

# THE ELECTORAL ACT, 1907-1940.

(No. 27 of 1907.)

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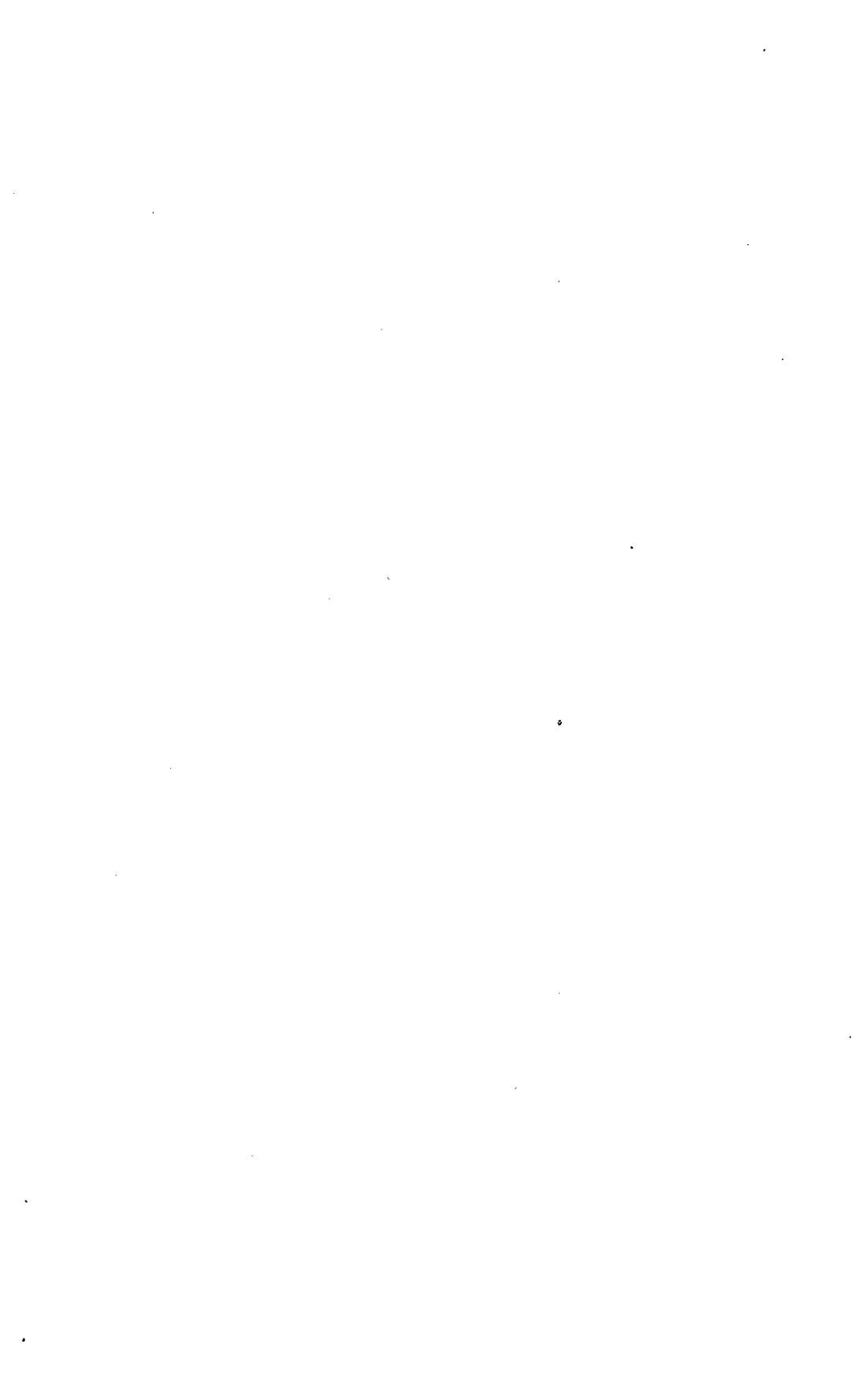
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**ELECTORAL.**

**No. 27 of 1907.**

Reprinted pursuant to the Amendments Incorporation Act, 1938, as amended by No. 44 of 1911, No. 5 of 1918, No. 59 of 1919, No. 7 of 1921, No. 38 of 1931, No. 39 of 1934, No. 10 of 1936, No. 18 of 1940, and No. 47 of 1940.

**AN ACT to regulate Parliamentary Elections.**

[Assented to 20th December, 1907.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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 *Electoral Act, 1907-1940.*

Short title.  
No. 27 of  
1907, s. 1 †;

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

No. 47 of  
1940, s. 3.  
Commence-  
ment.  
No. 27 of  
1907, s. 2.

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

Division.  
No. 27 of  
1907, s. 3 ;  
No. 10 of  
1936, s. 2.

**PART I.—PRELIMINARY, ss. 1-4.**

**PART II.—ADMINISTRATION, ss. 5-16.**

**PART III.—ENROLMENT, ss. 17-62.**

*Division (1)—Qualification of Electors.*

*Division (2)—Electoral Rolls.*

*Division (3)—Additions to Rolls.*

*Division (4)—Objections.*

*(i) To Claims ;*

*(ii) To Enrolment ;*

*(iii) Powers of Magistrate.*

*Division (5)—Miscellaneous.*

\* Meaning the original Act, No. 27 of 1907.

† Where in the marginal notes of this reprint reference is made to section numbers of the principal Act No. 27 of 1907 such section numbers are those which appear in the reprint contained in the Appendix to the Sessional Volume of the Statutes for the year 1928.

## PART IV.—ELECTIONS, ss. 63–156.

*Division (1)—Writs.**Division (2)—Nominations.**Division (3)—Voting.**(i) In absence ;**(ii) At the Poll.**Division (4)—Counting the Votes.**Division (5)—Declaration of Poll and Return  
of the Writ.**Division (6)—After the Poll.**Division (7)—Voting for Assembly to be  
Compulsory.*

## PART V.—DISPUTED RETURNS, ss. 157–173.

## PART VI.—LIMITATION OF ELECTORAL EXPENSES, ss. 174–178.

## PART VII.—ELECTORAL OFFENCES, ss. 179–206.

## PART VIII.—MISCELLANEOUS, ss. 207–214.

Interpreta-  
tion.No. 27 of  
1907, s. 4 ;  
1911, No. 44,  
s. 2.

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

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

“Assembly” means the Legislative Assembly.

“By-election” means any election other than a General Election.

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

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

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

“Council” means the Legislative Council.

- “District” means an Electoral District for the election of a member of the Assembly.
- “Elector” means any person whose name appears on a Roll as an elector.
- “Electoral Census” means any enumeration of persons eligible as electors for the Council or Assembly, made under the provisions of Part III. of this Act.
- “General Election” means:—
- (1) Any election for the Assembly caused by effluxion of time or by the dissolution of the Assembly by the Governor;
  - (2) Any election for the Council caused by the retirement of the senior member for each Province by effluxion of time.
- “Local governing body” means and includes the council of a municipality, the board of a road district, and any local board of health.
- “Magistrate” means a Government Resident, Police Magistrate, or Resident Magistrate, and includes any Justice of the Peace authorised by the Governor to hear and determine electoral appeals.
- “Minister” means the responsible Minister of the Crown charged for the time being with the administration of this Act.
- “Naturalised” means naturalised under a law of the United Kingdom, or of a Colony which has become a State of the Commonwealth, or of the Commonwealth, or of a State.
- “Officer” includes all persons appointed to any office under this Act, or exercising any power or discharging any duty thereunder, except as an honorary Government electoral agent.
- “Parliament” means the Parliament of Western Australia.
- “Polling place” means any building or structure in which the polling at elections is appointed to take place.
- “Prescribed” means prescribed by this Act or by the regulations.

- “President” means the President of the Legislative Council.
- “Proclamation” means a proclamation by the Governor published in the *Government Gazette*.
- “Province” means an Electoral Province for the election of members of the Council.
- “Registrar” means an Electoral Registrar, and includes a substitute.
- “Returning Officer” includes Deputy Returning Officer.
- “Roll” means the electoral roll of a Province or District.
- “Speaker” means the Speaker of the Legislative Assembly.
- “Sub-district” means a portion of a District the boundaries of which have been defined under the provisions of section one hundred.
- “Telegraph Office” means any office appointed for the receipt and transmission of telegraph messages.
- “Writ” means a writ issued by the Clerk of the Writs directing a Returning Officer to proceed with the election of a member of the Council or Assembly.

## PART II.—ADMINISTRATION.

Chief Electoral Officer.  
No. 27 of  
1907, s. 5.

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

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

Registrars  
and Return-  
ing Officers.  
No. 27 of  
1907, s. 6;  
1911, No. 14,  
s. 3.

6. (1) The Governor may, from time to time, appoint such Registrars, Returning Officers, and Assistant Returning Officers as may be required to carry the provisions of this Act into execution.

(2) A person appointed to be a Registrar, Returning Officer, or Assistant Returning Officer shall be deemed to have been appointed as from a date specified in his appointment or, if no such date is specified, as from the date of his appointment.



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

Substitute.  
No. 27 of  
1907, s. 7.

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

8. (1) There shall be a Registrar for each Province and District and Sub-district.

Registrars.  
No. 27 of  
1907, s. 8 ;  
1911, No. 44,  
s. 4.

(2) The same person may be appointed Registrar for a Province and for a District and Sub-district, or for two or more Provinces and Districts and Sub-districts.

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

Returning  
Officers.  
No. 27 of  
1907, s. 9.

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

Deputy Re-  
turning  
Officers.  
No. 27 of  
1907, s. 10.

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

Registrar  
may be Re-  
turning  
Officer.  
No. 27 of  
1907, s. 11.

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

Returning  
Officer's  
declaration.  
No. 27 of  
1907, s. 12 ;  
1911, No. 44,  
s. 43.

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

Resignation  
of Returning  
Officer after  
issue of Writ.  
No. 27 of  
1907, s. 13.

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

Death, resign-  
ation, or re-  
moval of Re-  
turning Offi-  
cer after issue  
of Writ.  
No. 27 of  
1907, s. 14.

1911, No. 44,  
s. 5.

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

Temporary  
assistance,  
No. 27 of  
1907, s. 15.

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

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

Disqualifica-  
tion of Offi-  
cers,  
No. 27 of  
1907, s. 16.

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

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

### PART III.—ENROLMENT.

#### *Division (1)—Qualification of Electors.*

Qualification  
of Assembly  
electors.  
No. 27 of  
1907, s. 17 ;  
see 63 Vict.,  
No. 19, s. 26 ;  
1911, No. 44,  
s. 6.

17. (1) Subject to the disqualifications hereinafter set out, every person not under twenty-one years of age, who—

- (a) is a natural born or naturalised subject of His Majesty; and
- (b) has lived in Western Australia for six months continuously; and
- (c) has lived in the district or, when a district is divided into sub-districts, in the sub-district, for which he claims to be enrolled for a continuous period of one month immediately preceding the date of this claim,

shall be entitled, subject to the provisions of this Act, to be enrolled as an elector, and when enrolled, and so long as he continues to live in the district for which he is

enrolled, to vote at any polling place in the district at the election of a member of the Legislative Assembly for that district.

Provided that an elector who has changed his place of living to another district may, until his name is transferred to another roll, vote for the district in which his name continues enrolled at any election held within three months after he has ceased to live in the district.

(2) For the purposes of this Act a person shall be deemed to have lived within the district or sub-district wherein he has his usual place of abode, notwithstanding his occasional absence from such district or sub-district.

(3) Any member of the Legislative Assembly, and the wife of any member of the Legislative Assembly, may claim to be enrolled for the district represented by such member, and when so enrolled shall be deemed to live in such district.

(4) A person shall not be entitled to be enrolled at the same time on more than one Assembly roll.

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

- (a) is of unsound mind; or
- (b) is wholly dependent on relief from the State or from any charitable institution subsidised by the State, except as a patient under treatment for accident or disease in a hospital; or
- (c) has been attainted of treason, or has been convicted and is under sentence or subject to be sentenced for any offence punishable under the law of any part of the King's dominions by imprisonment for one year or longer; or
- (d) is an aboriginal native of Australia, Asia (except British India), Africa, or the Islands of the Pacific (except New Zealand), or a person of the half-blood, but the disqualifications created by this paragraph do not apply to any person who is a naturalised subject of His Majesty.

Disqualifications.  
No. 27 of  
1907, s. 18;  
No. 39 of  
1934, s. 2.  
*See* 63 Vict.,  
No. 19, s. 28.

No. 39 of  
1934, s. 2.

*Division (2).—Electoral Rolls.*

Electoral  
Rolls.

No. 27 of  
1907, s. 19;  
1911, No. 44,  
s. 7.

19. (1) There shall be a roll of electors for each Province and District.

(2) The roll for any District may be divided into separate parts for each Sub-district, the parts into which a roll is so divided being hereinafter called a "Sub-district roll."

(3) All the sub-district rolls for a District shall together form the roll for the District.

Rolls to be  
kept by  
Registrars.

No. 27 of  
1907, s. 20.

Existing rolls.

No. 27 of  
1907, s. 21.

20. The roll for each Province and District shall be kept by the Registrar.

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

Form of rolls.

No. 27 of  
1907, s. 22;  
1911, No. 44,  
s. 43.

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

(2) The Council rolls shall also state the qualification of each elector.

Arrangement  
of rolls.

No. 27 of  
1907, s. 23;  
1911, No. 44,  
s. 8.

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

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

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

Printing of  
rolls.

No. 27 of  
1907, s. 24;  
1918, No. 5,  
s. 2.

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

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

25. A printed copy of the roll of every Province and District shall be kept for inspection by the public at the office of the Registrar, and at such other convenient places within such Province or District as the Chief Electoral Officer may from time to time determine.

Copies to be kept for public inspection. No. 27 of 1907, s. 25.

26. Supplementary rolls, setting out additions and alterations since the last print, shall be printed and issued under the hand of the Registrar for each Province and District—

Supplementary rolls. No. 27 of 1907, s. 26; 1918, No. 3, s. 3.

(a) as soon after the last day of June and the last day of December in each year as practicable, and not later than the last day of the month next following, and

(b) immediately after the issue of the writ for any general election or by-election:

Provided that if it is not practicable to print any supplementary roll after the issue of the writ, such supplementary roll may be issued in written form.

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

Incorporation of supplementary rolls. No. 27 of 1907, s. 27; 1911, No. 44, s. 11.

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

Amalgamation of rolls. No. 27 of 1907, s. 28.

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

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

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

Rolls to be dated. No. 27 of 1907, s. 29.

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

Supplementary rolls to be numbered and dated. No. 27 of 1907, s. 30.

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

Arrangement  
with Com-  
monwealth.  
No. 27 of  
1907, s. 31 ;  
See Com.  
1918-1925,  
s. 32.

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

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

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

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

The rolls.  
No. 27 of  
1907, s. 32 ;  
1911, No. 44,  
s. 12.

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

Inspection of  
rolls by the  
public.  
No. 27 of  
1907, s. 33.

**33.** The roll and supplementary roll for each Province or District shall be open for public inspection without fee, at the Registrar's office, on any week day during the hours the office is open, and the latest printed copies thereof shall be obtainable at the prescribed price not exceeding one shilling.

Rolls and  
documents  
not to be  
invalidated.  
No. 27 of  
1907, s. 34.

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

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

Officers to furnish information.  
No. 27 of 1907, s. 35.

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

Chief Electoral Officer to inspect District offices and rolls.  
No. 27 of 1907, s. 36.

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

New rolls.  
No. 27 of 1907, s. 37.

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

Method of preparation of roll.  
Compulsory enrolment for Assembly.  
No. 27 of 1907, s. 38 ;  
1919, No. 59, s. 2.

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

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

The regulations may prescribe anything necessary or convenient to be prescribed for carrying a system of compulsory enrolment into effect, and may prescribe a penalty not exceeding ten pounds for the contravention of any regulation.

Penalties.

Electoral  
census.  
No. 27 of  
1907, s. 39.

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

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

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

Names to be  
inscribed from  
existing rolls,  
etc.  
No. 27 of  
1907, s. 40.

40. (1) In preparing new rolls—

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

(b) the names of all persons—

(i) who, from information supplied by the Registrar General of Deaths, appear to be dead, or who, from information supplied by the Inspector General of the Insane, the Superintendent of Public Charities, and the Comptroller General of Prisons appear to be disqualified; or

(ii) who appear to be otherwise disqualified; or

(iii) in the case of Assembly rolls, who do not appear to reside in the district,

shall be omitted.

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

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

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



*Division (3)—Additions to Rolls.*

41. New names may be added to rolls by the Registrars pursuant to claims. Addition of names.  
No. 27 of  
1907, s. 41.
42. Claims— Claims.  
No. 27 of  
1907, s. 42 ;  
1911, No. 44,  
secs. 13 and  
43.
- (a) may be in the prescribed form;
- (b) shall be signed by the claimant in the presence of a person authorised by this Act to witness the signatures of claimants; and
- (c) shall be sent to the Registrar keeping the roll on which the claimant claims to be enrolled.
43. (1) Immediately upon the receipt of a claim the Registrar shall— Claims, how dealt with.  
No. 27 of  
1907, s. 43.
- (a) insert therein the date of its receipt; and
- (b) file the claim provisionally.
- (2) Claims shall be open for public inspection, without fee, at the Registrar's office on any week day during the hours the office is open.
44. (1) The essential parts of a claim shall be— Essential particulars.  
No. 27 of  
1907, s. 44 ;  
1911, No. 44,  
secs. 14 and  
43.
- (a) the surname and christian names in full of the claimant;
- (b) the residence of the claimant;
- (c) the usual signature of the claimant in his own handwriting; and
- (d) if the claim is for enrolment for a Province, the qualification of the claimant, with sufficient particulars to identify the qualifying property.
- (2) If the residence of the claimant is within a municipal district or townsite, the name of the street and the number of the house, if numbered, shall be stated, and if not numbered, such particulars shall be given as, in the opinion of the Registrar, are sufficient to enable the exact locality of the claimant's residence to be ascertained.
- (3) If the residence of a claimant is not within a municipal district or townsite, his residence shall be stated with such particulars as are, in the opinion of the Registrar, sufficient to enable the exact locality of the claimant's residence to be ascertained.

(4) Any claim that does not comply with this section, and paragraph (b) of section forty-two, shall be rejected, and notice thereof in the prescribed form shall be given by the Registrar to the claimant.

Compulsory  
enrolment for  
Assembly.  
Inserted by  
1919, No. 59,  
s. 3, as s. 44A,  
now renum-  
bered s. 45.

45. (1) Every person who is entitled to have his name placed on the roll for any district or sub-district, and whose name is not on such roll shall (whether his name is registered on the roll of any other district or sub-district or not) within twenty-one days after becoming so entitled, fill in and sign in accordance with this Act a claim in the prescribed form, and deliver the same to the Registrar of the district or sub-district, and otherwise comply with the relative provisions of this Act.

Penalty: Two pounds.

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

Penalty: Two pounds.

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

(4) The registrar of the district concerned shall issue a receipt to the elector for each claim received.

Registration  
of claims.  
No. 27 of  
1907, s. 45;  
1911, No. 44,  
s. 15.

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

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

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

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

*Division (4)—Objections.*

*(i) To Claims.*

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

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

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

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

- (a) The objection shall be in writing lodged in duplicate with the Registrar, setting forth the grounds thereof, and may be in the prescribed form.
- (b) The sum of two shillings and sixpence shall be deposited with the Registrar, and shall be forfeited if the objection is held not to be reasonable.
- (c) The Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice in writing to the objector, and the person objected to, of the day and place appointed for the hearing, and a copy of the objection, setting forth the grounds thereof, shall be sent therewith to the person objected to.

Objections to  
claims.  
No. 27 of  
1907, s. 46.

By Electors.  
1911, No. 44,  
s. 43.

- (e) The person objected to may, on the hearing of the objection, either—
- (a) appear in person to prove his claim, or
  - (b) appear by agent appointed in writing under his hand, or
  - (c) forward by post, addressed to the Registrar, a statement made by the person objected to and signed before another elector of the same District or Province, setting forth the reasons for his remaining on the roll.
- (f) The magistrate shall hear and determine the objection, and may direct the Registrar to enrol the claimant or to reject the claim, but no grounds of objection shall be entertained except such as are specifically set forth in the objection lodged as aforesaid.
- (g) If a writ is issued for an election before the objection is heard and determined, and the claim was received by the Registrar not less than fourteen days before the issue of the writ, it shall be the duty of the Registrar to enrol the claimant.

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

By the Registrar,  
1911, No. 44,  
s. 43.

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

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

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

- (b) If notice of appeal is not duly given, the Registrar may reject the claim.
- (c) If notice of appeal is duly given, the Registrar shall set down the objection for hearing before a magistrate, who shall appoint a day and place for the hearing.
- (d) The Registrar shall give notice to the claimant of the day and place appointed for the hearing.
- (e) The magistrate shall hear and determine the objection, and may direct the Registrar to enrol the claimant or reject the claim, as he thinks fit, but no grounds of objection shall be entertained except such as are specifically set forth in the notice of objection.
- (f) If a writ is issued for an election before the appeal is heard and determined, and the claim was received by the Registrar not less than fourteen days before the issue of the writ, it shall be the duty of the Registrar to enrol the claimant:

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

*(ii) To Enrolment.*

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

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

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

- (a) The objection shall be in writing lodged in duplicate with the Registrar, setting forth the grounds thereof, and may be in the prescribed form.
- (b) The sum of two shillings and sixpence shall be deposited with the Registrar, and shall be forfeited if the objection is held not to be reasonable.

Objections to enrolment.  
No. 27 of 1907, s. 47.

By Electors.  
1911, No. 44, s. 43.

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

By the Registrar,  
1911, No. 44,  
s. 43.

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

- (a) The Registrar shall give notice of objection to the person objected to, setting forth—
  - (i) the grounds of objection; and

(ii) that unless notice of appeal is given within a time stated (not being less than seven days), the name of the elector will be struck off the roll.

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

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

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

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

*(iii) Powers of Magistrate.*

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

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

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

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

*Division (5)—Miscellaneous.*

Substitution  
of qualifica-  
tion.  
No. 27 of  
1907, s. 49.

50. (1) Any elector for a Province may apply to substitute for his registered qualification any other sufficient qualification.

1911, No. 44,  
secs. 16, 43.

(2) The application shall be in writing in the prescribed form, signed by the applicant, and delivered or sent by post to the Registrar.

(3) If the application is in order, the Registrar shall forthwith make the necessary alteration of the roll, and forward the application form to the Chief Electoral Officer after indicating thereon that the alteration has been made.

(4) If the application appears to the Registrar not to be in order he shall give notice to the applicant in the prescribed form.

Removal of  
names re-  
peated on roll.  
No. 27 of  
1907, s. 50.

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



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

Change of electors from one roll to another on redistribution of seats.  
1911, No. 44, s. 17.

52. In addition to the other powers of alteration conferred by this Act, rolls may be altered by the Registrar as follows:—

Alteration of rolls.  
No. 27 of 1907, s. 51 ;  
1911, No. 44, secs. 18, 43.

- (a) By correcting any obvious mistake or omission, but not to the extent of wholly removing a name from the roll except where a name is repeated.
- (b) By removing the name of any person who requests in writing that his name may be removed from the roll.
- (c) By changing, upon the written application of an elector in the prescribed form, the original name or address of the elector to an altered name or address.
- (d) By changing, pursuant to an order in writing under the hand of the Chief Electoral Officer, the maiden name of a female elector to her married name.
- (e) By removing, pursuant to an order in writing under the hand of the Chief Electoral Officer, the names of persons reported as being—
  - (i) dead;
  - (ii) of unsound mind;
  - (iii) inmates of any public charitable institution who are wholly dependent on relief from the State, except as a patient under treatment for accident or disease in a hospital;
  - (iv) convicted, or subject to be sentenced, for an offence disqualifying them as electors for the time being;
  - (v) already enrolled in another district, or whose names are repeated on the same roll.

- (f) By re-instating, pursuant to an order in writing under the hand of the Chief Electoral Officer, any name struck off by mistake under the last preceding subsection.
- (g) By changing the address of an elector from that appearing on the claim, to the addresses inserted by the electoral canvasser on the roll revised by him after an electoral canvass or census taken by order of the Governor or the Minister, if the new address is within the boundaries of the same District.

Time for altering rolls.  
No. 27 of 1907, s. 52.

**53.** Claims received not less than fourteen days before the issue of the writ for an election may be enrolled after the issue of the writ, and alterations of the rolls pursuant to applications or directions received under sections fifty or fifty-one before the issue of the writ for an election may be made after the issue of the writ, but otherwise no addition to or alteration of the roll shall be made between the date of the issue of the writ for an election and the closing of the poll at the election.

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

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

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

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

Registrar General to furnish quarterly lists.  
No. 27 of 1907, s. 55.

**56.** The Registrar General of Births, Deaths, and Marriages shall, during the months of January, April, July, and October in every year, forward to the Chief Electoral Officer—

- (a) A list, in the prescribed form, containing the names, address, occupation, and age at the time of death of every person not under

twenty-one years of age, whose death has been registered in each Registry District respectively during the preceding three months;

- (b) A list, in the prescribed form, of the maiden name, residence, and occupation as disclosed by the marriage certificate of every woman not under twenty-one years of age, whose marriage has been registered in each Registry District respectively during the preceding three months, as well as particulars of the name, residence, and occupation of her husband.

57. The Inspector-General of the Insane shall, during the months of January, April, July, and October in each year, forward to the Chief Electoral Officer a list, in the prescribed form, containing the names and age and the address and occupation immediately prior to the date of reception, of every person not under twenty-one years of age who has been received by him as an inmate of any hospital or reception house for the insane during the preceding three months, and who continues an inmate of such hospital or reception house.

Inspector  
General of  
the Insane to  
furnish quar-  
terly lists.  
No. 27 of  
1907, s. 56.

58. The Superintendent of Public Charities shall, during the months of January, April, July, and October in each year, forward to the Chief Electoral Officer, in the prescribed form, a list containing the names, age, address, and previous occupation of every person not under twenty-one years of age who has been received as an inmate of any public charitable institution for the reception, maintenance, and care of indigent persons, other than a hospital, during the preceding three months, and who continues in receipt of such relief, and is wholly dependent upon relief from the State.

Superintendent  
of Public  
Charities to  
furnish quar-  
terly lists.  
No. 27 of  
1907, s. 57;  
1911, No. 44,  
s. 20.

59. The Comptroller-General of Prisons shall, during the months of January, April, July, and October in each year, forward to the Chief Electoral Officer, in the prescribed form, a list containing the names and age, and the address and occupation prior to conviction, of every person sentenced for any offence punishable by law by imprisonment for one year or longer, received by him in each of His Majesty's gaols during the preceding three months.

Comptroller  
General of  
Prisons to  
furnish quar-  
terly lists.  
No. 27 of  
1907, s. 58.

Chief Electoral Officer to cause certain names to be struck off the rolls. No. 27 of 1907, s. 59; 1911, No. 44, s. 21.

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

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

Chief Electoral Officer to cause certain names to be altered. No. 27 of 1907, s. 60; 1911, No. 44, s. 22.

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

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

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

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

Method for restitution of electoral registration. No. 27 of 1907, s. 61.

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

## PART IV.—ELECTIONS.

*Division (1)—Writs.*

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

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

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

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

Writs for general election to issue within seven days. No. 27 of 1907, s. 63; 1911, No. 44, secs. 23, 43.

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

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

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

66. In the case of a general election for the Assembly, the same day shall be fixed by the writ for the polling in each District.

General elections to be held on same day. No. 27 of 1907, s. 65.

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

Issue of writs in cases of vacancy. No. 27 of 1907, s. 65; See 63 Vict. No. 19, s. 30; 1911, No. 44, secs. 24, 43.

(2) In the case of any such vacancy when Parliament is not in session, or when the vacancy occurs during any adjournment for a longer period than seven days of the House affected, the President or Speaker may, without

such preceding resolution, by warrant under his hand in the prescribed form, direct the Clerk of the Writs to issue a writ to supply the vacancy.

(3) If at the occurrence of any such vacancy there is no President or Speaker of the House affected, and Parliament is not in session, or if the President or Speaker of the House affected is absent from the State, the Governor shall, if satisfied of the existence of such vacancy, by warrant under his hand direct the Clerk of the Writs to issue a writ for the election of a member for the seat so vacated.

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

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

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

(5) Whenever a vacancy occurs by reason of any of the disqualifications mentioned in section thirty-one, subsection (5), and section thirty-eight, subsection (2) of the Constitution Acts Amendment Act, 1899, it shall be the duty of the Registrar in Bankruptcy forthwith to give notice thereof in writing to the President or the Speaker, as the case may be, if within the State, and otherwise to the Governor, and on receipt of such notice the President

or Speaker, as the case may be, if within the State, or otherwise the Governor, shall forthwith, by warrant under his hand, direct the Clerk of the Writs to issue a writ for the election of a member to supply the vacancy.

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

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

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

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

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

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

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

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

Date of nomination.  
No. 27 of 1907, s. 69.

71. The date fixed for the polling shall not be less than fourteen days nor more than thirty days after the date of nomination.

Date of polling.  
No. 27 of 1907, s. 70 ;  
No. 38 of 1931, s. 2.

Provided that, in the case of an election to fill a vacancy caused by the acceptance by a member of any of the principal offices of the Government liable to be vacated on political grounds, the date fixed for the polling may be less than fourteen but not less than seven days after the date of nomination.

No. 38 of 1931, s. 2.

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

Date of return of writ.  
No. 27 of 1907, s. 71.

73. The Clerk of the Writs shall cause notice of his intention to issue the writ to be sent by telegraph to the Registrar of the Province or District for which the election is to be held, stating the date on which the writ will be issued.

Notice to Registrars of issue of writ.  
No. 27 of 1907, s. 72.

Address of writs.  
No. 27 of 1907, s. 73.

74. Writs shall be addressed to the Returning Officer for the Province or District for which an election is to be held.

Duty of Returning Officer on receipt of writ.  
No. 27 of 1907, s. 74.

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

- (a) indorse thereon the date of its receipt;
- (b) advertise its receipt and particulars in a newspaper circulating in the Province or District, or by placards or otherwise, and the dates fixed for the nomination and the polling, giving at least ten clear days' public notice of the day of polling and the places at which the poll will be taken; and
- (c) in the case of a Council election, forward a copy of the writ to each Deputy Returning Officer.

Extension of time.  
No. 27 of 1907, s. 75.

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

Provided that—

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

*Division (2)—Nominations.*

Candidates to nominate.  
No. 27 of 1907, s. 76;  
No. 18 of 1940, s. 2.

77. (1) No person shall be capable of being elected as a member of the Council or Assembly 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 Council or Assembly, as the case may be.

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



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

No. 18 of 1940, s. 2.

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

Penalty—(One hundred pounds, or imprisonment for six months.

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

Mode of nomination. No. 27 of 1907, s. 77; 1911, No. 44, s. 43.

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

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

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

80. It shall suffice if the nomination paper is lodged at any telegraph office, and the contents are communicated to the Returning Officer by telegraph.

Nominations may be telegraphed. No. 27 of 1907, s. 79

81. No nomination shall be valid unless—

Requisites for nomination. No. 27 of 1907, s. 80.

- (1) The nomination paper or nomination by telegraph is received by the Returning Officer after the issue of the writ and before the hour of nomination; and
- (2) The person nominated, or some person on his behalf, deposits the sum of twenty-five pounds in money—
  - (a) with the Returning Officer at or before the hour of nomination; or
  - (b) at the Treasury in Perth, in which case notice from the Under Treasurer that the money is deposited must be received by the Returning Officer before the hour of nomination.

Withdrawal  
of nomination.  
No. 27 of  
1907, s. 81.

**82.** Any candidate may withdraw his nomination by lodging with the Returning Officer notice in writing of such withdrawal at any time not later than seven clear days before polling day, and in such case the deposit shall be forfeited to the King.

Formal de-  
fects.  
No. 27 of  
1907, s. 82.

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

Deposit to be  
forfeited in  
certain cases.  
No. 27 of  
1907, s. 83.

**84.** (1) The deposit made by or on behalf of a person nominated shall be retained pending the election, and after the election shall be returned unless the person by or on whose behalf it was made fails to obtain at the election a number of votes above one-fifth of the number of votes polled by the successful candidate, in which case the deposit shall be forfeited to the King:

Provided that, in computing the number of votes for the purposes of this section when there are more candidates than two, only the first preference votes shall be reckoned.

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

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

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

Hour of  
nomination.  
No. 27 of  
1907, s. 85.

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

(2) At the hour of nomination the Returning Officer shall publicly produce all nomination papers received by him between the issue of the writ and the hour of nomination, and declare the names, occupations, and residences of all candidates nominated, and immediately forward to the Chief Electoral Officer at Perth, by telegraph or other expeditious means, the names and other particulars of the several candidates nominated, and also advertise the same in a newspaper circulating within the Province or District.

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

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

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

88. (1) If, after the nominations have been declared and before polling day, any candidate withdraws his nomination and there remains only one candidate, such last-mentioned candidate shall forthwith be declared to be elected and the writ shall be returned.

Withdrawal or death of candidate after nomination. No. 27 of 1907, s. 87, repealed and new s. 87, inserted by No. 18 of 1949, s. 3, now re-numbered s. 88.

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

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

(i) countermand the notice of the poll;

(ii) report the fact of the death to the Chief Electoral Officer;

(iii) indorse upon the writ, which is vacated as aforesaid, the fact of the death and the date of the proof thereof and of the countermand of the notice of the poll; and

(iv) return such writ indorsed as aforesaid to the Clerk of the Writs.

(b) Where the candidate dies on polling day, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate—

(i) immediately close the poll;

(ii) report the fact of the death to the Chief Electoral Officer;

(iii) indorse upon the writ, which is vacated as aforesaid, the fact of the death and of the time of the closing of the poll by him as aforesaid; and

(iv) return such writ indorsed as aforesaid to the Clerk of the Writs.

- (c) Where any poll is interrupted in consequence of the death of a candidate, all ballot papers placed in the several ballot boxes shall be taken out by the several presiding officers, and, being made up into sealed packages, shall be sent by them respectively unopened to the Returning Officer or deputy returning officer, who shall forthwith, in the presence of a magistrate or justice of the peace, burn or otherwise destroy the sealed packages unopened.
- (d) Upon the return to the Clerk of the Writs of a writ which has been vacated as aforesaid, a fresh writ shall be issued forthwith for a new election in the place of the election which has failed as aforesaid, and save and except as in this subsection otherwise provided, all proceedings in connection with such new election shall be had and taken anew.
- (e) The roll which was in force and required to be used at the election which has failed shall, without any amendment thereof or addition thereto, be used at the new election.
- (f) Candidates who had duly nominated for the election which has failed and had not withdrawn their nomination prior to the failure of such election, shall be deemed to have been duly nominated for the new election and shall not be required to renominate for such new election, but, subject as hereinafter provided, may withdraw their nomination before the polling day fixed in relation to the new election:

Provided that—

- (i) If a candidate withdraws his nomination at or before the hour of nomination on the nomination day fixed in relation to the new

election he shall be entitled to a refund of the deposit lodged by him with his original nomination notwithstanding anything to the contrary contained in section eighty-two of this Act; and

(ii) the right of a candidate to withdraw his nomination after the hour of nomination on the nomination day fixed in relation to the new election shall be subject to the provisions of section eighty-two of this Act.

- (g) The appointment of officials and of polling places as made for and in connection with the election which has failed as aforesaid, shall not merely by reason of the failure of such election, be void or in any way affected, and may continue and apply for and in connection with the new election.

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

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

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

Failure of election when no candidate nominated or returned as elected.

No. 27 of 1907, s. 88, repealed and new s. 88 inserted by No. 18 of 1940, s. 4, as s. 88.

#### *Division (3)—Voting.*

##### *(i) In absence.*

90. (1) Any elector—

- (a) who has reason to believe that he will, on polling day, be more than seven miles from any polling place at which he is entitled to vote; or

Voting by post.

No. 27 of 1907, s. 89; 1911, No. 44, s. 25.

(b) who, being a woman, believes that she will, on account of ill health, be unable, on polling day, to attend a polling place to vote; or

(c) who will be prevented by serious illness or infirmity from attending a polling place on polling day,

may, after the nominations have been declared, attend before a magistrate, or other person appointed by the Minister in that behalf (in this Part of this Act referred to as a "postal vote officer"), and vote by post.

(2) Notice of every appointment, or suspension, or removal of a postal vote officer shall be published in the *Government Gazette*.

Postal vote books.

No. 27 of 1907, s. 90; 1911, No. 44, s. 43.

91. It shall be the duty of the Chief Electoral Officer to supply postal vote officers with postal vote books in the prescribed form.

Directions.

No. 27 of 1907, s. 91; 1911, No. 44, s. 43.

92. The following directions for voting by post shall be observed:—

(1) The elector shall sign and declare before the postal vote officer the declaration contained in the prescribed form.

(2) The postal officer shall then—

(a) write on the counterfoil—

(i) the name of the Province or District for which the elector claims to vote;

(ii) the christian name, surname, and address of the elector; and

(iii) the date of issue of the postal ballot paper; and

(b) sign and require the elector to sign the counterfoil.

(3) The postal vote officer shall then—

(a) indorse on the ballot paper—

(i) the name of the Province or District as on the counterfoil; and

(ii) the date of issue; and

(b) sign the indorsement.

(4) The postal vote officer shall then hand the ballot paper and an envelope to the elector, and complete and sign the certificate indorsed on the declaration.

(5) The elector shall then—

- (a) write on the ballot paper, in the manner prescribed by section ninety-three, the name of the candidate for whom he votes, but so that the postal vote officer shall not see the vote;
- (b) fold up the ballot paper and, in the presence of the postal vote officer, put it in the envelope; and
- (c) fasten the envelope and hand it to the postal vote officer:

Provided that where an elector satisfies the postal vote officer that he is blind, or that his sight is so impaired, or that he is otherwise so physically incapable that he is unable to vote without assistance, or is unable to read or write, such officer may, and at the request of such elector shall, mark on the ballot paper, according to the instructions of the elector, the name of the candidate, and enclose the ballot paper in the envelope.

(6) The postal vote officer shall then write "Ballot paper" on the envelope, and place the counterfoil in another envelope and fasten it and write "Counterfoil" thereon, and shall forthwith send both envelopes, enclosed in an envelope marked "Electoral ballot paper only," and upon which the postal vote officer shall write his name and title, by post or otherwise, addressed to the Returning Officer of the Province or District in which the elector claims to be entitled to vote, or to a Presiding Officer at any polling place within such Province or District if the postal vote officer is satisfied that the vote taken by him cannot in the ordinary course of post reach the Returning Officer before the close of the poll.

93. An elector recording his vote by means of a postal vote ballot paper shall do so in the following manner:—

- (1) At elections where there are only two candidates, the elector shall insert in the postal ballot paper the surname of the candidate for whom he votes.

Mode of marking ballot paper. No. 27 of 1907, s. 92; 1911, No. 44, s. 26.

- (2) At elections where there are more than two candidates, the elector shall insert in the postal ballot paper the surname of the candidate for whom he votes as a first preference, and he shall also insert in the ballot paper the surnames of and give further contingent votes for all remaining candidates.
- (3) The voting under subsection two shall be as follows:—The voter shall first write on the ballot paper the surname of the candidate for whom he votes as a first preference, and he shall mark the numeral 1 against such name, and he shall then write on the ballot paper the surnames of all the other candidates, and he shall mark the numerals 2, 3, and so on, against each name respectively in the order of his preference.
- (4) In the case of more candidates than one having the same surname, the elector shall also insert in the ballot paper, the christian names of such candidates.
- (5) A postal vote shall not be invalid by reason only of the name appearing thereon of a candidate who, after nomination day and before polling day, has withdrawn his nomination; but effect shall be given to the preference shown on the postal vote according to the arithmetical sequence of the marking after the exclusion of the number set against the name of the candidate who has withdrawn his nomination.

Inspection.  
No. 27 of  
1907, s. 93;  
1911, No. 44,  
s. 27.

94. At any time when called upon in writing by the Chief Electoral Officer, or by a Registrar, a postal vote officer shall transmit to the Chief Electoral Officer or such Registrar, for inspection, his postal vote book.

Postal vote  
officer not to  
visit electors.  
No. 27 of  
1907, s. 94.

95. It shall be unlawful for any postal vote officer to visit any elector for the purpose of taking his vote, or to take any elector's postal vote in any other place than such postal vote officer's ordinary place of living or business. But this section shall not apply to electors entitled to vote by post under paragraph (b) or (c) of section ninety.



96. The Returning Officer or Presiding Officer, as the case may be, upon the receipt of any postal votes, shall retain them in his possession and

- (a) during or immediately after the close of the poll, in the presence of the scrutineers, proceed to open them; and
- (b) if satisfied, by comparing each counterfoil with the roll, that the person named is entitled to vote, shall, as he takes out each ballot paper from its envelope, without unfolding it, deposit it in the ballot box.

Duty of Returning Officer in regard to postal votes.  
No. 27 of 1907, s. 95 ; 1911, No. 44, s. 28.

97. No postal vote shall be rejected by reason of any mistake in spelling where the elector's intention is clear.

Mistakes.  
No. 27 of 1907, s. 96.

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

Officer to decide.  
No. 27 of 1907, s. 97.

99. Any person who has applied to a postal vote officer for the purpose of voting under this Part of the Act, and has complied with the provisions thereof, shall not be entitled to vote otherwise at the election, although the said envelopes may not have been sent to the Returning Officer or Presiding Officer, as the case may be, or although they have miscarried.

Applicant not to vote otherwise at election.  
No. 27 of 1907, s. 98.

(ii) *At the Poll.*

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

- (a) appoint a chief polling place for each Province and District;
- (b) appoint such other polling place for each Province and District as he thinks necessary;
- (c) abolish any polling place;
- (d) establish Sub-districts and fix the boundaries thereof, and abolish Sub-districts; and

Polling places.  
No. 27 of 1907, s. 99 ; 1911, No. 44, s. 29.

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

Polling.  
No. 27 of  
1907, s. 100.

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

Duty of Re-  
turning Offi-  
cer.  
No. 27 of  
1907, s. 101.

102. In particular the Returning Officer shall—

- (1) Appoint a presiding officer to preside at each polling place at which he will not be continuously present;
- (2) Appoint all necessary poll clerks and doorkeepers;
- (3) furnish polling places and provide ballot boxes;
- (4) provide ballot papers and copies of the roll for use at each polling place.

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

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

Appointment  
of presiding  
officers, poll  
clerks, and  
doorkeepers.  
No. 27 of  
1907, s. 103;  
1911, No. 44,  
s. 43.

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

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

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

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

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

Absence of  
Returning  
Officer or pre-  
siding officer  
not to invali-  
date election.  
No. 27 of  
1907, s. 105.

106. (1) In case any returning officer or presiding officer is prevented from attendance by illness or other sufficient cause, and time does not permit of a substitute being appointed under the provisions of section seven, he

may appoint by writing under his hand, a substitute to act for him, who shall have full power and authority to do all things required by this Act to be done by his principal.

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

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

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

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

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

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

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

109.

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

Certain build-  
ings to be  
used free.  
No. 27 of  
1907, s. 108.

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

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

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

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

Registrar to supply signed rolls.  
No. 27 of  
1907, s. 111.

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

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

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

Ballot papers.  
No. 27 of  
1907, s. 112;  
1911, No. 44,  
s. 43.

**113.** (1) Ballot papers may be in the prescribed form, and shall contain the surnames of all the persons nominated as candidates, arranged alphabetically in large characters.

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

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

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

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

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

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

Persons present at polling.

No. 27 of 1907, s. 114.

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

Maintenance order.

No. 27 of 1907, s. 115.

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

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

The polling.  
No. 27 of  
1907, s. 116;  
1911, No. 44,  
s. 30; 1919,  
No. 59, s. 5;  
No. 10 of  
1936, s. 2.

117. The polling shall be conducted as follows:—

- (1) Before any vote is taken the presiding officer shall exhibit the ballot box empty, and shall then securely fasten and seal it so that nothing can be removed without breaking the seal.
- (2) The poll shall be open at eight o'clock in the morning, and shall not close until all the electors present in the polling booth at eight o'clock in the evening, and desiring to vote, have voted; and in any dispute as regards time the decision of the presiding officer shall be final.
- (3) At the close of the poll the presiding officer shall publicly close, fasten, seal, and take charge of the ballot box, and with the least possible delay forward it to the Returning Officer for the purposes of scrutiny; and it shall on no account be opened except as allowed by this Act. The cleft shall also be closed and sealed unless the ballot box is provided with an outer cover without a cleft.
- (4) The presiding officer shall also forward to the Returning Officer the marked roll or rolls used at the poll, and any other documents received before or during the poll, having first indorsed and signed such rolls to identify them.
- (5) Any scrutineer present may affix his seal to the cover of the ballot box.

Persons claim-  
ing to vote to  
give name,  
etc.  
No. 27 of  
1907, s. 117.

118. Every person claiming to vote shall—

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

Questions to  
be put to  
voters.  
No. 27 of  
1907, s. 118;  
1911, No. 44,  
secs. 31, 43.

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

- (a) Do you live in this electoral district?

And if such question is answered in the negative, the following additional questions:—

- (b) Have you within the last preceding three months *bona fide* lived within this electoral district?

(c) Where was your place of living in this electoral district?

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

(d) Are you the person whose name appears as . . . .  
.....[*here state name under which person claims to vote*] on the roll for this Province [or District]?

(e) Are you of the full age of 21 years?

(f) Are you a natural born or naturalised subject of the King?

(g) Have you lived in Western Australia for six months continuously?

(h) Have you already voted either here or elsewhere at this election?

(i) Are you disqualified from voting?

And at any Assembly election the following additional question:—

(j) Where is your place of living in this electoral district?

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

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

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

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

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

Answer con-  
clusive.  
No. 27 of  
1907, s. 120.

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

Persons ob-  
jected to—  
how to vote.  
No. 27 of  
1907, s. 121;  
1911, No. 44,  
s. 43.

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

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

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

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

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

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

(a) it appearing to the presiding officer, upon putting the questions hereinbefore prescribed, or any of them—

(i) that he is not the person whose name appears on the roll, or

(ii) that he has previously voted for the Province or District at the same election, or

(iii) that he is otherwise not entitled to vote under this Act; or

(b) such person refusing to answer any of such questions, or to make the declaration required under sections one hundred and nineteen and one hundred and twenty-two.

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

**124.** (1) No omission from the roll of any name other than the surname, or entry of a wrong name other than the surname, and no misspelling of any name, shall war-



rant the rejection at any polling of any claim to vote, if the elector is sufficiently identified in the opinion of the presiding officer.

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

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

Ballot paper to be handed to elector.  
No. 27 of 1907, s. 124.

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

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

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

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

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

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

127. Upon receipt of the ballot paper the elector shall, without delay—

Vote to be marked in private.  
No. 27 of 1907, s. 126.

(a) retire alone to some unoccupied voting compartment and there, in private, mark his vote on the ballot paper in the manner hereinafter described;

- (b) fold the ballot paper so as to conceal the names of the candidates, but to disclose the initials of the presiding officer, and exhibit it so folded to the officer, and then forthwith, without unfolding it, deposit in the ballot box;
- (c) quit the polling place.

How votes to be marked.

No. 27 of 1907, s. 127; 1911, No. 44, s. 32.

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

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

Provision where voter is blind or disabled or cannot write.

No. 27 of 1907, s. 128.

**129.** At the request of any elector who is blind, or who satisfies the presiding officer that his sight is so impaired, or that he is otherwise so physically incapable that he is unable to vote without assistance, or is unable to read or write, the presiding officer shall, together with any scrutineers who may be present, retire with him into an unoccupied voting compartment, and there mark the paper according to the instruction of the elector; and such presiding officer shall sign his own name at the foot thereof, and, if so required by the elector, shall allow the scrutineers to inspect such ballot paper before depositing it in the ballot box. The presiding officer shall thereupon deposit the ballot paper in the ballot box.

Spoilt ballot papers.

No. 27 of 1907, s. 129; 1919, No. 59, s. 5.

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

Adjournment of polling on account of riot.

No. 27 of 1907, s. 130.

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

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

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

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

Voting at ad-  
journed poll-  
ing.  
No. 27 of  
1907, s. 132.

*Division (4)—Counting the Votes.*

**134.** The result of the polling shall be ascertained by scrutiny of the ballot papers and by count of the votes, and shall be conducted in the presence of any candidate or scrutineer that may be present by the Returning Officer, with the assistance of such officers as he deems necessary, in the following manner:—

Count of the  
votes—how  
conducted.  
No. 27 of  
1907, s. 132 ;  
1911, No. 44,  
s. 33.

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

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

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

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

**136.** (1) Before every adjournment of the count of the votes all ballot papers and other documents connected with such count shall be placed in one or more ballot boxes, and the Returning Officer shall then, in the presence of such scrutineers and officers as are present, seal such ballot box or boxes with his official seal, if any, or with his private seal, and any scrutineer, who shall desire so to do, shall be permitted by the Returning Officer to place his special seal upon such ballot box or boxes. The cleft shall also be closed and sealed unless the ballot box is provided with an outer cover without a cleft.

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

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

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

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

Scrutineer may object to vote as informal. No. 27 of 1907, s. 137.

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

Informal ballot papers. No. 27 of 1907, s. 138; 1911, No. 44, s. 34.

**139.** A ballot paper shall be informal—

- (a) if it is not initialed by the presiding officer, or, in the case of a postal ballot paper, not signed and dated by a postal vote officer; or
- (b) if, subject as hereinafter provided, it is marked in any other manner than in sections ninety-three and one hundred and twenty-eight provided; or

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

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

- (e) If no mark is indicated on it, or, in the case of a postal ballot paper, no name of any candidate written on it.

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

Ballot papers not informal. No. 27 of 1907, s. 139.

(2) In particular a ballot paper shall not be informal by reason only of—

- (a) the elector having indicated his vote or first preference by a cross instead of the numeral 1; or
- (b) in the case of a postal ballot paper, the preferential numbering of the names written on such ballot papers having been omitted; and if the names are written on the postal ballot paper without preferential numbering, it shall be deemed that the elector's preference is indicated by the order in which the names are written on the ballot paper.

141. The Governor may appoint Assistant Returning Officers to count the votes at any one or more polling places—

Outlying polling places. No. 27 of 1907, s. 140.

- (a) in outlying portions of a Province or District; or

- (b) where the polling place is so far distant from the chief polling place that such appointment is necessary to ascertain the result of the election with expedition.

The count of the votes by deputy and assistant Returning Officers.  
No. 27 of 1907, s. 141 ; 1911, No. 44, s. 35 ; 1919, No. 59, s. 5.

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

- (1) Each Deputy Returning Officer shall open all ballot boxes from the polling places within his district; and each Assistant Returning Officer shall open all ballot boxes at his polling place.
- (2) The Deputy or Assistant Returning Officer shall count all the votes on the ballot papers found in the boxes opened by himself, rejecting all informal ballot papers, and ascertain—
  - (a) the number of votes for each candidate, if there are only two candidates; or
  - (b) if there are more than two candidates, the number of first preference votes given for each candidate,
 and shall make and keep a record of the total number of votes for each candidate counted by him from each of such ballot boxes.
- (3) Each Deputy Returning Officer shall certify by indorsement on the copy of the writ received by him the number of votes or first preference votes, as the case may be, given for each candidate within the district for which he acts, and transmit the copy of the writ so indorsed to the Returning Officer.
- (4) Each Assistant Returning Officer shall certify in writing, addressed to the Returning Officer, the number of votes or first preference votes, as the case may be, given for each candidate at his polling place.
- (5) A Deputy or Assistant Returning Officer may communicate to the Returning Officer by telegraph the number of votes or first preference votes, as the case may be, recorded for each candidate within the district or at the polling place for which he is appointed, and the Returning Officer, in ascertaining the result of the poll, may act upon the information so received.

(6) Each Deputy or Assistant Returning Officer shall—

(a) enclose in one packet all the used ballot papers, in another packet all unused ballot papers, and in another packet all copies of rolls, books, or other papers and documents used at the election or in connection therewith, and all telegrams, letters, or other papers received from the Returning Officer or any other electoral officer; and

(b) seal up the several packets and indorse the same with a description and the number of the contents thereof respectively, and the name of the district or the polling place, as the case may be, and the date of the polling, and sign the indorsement, and forthwith forward the said packets to the Returning Officer.

(c) The packet containing the used ballot papers shall be sealed before the scrutineers, if any, present at the count, and any scrutineer who desires so to do shall be permitted by the Deputy or Assistant Returning Officer to affix his seal upon such packet.

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

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

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

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

Counting of votes by Returning Officers.  
No. 27 of 1907, s. 143.

(a) The Returning Officer shall—

(i) open all ballot boxes not opened by Deputy or Assistant Returning Officers;

(ii) count all the votes on the ballot papers found in such ballot boxes, rejecting all informal ballot papers, and ascertain the number of votes given for each candidate; and

(iii) make and keep a record of the number of votes counted from each ballot box.

(b) The Returning Officer shall then—

(i) ascertain from the written or telegraphic returns received from Deputy or Assistant Returning Officers the number of votes given for each candidate in districts or at polling places where the ballot boxes have been opened by Deputy or Assistant Returning Officers; and

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

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

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

(a) The Returning Officer shall—

(i) open all ballot boxes not opened by Deputy or Assistant Officers;

(ii) arrange the ballot papers under the names of the respective candidates and place in a separate parcel all those on which a first preference is indicated for the same candidate, rejecting informal ballot papers; and

(iii) count all the first preference votes given for each candidate respectively; and

(iv) make and keep a record of the number of votes counted by him from each ballot box.

(b) The Returning Officer shall then—

(i) ascertain from the written or telegraphic returns received from Deputy or Assistant Returning Officers the number of first preference votes given for each candidate in districts or at polling places where the ballot boxes have been opened by such Deputy or Assistant Returning Officers; and



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

(c) The candidate who has received the largest number of first preference votes shall, if such number constitutes an absolute majority of votes, be declared by the Returning Officer duly elected.

(d) If no candidate has an absolute majority of votes the Returning Officer—

(i) shall open the packets of ballot papers received from the Deputy or Assistant Returning Officers, and deal with the ballot papers contained therein as prescribed by subsection (1) of this section, adding such ballot papers to those previously counted by himself for each candidate; and

(ii) shall then declare the candidate who has obtained the fewest first preference votes to be a defeated candidate, and each ballot paper counted to him shall be distributed among the non-defeated candidates next in order of the elector's preference.

(e) After such distribution the number of votes given to each non-defeated candidate shall again be ascertained.

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

(3) (a) Every ballot paper, not rejected as informal, shall be counted in every count until it becomes exhausted, when it shall be rejected in all further counts.

Exhausted  
ballot papers.  
*see now s. 127*  
as amended  
by 1911, No.  
44, s. 32.

- (b) When a candidate is declared defeated, any ballot paper counted to him shall be deemed to be exhausted if there is not indicated upon it a consecutive preference for a candidate not declared defeated.

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

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

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

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

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

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

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

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

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

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

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

Election not  
to be ques-  
tioned.  
No. 27 of  
1907, s. 147.

148. No election shall be liable to be questioned by reason of any defect in the title or any want of title of any person by or before whom such election is held, if

such person really acted at such election, nor by reason of any formal error or defect in any declaration or other instrument, or in any publication made under this Act or intended to be so made, nor by reason of any such publication being out of time.

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

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

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

*Division (6)—After the Poll.*

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

Returning  
Officer to for-  
ward to Chief  
Electoral  
Officer statis-  
tical return.  
No. 27 of  
1907, s. 149.

(2) He shall also forward to the Chief Electoral Officer all the certified copies of the marked and signed rolls used in his Province or District by himself and by the presiding officers, upon which rolls the names of the electors who voted at the election have been marked in accordance with the provisions of section one hundred and twenty-six.

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

Returning  
Officer to send  
ballot papers  
to Clerk of  
Council or  
Assembly.  
No. 27 of  
1907, s. 150;  
1911, No. 44,  
s. 43.

- (a) enclose in one packet all the used ballot papers, including the postal ballot papers, and in another packet all accounts, books, or other papers or documents used at the election or in connection therewith (with the exception of the signed rolls), and all telegrams, letters, or other papers received from Deputy or Assistant Returning Officers and presiding officers in connection with the poll;

- (b) seal up the said several packets and indorse the same with a description and the number of the contents thereof respectively, and the name of the Province or the District and the date of the polling, and shall sign the indorsement, and forthwith forward the said packets to the Clerk of the Council or the Clerk of the Assembly, as the case may be;
- (c) seal up, indorse, and transmit in a similar manner to the same Clerk a packet containing all ballot papers printed for the said election and not used by him or by Deputy or Assistant Returning Officers or presiding officers;
- (d) seal up, indorse, and transmit to the Chief Electoral Officer the marked rolls used at the election and all declarations in the prescribed form received by himself and the presiding officers;
- (e) the Clerk of the Council, the Clerk of the Assembly, or the Chief Electoral Officer, as the case may be, shall forthwith give or send to the Returning Officer a receipt under his hand for the said packets.

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

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

Production of  
rolls used at  
election.  
No. 27 of  
1907, s. 152.

**153.** (1) Any candidate on payment of a fee of five guineas may give notice to the Returning Officer requiring production of the rolls used by him and any Assistant Returning Officers at any election, and such Returning Officer or Assistant Returning Officers shall produce such roll or rolls in the presence of the other candidates (if they wish to be present) within thirty-five days of the date of service of the notice.

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

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

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

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

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

*Division (7)—Voting for Assembly to be Compulsory.*

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

Compulsory voting for the Assembly.  
Inserted by No. 10 of 1936, s. 3, as s. 154A, now renumbered s. 156.

(2) The returning officer shall as soon as practicable after the election prepare a list in duplicate of the names and descriptions of the electors enrolled for his district who have not voted at the election, and certify the list by statutory declaration under his hand.

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

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

(5) Before sending any such notice the returning officer shall insert therein a date, not being less than forty-two days after the date of posting of the notice,

on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the returning officer.

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

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

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

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

(10) Within two months after the expiration of the period prescribed under subsection (4) of this section, the returning officer shall send to the Chief Electoral Officer one copy of the list, with his indorsements thereon, certified by statutory declaration under his hand.

(11) Each copy of the list prepared and indorsed by the returning officer, indicating—

- (a) the names of the electors who did not vote at the election;

(b) the names of the electors from whom or on whose behalf the returning officer received within the time allowed under subsection (5) of this section, forms properly filled up and signed; and

(c) the names of the electors who failed to reply within that time,

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

(12) Every elector who—

(a) fails to vote at an election without a valid and sufficient reason for such failure; or

(b) on receipt of a notice in accordance with subsection (4) of this section fails to fill up, sign, and post within the time allowed under subsection (5) of this section the form (duly witnessed) which is attached to the notice; or

(c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, in pursuance of subsection (7) of this section, states in such form a false reason why that other elector did not vote,

shall be guilty of an offence.

Penalty Two pounds.

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

#### PART V.—DISPUTED RETURNS.

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

Method of disputing elections.  
No. 27 of  
1907, s. 155.

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

Requisites of petition.  
No. 27 of 1907, s. 156.

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

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

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

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

Deposit as security for costs.  
No. 27 of 1907, s. 158.

160. At the time of filing the petition the petitioner shall deposit with the Master of the Supreme Court the sum of fifty pounds as security for costs.

No proceedings unless requisites complied with.  
No. 27 of 1907, s. 159.

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

Powers of Court.  
No. 27 of 1907, s. 160.

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

- (a) to adjourn;
- (b) to compel the attendance of witnesses and the production of documents;
- (c) to examine witnesses on oath;
- (d) to declare that any person who was returned as elected was not duly elected;



- (e) to declare any candidate duly elected who was not returned as elected;
- (f) to declare any election absolutely void;
- (g) to dismiss or uphold any petition, in whole or in part;
- (h) to award costs;
- (i) to punish any contempt of its authority by fine or imprisonment.

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

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

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

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

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

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

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

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

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

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

Court to report cases of illegal practices.  
No. 27 of 1907, s. 163.

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

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

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

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

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

Copies of petition, etc., to be sent to House affected.  
No. 27 of 1907, s. 166.

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

Costs.  
No. 27 of 1907, s. 167.

**169.** The Court may award costs against an unsuccessful party to the petition, to be taxed by the Taxing Officer of the Supreme Court.

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

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

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

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

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

Effect of decision.  
No. 27 of  
1907, s. 170.

- (1) If any person returned is declared not to have been duly elected, he shall cease to be a Member of the Council or Assembly;
- (2) If any person not returned is declared to have been duly elected, he may take his seat accordingly;
- (3) If any election is declared absolutely void a new election shall be held.

173. (1) The Judges of the Supreme Court or any two of them may make Rules of Court not inconsistent with this Act for carrying this Part of this Act into effect, and in particular for regulating the practice and procedure of the Court, the forms to be used, and the fees to be paid by parties.

Power to make rules of Court.  
No. 27 of  
1907, s. 171.

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

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

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

## PART VI.—LIMITATION OF ELECTORAL EXPENSES.

Rates of expenditure.  
No. 27 of  
1907, s. 172.

174. No electoral expense shall be incurred or authorised by a candidate or his agent or agents, in respect of any candidature,—

- (1) in elections for the Council in excess of five hundred pounds;
- (2) in elections for the Assembly in excess of one hundred pounds.

Electoral expenses.  
No. 27 of  
1907, s. 173.

175. "Electoral Expense" includes all expenses incurred by or on behalf of any candidate at or in connection with any election, excepting only the cost of electoral rolls, stationery, postage, telegrams, rent of halls belonging to any public body, and personal and reasonable living and travelling expenses of the candidate.

Expenses allowed.  
No. 27 of  
1907, s. 174.

176. No electoral expense shall be incurred or authorised except in respect of the following matters:—

- (1) Printing, advertising, publishing, issuing, and distributing addresses by the candidate and notice of meetings;
- (2) Committee rooms;
- (3) Public meetings and halls therefor;
- (4) Scrutineers;
- (5) Election agents.

Candidate to file account of electoral expenses.  
No. 27 of  
1907, s. 175;  
1911, No. 44,  
s. 43.

177. Within three calendar months after the result of a contested election is declared, every candidate at the election shall sign before a Justice of the Peace, and file with the Chief Electoral Officer, a true account in the prescribed form, showing in detail—

- (a) All electoral expenses paid; and
- (b) All disputed or unpaid claims for electoral expenses.

Payments to be vouched by bill.  
No. 27 of  
1907, s. 176.

178. Every payment made in respect of any expenses incurred shall, except when less than two pounds, be vouched for by a bill stating the particulars and by a receipt.

## PART VII.—ELECTORAL OFFENCES.

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

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

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

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

Breach or  
neglect by  
officers.  
No. 27 of  
1907, s. 178.

- (1) Any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election;
- (2) The disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector;
- (3) Any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Act;
- (4) Any attempt by a postal vote officer or person authorised or required by this Act to witness the signature of an elector voting by means of a postal ballot paper to influence the vote of the elector.

Breach or neglect of official duty is punishable by a penalty not exceeding two hundred pounds, or by imprisonment not exceeding one year.

181. Any person who—

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition;
- (b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for, or on account of, any such candidature, withdrawal, vote, omission, support, or opposition, or promise thereof;

Bribery.  
No. 27 of  
1907, s. 179.

(c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,  
shall be guilty of bribery.

Definition.  
No. 27 of  
1907, s. 180.

182. Without limiting the effect of the general words in the preceding section, "bribery" particularly includes the supply of food, drink, or entertainment after the nominations have been officially declared, or horse or carriage hire for any voter whilst going to or returning from the poll, with a view to influencing the vote of an elector.

Undue influence.  
No. 27 of  
1907, s. 181.

183. Any person who—

- (1) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of or to induce any candidature, or withdrawal of candidature, or any vote or any omission to vote, or any support or opposition to any candidate, or any promise of any vote, omission, support, or opposition;
- (2) or uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition;
- (3) or by spoken words, or by written or printed words or signs in any form whatsoever, publishes any matter intended or tending to prevent or restrain the free exercise of the franchise by any person, or which threaten, offer, or suggest any damage, loss, or disadvantage, either in the present or in the future, to any person on account of his political opinions;
- (4) or in any way interferes with any elector, either in the polling booth or within fifty yards thereof with the intention of influencing him or advising him as to his vote;

- (5) or at any time between the issue of the writ and the close of the poll publishes or exposes or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate and calculated to influence the vote of any elector;
- (6) or, being a candidate, personally solicits the vote of any elector on polling day;
- (7) or, being a candidate, attends at any meeting of electors other than his committee held for electoral purposes on polling day,

shall be guilty of undue influence.

184. Without limiting the effect of the general words in the preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any voter.

Definition.  
No. 27 of  
1907, s. 182.

185. No declaration of public policy or promise of public action shall be deemed bribery or undue influence.

Exception.  
No. 27 of  
1907, s. 183.

186. Any person who—

(a) is convicted of bribery or undue influence, or of attempted bribery or undue influence, at an election; or

Disqualification  
for  
bribery or un-  
due influence.  
No. 27 of  
1907, s. 184.

(b) is found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence when a candidate, shall, during a period of two years from the date of the conviction or finding, be incapable of being chosen or of sitting as a member of the Council or the Assembly.

187. In addition to bribery and undue influence, the following shall be illegal practices:—

(1) Any publication of any electoral advertisement (other than an advertisement in a newspaper announcing the holding of a meeting), handbill, or pamphlet, or any issue of any electoral notice without at the end thereof the name and address of the person authorising the same.

Illegal  
practices.  
No. 27 of  
1907, s. 185.

- (2) Printing or publishing any printed electoral advertisement, hand-bill, or pamphlet (other than an advertisement in a newspaper), without the name and place of business of the printer being printed at the foot of it.
- (3) Any contravention by a candidate of the provisions of Part VI. of this Act relating to the limitation of electoral expenses.
- (4) The attendance by a candidate after nomination day at any committee meeting held for the purpose of promoting or procuring his election on premises on which the sale by retail of any intoxicating liquor is authorised by license.
- (5) The attendance by any member of a committee formed in the interests and with a view to obtain the return of any candidate at an election at a committee meeting held on any premises licensed to sell by retail spiritous liquors.

Punishment.  
No. 27 of  
1907, s. 186.

**188.** Any illegal practice shall be punishable as follows:—

- (1) Bribery or undue influence by a penalty not exceeding two hundred pounds, or by imprisonment not exceeding one year;
- (2) Any other illegal practice by a penalty not exceeding one hundred pounds, or by imprisonment not exceeding six months.

Gifts by candidates.  
No. 27 of  
1907, s. 187.

**189.** Any person who, having announced himself as a candidate, shall, after the date for an election is ascertained, and within three months of the polling day, offer, promise, or give, directly or indirectly, to or for any club or other association, any gift, donation, or prize, shall be guilty of an offence against this Act:

Provided that no proceeding shall be taken for a contravention of this section except within three months after the act complained of.

Electoral offences.  
No. 27 of  
1907, s. 188;  
1918, No. 5,  
s. 4.

**190.** The matters mentioned in the first column of the table at the foot of this section are electoral offences, punishable as provided in the second column of the table opposite the statement of the offence.



*Table of Electoral Offences and Punishments.*

First Column.—Offences.	Second Column.—Punishments.
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years
Fraudulently destroying or defacing any nomination or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot or other paper into the ballot box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper out of any polling booth	Imprisonment not exceeding six months
Forging or uttering, knowing the same to be forged, any nomination or ballot-paper	Imprisonment not exceeding two years
In any polling booth on polling day misconducting himself, or failing to obey the lawful directions of the presiding officer	Penalty not exceeding fifty pounds, or imprisonment not exceeding one month
Supplying ballot-papers without authority	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with ballot-boxes or ballot-papers	Imprisonment not exceeding six months
Voting more than once at the same election	Imprisonment not exceeding twelve months
Wilfully making a false statement in any objection to any claim or to any name on the roll	Imprisonment not exceeding twelve months
Wagering on the result of any election	Penalty not exceeding fifty pounds
Wilfully defacing, mutilating, destroying, or removing any notice, list, or other document affixed by any Returning Officer or by his authority	Penalty not exceeding two pounds
Wilfully making false statement in any claim, application, return, or declaration, or in answer to a question under this Act	Imprisonment not exceeding twelve months
Signing as the claimant on a claim to be enrolled as an elector the name of any other person with or without the authority of such person	Imprisonment not exceeding twelve months
Distributing any advertisement, handbill, or pamphlet published in contravention of section one hundred and eighty-seven	Penalty not exceeding fifty pounds, or imprisonment not exceeding one month
Any contravention of this Act for which no other punishment is provided	Penalty not exceeding fifty pounds

False statements in electoral papers. No. 27 of 1907, s. 188A; *see* Com. No. 17 of 1911, s. 37; 1918, No. 5, s. 5; 1919, No. 59, s. 6.

**191.** (1) A person shall not knowingly or wilfully make a false statement in any electoral paper, or in answer to any question under this Act, or in any information supplied to any officer or canvasser for the purposes of the preparation of new rolls.

Penalty: Twenty pounds.

(2) Subsection (1) of this section shall not affect the liability of any person to be proceeded against in respect of any other offence, but he shall not be liable to be punished twice in respect of the same offence.

(3) In this section the words "electoral paper" include any prescribed form.

Prohibition of canvassing near polling booth. No. 27 of 1907, s. 189.

**192.** The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited in a polling booth or within fifty yards thereof, namely:—

- (1) Canvassing for votes;
- (2) Soliciting the vote of any elector; or
- (3) Inducing any elector not to vote for any particular candidate; or
- (4) Inducing any elector not to vote at the election.

Witness to application must satisfy himself of truth of statements. No. 27 of 1907, s. 190; 1919, No. 59, s. 5.

**193.** The person witnessing any claim, or application to change the qualification of an elector under this Act shall, if he is not personally acquainted with the facts, satisfy himself by inquiry from the claimant or applicant, that the statements contained in the claim or application are true.

Failure to transmit claim. No. 27 of 1907, s. 191.

**194.** When any person has signed a claim to be enrolled as an elector, any other person who induces the claimant to let him have custody of the claim for transmission to the Registrar, and fails without just cause or excuse to transmit the claim to the Registrar, shall be guilty of a contravention of this Act.

Collection of information for preparation of rolls. No. 27 of 1907, s. 192; 1919, No. 59, s. 4.

**195.** (1) For the purpose of preparing any roll or ensuring the enrolment of any elector on a roll, the Chief Electoral Officer, any registrar, or any person authorised in this behalf by the Chief Electoral Officer, may require any person to answer any questions or furnish any return or fill in and sign any claim.

(2) Every person to whom any question shall be put under this section shall answer the same truthfully and completely to the best of his knowledge, information, and belief, and shall comply to the best of his ability with any requisition made on him under this section.

Penalty: Two pounds.

196. (1) If an employee who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding two hours as is necessary to enable the employee to vote at the election.

Employers to allow employees leave of absence to vote.  
No. 27 of 1907, s. 193.

(2) No employee shall, under pretence that he intends to vote at the election, but without the *bona fide* intention of doing so, obtain leave of absence under this section.

(3) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

197. Whoever in any polling place on polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, may be removed from the polling place by any constable or by any person authorised by the presiding officer.

Offender may be removed from polling booth.  
No. 27 of 1907, s. 194.

198. Any person so removed re-entering or attempting to re-enter the polling booth, without the permission of the presiding officer, shall be guilty of a further electoral offence punishable, on conviction, by twice the penalties prescribed in the table for the original offence.

Further punishment.  
No. 27 of 1907, s. 195.

199. If any person purporting to act for and on behalf of a candidate incurs or authorises any electoral expense without the written authority of the candidate or of his agent authorised in writing, he shall be guilty of a contravention of this Act.

Expenditure on behalf of a candidate.  
No. 27 of 1907, s. 196.

200. Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge and authority.

Liability for indirect acts.  
No. 27 of 1907, s. 197.

Attempts.  
No. 27 of  
1907, s. 198.

201. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Certificate  
evidence.  
No. 27 of  
1907, s. 199.

202. On any prosecution under this Act the certificate of the Chief Electoral Officer or a Returning Officer that the election mentioned in the certificate was duly held, and that the person named in the certificate was a candidate at the election, shall be evidence of the matter stated.

Hard labour  
may be  
awarded.  
No. 27 of  
1907, s. 200.

203. Where imprisonment may be awarded for an offence against this Act, it may be awarded with or without hard labour.

Indictable  
offences.  
No. 27 of  
1907, s. 201.

204. Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

Summary  
convictions.  
No. 27 of  
1907, s. 202.

205. All offences against this Act which are not indictable offences shall be punishable on summary conviction.

Criminal Code  
not to apply  
to Parlia-  
mentary elec-  
tions.  
No. 27 of  
1907, s. 203.

206. Nothing containing in Chapter XIV of the Criminal Code shall apply to Parliamentary elections.

#### PART VIII.—MISCELLANEOUS.

Persons auth-  
orised to wit-  
ness signa-  
tures.  
No. 27 of  
1907, s. 204 ;  
1911, No. 44,  
s. 38.

207. (1) The signatures to claims or other forms may be witnessed by an elector, or person qualified to be enrolled as an elector of the Commonwealth Parliament or of the Legislative Assembly of Western Australia.

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

(2) Any statutory declaration required under the provisions of this Act may be made before any person authorised to witness signatures to claims, and shall have the same force and effect, and in the case of a false declaration shall subject the declarant to the same penalty as if such declaration had been made before a justice of the peace.

208. Any notice under this Act may be served by posting it to the last known place of abode of the person to whom such notice is given, or to the place of living of such person appearing on any roll.

Service.  
No. 27 of  
1907, s. 205.

209. All electoral papers transmitted through the post, if duly addressed, shall, on proof of posting, be deemed to have been duly served on and received by the person to whom they were addressed on the day when, in the ordinary course of post, they should have been received at his address.

Electoral  
matter to be  
sent by post.  
No. 27 of  
1907, s. 206.

210. In all cases where it is impracticable to communicate any electoral matter by post without occasioning undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all purposes of this Act as if the matter telegraphed had been communicated in manner provided by this Act.

Electoral  
matter may  
be sent by  
telegraph.  
No. 27 of  
1907, s. 207.

211. Any person required by this Act to sign his name may, on satisfying an attesting witness that he is unable to write, make his distinguishing mark, which shall be witnessed by the attesting witness.

A person un-  
able to write  
may make his  
mark.  
No. 27 of  
1907, s. 208 ;  
1911, No. 44,  
s. 39.

212. Strict compliance with the prescribed forms shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

Forms.  
No. 27 of  
1907, s. 209 ;  
1911, No. 44,  
s. 40.

213. (1) The Governor may make regulations for carrying out this Act, and prescribing forms for use under this Act.

Regulations.  
No. 27 of  
1907, s. 210 ;  
1911, No. 44,  
s. 41.

(2) All such regulations shall be notified in the *Government Gazette*, and shall thereupon have the force of law.

(3) All such regulations shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and if not, then within thirty days after the next meeting of Parliament.

214. The Electoral Act, 1904, and the Electoral Act Amendment Act, 1912, and sections twenty-six, twenty-seven, twenty-eight, twenty-nine, and thirty of the Constitution Acts Amendment Act, 1899, are hereby repealed.

Repeal.  
No. 27 of  
1907, s. 211 ;  
1918, No. 5,  
s. 6.

