

# ELECTORAL AMENDMENT ACT

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No. 66 of 1990

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**AN ACT to amend the *Electoral Act 1907*.**

*[Assented to 17 December 1990.]*

The Parliament of Western Australia enacts as follows:

## **Short title**

1. This Act may be cited as the *Electoral Amendment Act 1990*.

## **Principal Act**

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

*[\*Reprinted as at 1 January 1989 and amended by Act No. 58 of 1988.]*

**Section 156D repealed and  
a section substituted**

**3. Section 156D of the principal Act is repealed and the following section is substituted—**

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

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

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

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

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

(b) by written notice, inform the Governor of the election of that consenting candidate.

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

(5) On the re-count under subsection (4) a preference indicated on a ballot paper for a previously elected member whose seat has become vacant shall be disregarded and the ballot paper shall be treated as if the numeral indicating any subsequent preference had been altered accordingly.

(6) If on the re-count under subsection (4) a non-participating candidate is elected that election has no effect and the Electoral Commissioner shall terminate that re-count and repeat the procedure of re-counting the votes on the ballot papers until a consenting candidate is elected.

(7) On a re-count under subsection (6) a preference indicated on a ballot paper for—

- (a) a previously elected member whose seat has become vacant; or
- (b) a non-participating candidate who has been elected on the re-count under subsection (4) or on a previous re-count under subsection (6),

shall be disregarded and the ballot paper shall be treated as if the numeral indicating any subsequent preference had been altered accordingly.

(8) When on a re-count under this section a consenting candidate is elected the Electoral Commissioner shall—

- (a) in the prescribed manner, declare that consenting candidate to be elected as a member of the Council to fill the vacancy; and
- (b) by written notice, inform the Governor of the election of that consenting candidate.

(9) A re-count under this section does not affect the election of a previously elected member and where a previously elected member is elected or excluded during a re-count that election or exclusion has effect for the purposes of the continuation of the re-count and for those purposes only.

(10) The Electoral Commissioner shall make such arrangements for a re-count under this section as are prescribed.

(11) A consenting candidate may appoint one scrutineer to represent the candidate at a re-count under this section.

(12) When a member has been elected under this section the Electoral Commissioner shall retain papers and documents relating to the election of the member until the election can be no longer questioned.

(13) If no re-count under subsection (4) or (6) results in the election of a consenting candidate the Electoral Commissioner shall, by written notice, inform the Governor that the vacancy has not been filled under this section.

(14) In this section—

“non-participating candidate” means a person who was a candidate at the most recent election in the region and is neither a consenting candidate nor a previously elected member;

“previously elected member” means a person who—

- (a) was elected as a member of the Council at the most recent election in the region; or
- (b) was declared elected as a member of the Council under this section after the most recent election in the region. ”.

### **Section 156E amended**

4. Section 156E of the principal Act is amended in subsection (1) by deleting “or 156D (2)” and substituting the following—

“ , 156D (2) or 156D (13) ”.

Miscellaneous amendments

5. The principal Act is amended as set out in Schedule 1.

Schedule 1

(Section 5)

<i>Provision amended</i>	<i>Amendment</i>
Section 59 (a)	After “referred” insert “to”.
Section 92 (4c)	After “poll;” insert “or”.
Section 113C (1)	After “party;” insert “or”.

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