

## CONSTITUTION ACTS AMENDMENT (No. 2).

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No. 71 of 1975.

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AN ACT to amend the Constitution Acts Amendment Act, 1899-1975.

[Assented to 7th November, 1975.]

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

1. (1) This Act may be cited as the *Constitution Acts Amendment Act (No. 2), 1975.*

Short title  
and  
citation.

(2) In this Act the Constitution Acts Amendment Act, 1899-1975, is referred to as the principal Act.

Reprinted  
as approved  
for reprint  
18th May,  
1971, and  
amended by  
Acts Nos. 9  
of 1972,  
52 of 1973,  
30 of 1974  
and  
15 of 1975.

(3) The principal Act as amended by this Act may be cited as the Constitution Acts Amendment Act, 1899-1975.

Section 5  
repealed and  
re-enacted.

2. Section 5 of the principal Act is repealed and re-enacted as follows—

Constitution  
of Legisla-  
tive  
Council.

5. The Legislative Council shall consist of—

- (a) thirty elected members until the twenty-first day of May, nineteen hundred and seventy-seven;
- (b) thirty-two elected members on and after the twenty-first day of May, nineteen hundred and seventy-seven,

who shall be returned and shall sit for Electoral Provinces as defined pursuant to section six of this Act. .

Section 6  
amended.

3. Subsection (1) of section 6 of the principal Act is repealed and the following subsections substituted—

(1) Until the twenty-first day of May, nineteen hundred and seventy-seven, the State shall be divided into fifteen Electoral Provinces under the provisions of the Electoral Districts Act, 1947, and return in all thirty members to serve in the Legislative Council.

(1a) On and after the twenty-first day of May, nineteen hundred and seventy-seven the State shall be divided into sixteen Electoral Provinces under the provisions of the Electoral Districts Act, 1947 and shall return in all thirty-two members to serve in the Legislative Council. .

Section 8B  
repealed and  
re-enacted.

4. Section 8B of the principal Act is repealed and re-enacted as follows—

Allocation  
of Electoral  
Provinces in  
Metropolitan  
Area to  
sitting  
members.

8B. (1) In this section—

“new Metropolitan Electoral Province” means an Electoral Province within the Metropolitan Area as defined by the Electoral Districts Act, 1947-1975, the name and boundaries of which are set out in the final report and recommendations of the Electoral Commissioners forwarded pursuant to section ten of that Act;



(a) is not required to vacate his seat until the twenty-first day of May, nineteen hundred and eighty; and

(b) was sitting and voting for an old Metropolitan Electoral Province,

shall make written application to the Governor specifying the new Metropolitan Electoral Province for which he desires to sit.

(4) Subject to subsection (5) and subsection (6) of this section, where such a member—

(a) applies for a new Metropolitan Electoral Province which is specified in the notice published under paragraph (a) of subsection (2) of this section to contain more than fifty per centum of the electors within the old Metropolitan Electoral Province for which he is then sitting; or

(b) is the only member applying to sit for a new Metropolitan Electoral Province,

the Governor shall as soon as practicable after the period referred to in subsection (3) of this section, declare by Order in Council that the member shall sit and vote for that new Metropolitan Electoral Province on and from the twenty-first day of May, nineteen hundred and seventy-seven until the twenty-first day of May, nineteen hundred and eighty, and the member shall sit and vote accordingly.

(5) Subject to subsection (6) of this section, where more than one such member has applied to sit for the same new Metropolitan Electoral Province and, but for this subsection, more than one such member would be entitled, pursuant to paragraph (a) of subsection (4) of this section, to be declared the member to sit and vote for that new Metropolitan Electoral Province, the member to be declared to so sit and vote shall be the member sitting and voting for the old Metropolitan Electoral Province which contained, on the thirtieth day of



names of the applicants to be sent to the Chief Electoral Officer, appointed under the Electoral Act, 1907, and in respect of that new Metropolitan Electoral Province their applications shall be determined as soon as practicable after the receipt of the names by the Chief Electoral Officer, as follows—

- (a) the Chief Electoral Officer shall deal with each new Metropolitan Electoral Province in alphabetical order and before the applicants concerned, if they desire to be present, and any other persons desiring to be present, make out a slip bearing the name of each applicant, enclose the respective slips in separate blank envelopes of exact similarity and deposit the several envelopes in a locked ballot box;
- (b) the Chief Electoral Officer shall then shake and rotate the ballot box and shall permit any other person, if he so desires, to do the same;
- (c) the ballot box shall then be unlocked and an officer of the Electoral Department of the State, other than the Chief Electoral Officer, shall take out and open one of the envelopes therefrom; and
- (d) the applicant whose name appears on the slip enclosed in the envelope first taken from the ballot box shall be the member who shall thereafter sit for the new Metropolitan Electoral Province on and from the twenty-first day of May, nineteen hundred and seventy-seven until the twenty-first day of May, nineteen hundred and eighty and shall sit and vote accordingly.

(9) Nothing in this section prevents any member referred to in subsection (3) of this section from applying to sit for more than one of the new Metropolitan Electoral Provinces, but



- (f) the procedures provided in paragraphs (d) and (e) of this subsection shall be continued until no envelopes remain in the ballot box in which were deposited the several envelopes containing slips bearing the names of members.

(10) The Governor may by Order in Council extend the period within which applications are to be made under subsection (3) of this section if it appears to him to be necessary so to do by reason of there being a vacancy in the office of a member of the Legislative Council which office would have become vacant by effluxion of time on the twenty-first day of May, nineteen hundred and eighty.

(11) The term of service of a member whose new Metropolitan Electoral Province is allotted or determined pursuant to this section shall expire on the twenty-first day of May, nineteen hundred and eighty, but where such a member ceases, after the general election for the Legislative Council held next after the coming into operation of the Electoral Districts Act Amendment Act, 1975, to be a member otherwise than by effluxion of his term of service, the seat so vacated shall be filled as if he had been elected as a member for the new Metropolitan Electoral Province allotted or determined for him under the provisions of this section for a term of six years commencing upon the twenty-first day of May, nineteen hundred and seventy-four.

Section 18  
repealed and  
re-enacted.

5. Section 18 of the principal Act is repealed and re-enacted as follows—

Constitution  
of Legisla-  
tive  
Assembly.

18. The Legislative Assembly shall consist of—

- (a) fifty-one members until the dissolution of that House or the expiry thereof by effluxion of time first occurring after the thirty-first day of December, nineteen hundred and seventy-six; and
- (b) fifty-five members thereafter.

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(No. 2).

6. Section 19 of the principal Act is repealed and re-enacted as follows—

Section 19  
repealed and  
re-enacted.

19. The State shall be divided into—

Electoral  
Districts.

- (a) fifty-one Electoral Districts until the dissolution of that House or the expiry thereof by effluxion of time first occurring after the thirty-first day of December, nineteen hundred and seventy-six; and
- (b) fifty-five Electoral Districts thereafter, under the provisions of the Electoral Districts Act, 1947, each returning one member to serve in the Legislative Assembly.

7. Section 47 of the principal Act is repealed and re-enacted as follows—

Section 47  
repealed and  
re-enacted.

47. (1) Subject to the provisions of section eight B of this Act, notwithstanding the creation or abolition of any new Province or District, or the alteration of the name or boundaries of any Province or District, effected pursuant to the provisions of the Constitution Acts Amendment Act (No. 2), 1975 or the Electoral Districts Act Amendment Act, 1975—

Members'  
seats to be  
unaffected  
by new  
division.

- (a) every member of the Legislative Council immediately prior to the date of the coming into operation of the Constitution Acts Amendment Act (No. 2), 1975 shall continue to represent in Parliament the Province of the same name as the Province for which he was elected with the same boundaries as it had immediately prior to that date; and
- (b) every member of the Legislative Assembly immediately prior to that date shall continue to represent the District for which he was elected.

(2) Nothing in subsection (1) of this section or in section five, six, eighteen or nineteen of this Act shall be construed as preventing the taking of such action as is permitted or required to be taken, within the permitted or required times, under or for the purposes of the Electoral Districts Act, 1947.

Section 47A  
added.

8. The principal Act is amended by adding a new section as follows—

Special  
provision  
for election  
of one  
member to  
Legislative  
Council for  
term of  
three years.

47A. On the first occasion after the coming into operation of the Electoral Districts Act Amendment Act, 1975 that an election is conducted to elect six members to sit and vote for the Legislative Council for Electoral Provinces within the Metropolitan Area for a term of six years commencing on the twenty-first day of May, nineteen hundred and seventy-seven, there shall also be conducted in respect of the Electoral Province for which no member has been declared or allotted to sit and vote until the twenty-first day of May, nineteen hundred and eighty under the provisions of section eight B of this Act, an election to elect one member to sit and vote for that Electoral Province for a term of three years commencing on the twenty-first day of May, nineteen hundred and seventy-seven.

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