —

“ ballot papers used for voting at general polling places or ”.

54. Referendums Act 1983 amended

- (1) The amendments in this section are to the *Referendums Act 1983**.

[* *Reprinted as at 21 January 2000.*]

- (2) Section 18 is amended by inserting before “100A” —
“ 100(3) to (3b), ”.
- (3) Section 30(1) is amended by inserting after “27(1)(d) and” —

“
the ballot papers used for voting at general polling
places, within the meaning of section 100(3) of the
Electoral Act 1907,
”.

- (4) Section 30(4)(b) is amended by inserting after “on any” —

“
ballot papers used for voting at general polling places,
within the meaning of section 100(3) of the *Electoral
Act 1907*,
”.

Part 7 — Amendments about vacancies in the Legislative Council

55. Section 156A amended and consequential amendments

- (1) Section 156A(1) is amended by deleting the definition of “most recent election in the region” and inserting instead —

“

“**original election**”, in relation to a vacancy, means the full election in the region in respect of which the vacancy has occurred at which —

- (a) the member in whose seat the vacancy has occurred; or
- (b) in a case where the member in whose seat the vacancy has occurred was elected under sections 156C and 156D or under section 156E, the member who was the predecessor (whether immediate, intermediate, or original) of that member, was elected;

”.

- (2) The provisions listed in the Table to this subsection are amended by deleting “most recent election in the region”, in each place where it occurs, and inserting instead —

“ original election ”.

Table of provisions amended

- s. 156A(1), paragraph (a) of the definition of “qualified person”
- s. 156C(2)
- s. 156D(4)
- s. 156D(14)

56. Constitution Acts Amendment Act 1899 amended

After section 10(2) of the *Constitution Acts Amendment Act 1899** the following subsection is inserted —

“

- (3) The provisions of this Act and the *Electoral Act 1907* as to the occurrence and filling of vacancies in the seats of members of the Council extend, with any appropriate modifications, to cases where —
- (a) a person has been elected as a member but the term of office for which the person was elected has not begun; or
 - (b) the election of a person as a member is void and the term of office for which the person would have been elected, if the election had not been void, would have begun on 22 May next following the election.

”.

[* Reprinted as at 15 April 1999.

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, pp. 49-50.]

57. Salaries and Allowances Act 1975 amended

Section 6(5b) of the *Salaries and Allowances Act 1975** is amended as follows:

- (a) in paragraph (a), by inserting after “before the general election” —

“

or is declared elected under section 156D of the *Electoral Act 1907* to complete the unexpired portion of a term of office ending on that 22 May

”;

- (b) in paragraph (b), by inserting after “before the fresh election” —

“

or is declared elected under section 156D of the *Electoral Act 1907* to complete the unexpired portion of a term of office ending on that 22 May

”.

[* *Reprinted as at 26 April 1994.*

For subsequent amendments see 1999 Index to Legislation of Western Australia, Table 1, p. 224.]

Part 8 — Amendments about political finance

58. Part VI heading replaced

The heading to Part VI is deleted and the following heading is inserted instead —

“

**Part VI — Disclosure of gifts, income
and expenditure**

”.

59. Section 175 amended

In section 175, after paragraph (e) of the definition of “electoral expenditure”, the following paragraph is inserted —

“

- (ea) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period;

”.

60. Section 175E amended

Section 175E(4) is amended by deleting “the hour of nomination for” and inserting instead —

“ 6 p.m. on the day before polling day in ”.

61. Section 175ZF amended

After section 175ZF(1)(a) the following paragraphs are inserted —

“

- (aa) requiring the agent of a political party to lodge returns or other information identifying any entity that is or has been an associated entity in relation to that political party;

- (ab) requiring the agent of a political party to lodge a return setting out additional information as prescribed where section 175N(5)(a) or (b) applies in respect of a return lodged in relation to the political party;
- (ac) imposing such requirements as are necessary to ensure that the provisions of this Part as to the lodgment of returns in relation to a political party are complied with even if the political party ceases to exist;

”.

Part 9 — Amendments about the registration of political parties

62. Section 4 amended

In section 4(1), the following definitions are inserted in the appropriate alphabetical positions —

“

“constitution”, in relation to a political party, means a written set of principles and rules (however described) under which the party is governed;

“political party” means —

- (a) a body corporate or other body or organisation (not being a body corporate or other body or organisation described in paragraph (b)) having as one of the objects or activities of the body or organisation the promotion of the election to the Parliament of this State of a candidate or candidates endorsed by it or by a body or organisation that forms part of it; or
- (b) the branch or division for this State of a body corporate or other body or organisation which —
 - (i) is organised on a basis that includes this State and another State or Territory or other States or Territories;
 - (ii) has a branch or division for this State; and
 - (iii) has as one of the objects or activities of the body or organisation the promotion of the election to the Parliament of this State of a candidate or candidates endorsed by it or by a

body or organisation that forms part of it;

“**registered political party**” has the meaning given by section 62C;

“**secretary**”, in relation to a political party, means the person who holds the office of secretary or chief administrative officer (however described) of the party;

”.

63. Part IIIA inserted

After Part III the following Part is inserted —

“

Part IIIA — Registration of political parties

62B. Scope of Part

This Part sets out the way in which certain political parties may become registered for various purposes under this Act.

62C. Definitions and interpretation

(1) In this Part —

“**election period**”, in relation to an election, means the period commencing on the day of issue of the writ for the election and ending on the last day for the return of the writ;

“**eligible political party**” means a political party that has at least 500 members who are electors and that has a constitution that specifies as one of its objects or activities the promotion of the election to the Parliament of the State of a candidate or candidates endorsed by it;

“member”, in relation to a political party, includes a person who is a member of a related political party;

“parliamentary party” means a political party of which at least one member is a member of the Assembly or the Council;

“register of political parties” means the register kept under section 62D;

“registered political party” means a political party that is registered in the register of political parties;

“related political party” has the meaning given by subsection (2).

- (2) For the purposes of this Part, 2 political parties are related political parties if —
 - (a) one is a part of the other; or
 - (b) both are parts of the same political party.
- (3) For the purposes of this Part, if the Assembly has expired or been dissolved, a reference to a member of the Assembly is a reference to a person who was a member of it immediately before it expired or was dissolved.
- (4) If a political party (the **“State party”**) is the branch or division for this State of a political party (the **“parent body”**) that is organised on a basis that includes this State and another State or Territory or other States or Territories, the reference to the constitution of the State party in the definition of “eligible political party” in subsection (1) includes a reference to the constitution of the parent body.

62D. Register of political parties

- (1) The Electoral Commissioner is to keep a register containing the names of, and other information and

documents related to, political parties registered under this Part.

- (2) Subject to this Part, the register is to be kept in the form and way that the Electoral Commissioner considers appropriate.
- (3) The register is called the register of political parties.

62E. Applications for registration

- (1) An application for registration of a political party is to be made in accordance with this section.
- (2) The application can only be made for the registration of an eligible political party.
- (3) The application is to be made by the secretary of the party.
- (4) The application is to be made to the Electoral Commissioner in a form approved by the Electoral Commissioner for the purposes of this section, and is to —
 - (a) state a name for the political party;
 - (b) if the political party wishes to use an abbreviation of its name on ballot papers for elections — set out the abbreviation;
 - (c) set out the name and address of the secretary of the political party;
 - (d) set out the names and addresses of at least 500 members of the party who are electors;
 - (e) be accompanied by a copy of the party's constitution; and
 - (f) set out any other prescribed information and be accompanied by a copy of any other prescribed document.

- (5) Applications for registration of political parties are to be determined in the order in which they are received by the Electoral Commissioner.

62F. Variation of application

- (1) Where, after initial consideration of an application for the registration of a political party, the Electoral Commissioner is of the opinion that the application has to be refused but that the applicant might be prepared to vary the application in such a way that it would not have to be refused, the Electoral Commissioner is to give the applicant written notice of that opinion, setting out the reasons for that opinion and the terms of subsections (2) and (3).
- (2) Where notice is given under subsection (1) in relation to an application, the Electoral Commissioner is not required to give further consideration to the application unless and until notice is lodged under subsection (3).
- (3) Within one month after notice is given under subsection (1) in relation to an application for the registration of a political party, the applicant may lodge with the Electoral Commissioner a written request, signed by the applicant, to —
- (a) vary the application in a manner specified in the request; or
 - (b) proceed with the application in the form in which it was lodged,
- and the Electoral Commissioner is to comply with the request.
- (4) If a request is made under subsection (3) to vary an application, the application as varied is to be treated as if it were a new application but, for the purposes of

section 62E(5), it is to be regarded as having been received when the original application was received.

62G. Publication of notice of application

- (1) As soon as practicable after an application is made to the Electoral Commissioner, the Electoral Commissioner is to publish a notice in relation to the application in —
 - (a) the *Gazette*; and
 - (b) a newspaper circulating generally in the State.
- (2) Subsection (1) does not apply if the Electoral Commissioner gives a notice under section 62F(1) unless and until a request is made under section 62F(3)(b).
- (3) The notice has to —
 - (a) set out any information included in the application under section 62E(4)(a) to (c); and
 - (b) invite any elector who believes that the application —
 - (i) is not in accordance with section 62E; or
 - (ii) should be refused under section 62J, to submit to the Electoral Commissioner, within one month after the day of publication of the *Gazette* notice, a statement under subsection (4).
- (4) The statement has to —
 - (a) set out in detail the grounds for the elector's belief under subsection (3)(b);
 - (b) set out the elector's residential address and postal address; and

- (c) be signed by the elector.
- (5) The Electoral Commissioner is to make the statement available at the office of the Electoral Commissioner and allow public inspection of the statement without fee.
- (6) Unless the Electoral Commissioner considers the statement to be frivolous the Electoral Commissioner is to give the applicant —
 - (a) a copy of the statement; and
 - (b) a notice inviting the applicant to give the Electoral Commissioner a reply to the statement within such reasonable period as is specified in the notice.
- (7) If the applicant gives the Electoral Commissioner a reply within the period, the Electoral Commissioner is to make the reply available at the office of the Electoral Commissioner as soon as practicable and allow public inspection of the reply without fee.

62H. Registration

- (1) If the Electoral Commissioner, after considering all statements and replies to the statements under section 62G, is satisfied that the application complies with the requirements of section 62E, then, subject to subsection (3) and section 62J, the Electoral Commissioner is to register the political party.
- (2) Registration is effected by entering or otherwise including in the register of political parties —
 - (a) the information set out in the application (other than under section 62E(4)(d)); and
 - (b) any document accompanying the application as required by section 62E(4)(e) and (f).

- (3) The Electoral Commissioner is not to register the political party or take any other action in relation to the application during the election period in relation to an election.
- (4) The Electoral Commissioner is not to register a political party other than in accordance with this section.
- (5) As soon as possible after registering the political party, the Electoral Commissioner is to —
 - (a) give written notice of the registration to the applicant;
 - (b) if any elector made a statement to the Electoral Commissioner under section 62G in relation to the application — give written notice to the elector stating that the party has been registered and setting out why the reasons in the elector's statement were rejected; and
 - (c) notify the party's registration by notice in the *Gazette*.

62I. Registration of existing parliamentary parties

- (1) Despite anything in sections 62E to 62H, on the commencement of section 63 of the *Electoral Amendment Act 2000* any political party that is at that time a parliamentary party becomes a registered political party by operation of this subsection.
- (2) Subsection (1) only applies to a political party if the party was in existence on 14 June 2000 and at least one member of party was a member of the Assembly or the Council on that day.
- (3) The registration of a political party under subsection (1) ceases to have effect at the end of the period of 3 months from the day on which section 63 of the *Electoral Amendment Act 2000* commences unless,

within that period, the secretary of the political party provides the Electoral Commissioner with the information and documents referred to in section 62E(4)(a), (b), (c), (e) and (f).

62J. Refusal of registration

(1) In this section —

“application name” means a name for a political party, or the abbreviation of the name for a political party, set out in the party’s application for registration;

“existing party” means another party —

- (a) that is a parliamentary party;
- (b) that is a registered political party; or
- (c) at least one member of which is a member of the Parliament of the Commonwealth;

“public body name” means the name, or an abbreviation or acronym of the name, of a prominent public body.

(2) The Electoral Commissioner may refuse to register a political party if the Electoral Commissioner believes on reasonable grounds that information set out in, or documents required to accompany, the application are incorrect.

(3) The Electoral Commissioner is to refuse to register a political party if the party’s application name —

- (a) has more than 6 words;
- (b) is obscene or offensive;
- (c) is the name, or an abbreviation or acronym of the name, of an existing party;
- (d) so nearly resembles the name, or an abbreviation or acronym of the name, of an

- existing party that it is likely to be confused with or mistaken for the name, abbreviation or acronym;
- (e) includes the word “royal” or the word “independent”; or
 - (f) would otherwise be likely to cause confusion if registered.
- (4) Subsection (3)(c) or (d) does not apply if the existing party is related to the party in respect of which the application is made.
- (5) The Electoral Commissioner may refuse to register a political party if the party’s application name —
- (a) is a public body name; or
 - (b) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name.
- (6) The Electoral Commissioner may refuse to register a political party if the Electoral Commissioner believes on reasonable grounds that a substantial proportion of the electors whose names are set out in the party’s application as required by section 62E(4)(d) are electors whose names have also been provided to the Electoral Commissioner under this Part for the purposes of the registration or continued registration of another political party (not being a related political party).
- (7) If the Electoral Commissioner decides to refuse an application, the Electoral Commissioner is to give the applicant written notice of —
- (a) the refusal; and
 - (b) the reasons for the refusal.

62K. Amendment of register

- (1) An application may be made under this section to the Electoral Commissioner for the amendment of the information, or the replacement of documents, in the register of political parties in relation to a registered political party.
- (2) The application has to be made in the form and way approved by the Electoral Commissioner.
- (3) The application is to be made by the secretary of the party.
- (4) If the application is to amend the register by —
 - (a) changing the name of the party to a name set out in the application;
 - (b) if an abbreviation of the name of the party is entered in the register, changing that abbreviation to an abbreviation set out in the application; or
 - (c) if an abbreviation of the name of the party is not entered in the register, entering in the register an abbreviation set out in the application,

sections 62F, 62G, 62H and 62J apply to the application under this section, subject to any necessary changes, as if it were an application for registration of a political party.

62L. Cancellation of registration

- (1) The Electoral Commissioner may cancel the registration of a political party at the written request of the secretary of the party.

- (2) The Electoral Commissioner may cancel the registration of a political party if the Electoral Commissioner is satisfied on reasonable grounds that —
- (a) the party no longer exists;
 - (b) the party is not a parliamentary party and does not have at least 500 members who are electors;
 - (c) the candidates at a conjoint election held after the registration of the party did not include at least one candidate endorsed by the party;
 - (d) the registration was obtained by fraud or misrepresentation; or
 - (e) a return required to be lodged under Part VI by the agent of that political party has been outstanding for more than 12 months.
- (3) If the Electoral Commissioner proposes to cancel the registration of a political party, other than because of subsection (2)(d), the Electoral Commissioner is to —
- (a) give written notice of the proposed cancellation to the secretary of the party at the address shown in the register;
 - (b) give notice of the proposed cancellation in —
 - (i) the *Gazette*; and
 - (ii) a newspaper circulating generally in the State;
- and
- (c) include in the notice under paragraph (b) a statement that persons may, within 14 days after the *Gazette* notice is given, object to the Electoral Commissioner in writing against the proposed cancellation.

- (4) The Electoral Commissioner is to consider any objection made under subsection (3) before taking any further action in relation to the cancellation.
- (5) If the Electoral Commissioner decides to cancel the registration of a political party, the Electoral Commissioner is to —
 - (a) give notice of the cancellation and the reasons for it to the secretary of the party;
 - (b) give notice of the cancellation in the *Gazette*;
 - (c) cancel the information in, and remove the documents from, the register of political parties relating to the political party; and
 - (d) retain the documents.
- (6) During the election period in relation to an election, the Electoral Commissioner is not to cancel the registration of a political party other than because of subsection (2)(d).

62M. Public access to register

- (1) The Electoral Commissioner is to make the register of political parties available at the office of the Electoral Commissioner and allow public inspection of the register without fee.
- (2) As soon as practicable after the issue of a writ for an election, the Electoral Commissioner is to publish in the *Gazette* —
 - (a) a list of the names of all political parties included in the register; and
 - (b) a list of the names of the secretaries of the political parties.

62N. Review of decisions

- (1) Any person affected by —
 - (a) a decision under section 62H to register a political party;
 - (b) a decision under section 62J to refuse to register a political party;
 - (c) decision under section 62L to cancel the registration of a political party; or
 - (d) a decision to grant or refuse an application under section 62K,may apply for review of the decision.
- (2) An application for review of a decision has to —
 - (a) be in writing;
 - (b) be made to the Supreme Court;
 - (c) be made within one month after the decision comes to the notice of the applicant or such further period as the Supreme Court allows; and
 - (d) set out the grounds on which review is sought.
- (3) The Supreme Court is to review the decision and make an order —
 - (a) confirming the decision;
 - (b) directing the Electoral Commissioner to vary the decision; or
 - (c) directing the Electoral Commissioner to set aside the decision and make a decision in substitution as directed in the order.
- (4) An order under subsection (3)(b) or (c) has effect subject to the operation of sections 62H(3) and 62L(6).
- (5) The Supreme Court is to be constituted by a single Judge for the purposes of this section.

62O. False representation as to registration

Any person who, knowing that a political party is not registered —

- (a) makes any representation to the effect that the party is registered; or
- (b) publishes any document that indicates or implies that the party is registered,

commits an offence.

Penalty: \$1 500.

62P. Request to provide information

The Electoral Commissioner may request the secretary of a political party, or a person who purports to be the secretary of a political party, to provide the Electoral Commissioner with information of such nature, and in such form, as the Electoral Commissioner considers necessary for the performance of the functions conferred by this Part.

62Q. Offences relating to information

- (1) A person must not in an application under section 62E or 62J, or in response to a request under section 62P, make a statement or provide information that the person knows to be false or misleading.

Penalty: \$1 500.

- (2) A person to whom a request is made under section 62P must comply with the request.

Penalty: \$1 500.

62R. Evidence by certificate

A certificate of the Electoral Commissioner as to —

- (a) the nature or content of information or a document in the register of political parties; or
- (b) whether or not information or a document is in the register of political parties,

is evidence of the matter stated.

”.

64. Section 25A amended

Section 25A(6) is repealed and the following subsection is inserted instead —

“

- (6) In this section —
“parliamentary party” has the meaning given by section 62C.

”.

65. Section 113C amended

- (1) Section 113C(1) is amended by inserting before “political” in each place where it occurs —

“ registered ”.

- (2) Section 113C(3)(c) is amended as follows:

- (a) by deleting “an authorized officer of the” and inserting instead —

“ the secretary of the registered ”;

- (b) by deleting “an authorized officer of each” and inserting instead —

“ the secretary of each registered ”.

- (3) Section 113C(4) is repealed.

s. 66

- (4) Section 113C(5) is amended by inserting before “political” —
“ registered ”.
- (5) Section 113C(8) and (9) are repealed.
- (6) Section 113C(10) is amended by deleting the definitions of
“authorized officer” and “parliamentary party”.

66. Section 175 amended

Section 175 is amended by deleting the definition of “political party”.

Part 10 — Amendments about transmission of electoral matter

67. Section 4 amended

Section 4(1) is amended by deleting the definition of “telegraph office”.

68. Sections 142 and 142A amended

Sections 142(5) and 142A(3) are amended by deleting “by telegraph”.

69. Section 144 amended

Section 144(1)(b)(i) and (2)(b)(i) are amended by deleting “written or telegraphic returns” and inserting instead —
“ communications ”.

70. Section 209 amended

- (1) Section 209 is amended by inserting before “All” the subsection designation “(1)”.
- (2) At the end of section 209 the following subsection is inserted —
“
 - (2) Subsection (1) applies whether or not this Act provides that the electoral matter in question is to be transmitted by post.”.

s. 71

71. Section 210 replaced

Section 210 is repealed and the following section is inserted instead —

“

210. Electronic communication of electoral matter

- (1) If this Act provides for electoral matter to be transmitted by post but it is impracticable to transmit the matter by post without undue delay, the matter may be transmitted by electronic means.
- (2) Communications under this Act between officers may be transmitted by electronic means in any case.

”.

Part 11 — General amendments

72. Section 5F amended

After section 5F(1)(e) the following paragraphs are inserted —

“

- (ea) may conduct elections or polls that are provided for under any other written law if authorised to do so under that written law or the regulations;
- (eb) may make arrangements with any person for the conduct by the Electoral Commissioner of elections or polls not provided for under a written law on such terms and conditions as are agreed between the Electoral Commissioner and that person;

”.

73. Section 5G amended

(1) Section 5G is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 5G the following subsection is inserted —

“

- (2) Nothing in subsection (1) is to be read as limiting the ability of the Electoral Commissioner to act through officers in the normal course of operations.

”.

74. Section 99A amended

After section 99A(2) the following subsection is inserted —

“

- (3) This section does not apply to a person who claims to vote at a polling place that is appointed under section 100 for the district for which the person is enrolled.

”.

s. 75

75. Section 103 repealed

Section 103 is repealed.

76. Section 122A amended

Section 122A(1) is amended by deleting “appointed for that region 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 inserting instead —

“ at which there is a copy of the roll ”.

77. Section 126 amended and consequential amendments to sections 122A and 150

- (1) Section 126(1) is amended by deleting “strike out” and inserting instead —

“ make a record, in a prescribed manner, in respect of ”.

- (2) Section 126(2) is amended as follows:

- (a) by deleting “mark” and inserting instead —

“ record ”;

- (b) by deleting “whose name is so marked” and inserting instead —

“ in respect of whose name a record is so made ”.

- (3) Section 122A(1) is amended as follows:

- (a) by deleting “his name has been struck out” and inserting instead —

“ a record has been made in respect of his name ”;

- (b) in paragraph (d), by deleting “whose name has been struck out of” and inserting instead —

“

in respect of whose name a record has been made on

”.

- (4) Section 150(2) is amended by deleting “the names of the electors who voted at the election have been marked in accordance with the provisions of section 126” and inserting instead —

“

records have been made under section 126 in respect of the names of electors who voted at the election

”.

78. Section 130 amended

- (1) Section 130 is amended as follows:

- (a) by inserting before “If” the subsection designation “(1)”;
- (b) by deleting “destroy the spoiled ballot paper” and inserting instead —

“

cancel the spoiled ballot paper by writing “spoiled” on the back of it

”.

- (2) At the end of section 130 the following subsections are inserted —

“

- (2) Having cancelled a spoiled ballot paper the presiding officer is to —
 - (a) place the ballot paper in an envelope, seal the envelope and write on the envelope an indication of the type of ballot paper enclosed and that it is spoiled; and
 - (b) sign the envelope.
- (3) The envelopes containing spoiled ballot papers cancelled at a polling place are to be sealed up in a packet that is to be given to the Returning Officer after the close of the poll.

”.

s. 79

79. Section 187 amended

- (1) Section 187 is amended as follows:
- (a) by inserting before “In” the subsection designation “(1)”;
 - (b) by redesignating paragraphs (1), (2), (4) and (5) as paragraphs “(a)”, “(b)”, “(c)” and “(d)” respectively.

- (2) At the end of section 187 the following subsections are inserted —

“

- (2) Subsection (1)(a) and (b) do not apply in relation to —
- (a) T-shirts, lapel buttons, lapel badges, pens, pencils or balloons;
 - (b) business or visiting cards that promote the candidacy of any person in an election;
 - (c) letters and cards —
 - (i) that bear the name and address of the sender; and
 - (ii) that do not contain a representation or purported representation of a ballot paper for use in an election;
- or
- (d) an article included in a prescribed class of articles.
- (3) Nothing in subsection (2)(a), (b) or (c) is to be regarded as limiting, by implication, the kind of regulations that can be made for the purposes of subsection (2)(d).

”.

80. Section 191A amended

Section 191A(4) is amended in the definition of “publish” by inserting after “television” —

“ or by electronic communication ”.

81. Miscellaneous amendments about ballot paper forms and saving provision

- (1) Amendments are made as set out in the Table to this subsection.

Table

s. 113(1)	Repeal the subsection, insert instead — “ (1) Ballot papers shall be in the appropriate prescribed form. ”.
s. 213(2)	Repeal the subsection.
s. 213(3)	Delete “pursuant to subsection (2)”, insert instead — “ for the purposes of section 113(1) ”.
Sch. 3	Repeal the Schedule.

- (2) The repeal of Schedule 3 does not affect the operation of the *Electoral (Ballot Paper Forms) Regulations 1990*.

82. Other miscellaneous amendments

Amendments are made as set out in the Table to this section.

Table of amendments

s. 4(1)	In the definition of “prison”, delete “section 4 of the <i>Prisons Act 1903</i> ”, insert instead — “ section 3 of the <i>Prisons Act 1981</i> ”.
s. 40(1)(b)(i)	Delete “Director of the Department of Corrections”, insert instead — “ chief executive officer, within the meaning of that expression as defined in section 3 of the <i>Prisons Act 1981</i> , ”.

s. 82

- | | |
|------------|---|
| s. 56 | Delete “18”, insert instead —
“ 17 ”. |
| s. 90(12) | Delete “1903”, insert instead —
“ 1981 ”. |
| s. 144(2b) | Delete “a Deputy or”, insert instead —
“ an ”. |

