

WESTERN AUSTRALIA

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# ACTS AMENDMENT (ELECTORAL REFORM) ACT

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No. 40 of 1987

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AN ACT to provide for an electoral system that will create a Parliament that more accurately represents the will of Western Australian voters by amending the *Constitution Act 1889*, the *Constitution Acts Amendment Act 1899*, the *Electoral Act 1907*, the *Electoral Districts Act 1947*, the *Referendums Act 1983* and the *Salaries and Allowances Act 1975*.

[Assented to 12 July 1987]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

## PART I—PRELIMINARY

### Short title

1. This Act may be cited as the *Acts Amendment (Electoral Reform) Act 1987*.

**Commencement**

2. This Act shall come into operation on such day as is fixed by proclamation.

PART II—*CONSTITUTION ACT 1889***Principal Act**

3. In this Part the *Constitution Act 1889*\* is referred to as the principal Act.

[\*Reprinted as approved 30 April 1982 and amended by Act No. 78 of 1984 and the Australia Act 1986 (U.K.) (see Act No. 65 of 1985).]

**Section 47 repealed and a section substituted**

4. Section 47 of the principal Act is repealed and the following section is substituted—

Council may proceed to business although full number of vacancies not filled at general election

“ 47. Upon any general election the Legislative Council shall be competent to proceed to the despatch of business, at the time appointed by the Governor for that purpose, notwithstanding that the electors shall have failed to elect the required number of members to serve in the Legislative Council. ”.

PART III—*CONSTITUTION ACTS AMENDMENT ACT 1899***Principal Act**

5. In this Part the *Constitution Acts Amendment Act 1899*\* is referred to as the principal Act.

[\*Reprinted as approved 26 June 1984 and amended by Acts Nos. 75 and 78 of 1984.]

**Section 5 repealed and a section substituted**

6. Section 5 of the principal Act is repealed and the following section is substituted—

## Constitution of Legislative Council

“ 5. The Legislative Council shall consist of 34 elected members who shall be returned and sit for electoral regions as defined under section 6. ”.

**Section 6 repealed and a section substituted**

7. Section 6 of the principal Act is repealed and the following section is substituted—

## Electoral regions and representation

“ 6. (1) The State shall be divided into 6 electoral regions under the *Electoral Distribution Act 1947*.

(2) The electoral regions known, respectively, as the North Metropolitan Region and the South West Region shall each return 7 members to serve in the Legislative Council.

(3) The electoral regions known, respectively, as the South Metropolitan Region, the East Metropolitan Region, the Agricultural Region and the Mining and Pastoral Region shall each return 5 members to serve in the Legislative Council. ”.

**Section 8 repealed and a section substituted**

8. Section 8 of the principal Act is repealed and the following section is substituted—

## Retirement of members periodically

“ 8. (1) In this section—

“general election” means a general election for the Legislative Council;

“member” means a member of the Legislative Council.

(2) The seat of a member elected at a general election shall become vacant at the expiration of the period of 4 years beginning on 22 May next following the day of his election as member.

(3) A member elected at a general election shall not sit or vote before 22 May next following the day of his election as member.

(4) Where an election held as part of a general election fails wholly or partially or is declared to be absolutely void—

(a) the seat of a member elected at an election held by reason of that failure or declaration shall become vacant at the expiration of the period of 4 years beginning on 22 May next following that general election; and

(b) if a member elected at an election held by reason of that failure or declaration is so elected before 22 May next following that general election, that member shall not sit or vote before that 22 May.

(5) Subsections (2) and (4) (a) do not affect the operation of any enactment under which a member may cease to be a member, or the seat of a member may become vacant, otherwise than by effluxion of time.

(6) In order to fill seats vacated by effluxion of time writs for elections in all the electoral regions—

(a) shall be issued before 10 April last preceding the occurrence of those vacancies but not more than one year before the occurrence of those vacancies; and

(b) shall be returnable not later than 21 May next following that 10 April. ”.

### **Section 8A repealed and a section substituted**

**9.** Section 8A of the principal Act is repealed and the following section is substituted—

Provisions as to existing members and seats

“ 8A. (1) In this section—

“electoral province” means one of the electoral provinces described in the Order in Council published under the *Electoral Districts Act 1947* in the *Gazette* on 20 January 1982;

“Electoral Reform Act” means the *Acts Amendment (Electoral Reform) Act 1987*;

“member” means a member of the Legislative Council.

(2) Notwithstanding section 5 or 6 the members immediately before the commencement of the Electoral Reform Act shall, until the close of 21 May 1989, continue to be members and to represent the electoral provinces by which they were returned.

(3) Notwithstanding section 5 or 6 where there is a vacancy in the seat of a member immediately before the commencement of the Electoral Reform Act or a vacancy occurs in the seat of a member after that commencement and before 1 January 1989—

- (a) the *Electoral Act 1907* and the regulations thereunder shall have effect in relation to that vacancy as if the Electoral Reform Act had not been enacted; and
- (b) the member elected to fill the vacancy shall, until the close of 21 May 1989, represent the electoral province by which he is returned.

(4) Notwithstanding section 8 (2) or 10 the seat of each member referred to in subsection (2) or (3) (b) shall become vacant at the close of 21 May 1989.

(5) Subsections (2), (3) (b) and (4) do not affect the operation of any enactment under which a member may cease to be a member, or the seat of a member may become vacant, otherwise than by effluxion of time.

(6) Writs for the first elections in all the electoral regions—

- (a) shall be issued before 10 April 1989 but not before 22 May 1988; and
- (b) shall be returnable not later than 21 May 1989. ”.

**Section 8B repealed**

10. Section 8B of the principal Act is repealed.

**Section 10 amended**

11. Section 10 of the principal Act is amended—

(a) by deleting “Subject to section eight of this Act the member” and substituting the following—

“ (1) A member of the Legislative Council ”; and

(b) by inserting the following subsection—

“ (2) Subsection (1) does not affect the operation of any enactment under which a member may cease to be a member, or the seat of a member may become vacant, otherwise than by effluxion of time. ”.

**Section 21 amended**

12. Section 21 of the principal Act is amended—

(a) by inserting after the section designation “21.” the subsection designation “(1)”;

(b) by deleting “three” and substituting the following—

“ 4 ”; and

(c) by inserting after the proviso the following subsection—

“ (2) Notwithstanding subsection (1) the Legislative Assembly in existence at the commencement of the *Acts Amendment (Electoral Reform) Act 1986* shall, subject to section 3 of the *Constitution Act 1889*, cease and determine on 31 January 1989. ”.

**Section 39 amended**

13. Section 39 of the principal Act is amended in subsection (4) by deleting “section 67 (2) and (3)” and substituting the following—

“ sections 67 (2) and (3) and 156B (2) and (3) ”.

**Sections 47 and 47A repealed**

14. Sections 47 and 47A of the principal Act are repealed.

**Schedule V amended**

15. Schedule V to the principal Act is amended in Division 3 of Part I by inserting before the item—

“ Parliamentary Commissioner for Administrative Investigations appointed under the Parliamentary Commissioner Act 1971. ”

the following item—

“ Electoral Commissioner or Deputy Electoral Commissioner appointed under the *Electoral Act 1907*. ”.

**PART IV—ELECTORAL ACT 1907****Principal Act**

16. In this Part the *Electoral Act 1907\** is referred to as the principal Act.

[\*Reprinted as at 16 June 1986.]

**Section 4 amended**

17. Section 4 of the principal Act is amended—

- (a) by inserting after the section designation “4.” the subsection designation “(1)”;
- (b) by deleting the definitions of “absolute majority of votes”, “Assistant Chief Electoral Officer”, “by-election”, “Chief Electoral Officer”, “District”, “general election”, “magistrate”, “Province” and “writ” and inserting, in the appropriate alphabetical positions, the following definitions—

“ “Deputy Electoral Commissioner” means the person holding or acting in the office of Deputy Electoral Commissioner referred to in section 5A;

“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 region;

“election” means an election in a region or an election in a district;

“Electoral Commissioner” means the Electoral Commissioner appointed under this Act;

“general election”—

(a) in relation to the Assembly, means the elections in the districts the writs for which are issued pursuant to a warrant under section 64 (1);

(b) in relation to the Council, means the elections in the regions the writs for which are issued pursuant to a warrant under section 64 (2);

“group” means a group constituted in accordance with section 80;

“hour of nomination” means the hour fixed by section 85 (2);

“region” means an electoral region for the election of members of the Council;

“relevant number”, in relation to an election in a region, means the number of members of the Council that are to be returned at the election;

“single member election” means—

(a) an election in a district; or

(b) an election in a region where the relevant number is one;

“voting ticket” means a written statement of a particular order in which an elector might allocate preferences, in an election, being a statement for use under this Act in interpreting the votes of electors who choose to vote in accordance with the voting ticket;

“voting ticket square” means a square printed on a ballot paper to indicate in relation to the name of a candidate, or the names of candidates included in a group, that a voting ticket is registered in relation to that candidate or group;

“writ” means a writ issued by the Clerk of the Writs directing a Returning Officer to proceed with an election in a district or an election in a region. ”; and

(c) by inserting the following subsections—

“ (2) A reference in this Act to a poll for a district or an election in or for a district is a reference to a poll or an election for the return by a district of a member of the Assembly.

(3) A reference in this Act to a poll for a region or an election in or for a region is a reference to a poll or election for the return by a region of a member or members, as the case may require, of the Council but does not include the election of a member of the Council under sections 156C and 156D.

(4) A reference in this Act to a full election in a region is a reference to an election in a region for the return of—

(a) 7 members of the Council in the case of the North Metropolitan Region or the South West Region; or

(b) 5 members in any other case.

(5) A reference in this Act to the functions of the Electoral Commissioner is a reference to his functions under this Act and other written laws. ”.

#### **Section 4A inserted**

18. Before section 5 of the principal Act the following section is inserted—

#### **Western Australian Electoral Commission**

“ 4A. The department of the Public Service of the State through which this Act is administered shall be known as the Western Australian Electoral Commission. ”.

**Sections 5 and 5A repealed and sections substituted, and references altered**

**19.** (1) Sections 5 and 5A of the principal Act are repealed and the following sections are, respectively, substituted—

Electoral Commissioner

“ 5. There shall be an Electoral Commissioner.

Deputy Electoral Commissioner

5A. There shall be a Deputy Electoral Commissioner. ”.

(2) References to the Chief Electoral Officer in any written law shall, unless because of the context it would be inappropriate so to do, be read and construed as references to the Electoral Commissioner.

**Sections 5B to 5H inserted**

**20.** After section 5A of the principal Act the following sections are inserted—

Appointment, terms and conditions etc.

of Electoral Commissioner and Deputy Electoral Commissioner

“ 5B. (1) In this section and sections 5C and 5E “Electoral Commissioner” includes Deputy Electoral Commissioner.

(2) The Electoral Commissioner shall be appointed by the Governor on the recommendation of the Premier, and shall hold office in accordance with this Act.

(3) Before making a recommendation under subsection (2) the Premier shall consult with the Parliamentary leader of each party in the Parliament.

(4) A person appointed as the Electoral Commissioner shall hold office for such term not exceeding 9 years as is specified in the instrument of his appointment, and is eligible for re-appointment.

(5) The Electoral Commissioner may, at any time, by writing under his hand, addressed to the Governor, resign his office, and on receipt of his resignation by the Governor, he shall vacate office as Electoral Commissioner.

(6) The Electoral Commissioner shall vacate his office on completing the year of service in which he attains the age of 65 years.

(7) Subject to the Salaries and Allowances Act 1975, the Electoral Commissioner shall be paid a salary at such rate as the Governor may determine; and the rate of that salary shall not, without the consent of the Electoral Commissioner, be reduced during the term of office of the Electoral Commissioner.

(8) The salary payable to the holder of the office of Electoral Commissioner under this section shall be paid out of the Consolidated Revenue Fund which, to the necessary extent, is hereby appropriated accordingly.

(9) The Electoral Commissioner is entitled to such leave of absence and such travelling and other allowances as the Governor determines.

(10) No person who is or has been a member of the Parliament of the Commonwealth or any State or Territory shall be appointed as Electoral Commissioner, and if the Electoral Commissioner is nominated for election for the Parliament of the Commonwealth, or any other State, or a Territory he shall vacate office as Electoral Commissioner.

(11) The Electoral Commissioner shall not, except in so far as he is authorized so to do by resolutions of both Houses of Parliament, hold any office of profit or trust (other than his office as Electoral Commissioner) or engage in any occupation for reward outside the duties of his office, and if the Electoral Commissioner contravenes this subsection he shall be regarded, for the purposes of section 5C, as being guilty of misconduct.

(12) Section 52 of the *Interpretation Act 1984* does not apply to the office of Electoral Commissioner.

### Removal or suspension of Electoral Commissioner or Deputy Electoral Commissioner

5C. (1) The Electoral Commissioner may, at any time, be suspended or removed from his office by the Governor on addresses from both Houses of Parliament.

(2) Where the Governor is satisfied that the Electoral Commissioner—

- (a) is incapable of properly performing the duties of his office;
- (b) has shown himself incompetent properly to perform, or has neglected, those duties;
- (c) has applied to take, or has taken, advantage of any law relating to bankruptcy, or has compounded, or entered into any arrangement, with his creditors; or
- (d) has been guilty of misconduct,

the Governor may suspend him from his office.

(3) When the Electoral Commissioner has been suspended from his office under subsection (2) he shall be restored to office unless—

- (a) a statement of the grounds of his suspension is laid before each House of Parliament during the first 7 sitting days of that House following the suspension; and
- (b) each House of Parliament, during the session in which the statement is so laid, and within 30 sitting days of that statement being so laid, passes an address praying for his removal from his office.

## Acting appointments

5D. (1) The Governor, on the recommendation of the Premier, may appoint an Acting Electoral Commissioner to act in the office of the Electoral Commissioner—

- (a) when the Electoral Commissioner is absent from duty for any reason or is absent from the State;
- (b) when the Electoral Commissioner has been suspended; or
- (c) when the office of Electoral Commissioner is vacant.

(2) Before making a recommendation under subsection (1) the Premier shall consult with the Parliamentary leader of each party in the Parliament.

(3) While the Acting Electoral Commissioner is so acting—

- (a) he may perform the functions of the Electoral Commissioner, and anything done by him in so performing those functions has the like effect as if it were done by the Electoral Commissioner;
- (b) any act or thing that is required under a written law to be done to, by reference to or in relation to the Electoral Commissioner shall be regarded as effectually done if done to, by reference to or in relation to the Acting Electoral Commissioner.

## Supplementary provisions as to Electoral Commissioner, Deputy Electoral Commissioner and Acting Electoral Commissioner

5E. (1) The *Public Service Act 1978* does not apply to the Electoral Commissioner.

(2) The Electoral Commissioner shall, for the purposes of the *Superannuation and Family Benefits Act 1938*, be deemed to be an employee within the meaning of that Act.

(3) When an officer of the Public Service is appointed to the office of Electoral Commissioner he is entitled to retain all his existing and accruing rights as if his service in such an office, were a continuation of his service as an officer of the Public Service.

(4) When a person ceases to hold the office of Electoral Commissioner and becomes an officer of the Public Service his service in such an office shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(5) Where the Electoral Commissioner immediately before his appointment to such an office occupied an office under the *Public Service Act 1978*, he shall, if his term of office expires by effluxion of time, other than by his attaining the age of 65 years, and he is not re-appointed, be entitled to be appointed to an office under the *Public Service Act 1978*, not lower in status than the office which he occupied immediately prior to his appointment as Electoral Commissioner.

(6) The *Public Service Act 1978* does not apply to an Acting Electoral Commissioner unless, immediately before his appointment to that office, he occupied an office under that Act.

#### Functions of Electoral Commissioner

5F. (1) The Electoral Commissioner—

- (a) subject to section 5E (1) is the Permanent Head of the Western Australian Electoral Commission;
- (b) is responsible for the proper maintenance of electoral rolls and the proper conduct of elections under this Act;
- (c) shall consider, and report to the Minister on, electoral matters referred to him by the Minister and such other electoral matters as the Electoral Commissioner thinks fit;
- (d) shall promote public awareness of electoral and Parliamentary matters by means of the conduct of education and information programmes and by other means;
- (e) shall provide information and advice on electoral matters to the Parliament, Members of Parliament, the Government, departments and authorities of the State;
- (f) may conduct and promote research into electoral matters and other matters that relate to his functions;

- (g) may publish material on matters that relate to his functions; and
- (h) shall perform such other functions as are conferred on him by or under this Act or any other written law.

(2) The Electoral Commissioner may do all things necessary or convenient to be done for or in connection with the performance of his functions.

#### Delegation by Electoral Commissioner

5G. The Electoral Commissioner may—

- (a) by instrument in writing signed by him; and
- (b) either generally or as otherwise provided by that instrument,

delegate to the Deputy Electoral Commissioner—

- (c) any of the functions of the Electoral Commissioner under this Act other than this power of delegation; or
- (d) any of the functions of the Electoral Commissioner under any other written law.

#### Functions of Deputy Electoral Commissioner

5H. (1) The Deputy Electoral Commissioner shall assist the Electoral Commissioner as directed by the Electoral Commissioner and shall perform any function delegated to him under section 5G.

(2) Subject to section 5D, when—

- (a) the Electoral Commissioner is absent from duty for any reason or is absent from the State;
- (b) the Electoral Commissioner has been suspended; or
- (c) the office of Electoral Commissioner is vacant,

the Deputy Electoral Commissioner shall act in the office of the Electoral Commissioner during the absence, suspension or vacancy and, while he is so acting—

- (d) he may perform all the functions of the Electoral Commissioner and anything done by him in so performing those functions has the like effect as if it were done by the Electoral Commissioner; and
- (e) any act or thing that is required under a written law to be done to, by reference to or in relation to the Electoral Commissioner shall be regarded as effectually done if done to, by reference to or in relation to the Deputy Electoral Commissioner. ”.

### **Section 6 amended**

**21** (1) Section 6 of the principal Act is amended in subsection (1) by deleting “Governor” and substituting the following—

“ Electoral Commissioner ”.

(2) A Registrar or Returning Officer holding office immediately before the commencement of this Act shall, on and from that commencement, be deemed to have been appointed by the Electoral Commissioner.

### **Section 7 repealed and a section substituted**

**22.** Section 7 of the principal Act is repealed and the following section is substituted—

Substitutes

“ 7. The Electoral Commissioner may, during the absence or temporary incapacity of any Registrar or Returning Officer appoint a substitute to perform the functions of that Registrar or Returning Officer. ”.

### **Section 13 amended**

**23.** Section 13 of the principal Act is amended by deleting “Governor” and substituting the following—

“ Electoral Commissioner ”.

**Section 14 amended**

24. Section 14 of the principal Act is amended in subsection (1) by deleting "Governor" and substituting the following—

" Electoral Commissioner ".

**Section 15 amended**

25. Section 15 of the principal Act is amended in subsection (1) by deleting "Minister may, on the recommendation of the Chief Electoral Officer," and substituting the following—

" Electoral Commissioner may ".

**Section 17 amended**

26. Section 17 of the principal Act is amended—

(a) in subsection (1) by deleting paragraph (e) and substituting the following paragraph—

" (e) when so enrolled and while he continues to live in that district or sub-district, to vote at—

(i) any election in the region of which the district or sub-district forms part; and

(ii) any election in the district or the district of which the sub-district forms part. "; and

(b) in subsection (2) by deleting "of a member for the Province" and substituting the following—

" in the region ".

**Section 19 amended**

27. Section 19 of the principal Act is amended in subsection (6) by deleting "of a member of the Assembly for that District and of a member of the Council for the Province" and substituting the following—

" in the district and at any election in the region ".

**Section 28 amended**

**28.** Section 28 of the principal Act is amended in subsection (1) by deleting “Minister so directs” and substituting the following—

“ Electoral Commissioner thinks fit ”.

**Section 36 amended**

**29.** Section 36 of the principal Act is amended by deleting “forward to the Minister such recommendations” and substituting the following—

“ take such action and give such directions ”.

**Section 40 amended**

**30.** Section 40 of the principal Act is amended—

(a) in subsection (2) by deleting “Chief Electoral Officer” and substituting the following—

“ Registrar for the district for which the roll is being prepared ”;

(b) in subsections (3) and (4) by deleting “Chief Electoral Officer” and substituting the following—

“ Registrar ”; and

(c) in subsection (4) by deleting “a magistrate” and substituting the following—

“ the Electoral Commissioner ”.

**Section 47 amended**

**31.** Section 47 of the principal Act is amended—

(a) in subsection (3) (c), by deleting “before a magistrate” and substituting the following—

“ by the Electoral Commissioner ”; and

(b) in subsection (3) (e), by deleting “magistrate” and substituting the following—

“ Electoral Commissioner ”.

**Section 48 amended**

**32.** Section 48 of the principal Act is amended—

(a) in subsections (2) (c) and (3) (c), by deleting “before a magistrate” and substituting in each place the following—

“ by the Electoral Commissioner ”; and

(b) in subsections (2) (f), (2) (g) and (3) (e), by deleting “magistrate” and substituting in each place the following—

“ Electoral Commissioner ”.

**Heading to Part III Division (4) (iii) amended**

**33.** Part III of the principal Act is amended in the heading to Division (4) (iii) by deleting “Magistrate” and substituting the following—

“ *Electoral Commissioner on Appeal* ”.

**Section 49 amended**

**34.** Section 49 of the principal Act is amended by deleting “magistrate” wherever it occurs and substituting in each place the following—

“ Electoral Commissioner ”.

**Section 51 amended**

**35.** Section 51 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) The Electoral Commissioner may take such action and give such directions as he considers necessary in order for the rolls to be adjusted to give effect to a division of the State into districts and regions under the *Electoral Distribution Act 1947*. ”.

**Section 52 amended**

**36.** Section 52 of the principal Act is amended in subsection (1) (g) by deleting “or the Minister”.

**Section 63 amended**

37. Section 63 of the principal Act is amended by deleting “the election of members of the Council and Assembly” and substituting the following—

“ elections in regions and elections in districts ”.

**Section 64 repealed and a section substituted**

38. Section 64 of the principal Act is repealed and the following section is substituted—

Governor to issue warrant directing issue  
of writs for general election

“ 64. (1) Whenever an Assembly expires or is dissolved the Governor shall, not later than 21 days after the dissolution or expiry, by warrant under his hand in the prescribed form direct the Clerk of the Writs to issue writs for elections in all the districts.

(2) Whenever the occasion arises under the *Constitution Acts Amendment Act 1899* for writs to be issued for elections in all the regions the Governor shall, within the time prescribed by that Act, by warrant under his hand in the prescribed form direct the Clerk of the writs to issue those writs.

(3) On receipt of a warrant under subsection (1) or (2) the Clerk of the Writs shall forthwith cause writs for the elections to be issued. ”.

**Section 67 amended**

39. Section 67 of the principal Act is amended—

(a) in subsection (1) by deleting “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” and substituting the following—

“ the Assembly from any cause, the Speaker ”;

- (b) in subsection (2) by deleting “House affected, the President or” and substituting the following—

“ Assembly, the ”;

- (c) in subsection (3) by deleting “President or Speaker of the House affected” in both places where it occurs and substituting in each place the following—

“ Speaker ”;

- (d) in subsection (4)—

- (i) by deleting “President or” in both places where it occurs; and

- (ii) by deleting “House” and substituting the following—

“ Assembly ”;

- (e) in subsection (5)—

- (i) by deleting “President or the Speaker, as the case may be”; and substituting the following—

“ Speaker ”;

- (ii) by deleting “President or Speaker, as the case may be” and substituting the following—

“ Speaker ”; and

- (f) by inserting after subsection (5) the following subsection—

“ (6) On receipt of a warrant under this section the Clerk of the Writs shall forthwith cause the writ for the election to be issued. ”.

### **Section 68 amended**

**40.** Section 68 of the principal Act is amended by repealing subsection (1).

**Sections 73, 74, 75 and 76 repealed and sections substituted**

**41.** Sections 73, 74, 75 and 76 of the principal Act are repealed and the following sections are, respectively, substituted—

## Notice of intention to issue writ

“ 73. (1) The Clerk of the Writs shall cause notice of his intention to issue a writ to be given—

- (a) in the case of a writ for an election in a region, to the Registrars of each district or sub-district that forms part of the region;
- (b) in the case of a writ for an election in a district, to the Registrar of the district and the Registrar of any sub-district thereof.

(2) A notice under subsection (1) shall state the date on which the writ concerned will be issued and shall be sent by telegraph or, where the Registrar concerned is employed in the Western Australian Electoral Commission in Perth, given in writing.

## Address of writs

74. (1) A writ for an election in a region shall be addressed to the Returning Officer for the region and the Clerk of the Writs shall forward a copy of the writ to each Deputy Returning Officer for the region.

(2) A writ for an election in a district shall be addressed to the Returning Officer for the district.

## Duty of officer on receipt of writ

75. (1) On the receipt of a writ the Returning Officer to whom it is addressed shall—

- (a) indorse thereon the date of its receipt; and
- (b) advertise its receipt and particulars in the region or district giving at least 10 clear days' public notice of the day of polling.

(2) The Returning Officer to whom a writ is addressed shall—

- (a) as soon as practicable after the receipt of the writ advertise in the region or district the chief polling place for the region or district; and
- (b) on at least one occasion after the receipt of the writ advertise in the region or district the polling places at which the poll will be taken.

(3) In the case of a general election the duties imposed by subsection (2) may be carried out by the Electoral Commissioner and where the Electoral Commissioner advertises as required by that subsection the Returning Officers for the several regions and districts are not required to comply with that subsection.

(4) In this section “advertise” in relation to a region or district means advertise in a newspaper circulating in the region or district, or by placards or otherwise.

#### Extension of time

76. (1) Subject to subsections (2) and (3) 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.

(2) No extension of the time for taking the poll shall be made under this section at any time later than 7 days before the time originally appointed.

(3) In the case of a general election for the Council the time prescribed for the return of a writ shall not be extended under this section beyond the time prescribed by the *Constitution Acts Amendment Act 1899*.

(4) Where an extension of the time for taking the poll is made under this section public notice of the extension shall forthwith be given in the region or district in which the election is to be held. ”.

**Section 77 repealed and a section substituted**

**42.** Section 77 of the principal Act is repealed and the following section is substituted—

Candidates to nominate

“ 77. (1) A person shall not be capable of being elected at an election unless he—

(a) duly nominates himself; and

(b) is qualified to be elected and is not disqualified from being elected as a member of the House for which the election is being held.

(2) Where—

(a) a day is fixed as the polling day for 2 or more elections;

and

(b) at the hour of nomination there exist nominations of a person for 2 or more of those elections,

each of those nominations is invalid.

(3) For the purposes of subsection (2) where a person has nominated himself in relation to an election and the person withdraws that nomination under section 82 before the hour of nomination, the nomination of the person for the election shall be taken to have ceased to have effect at the time when the person withdraws that nomination.

(4) A person shall not nominate himself as a candidate in an election if, prior to and until the hour of nomination, he is, either by this Act or any other Act, disqualified from being elected at that election as, or from being, a member of the House for which the election is being held.

Penalty—\$200 or imprisonment for 6 months.

(5) A nomination made in contravention of subsection (4) is invalid. ”.

**Section 80 inserted**

43. After section 79 of the principal Act the following section is inserted—

Grouping of candidates

“ 80. (1) Two or more candidates nominated for an election in a region where the relevant number is more than one may, in a form approved by the Electoral Commissioner and before the hour of nomination, make a claim to the Returning Officer—

- (a) to have their names included in a group in the ballot papers to be used in that election; and
- (b) to have their names included in that group in the order specified in that claim.

(2) Subject to subsections (3), (4), (5) and (6), candidates nominated for an election in a region who have under subsection (1) made a claim referred to in that subsection shall, for the purposes of that election, be included in a group in the order specified in the claim.

(3) Two or more candidates who have made a claim under subsection (1) may, in a form approved by the Electoral Commissioner and before the hour of nomination, withdraw that claim.

(4) A claim under subsection (1) is of no force or effect if—

- (a) the name of any candidate included in the claim is included in any other claim under that subsection; or
- (b) the nomination of any candidate whose name is included in the claim is withdrawn under section 82.

(5) Where a claim is made under subsection (1) in respect of an election and any of the persons who made the claim is, before polling day for that election, declared by any court to be incapable of being elected at that election, then, after the making of the declaration—

- (a) where there are 2 or more other persons who made that claim, the group shall consist of the remainder of those persons only; or

- (b) where there is only one other person who made that claim, the claim shall be of no force or effect.

(6) Where a claim is made under subsection (1) and any of the persons who made the claim is a person whose nomination is invalid under section 77—

- (a) where there are 2 or more other persons who made that claim, the group shall consist of the remainder of those persons only; or
- (b) where there is only one other person who made that claim, the claim shall be of no force or effect. ”.

### **Section 82 amended**

44. Section 82 of the principal Act is amended—

- (a) by deleting “A” and substituting the following—

“ (1) Subject to subsection (2), a ”;

- (b) by deleting “not later than 12 o’clock noon on the day” and substituting the following—

“ before the hour ”; and

- (c) by inserting the following subsection—

“ (2) Where 2 or more candidates for an election in a region are included in a group, a candidate included in the group shall not, under subsection (1), withdraw his nomination except with the consent of the other or others. ”.

### **Section 84 repealed and a section substituted**

45. Section 84 of the principal Act is repealed and the following section is substituted—

Return or forfeiture of deposit

“ 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 if he is elected or—

- (a) in the case of an election in a region where the relevant number is more than one, if the total number of first

preference votes polled in his favour or in favour of the members of the group in which he is included is more than one-twentieth of the total number of first preference votes polled by all the candidates in the election;

- (b) in the case of a single member election where there are more than 2 candidates, if the total number of first preference votes polled in his favour is more than one-tenth of the total number of first preference votes polled by all the candidates in the election;
- (c) in the case of a single member election where there are only 2 candidates, if the number of votes polled in his favour is more than one-tenth of the total number of votes polled by both the candidates in the election,

otherwise it shall be forfeited to the Crown.

(2) On the death of a candidate before polling day, or on polling day before the close of the poll—

- (a) the deposit made by or on behalf of that candidate shall be paid to his legal representative; and
- (b) the deposits made by or on behalf of the other candidates shall be returned. ”.

### **Section 85 amended**

**46.** Section 85 of the principal Act is amended—

- (a) by inserting after the section designation “85.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

“ (2) The hour of nomination for an election shall be 12 noon on the day of nomination. ”.

**Section 86 amended**

47. Section 86 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) This section applies to an election in a district and not to an election in a region. ”;

(b) by inserting after subsection (1) the following subsection—

“ (1a) The Returning Officer shall attend at the place of nomination for the period of one hour immediately prior to the hour of nomination. ”;

(c) by inserting before subsection (2a) the following subsection—

“ (2aa) If there is only one candidate for election the Returning Officer shall declare that candidate duly elected. ”;

(d) by repealing subsection (2a) and substituting the following subsection—

“ (2a) If there are 2 or more candidates for election 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, and deal with the slips in accordance with Schedule 2;

(b) the candidate whose name appears on the first slip obtained by the Returning Officer in accordance with Schedule 2 shall be placed first on the ballot papers, the candidate whose name appears on the second slip so obtained shall be placed second on the ballot papers, and so on, until the placing of all the names of those candidates on the ballot papers has been determined. ”;

(e) by repealing subsection (3) and substituting the following subsection—

“ (3) Subject to section 88 (2) the proceedings shall then stand adjourned to polling day. ”; and

(f) by repealing subsection (4).

**Section 87 repealed and a section substituted**

**48.** Section 87 of the principal Act is repealed and the following section is substituted—

Proceedings on nomination day—

Council election

“ 87. (1) This section applies to an election in a region and not to an election in a district.

(2) The Returning Officer shall attend at the place of nomination between the hours of 11 a.m. and 12 noon on the day of nomination.

(3) 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.

(4) If there are not more candidates for election than the relevant number the Returning Officer shall declare that candidate or those candidates, as the case may be, duly elected.

(5) If there are more candidates for election than the relevant number and they comprise or include 2 or more groups the order of the groups 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 group, a slip bearing the names of the candidates in the group, and deal with the slips in accordance with Schedule 2;
- (b) the group whose names appear on the first slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall be placed first on the ballot papers, the group whose names appear on the second slip so obtained shall be placed second on the ballot papers, and so on, until the placing of all the groups on the ballot papers has been determined.

(6) If there are more candidates for election than the relevant number and 2 or more of them are not included in a group, the order of the names of the candidates not included in a group 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 of those candidates, a slip bearing his name, and proceed to deal with the slips in accordance with Schedule 2;
- (b) the candidate whose name appears on the first slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall, of those candidates, be placed first on the ballot papers, the candidate whose name appears on the second slip so obtained shall, of those candidates, be placed second on the ballot papers, and so on, until the placing of all the names of the candidates on the ballot papers has been determined.

(7) As soon as is practicable the Returning Officer shall advertise the names and other particulars of the several candidates, in the order prescribed by section 113A, in a newspaper circulating in the region.

(8) Subject to section 88 (1) the proceedings shall then stand adjourned to polling day. ”.

### **Section 87A inserted**

**49.** After section 87 of the principal Act the following section is inserted—

#### **Further duties of Returning Officer**

“ 87A. (1) Before attending the place of nomination as required by section 86 (1a) or 87 (2) the Returning Officer shall ascertain the correct time; and in any dispute that may arise as regards time his decision shall be final.

(2) 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 81. ”.

**Section 88 amended**

50. Section 88 of the principal Act is amended—

- (a) in subsection (2) by deleting paragraphs (f) and (fa);
- (b) in subsection (3) by deleting “on polling day” and substituting the following—

“ for an election in a district ”; and

- (c) by inserting after subsection (3) the following subsection—

“ (4) If, after the close of the poll for an election in a region and before the counting of the votes in the election has been completed, a candidate dies, and during the count of the votes or the continuation of the count of the votes after his death, as the case may be, that candidate is elected, he shall be deemed for the purposes of section 10 of the *Constitution Acts Amendment Act 1899* and Part IVA of this Act to have vacated a seat in the Council immediately after he was elected. ”.

**Section 89 amended**

51. Section 89 of the principal Act is amended—

- (a) by inserting after the section designation “89.” the subsection designation “(1)”; and
- (b) by inserting the following subsection—

“ (2) If an insufficient number of candidates is nominated for an election in a region where the relevant number is more than one, or if an insufficient number of candidates is returned as elected at such an election, the election shall be deemed to have partially failed, and a new writ shall forthwith be issued for a supplementary election to fill the remaining vacancy or vacancies, as the case may be. ”.

**Section 90 amended**

**52.** Section 90 of the principal Act is amended—

(a) by deleting paragraph (d) of subsection (1a) and substituting the following paragraph—

“ (d) an officer of the Western Australian Electoral Commission appointed by the Electoral Commissioner to issue postal ballot papers; ”;

(b) in subsection (4) (c) (i) by deleting “attach thereto”;

(c) in subsection (4) (c) (iii) by deleting “attached to the ballot paper after it is detached and”; and

(d) by inserting after subsection (12) the following subsection—

“ (13) The issuing officer is not—

(a) authorized to issue postal ballot papers before the expiration of 24 hours after the hour of nomination;

or

(b) required to issue a postal ballot paper before the expiration of 48 hours after the hour of nomination. ”.

**Section 92 amended**

**53.** Section 92 of the principal Act is amended—

(a) in subsection (2) (a) by deleting “, detach the declaration from the ballot paper”; and

(b) in subsection (8) by inserting after “142A” the following—

“ , or that section as applied by section 146B (1) ”.

**Section 93 amended**

54. Section 93 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “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”;

(ii) by deleting “other”; and

(iii) by deleting “proclamation” and substituting the following—

“ the Electoral Commissioner under subsection (5) ”;

and

(b) by repealing subsection (5) and substituting the following subsection—

“ (5) The Electoral Commissioner may, by notice published in the *Government Gazette*, declare any portion of the State to be a remote area to which this section applies, and may, by subsequent notice so published, cancel or alter a declaration so made. ”.

**Section 97 repealed and a section substituted**

55. Section 97 of the principal Act is repealed and the following section is substituted—

Mistakes

“ 97. Without limiting the generality of section 140 or 146F a postal ballot paper shall not be rejected as informal by reason only of any mistake in spelling. ”.

**Section 99A amended**

56. Section 99A of the principal Act is amended in subsection (2) by deleting “the provisions of sections 87 or 88” and substituting the following—

“ section 87 (4) or 88 (1) or section 86 (2aa) ”.

**Section 99B amended**

57. Section 99B of the principal Act is amended in subsection (3) by deleting “the provisions of section 142A” and substituting the following—

“ section 142A or pursuant to that section as applied by section 146B (1) ”.

**Section 100 amended**

58. Section 100 of the principal Act is amended—

(a) in subsections (1), (2) and (3), by deleting “Minister” and substituting in each place the following—

“ Electoral Commissioner ”; and

(b) in subsection (3) by deleting “a by-election for any Province or District in the State” and substituting the following—

“ an election that is not conducted as part of a general election ”.

**Section 113 amended**

59. Section 113 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting before “prescribed” the following—

“ appropriate ”; and

(ii) by deleting “, arranged in large characters in the order determined in accordance with section 86 (2a)”;

(b) in subsection (2) by deleting “in smaller characters”; and

(c) by inserting after subsection (2) the following subsection—

“ (3) The printing in a ballot paper shall be in characters of such size or sizes as the Electoral Commissioner determines. ”.

**Sections 113A and 113B inserted**

**60.** After section 113 of the principal Act the following sections are inserted—

## Voting tickets

“ 113A. (1) For the purposes of an election in a region a candidate or a group may, before the expiration of 24 hours after the hour of nomination, lodge a voting ticket with the Returning Officer.

(2) A voting ticket may be lodged under subsection (1) on behalf of a candidate or a group by a person who is authorised to do so by a notice in writing that has been—

- (a) signed by that candidate, or by each candidate included in that group; and
- (b) lodged with the Returning Officer at or before the hour of nomination.

(3) Where a candidate is included in a group, a voting ticket may not be lodged under subsection (1) by or on behalf of the candidate individually, but only by or on behalf of the group as a whole.

(4) A voting ticket lodged under subsection (1) must—

- (a) indicate by consecutive numbers commencing with the number 1 an order of preference for all candidates in the election; and
- (b)
  - (i) in the case of a voting ticket lodged by or on behalf of a candidate who is not included in any group—indicate a preference for that candidate over all other candidates in the election;
  - (ii) in the case of a voting ticket lodged by or on behalf of a group—indicate preferences for the candidates in the group—
    - (A) in the order in which the names of those candidates are to appear in the ballot paper; and
    - (B) over all candidates in the election who are not included in that group.

(5) If—

- (a) for the purposes of an election in a region for which there is a group—
  - (i) a voting ticket has been lodged under subsection (1) by or on behalf of a group; or
  - (ii) a voting ticket has been lodged under subsection (1) by or on behalf of a candidate not included in any group; or
- (b) for the purposes of an election in a region for which there are no groups a voting ticket has been lodged under subsection (1) by or on behalf of a candidate,

then, except in the case of a voting ticket lodged by or on behalf of a candidate in an election in which there are not more than two candidates, the voting ticket shall be regarded as being registered in relation to the group or candidate, as the case may be, for the purposes of the election.

#### Printing Council ballot papers

113B. (1) In printing the ballot papers for an election in a region for which there is a group—

- (a) if there is only one group, the names of candidates included in that group shall be printed in a group before the names of candidates, if any, not included in that group;
- (b) if there are 2 or more groups, the names of candidates included in the groups shall be printed in groups in the ballot papers in the order determined under section 87 (5), before the names of candidates, if any, not included in any such group;
- (c) the order, within a group, in which the names of candidates in that group shall be printed in the ballot papers shall be the order specified in the claim made by them in accordance with section 80 (1); and
- (d) the names of candidates, if any, not included in any group shall be printed in the ballot papers in the order determined under section 87 (6) and, where warranted by reason of the number of such candidates, may be printed as a group.

(2) In printing the ballot papers for an election in a region for which there are no groups, the names of the candidates shall be printed in the order determined under section 87 (6).

(3) In printing the ballot papers for an election in a region—

(a) a square shall be printed opposite the name of each candidate; and

(b) where a voting ticket has been lodged under section 113A an additional square shall be printed in the prescribed position—

(i) in the case of a voting ticket lodged by or on behalf of a group—above the names of the candidates included in the group or above the squares printed opposite those names; and

(ii) in the case of a voting ticket lodged by or on behalf of a candidate—above the name of that candidate or above the square printed opposite that name, or, where the names of candidates are printed in a group as authorised by section 113B (1) (d), adjacent to the name of that candidate or adjacent to the square printed opposite that name,

in order to indicate that a voting ticket is registered in relation to the group or candidate, as the case may be.

(4) Ballot papers for an election in a region shall be in the form of Form A or Form B in Schedule 3 as the case requires.

(5) Where before polling day for an election in a region where the relevant number is more than one any candidate is declared by any court to be incapable of being elected at that election, the Returning Officer may take such action with respect to the printing of the ballot papers (including, if he thinks fit, causing the ballot papers to be reprinted, causing notations or marks to be made on them or again applying the provisions of section 87 (6)) as in his opinion is necessary as a consequence of the declaration.

Printing of political party names or “independent”  
on ballot papers

113C. (1) Subject to this section, where a candidate in an election in a region applies to have a name specified in the application being—

- (a) a name of a political party;
- (b) a composite name of two political parties comprising a name of one political party and a name of the other political party,

printed adjacent to the applicant’s name on the ballot papers for use in the election, the name so specified shall be so printed on those ballot papers.

(2) Where—

- (a) in accordance with subsection (1), a name is printed adjacent to the name of a candidate on ballot papers for use in an election; and
- (b) a voting ticket square is printed on those ballot papers in relation to the candidate or in relation to a group in which the candidate is included,

the name so printed shall also be printed adjacent to that voting ticket square.

(3) An application under subsection (1)—

- (a) must be in a form approved by the Electoral Commissioner;
- (b) must be signed by the candidate;
- (c) must contain a declaration signed by an authorised officer of the political party or, if the application is for the printing of a composite name, by an authorised officer of each political party concerned, stating that the party supports the application;
- (d) where the name of the applicant is to be included in a group, must be in the form of a joint application by all the candidates to be included in the group for the printing of the same name, adjacent to the name of each of those candidates; and

- (e) must be received by the Returning Officer not later than the hour of nomination.

(4) The Returning Officer may reject an application under subsection (1) if, in the opinion of the Returning Officer, the name to which the application relates—

- (a) is obscene;
- (b) contains more than 6 words;
- (c) is not a name of a parliamentary party and—
  - (i) is the same as a name of another political party; or
  - (ii) so nearly resembles a name of another political party that it is likely to be confused with or mistaken for that name;
- (d) comprises the words “Independent Party” or comprises or contains the word “Independent” and—
  - (i) a name of a political party; or
  - (ii) matter that so nearly resembles the name of a political party that the matter is likely to be confused with or mistaken for that name; or
- (e) contains the word “Royal” or any suggestion of royal patronage.

(5) Subject to this section, where a candidate in an election in a region who is not endorsed as a candidate in the election by a political party applies to have the word “Independent” printed adjacent to the applicant’s name on the ballot papers for use in the election that word shall be so printed on those ballot papers.

(6) Where—

- (a) in accordance with subsection (5), the word “Independent” is printed adjacent to the name of the candidate on ballot papers for use in an election; and
- (b) a voting ticket square is printed on those ballot papers in relation to the candidate or in relation to a group in which the candidate is included,

that word shall also be printed adjacent to that voting ticket square.

(7) An application under subsection (5)—

- (a) must be in a form approved by the Electoral Commissioner;
- (b) must be signed by the candidate;
- (c) where the name of the applicant is to be included in a group, must be in the form of a joint application by all the candidates to be included in the group for the printing of the word “Independent” adjacent to the name of each of those candidates; and
- (d) must be received by the Returning Officer not later than the hour of nomination.

(8) The Returning Officer may, in any case, and shall, at the request of the candidate, refer to the Electoral Commissioner any question as to whether or not—

- (a) a body or organization is a political party;
- (b) a name is the name of a political party or a composite name of two political parties;
- (c) an application should be rejected under subsection (4); or
- (d) a candidate is entitled to make an application under subsection (5),

and, for the purposes of this section, the decision of the Electoral Commissioner on that question is final.

(9) For the purposes of subsection (8) (c) the Electoral Commissioner may form the opinion referred to in subsection (4).

(10) In this section—

“authorised officer”, in relation to a political party, means a person who has been nominated by the Secretary or the chief executive officer (however designated) of that party to be an authorised officer of that party for the purposes of this section by notice in writing, specifying the name and address of the person and signed by the Secretary or chief executive officer, lodged with the Electoral Commissioner, and whose nomination has not been

cancelled by notice in writing signed by the secretary or chief executive officer, lodged with the Electoral Commissioner;

“name” includes an abbreviation or acronym of a name;

“parliamentary party” means a political party at least one member of which—

- (a) is a member of the Legislative Assembly or the Legislative Council or the Parliament of the Commonwealth; or
- (b) was a member of the Legislative Assembly that most recently expired or was dissolved.

Claims etc may be lodged with Electoral Commissioner

113D. Where a claim, voting ticket, notice or application under section 80, 113A or 113C is lodged with the Electoral Commissioner it shall be deemed to have been made to, lodged with or received by the Returning Officer and to have been so made, lodged or received at the time at which it was lodged with the Electoral Commissioner.

Printing Assembly ballot papers

113E. In printing the ballot papers for an election in a district—

- (a) the names of the candidates shall be printed in the order determined under section 86 (2a); and
- (b) a square shall be printed opposite the name of each candidate. ”.

**Section 114 amended**

**61.** Section 114 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) Scrutineers may be appointed by candidates to represent them at polling places during the polling but—

(a) at a single member election, not more than one scrutineer at a time shall be allowed to each candidate at each polling place, or section of a polling place, if divided;

(b) at an election in a region where the relevant number is more than one—

(i) not more than one scrutineer at a time shall be allowed to each group; and

(ii) not more than one scrutineer shall be allowed to each candidate who is not included in any group,

at each polling place, or section of a polling place, if divided. ”; and

(b) in subsection (2) by inserting before “giving” the following—

“ or any candidate included in the group in the case of an appointment under subsection (1) (b) (i), ”.

**Section 128 repealed and sections 128 and 128A substituted**

**62.** Section 128 of the principal Act is repealed and the following sections substituted—

How votes to be marked (Assembly Elections)

“ 128. (1) In an election in a district where there are only 2 candidates on the ballot paper an elector shall mark his vote on the ballot paper by placing the numeral “1” in the square opposite the name of the candidate for whom he votes.

(2) In an election in a district where there are more than 2 candidates an elector shall mark his vote on the ballot paper by placing the numeral "1" in the square opposite the name of the candidate for whom he votes as his first preference, and consecutive numerals beginning with the numeral "2" in the square opposite the names of the remaining candidates so as to indicate the order of his preference for all candidates.

#### How votes to be marked (Council Elections)

128A (1) In an election in a region where there are only 2 candidates on the ballot paper an elector shall mark his vote on the ballot paper by placing the numeral "1" in the square opposite the name of the candidate for whom he votes.

(2) In an election in a region where there are more than 2 candidates on the ballot paper an elector shall mark his vote on the ballot paper—

- (a) by placing the numeral "1" in the square opposite the name of the candidate for whom he votes as his first preference and consecutive numerals beginning with the numeral "2" in the squares opposite the names of the remaining candidates so as to indicate the order of his preference for all candidates; or
- (b) by placing the numeral "1", a tick or a cross in a voting ticket square printed on the ballot paper. "

#### Heading to Part IV Division (4) amended

63. Part IV of the principal Act is amended in the heading to Division (4) by inserting after "Votes" the following—

" (General) "

**Heading to Part IV Division (4a) and a section 136A inserted**

**64.** After section 136 of the principal Act the following heading and section are inserted—

“ *Division (4a)—Scrutiny and Count (Assembly Elections)*

**Application**

136A. Subject to sections 146B (1) and 146E, this Division applies only in relation to an election in a district and the poll for such an election. ”.

**Section 139 amended**

**65.** Section 139 of the principal Act is amended—

- (a) by deleting paragraph (b) and “or” at the end thereof; and
- (b) by deleting paragraph (d) and substituting the following paragraph—

“ (d) where there are only 2 candidates, if it does not indicate the candidate for whom the elector votes, or, where there are more than 2 candidates, if it does not indicate the order of the elector’s preference for all candidates; ”.

**Section 140 repealed and a section substituted**

**66.** Section 140 of the principal Act is repealed and the following section is substituted—

**Effect to be given to elector’s intention**

“ 140. (1) A ballot paper shall not be informal for any reason other than the reasons enumerated in section 139.

(2) Without limiting the generality of subsection (1), where the vote or votes of an elector is or are marked on a ballot paper in a manner other than the prescribed manner but the ballot paper clearly indicates the elector’s intention as necessary under section 139 (d) and is not informal under section 139 (a), (c) or (e), that ballot paper—

- (a) shall not be informal; and

(b) shall be given effect to according to the elector's intention.

(3) In subsection (2) "prescribed manner" means—

(a) where there are only 2 candidates on the ballot paper, the manner required by section 128 (1);

(b) where there are more than 2 candidates on the ballot paper, the manner required by section 128 (2). "

### **Section 141 amended**

**67.** Section 141 of the principal Act is amended—

(a) by deleting "Minister" in both places where it occurs and substituting in each place the following—

" Electoral Commissioner "; and

(b) by deleting paragraph (b).

### **Section 142 amended**

**68.** Section 142 of the principal Act is amended by deleting subparagraph (a) of paragraph (6) and substituting the following subparagraph—

" (a) enclose—

(i) in one packet, all the used ballot papers in his possession;

(ii) in another packet, all the unused ballot papers in his possession; and

(iii) in another packet, all copies of rolls, books, communications from officers, or other papers or documents used or received at or in connection with the election, that are in his possession; "

**Section 142A amended**

**69.** Section 142A of the principal Act is amended in subsection (1) by deleting “Minister” and substituting the following—

“ Electoral Commissioner. ”.

**Section 143 amended**

**70.** Section 143 of the principal Act is amended by repealing subsection (2).

**Section 144 amended**

**71.** Section 144 of the principal Act is amended—

(a) in subsection (1) by inserting after paragraph (c) the following paragraph—

“ (d) If the candidates have an equal number of votes section 145 applies. ”;

(b) in subsection (2) (d) (i) by deleting “subsection (1)” and substituting the following—

“ paragraph (a) (ii) ”;

(c) in subsection (2) by inserting after paragraph (e) the following paragraph—

“ (ea) The candidate who then has obtained the largest number of votes shall, if such number constitutes an absolute majority of votes, be declared duly elected. ”;

(d) by inserting after paragraph (f) of subsection (2) the following paragraphs—

“ (g) If, after any count, the candidate with the fewest votes has to be declared to be defeated under paragraph (d) or (f), and 2 or more candidates (in this paragraph

called the “tied candidates”) have an equal number of votes (each other candidate having a larger number of votes)—

- (i) the Returning Officer shall make out in respect of each of the tied candidates a slip bearing the name of the candidate, and deal with the slips in accordance with Schedule 2; and
  - (ii) the candidate whose name is on the slip obtained by the Returning Officer in accordance with clause 5 of Schedule 2 shall be declared to be defeated.
- (h) If after any count 2 or more candidates have an equal number of votes and they are the only candidates, or the only non-defeated candidates, section 145 applies. ”;

and

- (e) by inserting after subsection (2) the following subsection—

“ (3) In this section “absolute majority of votes” means a greater number than one-half of the whole number of ballot papers other than informal ballot papers. ”.

### **Section 145 repealed and a section substituted**

**72.** Section 145 of the principal Act is repealed and the following section is substituted—

#### **Tied elections**

“ 145. (1) If after any count 2 or more candidates have an equal number of votes and they are the only candidates, or the only non-defeated candidates, the Returning Officer shall re-count the votes on the ballot papers and, where appropriate, declare one of the candidates duly elected under section 144 (1) (c), (2) (ea) or (2) (f).

(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.

(3) If after the re-count 2 or more candidates (in this section called “the tied candidates”) have an equal number of votes and they are the only candidates, or the only non-defeated candidates, the Returning Officer shall notify the Electoral Commissioner of the result of the re-count.

(4) On receipt of notification under subsection (3) the Electoral Commissioner shall file a petition addressed to the Court of Disputed Returns constituted under Part V—

- (a) setting out the results of the scrutiny and count and the re-count; and
- (b) requesting the Court to determine whether any of the candidates was duly elected and, if so, to declare that candidate duly elected.

(5) Part V applies in respect of the petition as if it were a petition duly filed under sections 158 to 160 and, for the purposes of that application, the tied candidates shall be regarded as parties to the petition.

(6) The Court shall endeavour to make its determination as soon as practicable after the petition is filed.

(7) The Court may order that a new election be held in place of the election to which the petition relates if—

- (a) the tied candidates both or all jointly request the Court to do so; or
- (b) the Court is unable to declare any of the candidates duly elected,

and, notwithstanding anything in this Act, except where the Court otherwise orders, the same roll as was used for that election shall be used for the new election. ”.

#### **Part IV Division (4b) inserted**

**73.** After section 146 of the principal Act the following Division is inserted—

“ *Division (4b)—Scrutiny and Count (Council Elections)*

### Application and construction

146A. (1) This Division applies only in relation to an election in a region and the poll taken for such an election.

(2) Where in relation to an election in a region the relevant number is one and there are only 2 candidates, a reference in this Division and Schedule 1 to—

- (a) the indication of an elector's first preference for a candidate, shall be read and construed as a reference to the indication of the candidate for whom the elector votes;
- (b) first preference votes given for a candidate, shall be read and construed as a reference to votes given for the candidate.

### Appointment of Assistant Returning Officers and counting places

146B. (1) Sections 141 and 142A apply to and in relation to an election in a region as if references in those sections to a district were references to a region.

(2) In the case of a conjoint election appointments of Assistant Returning Officers and counting places under section 141, and of Assistant Returning Officers under section 142A, for the purposes of an election for the Assembly have effect for the purposes of the corresponding election for the Council.

### Power to appoint scrutineers

146C. (1) Where the relevant number is more than one—

- (a) each group may appoint not more than 3 scrutineers to represent the candidates included in that group at the scrutiny and count of votes at each place where such scrutiny and count are conducted under section 146G or 146H;

- (b) each group may appoint scrutineers, not exceeding in number such number as the Returning Officer determines, to represent the candidates included in that group at the scrutiny and count of votes under section 146I;
- (c) each candidate who is not included in any group may appoint one scrutineer to represent the candidate at the scrutiny and count of votes at each place where such scrutiny and count are conducted under section 146G or 146H;
- (d) each candidate who is not included in any group may appoint scrutineers, not exceeding in number such number as the Returning Officer determines, to represent the candidate at the scrutiny and count of votes under section 146I.

(2) Where the relevant number is one—

- (a) each candidate may appoint one scrutineer to represent the candidate at the scrutiny and count of votes at each place where such scrutiny and count are conducted under section 146G or 146H;
- (b) each candidate may appoint scrutineers, not exceeding in number such number as the Returning Officer determines, to represent the candidate at the scrutiny and count of votes under section 146I.

(3) An appointment under subsection (1) or (2) 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

146D. 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 sections 146I (1) and 146J, be final and subject only to reversal by a Judge under Part V.

### Informal and formal ballot papers

146E. (1) Section 139 applies to and in relation to ballot papers used in an election in a region.

(2) Subsections (1) and (2) of section 140 apply to and in relation to ballot papers used in an election in a region and in subsection (2) of that section, as applied by this section, “prescribed manner” means—

(a) where there are only 2 candidates on the ballot paper, the manner required by section 128A (1);

(b) where there are more than 2 candidates on the ballot paper, the manner authorised by section 128A (2) (a).

(3) A ballot paper shall not be informal under section 139 (d) if an elector has marked his vote on the ballot paper under section 128A (2) (b).

(4) If a ballot paper—

(a) has been marked under section 128A (2) (b); but

(b) has also been marked so as to indicate the order of the electors preferences in such a manner that it would not be informal under section 139 (d) if it were not marked under section 128 (2) (b),

the elector shall, for the purposes of subsection (5) and section 146F be deemed not to have marked his vote on the ballot paper under section 128A (2) (b).

(5) If a ballot paper has been marked under section 128A (2) (b) any indication of preferences on the ballot paper otherwise than under section 128A (2) (b) shall be disregarded for the purposes of this Division.

(6) For the purposes of this section and section 146F an elector shall not be taken to have marked his vote under section 128A (2) (b) if the elector has placed a preference mark in 2 or more voting ticket squares printed on the ballot papers.

(7) In subsection (6) “preference mark” means the numeral “1”, a tick or a cross.

Ballot Papers deemed to be marked  
according to voting tickets

146F. Where an elector has marked his vote on the ballot paper under section 128A (2) (b) the ballot paper shall be deemed to have been marked in accordance with the voting ticket registered for the purposes of the election in relation to the candidate or group whose voting ticket square the elector has marked. ”.

Counting of votes by Assistant Returning Officers

146G. (1) As soon as practicable after the close of the poll each Assistant Returning Officer shall—

- (a) open all ballot boxes received at his counting place, reject all informal ballot papers, and count the number of first preference votes given for each candidate;
- (b) enclose—
  - (i) in one packet, all the used ballot papers in his possession;
  - (ii) in another packet, all the unused ballot papers in his possession; and
  - (iii) in another packet, all copies of rolls, books, communications from officers, or other papers or documents used or received at or in connection with the election, that are in his possession; and
- (c) seal up those packets, indorse each with a description of its contents and with the name of the counting place and the date of the polling, sign the indorsement, and forward the packets to the Deputy Returning Officer for the district together with a list of the total number of first preference votes given for each candidate on the ballot papers contained in the packet mentioned in paragraph (b) (i).

(2) The packet mentioned in subsection (1) (b) (i) shall be sealed before the scrutineers, if any, present and any scrutineer who desires to do so shall be permitted by the Assistant Returning Officer to affix his seal on the packet.

(3) The list made out under subsection (1) (c) shall be verified by the signature of the Assistant Returning Officer and also by the signatures of such of the scrutineers, if any, as are present and consent to sign it.

(4) In the case of a conjoint election subsection (1) (b) (iii) does not apply to papers or documents that apply to both the election for the Assembly and the election for the Council.

#### Counting of votes by Deputy Returning Officers

146H. (1) As soon as practicable after the close of the poll the Deputy Returning Officer for each district shall—

(a) open all ballot boxes received from polling places within the district that have not been opened by an Assistant Returning Officer, reject all informal ballot papers, and count the number of first preference votes given for each candidate;

(b) enclose—

(i) in one packet, all the used ballot papers in his possession;

(ii) in another packet, all the unused ballot papers in his possession; and

(iii) in another packet all copies of rolls, books, communications from officers, or other papers or documents used or received at or in connection with the election, that are in his possession,

other than those that have been forwarded to him under section 146G(1)(c);

(c) seal up those packets, indorse each with a description of its contents and with the name of the district and the date of the polling, and sign the indorsement;

(d) make out a list of the total number of first preference votes given for each candidate on the ballot papers contained in the packet mentioned in paragraph (b)(i);

(e) enclose—

- (i) in one packet, all the packets made up under section 146G (1) (b) (i) and forwarded to him under section 146G (1) (c), the lists forwarded to him with those packets, the packet made up by him under paragraph (b) (i) of this subsection and the list made out by him under paragraph (d);
  - (ii) in another packet, all the packets made up under section 146G (1) (b) (ii) and forwarded to him under section 146G (1) (c) and the packet made up by him under paragraph (b) (ii) of this subsection; and
  - (iii) in another packet, all the packets made up under section 146G (1) (b) (iii) and forwarded to him under section 146G (1) (c) and the packet made up by him under paragraph (b) (iii) of this subsection; and
- (f) seal up those packets, indorse each with a description of its contents and with the name of the district and the date of the polling, sign the indorsement, and forward the packets to the Returning Officer.

(2) The packets mentioned in subsection (1) (b) (i) and (e) (i), respectively, shall be sealed before the scrutineers, if any, present and any scrutineer who desires to do so shall be permitted by the Deputy Returning Officer to affix his seal on any such packet.

(3) The list made out under subsection (1) (d) shall be verified by the signature of the Deputy Returning Officer and also by the signatures of such of the scrutineers, if any, as are present and consent to sign it.

(4) In the case of a conjoint election subsection (1) (b) (iii) and subsection (1) (e) (iii) do not apply to papers or documents that relate to both the election for the Assembly and the election for the Council.

#### Counting of votes by Returning Officers

146I. (1) The Returning Officer shall open the sealed packets of ballot papers made up under sections 146G (1) (b) (i) and 146H (1) (b) (i) and forwarded to him under section 146H (1) (f), and shall make a fresh scrutiny of the ballot papers contained in the packets, and for this purpose he shall have the same powers as

the fresh scrutiny were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer or Deputy Returning Officer in relation to the original scrutiny as to the admission or rejection of any ballot paper.

(2) The Returning Officer shall ascertain the result of the polling using the method provided in Schedule 1.

#### Re-count

146J. (1) At any time before the declaration of the result of the election the Returning Officer may, if he thinks fit, on the written request of any candidate setting forth the reasons for the request, or of his own motion, re-count the votes on the ballot papers from any district or portion of a district, or on the ballot papers contained in any parcel or on the ballot papers of any particular class.

(2) In conducting the re-count the Returning Officer 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. ”.

#### Section 151 amended

74. Section 151 of the principal Act is amended—

(a) by deleting paragraph (a) and substituting the following paragraph—

“ (a) enclose—

(i) in a packet or packets, as the case may require, all the used ballot papers; and

(ii) in another packet or other packets, as the case may require, all books, communications from officers, or other papers or documents used or received at or in connection with the election, that are in his possession (with the exception of the signed rolls); ”; and

(b) in paragraph (c) by inserting after “packet” the following—

“ or packets, as the case may require, ”.

**Section 152 amended**

**75.** Section 152 of the principal Act is amended by deleting “until the election concerned can in each case be no longer questioned, when such ballot papers shall be destroyed” and substituting the following—

“ until—

- (a) in the case of an election other than a full election in a region, the election concerned can be no longer questioned;  
or
- (b) in the case of a full election in a region, the members elected at the next succeeding full election in the region become entitled to sit and vote,

when such ballot papers shall be destroyed. ”.

**Section 154 amended**

**76.** Section 154 of the principal Act is amended—

- (a) by inserting after the section designation “154.” the subsection designation “(1)”;
  - (b) by deleting “, but shall not be available for any other purpose”;
- and
- (c) by inserting the following subsections—

“ (2) Such ballot papers and other documents as may be required for the purposes of the election of a member of the Council under sections 156C and 156D shall be made available to the Electoral Commissioner by the Clerk of the Council at the request of the Electoral Commissioner.

(3) Ballot papers or other documents held by the Clerk of the Council or the Clerk of the Assembly under section 152 shall not be made available for any purpose other than a purpose mentioned in subsection (1) or (2). ”.

**Section 155 amended**

77. Section 155 of the principal Act is amended—

(a) by deleting “All” and substituting the following—

“ Subject to subsection (2), all ”; and

(b) by inserting the following subsection—

“ (2) Subsection (1) does not apply to books, documents or papers used for or in connection with a full election in a region that may be required for the purposes of the election of members of the Council under sections 156C and 156D. ”.

**Section 155A repealed**

78. Section 155A of the principal Act is repealed.

**Part IVA inserted**

79. After Part IV of the principal Act the following Part is inserted—

“ PART IVA—FILLING VACANCIES IN THE COUNCIL

Interpretation of this Part

156A. (1) In this Part—

“most recent election in the region”, in relation to a vacancy, means the full election in the region in respect of which the vacancy has occurred that most recently preceded the occurrence of the vacancy;

“qualified person”, in relation to a vacancy, means a person who—

- (a) was a candidate at the most recent election in the region;
- (b) did not withdraw from, and was not elected at, that election;
- (c) has not become a member of the Council since that election; and

- (d) is qualified to be elected and is not disqualified from being elected as a member of the Council;

“vacancy” means a vacancy in the Council that occurs otherwise than because of—

- (a) the expiration of the term of service of a member;
  - (b) an election in a region failing wholly or partially;
- or
- (c) the declaration of an election in a region to be absolutely void.

#### Notification of vacancies in the Council

156B. (1) Where a vacancy occurs the President, upon a resolution of the Council declaring the vacancy and the cause thereof, shall, by notice signed by him, inform the Governor of the vacancy.

(2) Subject to section 39 (4) of the *Constitution Acts Amendment Act 1899*, where a vacancy occurs when Parliament is not in session or during an adjournment for longer than 7 days of the Council the President may, without a resolution of the Council, by notice signed by him, inform the Governor of the vacancy.

(3) Subject to section 39 (4) of the *Constitution Acts Amendment Act 1899*, where a vacancy occurs when there is no President, or when the President is absent from the State, the Governor may take notice of the vacancy.

#### Filling vacancy by re-count: Nominations

156C. (1) Where the Governor receives or takes notice of a vacancy under section 156B the Governor shall inform the Electoral Commissioner who shall—

- (a) if satisfied that it is practicable to fill the vacancy under this section and section 156D, publish in at least 2 newspapers circulating generally in the region in respect of which the vacancy has occurred a notice in accordance with the prescribed form to the effect that the vacancy has occurred; or

- (b) by notice signed by him, inform the Governor that he is not satisfied that it is practicable to fill the vacancy under this section and section 156D.

(2) Where a vacancy is to be filled and—

- (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 this section and section 156D or under section 156E, the member who was the predecessor (whether immediate, intermediate, or original) of that member,

was, at the time of being elected at the most recent election in the region, publicly recognized by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate at that time then, without limiting the generality of subsection (1), it shall be taken to be impracticable to fill the vacancy under this section and section 156D if the Parliamentary leader of that party, by notice signed by him, informs the Electoral Commissioner that there is no available qualified person who is a member of that party.

(3) Where notice of a vacancy is published under subsection (1) (a) a qualified person may nominate himself as a candidate for the vacancy in accordance with this section.

(4) A person may make a nomination under subsection (3)—

- (a) by delivering or posting his written consent to act, if elected; or
- (b) by signifying his consent to act, if elected, by a message sent by telegram, telex, or other electronic means,

to the Electoral Commissioner so that it is received by the Electoral Commissioner before 12 noon on the tenth day after the day on which the notice of the vacancy was published under subsection (1) (a).

(5) Where a nomination under subsection (3) is made otherwise than by telegram, telex, or other electronic means, it is not valid unless made in the prescribed form by the nominating candidate and unless his signature is witnessed by an elector.

(6) Where such a nomination is made by a message by telegram, telex, or other electronic means, it is not valid unless it is verified in the prescribed manner.

Filling vacancy by re-count: Proceedings  
at close of nominations

156D. (1) At 12 noon on the tenth day after the day on which notice of a vacancy was published under section 156C (1) (a) the Electoral Commissioner shall declare the names of each person who has made a nomination in accordance with section 156C (in this section referred to as a “consenting candidate”).

(2) If there is no consenting candidate for the vacancy the Electoral Commissioner shall by notice signed by him inform the Governor accordingly.

(3) If there is only one consenting candidate for the vacancy the Electoral Commissioner shall—

- (a) declare that consenting candidate to be elected as a member of the Council to fill the vacancy; and
- (b) by writing signed by him notify the Governor of the election of that consenting candidate.

(4) If there are 2 or more consenting candidates for the vacancy the Electoral Commissioner, using the method prescribed in Schedule 1, shall re-count the votes on the ballot papers used in the counting of votes at the most recent election in the region.

(5) Without affecting the operation of section 146F (4), on a re-count under subsection (4) a preference indicated on a ballot paper for a person who was elected at the most recent election in the region but whose seat has since become vacant shall be disregarded and the ballot paper shall be treated as if the numeral indicating any subsequent preference had been altered accordingly.

(6) When on a re-count under subsection (4) a consenting candidate is entitled to be declared elected in accordance with Schedule 1 the Electoral Commissioner shall—

- (a) declare that consenting candidate to be elected as a member of the Council to fill the vacancy; and

- (b) by writing signed by him notify the Governor of the election of that consenting candidate.

(7) A re-count under subsection (4) shall not affect the election of any member already elected to represent the region concerned and where a person other than a consenting candidate is elected on the re-count, or excluded from the re-count, in accordance with Schedule 1 that election or exclusion shall have effect for the purposes of the continuation of the re-count and for those purposes only.

(8) The Electoral Commissioner shall make such arrangements for a re-count under subsection (4) as are prescribed.

(9) A consenting candidate may appoint one scrutineer to represent him at a re-count under subsection (4).

(10) The Electoral Commissioner shall retain papers and documents arising out of a re-count under subsection (4) until the election of the member elected on the re-count can be no longer questioned.

#### Filling vacancy by fresh election

156E. (1) Subject to subsection (2), where after receiving or taking notice of a vacancy under section 156B the Governor receives a notice under section 156C (1)(b) or 156D (2) in relation to the vacancy the Governor shall by warrant under his hand direct the Clerk of the Writs to issue a writ for an election in the region concerned to fill the vacancy.

(2) A warrant shall not be issued under subsection (1) on or after 1 January in the year in which the term of service of the member whose seat has been vacated would have expired and, in that case, the vacancy shall be deemed for the purposes of sections 8 (6) and 10 of the *Constitution Acts Amendment Act 1899* to occur by effluxion of time at the close of 21 May in that year.

(3) On receipt of a warrant under subsection (1) the Clerk of the Writs shall forthwith cause the writ for the election to be issued. ”.

**Section 174 inserted**

**80.** After section 173 of the principal Act the following section is inserted—

Application of Part V to the election of a member of the Council by re-count

“ 174. Sections 157, 158, 160, 161, 162 (1) and (2), 163 (1) and 167 to 173 apply to and in relation to the election of a member of the Council under sections 156C and 156D as if that election was an election within the meaning of this Act, but for the purposes of that application—

(a) section 158 (5) shall be deemed to be amended by deleting “return of the writ” and substituting the following—

“ declaration of the election ”;

(b) section 162 (1) (ca) and (f) and section 172 (1) (c) shall be deemed to be deleted; and

(c) subsection (1) of section 163 shall be deemed to be repealed and the following subsection substituted—

“ (1) The Court may inquire whether or not the requisites of section 158 have been observed, whether or not a nomination was validly made under section 156C (3), and whether or not the re-count of votes conducted under section 156D was correctly conducted, but shall not inquire into any other matter. ”. ”.

**Section 192 amended**

**81.** Section 192 of the principal Act is amended in subsection (2) by deleting “Minister” and substituting the following—

“ Electoral Commissioner ”.

**Section 213 amended**

**82.** Section 213 of the principal Act is amended by inserting after subsection (1) the following subsections—

“ (2) Notwithstanding section 113B (4) the form of ballot papers for elections may be prescribed by regulation.

(3) In subsections (4) to (8) “Council ballot paper regulations” means regulations referred to in subsection (2) prescribing the form of ballot papers for elections in regions where the relevant number is more than one.

(4) Either House of the Parliament, within 14 sitting days of that House after Council ballot paper regulations have been laid before that House under section 42 (1) of the *Interpretation Act 1984*, may, in pursuance of a motion upon notice, pass a resolution disallowing the regulations.

(5) Where—

- (a) a notice referred to in subsection (4) is given with respect to Council ballot paper regulations; and
- (b) at the expiration of the period during which a resolution disallowing the regulations could have been passed—
  - (i) the notice has not been withdrawn and the relevant motion has not been called on; or
  - (ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the regulations shall be deemed to have been disallowed.

(6) If—

- (a) neither House of the Parliament passes a resolution in accordance with subsection (4) disallowing Council ballot paper regulations; and
- (b) the regulations have not been deemed to have been disallowed under subsection (5),

the regulations take effect on the day immediately following the last day upon which a resolution disallowing them could have been passed or on such later day as is specified or provided for in the regulations.

(7) If, before the expiration of 14 sitting days of a House of the Parliament after Council ballot paper regulations have been laid before that House—

- (a) that House, being the Legislative Assembly, is dissolved or expires, or the Parliament is prorogued; and
- (b) a resolution for the disallowance of the regulations has not been passed by that House,

the regulations shall, for the purposes of this section, be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

(8) Sections 41 (1) (b) and 42 (2) to (8) of the *Interpretation Act 1984* do not apply to Council ballot paper regulations. ”.

### Schedules 1, 2 and 3 inserted

83. After section 214 of the principal Act the following Schedules are inserted—

“

#### SCHEDULE 1

(Sections 146I and 156D)

#### COUNTING OF VOTES AT LEGISLATIVE COUNCIL ELECTIONS

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

2. (1) In this Schedule “continuing candidate” means a candidate not already elected or not excluded from the count.

(2) A reference in this Schedule to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer under this Schedule.

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

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

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

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

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

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

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

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

- (a) the total number of ballot papers of the excluded candidate that express the first preference vote for him and the next available preference for a particular continuing candidate shall be transferred, each ballot paper at a transfer value of one, to the continuing candidate and added to the number of votes of the continuing candidate and all those ballot papers shall be transferred to the continuing candidate;

- (b) the total number (if any) of other votes obtained by the excluded candidate on transfers under this Schedule shall be transferred from the excluded candidate in the order of the transfers on which he obtained them, the votes obtained on the earliest transfer being transferred first, as follows—
- (i) the total number of ballot papers transferred to the excluded candidate from a particular candidate and expressing the next available preference for a particular continuing candidate shall be multiplied by the transfer value at which the votes were so transferred to the excluded candidate;
  - (ii) the number so obtained (disregarding any fraction) shall be added to the number of votes of the continuing candidate;
  - (iii) all those ballot papers shall be transferred to the continuing candidate.

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

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

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

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

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

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

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

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

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

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

17. Where the candidate who has the fewest votes is required to be excluded under clause 8 or 10, and 2 or more candidates (in this clause called the “tied candidates”) have an equal number of votes (each other candidate having a larger number of votes) whichever of the tied candidates had the fewest votes at the last count or transfer at which each of the tied candidates had a different number of votes shall be excluded, but if there has been no such count or transfer—

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

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

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

## SCHEDULE 2

(Sections 86, 87, 144; Schedule 1, clauses 12, 15 and 17)  
BALLOT PROCEDURE

1. Slips made out for the purposes of section 86 (2a), 87 (5) or (6) or 144 (2) (g) or clause 12, 15 or 17 of Schedule 1 shall be dealt with as provided in this Schedule.
2. In this Schedule "ballot" means a hollow opaque sphere inside which a slip may be enclosed.
3. The Returning Officer shall place each of the slips in separate ballots of exact similarity, securely close the several ballots, deposit the several ballots in a ballot box, and securely fasten the ballot box.
4. The Returning Officer shall then shake and rotate the ballot box and shall permit any other person then present to do likewise, if the person so desires.
5. (1) The Returning Officer shall then—
  - (a) open the ballot box; and
  - (b) take out and open one of the ballots to obtain the slip enclosed therein.(2) Where the proceedings are being conducted for the purposes of section 86 (2a) or 87 (5) or (6) the Returning Officer shall repeat the procedure mentioned in subclause (1) (b) until no ballots remain in the ballot box. ”.

FORM A

Section 113 B (4)

(Voting in this area means that the registered voting ticket will be accepted for preference distribution)

**EITHER**

Place the single figure 1 in one, and one only, of these squares to indicate the group voting ticket which you wish to adopt as your vote.

|                          |    |                          |    |                          |    |                          |    |                          |    |                          |
|--------------------------|----|--------------------------|----|--------------------------|----|--------------------------|----|--------------------------|----|--------------------------|
| <input type="checkbox"/> | OR | <input type="checkbox"/> |
| 2                        |    | 2                        |    | 2                        |    | 2                        |    | 2                        |    | 2                        |

Shade or light Colour this Section

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S**

**OR**

Place the numbers 1 to [8] in the squares immediately to the left of the names of the respective candidates so as to indicate the order of your preference for them

|                          |   |   |                          |   |   |                          |                          |                          |                          |   |   |                          |                          |   |   |                          |   |   |  |  |
|--------------------------|---|---|--------------------------|---|---|--------------------------|--------------------------|--------------------------|--------------------------|---|---|--------------------------|--------------------------|---|---|--------------------------|---|---|--|--|
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1                        | 3                        | <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | <input type="checkbox"/> | 1 | 4 | <input type="checkbox"/> | 1 | 4 |  |  |
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1                        | 3                        | <input type="checkbox"/> | 1 | 3 |                          |                          | 1 | 4 |                          | 1 | 4 |  |  |
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1                        | 3                        | <input type="checkbox"/> | 1 | 3 |                          |                          | 1 | 4 |                          | 1 | 4 |  |  |
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 |                          | <input type="checkbox"/> | 1                        | 3                        |   |   | 1                        | 4                        |   | 1 | 4                        |   |   |  |  |
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 |                          | <input type="checkbox"/> | 1                        | 3                        |   |   |                          |                          |   |   |                          |   |   |  |  |
| <input type="checkbox"/> | 1 | 3 | <input type="checkbox"/> | 1 | 3 |                          |                          | <input type="checkbox"/> | 1                        | 3 |   |                          |                          |   |   |                          |   |   |  |  |

Ballot-Paper  
Western Australia  
[5]  
Election of [7] Legislative Councillors

- 1 Here insert name of a candidate
- 2 Here insert name of a registered political party or composite name of registered political parties if to be printed (A name of Candidate if Independent)
- 3 Here insert name of a registered political party if to be printed
- 4 Here insert name of a registered political party or word "Independent" if to be printed
- 5 Here insert Metropolitan or Country as appropriate
- 6 Here insert number of vacancies
- 7 Here insert number of candidates

SCHEDULE 3  
(Section 113B (4))  
Form A.

SCHEDULE 3  
(Section 113B (4))  
Form B.

FORM B

Section 113 B (4)

(Voting in this area means that the registered voting ticket will be accepted for preference distribution)

|  |                 |   |                              |                              |                              |                              |                              |                              |                              |                              |  |
|--|-----------------|---|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|------------------------------|--|
| <b>D<br/>I<br/>R<br/>E<br/>C<br/>T<br/>I<br/>O<br/>N<br/>S</b> | <b>EITHER</b> → | Place the single figure 1 in one, and one only, of these squares to indicate the group voting ticket which you wish to adopt as your vote.                          | <input type="checkbox"/> 2   | OR                           | <input type="checkbox"/> 2   | OR                           | <input type="checkbox"/> 2   | OR                           | <input type="checkbox"/> 2   |                              | Shade or light<br>Colour this<br>Section   |
|  | <b>OR</b> →     | Place the numbers 1 to [8] in the squares immediately to the left of the names of the respective candidates so as to indicate the order of your preference for them | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 4 | <input type="checkbox"/> 2<br>OR<br><input type="checkbox"/> 2<br>OR<br><input type="checkbox"/> 2 |
|  |                 | <input type="checkbox"/> 1 3  | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 4 |                              |  |
|  |                 | <input type="checkbox"/> 1 3  | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 4 |                              |  |
|  |                 | <input type="checkbox"/> 1 3  | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 4 |                              |  |
|  |                 | <input type="checkbox"/> 1 3  | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 3 | <input type="checkbox"/> 1 4 |                              |  |

Ballot-Paper  
Western Australia  
[5]  
Election of [7] Legislative Councillors

- 1 Here insert name of a candidate
- 2 Here insert name of a registered political party or composite name of registered political parties if to be printed (A name of Candidate if Independent)
- 3 Here insert name of a registered political party if to be printed
- 4 Here insert name of a registered political party or word "Independent" if to be printed
- 5 Here insert Metropolitan or Country as appropriate
- 6 Here insert number of vacancies
- 7 Here insert number of candidates

### Miscellaneous amendments

84. The principal Act is amended as follows—

| Provision<br>or provisions<br>affected  | Amendment   |
|---|---|
| Sections 86(2b), 141(a),<br>142A(2), (3) and (4),<br>143(1) and 144(1) and<br>(2) | Delete "Province or" wherever occurring.  |
| Section 90(1a)(b)   | Delete "Assistant Chief Electoral Officer", substitute "Deputy Electoral Commissioner".   |
| Sections 99A(2) and<br>100A(1)  | Delete "by the Minister".   |
| Section 134   | After "votes" where it first occurs insert "in accordance with Division (4a) or (4b), as the case may require".<br>Delete "by the Returning Officer, with the assistance of such officers as he deems necessary".   |
| Section 134(3) and (6)  | Delete "Returning Officer", substitute "officer conducting the count" in each place.  |
| Section 135   | Delete "Returning Officer", substitute "officer conducting the count".  |
| Section 136(1)  | Delete "Returning Officer" in both places where it occurs, substitute "officer conducting the count" in each place.   |
| Section 137(2)  | Delete "Deputy Returning Officer".  |
| Section 142   | Delete "Deputy and".  |
| Section 142(1)  | Delete "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".<br>Delete "Deputy or" wherever occurring.  |
| Sections 142(2), (5) (6)<br>and 144(1) and (2)                                    | Delete.   |
| Section 142(3)  | Delete "within the District or".  |
| Section 142(5)  | Delete "the District or" and ", as the case may be,".   |
| Section 142(6)(b)   | Delete ", as the case may be,".   |
| Section 143(1)  | Delete "in Districts or".   |
| Section 144(1)(b) and<br>(2)(b)   | After "Assistant" insert "Returning".   |
| Section 144(2)(a)   | After "candidate" insert "or candidates".   |
| Section 147(1)(a)   | Delete "Minister", substitute "Electoral Commissioner".   |
| Section 165   | Delete "Chief Electoral Officer", "Province", "Provinces", "District", "Districts", "Sub-district" and "Sub-districts" wherever occurring in the principal Act other than where amended by another provision of this Act, substitute "Electoral Commissioner", "region", "regions", "district", "districts", "sub-district" and "sub-districts", respectively, in each place. |
| Various   |   |

## PART V—ELECTORAL DISTRICTS ACT 1947

**Principal Act**

85. In this Part the *Electoral Districts Act 1947*\* is referred to as the principal Act.

[\*Reprinted as approved 14 July 1977 and amended by Acts Nos. 13 of 1981 and 62 of 1985.]

**Section 1 amended**

86. Section 1 of the principal Act is amended by deleting “*Districts*” and substituting the following—

“ *Distribution* ”.

**Section 1A inserted**

87. After section 1 of the principal Act the following section is inserted—

**Interpretation**

“ 1A. In this Act unless the contrary intention appears—

“Commissioner” means an Electoral Distribution Commissioner appointed by section 2 (1) and includes a person appointed by or under section 2 (2), (3) or (4) to act in the office of an Electoral Distribution Commissioner;

“district”, “elections in districts”, “elections in regions”, “Electoral Commissioner”, “general election” and “region” have the same meanings as they have, respectively, in the *Electoral Act 1907*;

“Government Statistician” means the Government Statistician appointed under the *Statistics Act 1907*;

“Metropolitan Area” means the region that was, as at 1 January 1987, described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*. ”.

**Section 2 repealed and a section substituted**

88. Section 2 of the principal Act is repealed and the following section is substituted—

## Electoral Distribution Commissioners

“ 2. (1) For the purposes of this Act there shall be 3 Electoral Distribution Commissioners of whom—

- (a) one shall be the Chief Justice of Western Australia who shall be chairman;
- (b) one shall be the Electoral Commissioner; and
- (c) one shall be the Government Statistician.

(2) If the office of Chief Justice of Western Australia is vacant, or the Chief Justice is absent or is for any other reason unable to act as a Commissioner, the Governor may appoint another Judge of the Supreme Court to act in the office of Commissioner and as chairman under subsection (1) (a) during the vacancy, absence or inability.

(3) A person acting in the office of the Electoral Commissioner under section 5D or 5H (2) of the *Electoral Act 1907* shall, while so acting, act in the office of Commissioner under subsection (1) (b).

(4) If the office of the Government Statistician is vacant, or the holder of that office is absent or is for any other reason unable to act as a Commissioner, the Governor, on the recommendation of the Premier, may appoint a suitable person to act in the office of Commissioner under subsection (1) (c) during the vacancy, absence or inability.

(5) Before making a recommendation under subsection (4) the Premier shall consult with the Parliamentary leader of each party in the Parliament.

(6) The Commissioners shall meet as often as may be necessary for carrying out their duties under this Act.

(7) For the purposes of this Act the Commissioners have the powers of a duly appointed Royal Commission and of a chairman thereof under the *Royal Commissions Act 1968*.

(8) The moneys reasonably required for the purposes of the Commissioners shall be paid, on the certificate of the Auditor General, out of the Consolidated Revenue Fund which, to the necessary extent, is hereby appropriated accordingly. ”.

**Section 2A repealed and a section substituted**

**89.** Section 2A of the principal Act is repealed and the following section is substituted—

Requirement for division of State into electoral districts and regions

“ 2A. (1) The State shall be divided into districts and regions in accordance with this Act as soon as practicable after the day of the commencement of the *Acts Amendment (Electoral Reform) Act 1987*.

(2) If the same division under this Act has applied in respect of 2 successive general elections for the Legislative Assembly the State shall be divided into districts and regions in accordance with this Act as soon as practicable after the day that is one year after the polling day for the second of those general elections.

(3) The Governor may, by proclamation, direct that the State be divided into districts and regions in accordance with this Act as soon as practicable after the day of the issue of the proclamation.

(4) A proclamation shall be made under subsection (3) if both Houses of Parliament pass a resolution to that effect.

(5) The date used for determining the numbers of electors for the purpose of making a division required under subsection (1) or (2) or directed under subsection (3) shall be the day specified in subsection (1), (2) or (3) as the day as soon as practicable after which the division is to be carried out. ”.

**Section 3 amended**

**90.** Section 3 of the principal Act is amended—

(a) by repealing subsection (1) and substituting the following subsection—

“ (1) The Commissioners shall divide the State into districts and regions in accordance with this Act whenever a division of the State is required under section 2A (1) or (2) or directed under section 2A (3). ”;

- (b) in subsection (2), by deleting paragraph (d) and substituting the following paragraph—

“ (d) within 42 days from the expiration of the period of 14 days referred to in paragraph (a) (ii), formulate proposals for the division of the State in the manner required under subsection (1) and the names proposed to be assigned to the districts and publish in the *Gazette* and in a newspaper circulating throughout the State—

(i) a map or maps setting out those proposals; and

(ii) a statement of the Commissioners' reasons for making those proposals; ”;

- (c) in subsection (2) (e), by inserting after “maps” the following—

“ and statement ”;

- (d) in subsection (2), by deleting paragraph (f) and substituting the following paragraph—

“ (f) within 60 days from the expiration of the period of 30 days referred to in paragraph (e), by notice published in the *Gazette*, divide the State in the manner required under subsection (1). ”;

- (e) by repealing subsection (3); and

- (f) by repealing subsection (5) and substituting the following subsection—

“ (5) The notice mentioned in subsection (2) (f) shall set out—

(a) the quotients obtained under this Act for the purposes of dividing the State into 57 districts;

(b) in respect of each of the 57 districts—

(i) the name assigned to the district;

(ii) the boundaries fixed for the district; and

(iii) the number of electors within the boundaries as so fixed; and

(c) the districts included in each of the regions,

and shall include a map or maps showing the boundaries referred to in paragraph (b) (ii) and the boundaries of the regions. ”.

### **Section 4 repealed**

**91.** Section 4 of the principal Act is repealed.

### **Sections 6 and 7 are repealed and sections substituted**

**92.** Sections 6 and 7 of the principal Act are repealed and the following sections are substituted—

Basis for division of the State into districts

“ 6. (1) The Commissioners shall—

- (a) divide the Metropolitan Area into 34 districts; and
- (b) divide the area comprising the remainder of the State into 23 districts.

(2) The Commissioner shall make the division of an area mentioned in subsection (1) (a) or (b) into districts in accordance with the principle that the number of enrolled electors comprised in any district in the area must not be more than 15% greater, or more than 15% less, than the quotient obtained by dividing the total number of enrolled electors in the area by the number of districts into which the area is to be divided.

Matters to be considered in dividing the State into regions and districts

7. In making the division of the State into regions and districts the Commissioners shall give due consideration to—

- (a) community of interests;
- (b) means of communication and distance from the capital;
- (c) physical features;
- (d) existing boundaries of regions and districts;

- (e) existing local government boundaries;
- (f) the trend of demographic changes,

and where the State is divided for the first time—

- (g) boundaries of the electoral provinces and electoral districts into which the State was divided prior to the division. ”.

### **Section 8 amended**

**93.** Section 8 of the principal Act is amended by deleting “electoral districts contained in the Metropolitan Area and the Agricultural, Mining and Pastoral Area described in section four of this Act” and substituting the following—

“ districts ”.

### **Section 9 repealed and a section substituted**

**94.** Section 9 of the principal Act is repealed and the following section is substituted—

Basis for division of the State into regions and matters to be considered in so dividing the State

“ 9. The Commissioners shall divide the State into 6 regions so that—

- (a) 3 regions, to be known, respectively, as the North Metropolitan Region, the South Metropolitan Region and the East Metropolitan Region, each consist of complete and contiguous districts that together form the Metropolitan Area;
- (b) one region, to be known as the Mining and Pastoral Region, consists of complete and contiguous districts that are remote from the capital and where the land use is primarily for mining and pastoral purposes;
- (c) one region, known as the Agricultural Region, consists of complete and contiguous districts that together form an area that is generally south, or south and west, of and adjacent to the Mining and Pastoral Region; and
- (d) the remaining region, to be known as the South West Region, consists of complete and contiguous districts. ”.

**Section 11 repealed and a section substituted**

**95.** Section 11 of the principal Act is repealed and the following section is substituted—

Effect of notice dividing the State into districts and regions

“ 11. On and by virtue of a notice being published in the *Gazette* under section 3 (2) (f), the division of the State by the Commissioners into districts and regions as set out in that notice takes effect and has the force of law and applies in respect of—

- (a) elections in districts held after the date of the publication of the notice other than elections held before the first general election for the Legislative Assembly held after that date; and
- (b) elections in regions held after the date of the publication of the notice other than elections held before the first general election for the Legislative Council held after that date,

unless and until a further division of the State into districts and regions takes effect under this section. ”.

**Schedules repealed**

**96.** Schedules 1 and 2 to the principal Act are repealed.

**PART VI—REFERENDUMS ACT 1983****Principal Act**

**97.** In this Part the *Referendums Act 1983*\* is referred to as the principal Act.

[\*Act No. 83 of 1983.]

**Section 2 amended**

**98.** Section 2 of the principal Act is amended in subsection (1)—

- (a) by deleting the definition of “Chief Electoral Officer”;

- (b) in the definition of “election” by inserting after “1907” the following—

“ other than an election under sections 156C and 156D of that Act ”; and

- (c) by inserting after the definition of “election” the following definition—

“ “Electoral Commissioner” means the Electoral Commissioner appointed under the *Electoral Act 1907*; ”.

### Section 20 amended

**99.** Section 20 of the principal Act is amended in subsection (1) by deleting “Minister” and substituting the following—

“ Electoral Commissioner ”.

### Section 23 amended

**100.** Section 23 of the principal Act is amended in subsection (1) by deleting “Minister” and substituting the following—

“ Electoral Commissioner ”.

### Section 25 amended

**101.** Section 25 of the principal Act is amended in subsection (1) by deleting “Minister” in both places where it occurs and substituting in each place the following—

“ Electoral Commissioner ”.

### Section 50 amended

**102.** Section 50 of the principal Act is amended in subsection (1) by deleting “Minister may, on the recommendation of the Chief Electoral Officer,” and substituting the following—

“ Electoral Commissioner may ”.

**Miscellaneous amendments**

**103.** The principal Act is amended—

- (a) by deleting “Chief Electoral Officer” wherever occurring other than in sections 2 and 50 and substituting in each place the following—

“ Electoral Commissioner ”; and

- (b) by deleting “District” wherever occurring and substituting in each place the following—

“ district ”.

PART VII—*SALARIES AND ALLOWANCES ACT 1975*

**Section 6 amended**

**104.** Section 6 of the *Salaries and Allowances Act 1975\** is amended in subsection (6) by deleting “province” and substituting the following—

“ region ”.

[\*Act No. 27 of 1975 as amended by Acts Nos. 89 of 1975, 63 of 1978, 33 of 1979, 34 of 1980 and 78 of 1984.]

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