

**ACTS AMENDMENT
(LOCAL GOVERNMENT
ELECTORAL PROVISIONS).**

No. 79 of 1984.

AN ACT to amend the Local Government Act 1960 and the Local Government Amendment Act (No. 2) 1984.

[Assented to 14 November 1984.]

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.

1. This Act may be cited as the *Acts Amendment (Local Government Electoral Provisions) Act 1984*. Short title.

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

Commence-
ment.

2. (1) Subject to subsection (2), this Act shall come into operation on the day on which it is assented to by the Governor.

(2) Part II shall come into operation on 20 March 1985.

PART II.—LOCAL GOVERNMENT ACT 1960.

Principal
Act.
Reprinted as
approved
24 June 1983
and
amended by
Acts Nos. 6
and 84 of
1983 and
17, 25 and
42 of 1984.
Section 85
amended.

3. In this Part the Local Government Act 1960 is referred to as the principal Act.

4. Section 85 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

- “ (2) A nomination paper shall be signed—
- (a) by the candidate or by his agent authorized in writing to sign on his behalf; and
 - (b) by a witness to the signature of the candidate or his agent referred to in paragraph (a), which witness shall have attained the age of 18 years. ”.

Section 100
amended.

5. Section 100 of the principal Act is amended by deleting “an annual election” in paragraph (c) and substituting the following—

“ held on an annual election day ”.

Section 104
amended.

6. Section 104 of the principal Act is amended by deleting “at an election a number of votes greater than the number which he is entitled to cast at the election” in subparagraph (ii) of paragraph (b) of subsection (1) and substituting the following—

“ more than one vote at an election ”.

1984.] *Acts Amendment (Local Government [No. 79.
Electoral Provisions).*

7. Section 107 of the principal Act is amended in paragraph (a) of subsection (4) by inserting before "indicate by a mark" the following—

Section 107
amended.

" subject to section 43A, ”.

8. Section 115 of the principal Act is amended in paragraph (a) of subsection (3) by inserting before "indicate by a mark" the following—

Section 115
amended.

" subject to section 43A, ”.

9. Section 117 of the principal Act is amended—

Section 117
amended.

(a) by inserting after "An elector may" the following—

" at an election held on an annual election day ”;

(b) by deleting "at an annual election"; and

(c) by deleting "prior to the annual election" and substituting the following—

" prior to that election ”.

10. Section 119 of the principal Act is amended in subsection (3) by inserting after "the returning officer shall" the following—

Section 119
amended.

" , subject to section 43A, ”.

11. Section 121 of the principal Act is amended by deleting "an annual election" and substituting the following—

Section 121
amended.

" an election held on an annual election day ”.

12. Section 122 of the principal Act is amended in subsection (5) by inserting after "the electoral officer shall" the following—

Section 122
amended.

" , subject to section 43A, ”.

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

Section 125
amended.

13. Section 125 of the principal Act is amended in subsection (2) by inserting after "the returning officer shall" the following—

" , subject to section 43A, "

PART III.—LOCAL GOVERNMENT AMENDMENT
ACT (No. 2) 1984.

Principal
Act.
Act No. 42
of 1984.

14. In this Part the Local Government Amendment Act (No. 2) 1984 is referred to as the principal Act.

Section 3
amended.

15. Section 3 of the principal Act is amended by—

(a) inserting before the definition of "Australian citizen" set out therein the following definition—

" "annual election day" means, subject to section 35, the day appointed by or under section 73 for the holding of the annual elections; "

(b) inserting after the definition of "Chief Electoral Officer" set out therein the following definition—

" "consolidated roll" means a roll referred to in section 41 (5) (c); "

(c) deleting " ." after the end of the definition of "inaugural election" set out therein; and

(d) inserting after the definition referred to in paragraph (c) the following definitions—

" "owners and occupiers roll" means a roll referred to in section 41 (5) (b);

"residents roll" means a roll referred to in section 41 (5) (a); "

16. Section 8 of the principal Act is amended— Section 8
amended.

(a) in section 35 set out therein by inserting after—

(i) “In this Division” the following—

“ , unless the contrary intention appears ”; and

(ii) the definition of “annual election day” the following definition—

“ “election” means an annual election, extraordinary election or inaugural election; ”;

(b) in section 36 set out therein—

(i) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) Subject to this Division, a person is eligible to be registered as an elector on the electoral roll of a municipality if he is enrolled as an elector for the Legislative Assembly in respect of a residence within the district of the municipality.

(2) Subject to this Division, a person is eligible to be registered as an elector on the electoral roll of a municipality—

(a) if he—

(i) has attained the age of 18 years;

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

(ii) is an Australian citizen or is ordinarily resident in the State; and

(iii) is the owner of rateable property in the district of the municipality;

or

(b) if he—

(i) has attained the age of 18 years;

(ii) is an Australian citizen or is ordinarily resident in the State;

and

(iii) is the occupier of rateable property in the district of the municipality. ”;

(ii) by deleting “(1) (a)” in subsection (4) and substituting the following—

“ (1) ”;

(iii) by repealing subsections (5) and (6) and substituting the following subsections—

“ (5) Where the person is eligible under subsection (2) to be registered as an elector and the rateable property referred to in subsection (2) (a) (iii) or (2) (b) (iii) is situated wholly in one ward, he shall be eligible to be registered in respect of that ward.

(6) Where the person is eligible under subsection (2) to be registered as an elector and the rateable property referred to in subsection (2) (a) (iii) or (2) (b) (iii), or a portion of it, is held as one holding and is situated partly in one ward and partly in another ward or wards, he shall be eligible to be registered in respect of only one of those wards—

(a) being the ward nominated by him from time to time in writing served on the clerk, which nomination shall remain in force until the person so eligible withdraws it by notice in writing served on the clerk; or

(b) if he does not nominate a ward under this subsection, being the ward selected by the clerk. ”;

(iv) by deleting “(1) (b)” in subsection (7) and substituting the following—

“ (2) ”;

(v) by deleting “(1) (b) (iii)” in subsection (7) and substituting the following—

“ (2) (a) (iii) or (2) (b) (iii) ”;

(vi) by repealing subsection (8) and substituting the following subsections—

“ (8) Where 2 or more persons in conjunction own rateable property—

(a) each, if there are only 2 of those persons; or

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

- (b) if there are more than 2 of those persons, each of 2 only of them, being the 2 from time to time selected or deemed to be selected under subsection (8a),

shall, for the purposes of this Part, be deemed to be an owner of the rateable property.

(8a) The 2 persons referred to in subsection (8) (b) may be selected by all or a majority of all of the persons owning the rateable property concerned, but if for any reason—

- (a) a selection is not so made; or
- (b) a selection having been so made, both or either of the persons selected cease or ceases to have an interest in that rateable property as conjoint owners or conjoint owner and the continuing owners of that rateable property, being 3 or more in number, fail to make a further selection,

then the 2 persons—

- (c) whose names are first and second in alphabetical order of the names of all the continuing owners of that rateable property; and

1984.] *Acts Amendment (Local Government [No. 79.
Electoral Provisions]).*

- (d) who are otherwise eligible to be registered as electors,

shall be deemed to be so selected.

(8b) Where 2 or more persons in conjunction wholly occupy rateable property—

- (a) each, if there are only 2 of those persons; or
- (b) if there are more than 2 of those persons, each of 2 only of them, being the 2 from time to time selected by all or a majority of all of them,

shall, for the purposes of this Part, be deemed to be an occupier of the rateable property. ”;

- (vii) by deleting “(6), (8) (b)” in subsection (12) and substituting the following—

“ (8a), (8b) (b) ”;

- (viii) by deleting “held,” in paragraph (b) of subsection (12); and

- (ix) by deleting “(6), (8),” in paragraph (b) of subsection (12) and substituting the following—

“ (8), (8b), ”;

- (c) in section 37 set out therein by deleting—

- (i) “section 36 (1) (b)” and substituting the following—

“ section 36 (2) ”; and

- (ii) “electoral rolls” and substituting the following—

“ owners and occupiers rolls ”;

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

(d) in section 38 set out therein—

(i) by deleting “section 36 (1) (b)” in subsections (1), (2) and (3) and substituting in each case the following—

“ section 36 (2) ”; and

(ii) by inserting after subsection (4) the following subsection—

“ (5) This section shall be read and construed subject to section 44. ”;

(e) in section 39 set out therein by deleting—

(i) “section 36 (1) (b)” and substituting the following—

“ section 36 (2) ”; and

(ii) “36 (6)” in paragraph (b) and substituting the following—

“ 36 (5), (6) ”;

(f) in section 41 set out therein—

(i) by inserting after “identifies the ward” in subsections (1) (b) (ii) and (1) (c) in each case the following—

“ or wards ”; and

(ii) by repealing subsections (5) and (6) and substituting the following subsections—

“ (5) Subject to subsection (7), each district roll, ward roll or combined ward roll required by this section shall comprise—

(a) a roll of persons eligible under section 36 (1) to be registered as electors compiled by the Chief Electoral Officer;

1984.] *Acts Amendment (Local Government [No. 79.
Electoral Provisions).*

(b) a roll of persons—

(i) eligible under
section 36 (2)
(a); or

(ii) qualified under
section 39,

to be registered as
electors compiled by the
clerk; and

(c) any consolidated roll of
persons referred to in
paragraphs (a) and (b)
compiled by the clerk
before the day on which
is held the election for
the purposes of which
the rolls referred to in
those paragraphs were
compiled.

(6) A person who is registered
on both the residents roll and the
owners and occupiers roll shall
by virtue of his registration on
the residents roll be registered on
the consolidated roll, if any,
superseding the residents roll
and the owners and occupiers
roll.

(7) A consolidated roll—

(a) may be compiled by the
clerk for the purposes
of—

(i) the annual
election to be held
in May 1985; and

(ii) any extraordin-
ary election or
inaugural elec-
tion to be held

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

after the annual election referred to in subparagraph (i) and prior to the annual election to be held in May 1986;

and

(b) shall be compiled by the clerk for the purposes of the annual election to be held in May 1986 and of all subsequent elections.

(8) After the compilation of a consolidated roll, the clerk shall sign and date the consolidated roll on the last page thereof. ”;

(g) in section 42 set out therein by deleting “36 (1) (a)” in paragraphs (a) and (b) of subsection (3) and substituting in each case the following—

“ 36 (1) ”;

(h) in section 43 set out therein by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) Subject to section 44, the clerk shall, if he is satisfied that the person is eligible to be registered, include on the owners and occupiers roll—

(a) the name of each person who has become eligible to be registered under section 36 (2) (a) on or before the 71st day prior to the election day referred to in subsection (1);

1984.] *Acts Amendment (Local Government [No. 79.
Electoral Provisions]).*

(b) the name of each occupier of rateable property—

(i) who has applied under section 37 to be registered as an elector on or before the 71st day prior to the election day referred to in subsection (1); and

(ii) whose application referred to in subparagraph (i) has been accepted under section 38 (1) or 38 (3);

and

(c) the name of each person—

(i) last selected or deemed to have been selected by owners of rateable property under section 35 (8) as that section existed immediately before the coming into operation of section 8 of the Local Government Amendment Act (No. 2) 1984, or last nominated by a body corporate as the owner of rateable property under section 35 (9) as that section existed immediately before that coming into operation, which selection, deemed selection or nomination shall remain in force until superseded by a selection, deemed selection or nomination referred to in subparagraph (ii); or

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

- (ii) last selected or deemed to have been selected, or last nominated, under section 36 (8a), 36 (8b) (b), 36 (10) (b) or 36 (11) who has applied under section 37 to be registered as an elector on or before the 71st day prior to the election day referred to in subsection (1) and whose application under section 37 to be so registered has been accepted under section 38 (1) or 38 (3).

(3) After the compilation of an owners and occupiers roll, the clerk shall sign and date the owners and occupiers roll on the last page thereof. ”;

- (i) by inserting before section 44 set out therein the following section—

Marking of residents rolls and owners and occupiers rolls and transfer of marks to consolidated rolls.

“ 43A. (1) When a residents roll and an owners and occupiers roll are being used for the purpose of an election, the electoral officer or returning officer, as the case requires, shall, for the purposes of section 107 (4), 115 (3), 119 (3), 122 (5) or 125 (2)—

- (a) first ascertain whether or not the name of a person is registered on the residents roll and, if it is so registered, make the indication referred to in section 107 (4) (a), 115 (3) (a), 119 (3), 122 (5) or 125 (2), as the case requires, by a mark against that name on the residents roll; and

1984.] *Acts Amendment (Local Government [No. 79.
Electoral Provisions).*

(b) if the name of a person is not registered on the residents roll, then ascertain whether or not that name is registered on the owners and occupiers roll and, if it is so registered, make the indication referred to in section 107 (4) (a), 115 (3) (a), 119 (3), 122 (5) or 125 (2), as the case requires, by a mark against that name on the owners and occupiers roll.

(2) When a residents roll and an owners and occupiers roll are used for the purposes of an election and are superseded before the election by a consolidated roll, the returning officer shall ensure that, if an indication has been made under subsection (1) by a mark on the residents roll or the owners and occupiers roll against the name of a person, the same indication is made by a mark on the consolidated roll against that name as soon as is practicable after that supersession and in any event before polling on the day appointed by or under this Act for the holding of the election. ”;

(j) by repealing section 44 set out therein and substituting the following section—

“ 44. (1) Subject to subsection (2), a person shall not in relation to a district roll, ward roll or combined ward roll be registered more than once on a residents roll, owners and occupiers roll or consolidated roll in respect of an election.

Multiple
enrolment
on same
roll
prohibited.

(2) A person shall not be registered in relation to a combined ward roll more than once in respect of the same ward. ”;

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

(k) in section 45 set out therein by inserting after "owners and occupiers roll" the following—

“ or consolidated roll ”;

(l) in section 46 set out therein by deleting in subsection (1)—

(i) “wish to be registered on a roll of electors of the municipality compiled in respect of that election day and who are neither eligible under section 36 (1) (a) nor qualified under section 39 to be so registered should” and substituting the following—

“ are eligible to be registered as electors on the electoral roll of the municipality and who wish to be so registered may ”; and

(ii) “36 (1) (b), (1) (b) and (6) or (1) (b) and (7)” in paragraph (b) and substituting the following—

“ 36 (2), 36 (2) and (5), 36 (2) and (6) or 36 (2) and (7) ”;

(m) by repealing section 47 set out therein and substituting the following section—

Electoral
roll of
municipality.

“ 47. Subject to sections 41 and 54, there shall be a continuing electoral roll of a municipality, consisting—

(a) of a residents roll and an owners and occupiers roll; or

(b) initially of a residents roll and an owners and occupiers roll and subsequently of a consolidated roll,

as the case requires, compiled for the purposes of an election day, which rolls or roll shall remain in force until superseded in whole or in part by further rolls required by this Act to be compiled for the purposes of a subsequent election day. ”;

- (n) in section 49 set out therein by deleting paragraph (b) of subsection (3) and substituting the following paragraph—

“ (b) each candidate at an election to fill a vacancy in an office of member of the council, one copy each of—

(i) the residents roll and the owners and occupiers roll;

and

(ii) the consolidated roll, if any, compiled for the purposes of the election. ”; and

- (o) in section 54 set out therein by deleting “each page.” in subsection (2) and substituting the following—

“ the last page of each such roll. ”.

17. Section 14 of the principal Act is amended by repealing paragraph (a) and substituting the following paragraph—

Section 14
amended.

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

“ (1) A person who applies for an early vote or who applies to vote on polling day but whose name does not appear on the electoral roll of the municipality shall be permitted to vote if he is otherwise eligible to vote and if his name should appear on that electoral roll and was omitted in error. ”; and ”.

No. 79.] *Acts Amendment (Local Government [1984.
Electoral Provisions).*

Section 29
amended

18. Section 29 of the principal Act is amended by deleting—

(a) “and” after paragraph (a); and

(b) paragraph (b) and substituting the following paragraphs—

“ (b) by inserting after subsection (3) the following subsection—

“ (4) The returning officer shall for the purpose of taking the poll use the owners and occupiers roll last compiled prior to the taking of the poll. ”; and

(c) in subsection (5) by inserting after “Where the notice” the following—

“ referred to in subsection (1) ”. ”.
