

Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Constitution Act 1889</i> amended		
3.	Act amended	3
4.	Section 47 amended	3
Part 3 — <i>Constitution Acts Amendment Act 1899</i> amended		
5.	Act amended	4
6.	Section 5 replaced	4
	5. Constitution of Legislative Council	4
7.	Section 8 amended	4
8.	Section 18 replaced	4
	18. Constitution of Legislative Assembly	4
Part 4 — <i>Electoral Act 1907</i> amended		
9.	Act amended	5
10.	Section 4 amended	5
11.	Section 9 amended	6
12.	Section 10 replaced	7
	10. Returning officer for district is deputy returning officer for whole of State electorate	7

**Constitutional and Electoral Legislation Amendment (Electoral Equality)
Bill 2021**

Contents

13.	Sections 13 and 14 replaced	7
13.	13. Restriction on resignation of returning officer after issue of writ	7
14.	14. Replacement of returning officer after issue of writ	8
14.	Section 16A amended	8
15.	Part IIA Division 2 replaced	9
	Division 2 — Whole of State electorate and electoral districts	
16C.	16C. Whole of State electorate and representation	9
16D.	16D. Electoral districts and representation	9
16.	Part IIA Division 3 heading amended	9
17.	Section 16E replaced	10
16E.	16E. Division of State into districts required after each general election for Assembly	10
18.	Section 16F amended	10
19.	Section 16H deleted	10
20.	Section 16I amended	10
21.	Section 16K replaced	11
16K.	16K. Effect of notice under s. 16F(2)(f) as to division of State	11
22.	Section 16L deleted	11
23.	Section 16M amended	11
24.	Section 17 amended	12
25.	Section 17A amended	13
26.	Section 17B amended	13
27.	Section 19 amended	13
28.	Section 25A amended	14
29.	Section 37 amended	14
30.	Section 47 amended	14
31.	Section 48 amended	15
32.	Section 53 amended	15
33.	Section 62C amended	15
34.	Section 62CA inserted	16
62CA.	62CA. Membership requirements for qualification as eligible political party	16
35.	Section 62E amended	17
36.	Section 62H amended	18
37.	Section 62HA inserted	18
62HA.	62HA. Political party taken not to be registered for certain purposes	18

**Constitutional and Electoral Legislation Amendment (Electoral Equality)
Bill 2021**

Contents

38.	Section 62J amended	18
39.	Section 62KA inserted	19
	62KA. Annual returns in relation to continued registration	19
40.	Section 62L amended	20
41.	Section 62Q amended	21
42.	Section 64 amended	21
43.	Section 71 amended	21
44.	Section 74 amended	22
45.	Section 75 replaced	22
	75. Advertisement of writ and other matters relating to election	22
46.	Section 76 amended	23
47.	Section 78 amended	23
48.	Section 80 amended	24
49.	Section 81 amended	26
50.	Section 82 amended	26
51.	Section 84 amended	26
52.	Section 86 amended	27
53.	Section 87 amended	27
54.	Section 88 amended	29
55.	Section 90 amended	30
56.	Section 97 amended	30
57.	Section 99A amended	30
58.	Section 100 amended	31
59.	Section 100A amended	31
60.	Section 100B amended	31
61.	Section 102A amended	32
62.	Section 113 amended	32
63.	Sections 113A and 113B replaced	32
	113B. Printing of Council ballot papers	32
64.	Section 113C amended	35
65.	Section 113D amended	35
66.	Section 122A amended	36
67.	Section 123 amended	37
68.	Section 128 replaced	37
	128. How ballot paper to be marked by elector	37
69.	Section 140 amended	40
70.	Section 141 amended	40
71.	Section 146B amended	41

**Constitutional and Electoral Legislation Amendment (Electoral Equality)
Bill 2021**

Contents

72.	Section 146D amended	41
73.	Sections 146E and 146F replaced	41
	146E. Informal ballot papers	41
	146EA. Formal votes for individual candidates	43
	146EB. Formal votes for groups	44
	146EC. Treatment of ballot papers of electors who have voted above the line	45
74.	Section 146G amended	46
75.	Section 146H amended	48
76.	Section 146I amended	50
77.	Section 147 amended	50
78.	Section 150 amended	51
79.	Section 151 amended	51
80.	Section 152 amended	51
81.	Section 155 amended	52
82.	Section 156 amended	52
83.	Section 156A amended	53
84.	Section 156C amended	53
85.	Section 156E amended	53
86.	Section 163 amended	53
87.	Section 175D amended	54
88.	Section 175LA amended	54
89.	Section 213 amended	54
90.	Part 9 inserted	54
	Part 9 — Transitional provisions for <i>Constitutional and Electoral Legislation Amendment (Electoral Equality) Act 2021</i>	
	215. Terms used	54
	216. Vacancies and representation in Legislative Council	55
	217. Continued registration of existing parties	55
91.	Schedule 1 heading amended	57
92.	Schedule 1 amended	57
93.	Various references to “and regions” deleted	59
94.	Various references to “an election in a region” replaced	60

**Part 5 — Consequential amendments
and repeal**

Division 1 — Other Acts amended

- | | | |
|-----|---|----|
| 95. | <i>Local Government Act 1995</i> amended | 61 |
| 96. | <i>Salaries and Allowances Act 1975</i> amended | 61 |

Division 2 — Regulations repealed

- | | | |
|-----|--|----|
| 97. | <i>Electoral (Ballot Paper Forms) Regulations 1990</i>
repealed | 61 |
|-----|--|----|

Western Australia

LEGISLATIVE ASSEMBLY

**Constitutional and Electoral Legislation
Amendment (Electoral Equality) Bill 2021**

A Bill for

An Act —

- **to amend the *Constitution Act 1889*, the *Constitution Acts Amendment Act 1899* and the *Electoral Act 1907*; and**
- **to make consequential amendments to the *Local Government Act 1995* and the *Salaries and Allowances Act 1975*; and**
- **to repeal the *Electoral (Ballot Paper Forms) Regulations 1990*.**

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Constitutional and Electoral Legislation Amendment
(Electoral Equality) Act 2021*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the
Royal Assent;

8

9

(b) the rest of the Act — on the day after that day.

1 **Part 2 — *Constitution Act 1889* amended**

2 **3. Act amended**

3 This Part amends the *Constitution Act 1889*.

4 **4. Section 47 amended**

5 (1) In section 47 delete “Upon” and insert:

6

7 (1) Upon

8

9 (2) At the end of section 47 insert:

10

11 (2) Subsection (1) does not apply if the general election
12 has wholly failed or has been declared to be absolutely
13 void.

14

1 **Part 3 — *Constitution Acts Amendment Act 1899***
2 **amended**

3 **5. Act amended**

4 This Part amends the *Constitution Acts Amendment Act 1899*.

5 **6. Section 5 replaced**

6 Delete section 5 and insert:
7

8 **5. Constitution of Legislative Council**

9 (1) The Legislative Council is to consist of 37 elected
10 members.

11 (2) Those members are to be returned and sit for the whole
12 of the State.
13

14 **7. Section 8 amended**

15 In section 8(4) delete “an election held as part of”.

16 **8. Section 18 replaced**

17 Delete section 18 and insert:
18

19 **18. Constitution of Legislative Assembly**

20 (1) The Legislative Assembly is to consist of 59 elected
21 members.

22 (2) Those members are to be returned and sit for electoral
23 districts.
24

Part 4 — Electoral Act 1907 amended

9. Act amended

This Part amends the *Electoral Act 1907*.

10. Section 4 amended

(1) In section 4(1) delete the definitions of:

district

region

voting ticket

voting ticket square

(2) In section 4(1) insert in alphabetical order:

above the line, in relation to a square on a ballot paper,
has the meaning given in section 128(1)(a);

below the line, in relation to a square on a ballot paper,
has the meaning given in section 128(1)(b);

Council ballot paper means a ballot paper used in a
Council election;

Council election means a general election or other
election for the Council;

district means an electoral district for the election of a
member of the Assembly;

whole of State electorate has the meaning given in
section 16C(1);

(3) In section 4(1) in the definition of *general election*
paragraph (b) delete “elections in the regions” and insert:

election for the Council

s. 11

1 (4) In section 4(1) in the definition of *writ* delete “districts, an
2 election in a region or elections in all the regions.” and insert:

3

4 districts or a Council election.

5

6 (5) In section 4(3) delete “for a region or an election in or for a
7 region is a reference to a poll or election for the return by a
8 region” and insert:

9

10 or election for the Council is a reference to a poll or election for
11 the return by the whole of State electorate

12

13 (6) Delete section 4(4).

14 (7) In section 4(5) delete “is a reference to his” and insert:

15

16 or the Deputy Electoral Commissioner is a reference to the
17 person’s

18

19 (8) After section 4(5) insert:

20

21 (6) A reference in this Act to the functions of a returning
22 officer is a reference to the returning officer’s functions
23 under this Act.

24

25 **11. Section 9 amended**

26 In section 9 delete “each region and” and insert:

27

28 the whole of State electorate and each

29

1 **12. Section 10 replaced**

2 Delete section 10 and insert:

3

4 **10. Returning officer for district is deputy returning**
5 **officer for whole of State electorate**

6 The returning officer for each district is a deputy
7 returning officer for the whole of State electorate.

8

9 **13. Sections 13 and 14 replaced**

10 Delete sections 13 and 14 and insert:

11

12 **13. Restriction on resignation of returning officer after**
13 **issue of writ**

14 (1) After the issue of a writ for a Council election —

15 (a) the returning officer for the whole of State
16 electorate must not, without the consent of the
17 Electoral Commissioner, resign from office
18 before complying with section 147(1)(b); and

19 (b) the returning officer for any district must not,
20 without the consent of the Electoral
21 Commissioner, resign from office before the
22 returning officer's functions in relation to the
23 election have been completed.

24 (2) After the issue of a writ for an election for a district,
25 the returning officer for that district must not, without
26 the consent of the Electoral Commissioner, resign from
27 office before complying with section 147(1)(b).

s. 14

- 1 **14. Replacement of returning officer after issue of writ**
- 2 (1) If the returning officer for the whole of State electorate
- 3 dies, resigns, leaves, or is removed, after the issue of a
- 4 writ for a Council election, the Electoral Commissioner
- 5 may appoint another person to replace the returning
- 6 officer and perform the returning officer’s functions in
- 7 relation to the writ and the election so far as they have
- 8 yet to be completed.
- 9 (2) If the returning officer for a district dies, resigns,
- 10 leaves, or is removed, after the issue of a writ for a
- 11 Council election, the Electoral Commissioner may
- 12 appoint another person to replace the returning officer
- 13 and perform the returning officer’s functions in relation
- 14 to the election so far as they have yet to be completed.
- 15 (3) If the returning officer for a district dies, resigns,
- 16 leaves, or is removed, after the issue of a writ for an
- 17 election for that district, the Electoral Commissioner
- 18 may appoint another person to replace the returning
- 19 officer and perform the returning officer’s functions in
- 20 relation to the writ and the election so far as they have
- 21 yet to be completed.
- 22

23 **14. Section 16A amended**

24 In section 16A in the definition of *relevant day* delete

25 “section 16E(a) or (b)” and insert:

26

27 section 16E

28

1 **15. Part IIA Division 2 replaced**

2 Delete Part IIA Division 2 and insert:

3

4 **Division 2 — Whole of State electorate and electoral**
5 **districts**

6 **16C. Whole of State electorate and representation**

7 (1) The State is a single electorate (the *whole of State*
8 *electorate*) for the purposes of the election of members
9 of the Council.

10 (2) The whole of State electorate will return the number of
11 members of the Council prescribed by the *Constitution*
12 *Acts Amendment Act 1899* section 5(1) to serve in the
13 Council.

14 **16D. Electoral districts and representation**

15 (1) The State must be divided into the same number of
16 electoral districts as the number of members of the
17 Assembly prescribed by the *Constitution Acts*
18 *Amendment Act 1899* section 18(1).

19 (2) Each district will return 1 member to serve in the
20 Assembly.
21

22 **16. Part IIA Division 3 heading amended**

23 In the heading to Part IIA Division 3 delete “**and regions**”.

s. 17

1 **17. Section 16E replaced**

2 Delete section 16E and insert:

3

4 **16E. Division of State into districts required after each**
5 **general election for Assembly**

6 The State must be divided into districts in accordance
7 with this Part as soon as practicable after the day that is
8 2 years after polling day for each general election for
9 the Assembly.

10

11 **18. Section 16F amended**

12 In section 16F(4):

13 (a) in paragraph (b)(iii) delete “fixed;” and insert:

14

15 fixed,

16

17 (b) after paragraph (b) delete “and”;

18 (c) delete paragraph (c);

19 (d) delete “districts and the boundaries of the regions.” and
20 insert:

21

22 districts.

23

24 **19. Section 16H deleted**

25 Delete section 16H.

26 **20. Section 16I amended**

27 In section 16I delete “regions and” (each occurrence).

1 **21. Section 16K replaced**

2 Delete section 16K and insert:

3

4 **16K. Effect of notice under s. 16F(2)(f) as to division of**
5 **State**

6 The division of the State made by the Commissioners
7 in a notice published under section 16F(2)(f) has effect
8 and applies in respect of —

- 9 (a) the first general election for the Assembly held
10 after the day on which the notice is published in
11 the *Gazette*; and
12 (b) elections in districts held after that general
13 election and before the first general election for
14 the Assembly held after the day on which
15 another notice is published under
16 section 16F(2)(f).
17

18 **22. Section 16L deleted**

19 Delete section 16L.

20 **23. Section 16M amended**

21 In section 16M(1) delete “any of the provisions of this Part,
22 other than Division 2, section 16G(3) or (4) or section 16L,” and
23 insert:

24

25 the *Constitution Acts Amendment Act 1899* section 5(2) or 18(2)
26 or any of the provisions of this Part, other than section 16G(3)
27 or (4),
28

s. 24

1 **24. Section 17 amended**

2 (1) Delete section 17(1)(e)(i) and insert:

3

4 (i) any Council election; and

5

6 (2) In section 17(2):

7 (a) delete “election in the region or” and insert:

8

9 Council election, and any election in the

10

11 (b) delete “enrolled” (2nd occurrence) and insert:

12

13 enrolled,

14

15 (3) Delete section 17(4) and insert:

16

17 (4) A member of the Assembly and the member’s spouse
18 may claim to be enrolled for the district that the
19 member represents and, when so enrolled, are deemed
20 to live in that district.

21

22 (4) In section 17(5):

23 (a) delete “sections 17A and 17B” and insert:

24

25 sections 17A, 17B and 19(5),

26

27 (b) delete “he lives or for the district or sub-district of the
28 region in which he lives.” and insert:

29

30 the person lives.

31

1 **25. Section 17A amended**

2 Delete section 17A(2)(b)(i) and insert:

3

4 (i) any Council election; and

5

6 **26. Section 17B amended**

7 Delete section 17B(2)(b)(i) and insert:

8

9 (i) any Council election; and

10

11 **27. Section 19 amended**

12 (1) In section 19(1) delete “each region.” and insert:

13

14 the whole of State electorate.

15

16 (2) Delete section 19(5) and insert:

17

18 (5) All the rolls for the districts form the roll for the whole
19 of State electorate.

20

21 (3) In section 19(6) delete “election in the region of which the
22 district forms part.” and insert:

23

24 Council election.

25

s. 28

1 **28. Section 25A amended**

2 (1) In section 25A(1):

3 (a) in paragraph (a) delete “rolls for each district and
4 region” and insert:

5
6 roll for each district

7
8 (b) delete paragraph (b) and insert:

9
10 (b) to a member of the Council — 2 copies of the
11 latest print of the roll for each district and the
12 prescribed information relating to each elector;

13

14 (2) In section 25A(3) delete “district or in the region of which that
15 district forms part.” and insert:

16

17 district.

18

19 **29. Section 37 amended**

20 In section 37 delete “any region or” and insert:

21

22 the whole of State electorate or for any

23

24 **30. Section 47 amended**

25 In section 47(3)(f) and (g) delete “an election in the region or”
26 (each occurrence) and insert:

27

28 a Council election or an election in the

29

1 **31. Section 48 amended**

2 (1) In section 48(1) after “the roll” (1st occurrence) insert:

3

4 for a district

5

6 (2) In section 48(2)(e)(iii) delete “district or region,” and insert:

7

8 district,

9

10 **32. Section 53 amended**

11 In section 53 delete “an election for the region or” and insert:

12

13 a Council election or an election for

14

15 **33. Section 62C amended**

16 (1) In section 62C(1) delete the definitions of:

17

18 *member*

19

20 *related political party*

21 (2) In section 62C(1) in the definition of *registered political party*
22 delete “parties;” and insert:

23

24 parties.

25

26 (3) Delete section 62C(2).

s. 34

1 **34. Section 62CA inserted**

2 After section 62C insert:

3

4 **62CA. Membership requirements for qualification as**
5 **eligible political party**

6 (1) For the purposes of this Part, 2 or more political parties
7 cannot rely on the same person as a member for the
8 purpose of qualifying or continuing to qualify as an
9 eligible political party.

10 (2) If 2 or more political parties purport to rely on the same
11 person as a member for the purpose described in
12 subsection (1), the following provisions apply —

13 (a) the Electoral Commissioner must, in
14 accordance with the regulations, give the
15 person an opportunity to nominate the political
16 party entitled to rely on the person;

17 (b) if the person does not nominate a political
18 party, the person cannot be relied on by any of
19 those political parties.

20 (3) The registration of a political party must not be
21 cancelled because of the operation of this section
22 unless the political party is given an opportunity by the
23 Electoral Commissioner, in accordance with the
24 regulations, to change the person or persons on whom
25 it relies.
26

1 **35. Section 62E amended**

2 In section 62E(4):

3 (a) in paragraph (b) delete “of its name on ballot papers for
4 elections — set out the abbreviation; and” and insert:

5

6 or acronym of its name on ballot papers for elections —
7 set out the abbreviation or acronym; and

8

9 (b) delete paragraph (d) and insert:

10

11 (d) set out the names and addresses of at least
12 500 members of the party who are electors and
13 on whom the party relies for the purpose of
14 qualifying as an eligible political party; and

15 (da) be accompanied by declarations as to
16 membership of the party, in an approved form,
17 completed and signed by the members on
18 whom the party relies for the purpose of
19 qualifying as an eligible political party; and

20

21 (c) in paragraph (f) delete “document.” and insert:

22

23 document; and

24

25 (d) after paragraph (f) insert:

26

27 (g) be accompanied by a fee of \$2 000 or any
28 greater amount that is prescribed.

29

s. 36

1 **36. Section 62H amended**

2 In section 62H(2)(b) delete “as required by section 62E(4)(e)
3 and (f).” and insert:

4
5 (other than under section 62E(4)(da)).
6

7 **37. Section 62HA inserted**

8 After section 62H insert:
9

10 **62HA. Political party taken not to be registered for certain**
11 **purposes**

12 Despite the registration of a political party under this
13 Part, the party is taken not to be a registered political
14 party for the purposes of Part IV Division 2, Part VI
15 Division 2A and section 113C, in relation to a general
16 election, if the party’s application for registration was
17 made in the period of 12 months ending on the day of
18 issue of the writ for the general election.
19

20 **38. Section 62J amended**

21 (1) In section 62J(1) in the definition of *application name* after
22 “abbreviation” insert:

23
24 or acronym
25

26 (2) After section 62J(1) insert:
27

28 (1A) The Electoral Commissioner must refuse to register a
29 political party if it is not an eligible political party.
30

- 1 (3) In section 62J(3):
2 (a) in paragraph (a) delete “6” and insert:
3
4 4
5
6 (b) after paragraph (e) insert:
7
8 (ea) includes a word of which a letter, other than the
9 first letter, is a capital letter; or
10
11 (4) After section 62J(4) insert:
12
13 (4A) For the purposes of subsection (4), the existing party is
14 related to the party in respect of which the application
15 is made if —
16 (a) one is a part of the other party; or
17 (b) both are parts of the same political party.
18 (4B) Subsection (3)(ea) does not apply if the word is an
19 acronym.
20
21 (5) Delete section 62J(6).

22 **39. Section 62KA inserted**

23 After section 62K insert:
24

25 **62KA. Annual returns in relation to continued registration**

- 26 (1) The secretary of a registered political party must, in the
27 period beginning on 1 June and ending on 30 June each
28 year, lodge a return with the Electoral Commissioner in
29 relation to its continued eligibility for registration
30 under this Part.

s. 40

- 1 (2) The return must be —
2 (a) in an approved form; and
3 (b) accompanied by any documents specified in the
4 approved form.
5 (3) However, the secretary of a registered political party is
6 not required to lodge a return if, at the beginning of the
7 period referred to in subsection (1), the party has been
8 registered for less than 6 months.
9

10 **40. Section 62L amended**

- 11 (1) In section 62L(2):
12 (a) delete “may” and insert:
13
14 must
15
16 (b) delete paragraph (b) and insert:
17
18 (b) the party (not being a parliamentary party) is no
19 longer an eligible political party; or
20
21 (2) After section 62L(2) insert:
22
23 (2A) The Electoral Commissioner must cancel the
24 registration of a political party if the secretary of the
25 party fails to comply with section 62KA.
26

1 **41. Section 62Q amended**

2 In section 62Q(1) delete “62J,” and insert:

3

4 62K, in a return under section 62KA,

5

6 **42. Section 64 amended**

7 In section 64(3) delete “elections in all the regions” and insert:

8

9 an election in the whole of State electorate

10

11 **43. Section 71 amended**

12 (1) In section 71(2) delete “held as part of” and insert:

13

14 that is, or is held as part of,

15

16 (2) In section 71(5) delete the passage that begins with “In the case
17 of” and ends with “shall be —” and insert:

18

19 The date fixed for the polling in a general election for the
20 Council and, in the case of a periodic election for the Assembly,
21 the date fixed for the polling in each election in a district, must
22 be —

23

24 (3) In section 71(6):

25 (a) delete “in the case of a periodic election”;

26 (b) after “to be fixed” insert:

27

28 under subsection (5)

29

s. 44

1 **44. Section 74 amended**

2 Delete section 74(a) and (b) and insert:

3

- 4 (a) in the case of a Council election, to the
5 returning officer and deputy returning officers
6 for the whole of State electorate;

7

8 **45. Section 75 replaced**

9 Delete section 75 and insert:

10

11 **75. Advertisement of writ and other matters relating to**
12 **election**

13 (1) In this section —

14 *advertise* means advertise on the Commission website
15 and in any other way the Electoral Commissioner
16 considers appropriate.

17 (2) Having received a writ for an election the Electoral
18 Commissioner must —

19 (a) advertise the day of issue of the writ and the
20 writ's particulars; and

21 (b) as soon as practicable after receiving the writ,
22 advertise the place of declaration of
23 nominations appointed under section 85(1) for
24 the election; and

25 (c) publish whatever information the Electoral
26 Commissioner considers necessary to
27 adequately inform electors about polling places
28 at which the poll will be taken and polling areas
29 declared under section 100(1)(i) in relation to
30 polling places.

- 1 (3) The advertisement under subsection (2)(a) must give at
2 least 10 clear days' public notice of polling day.
3

4 **46. Section 76 amended**

5 Delete section 76(4) and insert:
6

- 7 (4) If the time for taking the poll is extended under this
8 section, the Electoral Commissioner must publish
9 notice of the extension —
10 (a) on the Commission website; and
11 (b) in any other way the Electoral Commissioner
12 considers appropriate.
13

14 **47. Section 78 amended**

15 (1) In section 78(1):

- 16 (a) delete “Nominations may be in an approved form and
17 shall —” and insert:

18 A nomination must be in an approved form and must —
19
20

- 21 (b) in paragraph (b) delete “election.” and insert:

22 election; and
23
24

25 (c) after paragraph (b) insert:

- 26
27 (c) in the case of a Council election, unless the
28 nomination is a party nomination as defined in
29 section 81A(1), be accompanied by
30 declarations in support of the nomination, in an
31 approved form, completed and signed by at

s. 48

1 least 250 electors entitled to vote at the
2 election.
3

4 (2) After section 78(3) insert:
5

6 (4) If the nomination forms for 2 or more candidates are
7 accompanied by a declaration completed and signed by
8 the same elector, the elector cannot be relied on by any
9 of those candidates for the purposes of
10 subsection (1)(c).
11

12 **48. Section 80 amended**

13 (1) In section 80(1) after “a claim” insert:
14

15 (a *group claim*)
16

17 (2) In section 80(2A) delete “A claim may be made under
18 subsection (1)” and insert:
19

20 A group claim may be made
21

22 (3) Delete section 80(2) and insert:
23

24 (2) Subject to subsections (3), (4), (5) and (6), the names
25 of candidates nominated for a Council election who
26 have made a group claim must, for the purposes of that
27 election, be included in a group in the order specified
28 in the claim.
29

- 1 (4) In section 80(3):
2 (a) delete “Two or more” and insert:
3
4 All of the
5
6 (b) delete “claim has been made, under subsection (1)” and
7 insert:
8
9 group claim has been made,
10
- 11 (5) In section 80(4):
12 (a) delete “claim under subsection (1)” and insert:
13
14 group claim
15
16 (b) in paragraph (a) delete “claim under that subsection; or”
17 and insert:
18
19 group claim; or
20
- 21 (6) In section 80(5) and (6) delete “claim is made under
22 subsection (1)” and insert:
23
24 group claim is made
25

s. 49

1 **49. Section 81 amended**

2 Delete section 81(2) and insert:

3

4 (2) For the purposes of subsection (1)(b), the required
5 deposit is —

6 (a) in the case of an election in a district — \$250 or
7 any greater amount that is prescribed; or

8 (b) in the case of a Council election — \$2 000 or
9 any greater amount that is prescribed.

10 (3) Despite subsection (2)(b), if the candidate is included
11 in a group consisting of more than 5 candidates the
12 required deposit is the amount obtained by dividing
13 \$10 000, or any greater amount that is prescribed, by
14 the number of candidates included in the group.
15

16 **50. Section 82 amended**

17 Delete section 82(2) and insert:

18

19 (2) The withdrawal of the nomination of a candidate
20 included in a group has no effect unless each other
21 candidate included in the group has consented in
22 writing to the withdrawal.
23

24 **51. Section 84 amended**

25 Delete section 84(2) and insert:

26

27 (2) If a candidate dies before polling day or on polling day
28 before the close of the poll —

- 1 (a) the deposit made by or on behalf of the
2 candidate must be returned in accordance with
3 subsection (3) or (4); and
4 (b) if the election wholly fails because of the death,
5 the deposits made by or on behalf of the other
6 candidates must be returned in accordance with
7 subsection (3) or (4).
8

9 **52. Section 86 amended**

- 10 (1) In section 86(1) delete “an election in a district and not to an
11 election in a region.” and insert:
12
13 a single member election.
14
15 (2) In section 86(2b) delete “in a newspaper circulating within the
16 district for which the candidates have nominated.” and insert:
17
18 on the Commission website and in any other way the returning
19 officer considers appropriate.
20

21 Note: The heading to amended section 86 is to read:

22 **Close of nominations procedure for single member election**

23 **53. Section 87 amended**

- 24 (1) In section 87(1) delete “an election in a region and not to an
25 election in a district.” and insert:
26
27 a Council election where the relevant number is more than one.
28

s. 53

- 1 (2) Delete section 87(4) and insert:
2
- 3 (4) If the candidates are not greater in number than the
4 candidates required to be elected, the returning officer
5 must declare the candidates duly elected.
6
- 7 (3) Delete section 87(5)(a) and insert:
8
- 9 (a) the returning officer must, at the place of
10 declaration of nominations, immediately after
11 the close of nominations and before all persons
12 then present —
- 13 (i) make out in respect of each group in
14 which each candidate is endorsed by a
15 registered political party, a slip bearing
16 the names of the candidates in the
17 group, and deal with the slips in
18 accordance with Schedule 2; and
- 19 (ii) make out in respect of each other group,
20 a slip bearing the names of the
21 candidates in the group, and deal with
22 the slips in accordance with Schedule 2;
23
- 24 (4) In section 87(7) delete “in a newspaper circulating in the
25 region.” and insert:
26
- 27 on the Commission website and in any other way the returning
28 officer considers appropriate.
29
- 30 Note: The heading to amended section 87 is to read:
31 **Close of nominations procedure for Council election where**
32 **relevant number more than one**

1 **54. Section 88 amended**

2 (1) Before section 88(2) insert:

3

4 (1) If, in a Council election where the relevant number is
5 more than one, a candidate dies during the relevant
6 period and the candidates remaining are not greater in
7 number than the candidates required to be elected, the
8 returning officer must declare the remaining candidates
9 duly elected.

10 (1A) In subsection (1) —

11 *relevant period* means the period beginning when
12 nominations have been declared and ending before the
13 hour of closing the poll.
14

15 (2) In section 88(2):

16 (a) delete “an election” and insert:

17

18 a single member election

19

20 (b) in paragraph (ba) after “(b)(ii)” insert:

21

22 in relation to an election in a district

23

24 (c) after paragraph (bb) insert:

25

26 (bc) On receipt of a report under paragraph (a)(ii) or
27 (b)(ii) in relation to a Council election the
28 Electoral Commissioner must send a notice,
29 with a copy of the report, to the President.

30 (bd) If there is no President, and Parliament is not in
31 session, or if the President is absent from the

s. 55

1 State, a notice under paragraph (bc) may be
2 sent to the Governor in any case.
3

4 (3) In section 88(3) delete “an election in a district” and insert:

5

6 a single member election
7

8 (4) In section 88(4) delete “an election in a region” and insert:

9

10 a Council election where the relevant number is more than one
11

12 **55. Section 90 amended**

13 In section 90(1a)(c) delete “officer for any district or region; or”
14 and insert:

15

16 officer; or
17

18 **56. Section 97 amended**

19 In section 97 delete “or 146F” and insert:

20

21 or 146E
22

23 **57. Section 99A amended**

24 In section 99A(2):

25 (a) delete “region or”;

26 (b) delete “section 87(4) or 88(1) or”.

1 **58. Section 100 amended**

2 (1) In section 100(1)(a) delete “regions” and insert:

3

4 the whole of State electorate

5

6 (2) In section 100(3) delete “all regions,” and insert:

7

8 the whole of State electorate,

9

10 (3) In section 100(3a) delete “regions,” and insert:

11

12 whole of State electorate,

13

14 **59. Section 100A amended**

15 Delete section 100A(5) and insert:

16

17 (5) The Electoral Commissioner or the returning officer, as
18 the case requires, must give not less than 48 hours’
19 notice in writing to each candidate in an election of the
20 time or times at which the presiding officer and another
21 officer will be in attendance at an institution or hospital
22 under subsection (1) for the purposes of the election.

23

24 **60. Section 100B amended**

25 (1) Delete section 100B(2a) and insert:

26

27 (2A) The Electoral Commissioner or the returning officer, as
28 the case requires, must give not less than 48 hours’
29 notice in writing to each candidate in an election of the

s. 61

1 time or times at which the presiding officer and another
2 officer will be in attendance at a place under
3 subsection (1) for the purposes of the election.
4

5 (2) In section 100B(3) delete “subsection (2a),” and insert:

6

7 subsection (2A),
8

8

9 **61. Section 102A amended**

10 In section 102A(1) delete “any election for the region of which
11 the district forms part.” and insert:

12

13 the general election for the Council.
14

14

15 **62. Section 113 amended**

16 In section 113(1) delete “prescribed” and insert:

17

18 approved
19

19

20 **63. Sections 113A and 113B replaced**

21 Delete sections 113A and 113B and insert:
22

22

23 **113B. Printing of Council ballot papers**

24 (1) In printing the ballot papers for a Council election
25 where the relevant number is one —

26 (a) the names of the candidates must be printed in
27 the order determined under section 87(6); and

28 (b) a square must be printed opposite the name of
29 each candidate.

- 1 (2) Subsections (3) to (6) apply to a Council election
2 where the relevant number is more than one.
- 3 (3) In printing the ballot papers for a Council election for
4 which there is a group —
- 5 (a) if there is only one group, the names of
6 candidates included in that group must be
7 printed in a group before the names of
8 candidates, if any, not included in that group;
9 and
- 10 (b) if there are 2 or more groups —
- 11 (i) in the case of groups in which each
12 candidate is endorsed by a registered
13 political party — the names of
14 candidates included in the groups must
15 be printed in groups in columns
16 sequentially from the left across the
17 ballot papers in the order determined
18 under section 87(5), before the names of
19 candidates, if any, included in any other
20 group; and
- 21 (ii) the names of candidates included in
22 other groups must be printed in groups
23 in columns sequentially from the left
24 across the ballot papers in the order
25 determined under section 87(5), before
26 the names of candidates, if any, not
27 included in a group;
- 28 and
- 29 (c) the order, within a group, in which the names of
30 candidates in that group are printed must be the
31 order specified in the claim made by them in
32 accordance with section 80(1); and

s. 63

- 1 (d) the names of candidates, if any, not included in
2 a group must be printed —
- 3 (i) in a column or, if there are too many
4 names to print in one column, 2 or more
5 columns; and
- 6 (ii) in the order determined under
7 section 87(6).
- 8 (4) In printing the ballot papers for a Council election for
9 which there are no groups, the names of the candidates
10 must be printed in the order determined under
11 section 87(6).
- 12 (5) In printing the ballot papers for a Council election —
- 13 (a) a square must be printed opposite the name of
14 each candidate; and
- 15 (b) if the names of 5 or more candidates have been
16 included in a group —
- 17 (i) a dividing line must be printed above
18 the squares printed opposite those
19 names; and
- 20 (ii) a square must be printed above the
21 dividing line and above the squares
22 printed opposite those names.
- 23 (6) If before polling day in a Council election a candidate
24 is declared by a court to be incapable of being elected
25 at that election, the returning officer may take any
26 action in relation to the printing of the ballot papers the
27 returning officer considers necessary as a consequence
28 of the declaration, including the following —
- 29 (a) causing the ballot papers to be reprinted;
- 30 (b) causing notations or marks to be made on the
31 ballot papers;
- 32 (c) again applying the provisions of section 87(6).
33

1 **64. Section 113C amended**

2 (1) Delete section 113C(2) and insert:

3

4 (2) If each candidate in a group applies to have the same
5 name printed under subsection (1), the following
6 requirements apply to the printing of the ballot
7 papers —

8 (a) the name must be printed on the ballot papers
9 adjacent to the name of each candidate in that
10 group;

11 (b) the name must be printed on the ballot papers
12 adjacent to the square, if any, printed above the
13 line for that group.

14

15 (2) Delete section 113C(6) and insert:

16

17 (6) If each candidate in a group applies under
18 subsection (5), the following requirements apply to the
19 printing of the ballot papers —

20 (a) the word “Independent” must be printed on the
21 ballot papers adjacent to the name of each
22 candidate in that group;

23 (b) the word “Independent” must be printed on the
24 ballot papers adjacent to the square, if any,
25 printed above the line for that group.

26

27 **65. Section 113D amended**

28 In section 113D(1) delete “voting ticket, notice or application
29 under section 80, 113A” and insert:

30

31 notice or application under section 80

32

s. 66

1 **66. Section 122A amended**

2 In section 122A(1):

3 (a) delete “a region or district” (1st occurrence) and insert:

4

5 the whole of State electorate or a district

6

7 (b) in paragraph (a)(i) delete “region of which the district
8 forms part, or the district,” and insert:

9

10 whole of State electorate or the district, as the case may
11 be,

12

13 (c) in paragraph (b)(i) delete “region or district” and insert:

14

15 whole of State electorate or the district,

16

17 (d) in paragraph (b)(ii):

18 (i) delete “region or” (1st occurrence) and insert:

19

20 whole of State electorate or the

21

22 (ii) delete “that region or” and insert:

23

24 the whole of State electorate or the

25

26 (e) in paragraph (c) delete “a region or district as the case
27 may be” and insert:

28

29 the whole of State electorate or a district, as the case
30 may be,

31

1 **67. Section 123 amended**

2 In section 123(2)(a)(ii) delete “region or district” and insert:

3

4 whole of State electorate or the district, as the case may be,

5

6 **68. Section 128 replaced**

7 Delete section 128 and insert:

8

9 **128. How ballot paper to be marked by elector**

10 (1) For the purposes of this section —

11 (a) a square is *above the line* on a ballot paper if
12 the square is printed on the ballot paper under
13 section 113B(5)(b);

14 (b) a square is *below the line* on a ballot paper if
15 the square is printed on the ballot paper under
16 section 113B(5)(a).

17 (2) In a single member election where there are only
18 2 candidates on the ballot paper an elector must mark
19 the elector’s vote on the ballot paper by placing the
20 numeral 1 in the square opposite the name of the
21 candidate for whom the elector votes.

22 (3) In a single member election where there are more than
23 2 candidates on the ballot paper an elector must mark
24 the elector’s vote on the ballot paper by placing the
25 numeral 1 in the square opposite the name of the
26 candidate for whom the elector votes as the elector’s
27 first preference and consecutive numerals from 2 in the
28 squares opposite the names of the remaining candidates
29 so as to indicate the elector’s order of preference for all
30 candidates.

s. 68

- 1 (4) In a Council election where the relevant number is
2 more than one and there are no squares printed on the
3 ballot papers under section 113B(5)(b), the elector's
4 vote must be marked on the ballot paper as follows —
- 5 (a) if there are more than 20 squares on the ballot
6 paper —
- 7 (i) the numeral 1 must be placed in the
8 square on the ballot paper opposite the
9 name of a candidate so as to indicate the
10 candidate for whom the elector votes as
11 a first preference; and
- 12 (ii) at least the consecutive numerals 2 to 20
13 must be placed in the squares on the
14 ballot paper opposite the names of other
15 candidates so as to indicate the elector's
16 order of preference for other candidates;
- 17 (b) if there are 20 or fewer squares on the ballot
18 paper —
- 19 (i) the numeral 1 must be placed in the
20 square on the ballot paper opposite the
21 name of a candidate so as to indicate the
22 candidate for whom the elector votes as
23 a first preference; and
- 24 (ii) consecutive numerals from 2 must be
25 placed in the squares on the ballot paper
26 opposite the names of the other
27 candidates so as to indicate the elector's
28 order of preference for all candidates.
- 29 (5) Except where an elector follows the procedure set out
30 in subsection (6), in a Council election where the
31 relevant number is more than one and there is at least
32 one square printed on the ballot papers under

- 1 section 113B(5)(b), the elector's vote must be marked
2 on the ballot paper as follows —
- 3 (a) if there are more than 20 squares on the ballot
4 paper below the line —
- 5 (i) the numeral 1 must be placed in the
6 square on the ballot paper below the line
7 opposite the name of a candidate so as
8 to indicate the candidate for whom the
9 elector votes as a first preference; and
- 10 (ii) at least the consecutive numerals 2 to 20
11 must be placed in the squares on the
12 ballot paper below the line opposite the
13 names of other candidates so as to
14 indicate the elector's order of preference
15 for other candidates;
- 16 (b) if there are 20 or fewer squares on the ballot
17 paper below the line —
- 18 (i) the numeral 1 must be placed in the
19 square on the ballot paper below the line
20 opposite the name of a candidate so as
21 to indicate the candidate for whom the
22 elector votes as a first preference; and
- 23 (ii) consecutive numerals from 2 must be
24 placed in the squares on the ballot paper
25 below the line opposite the names of the
26 other candidates so as to indicate the
27 elector's order of preference for all
28 candidates.
- 29 (6) In a Council election where the relevant number is
30 more than one, and there is at least one square printed
31 on the ballot papers under section 113B(5)(b), the
32 elector's vote may be marked on a ballot paper by the
33 elector by placing the numeral 1 in a square on the

s. 69

- 1 ballot paper above the line so as to indicate the group
2 for whom the elector votes as a first preference and —
- 3 (a) if there are 2 squares on the ballot paper above
4 the line and the elector wishes to vote for the
5 group to which the other square relates — by
6 placing the numeral 2 in the other square on the
7 ballot paper above the line so as to indicate the
8 elector’s order of preference; or
- 9 (b) if there are 3 or more squares on the ballot
10 paper above the line and the elector wishes to
11 vote for any of the groups to which the other
12 squares relate —
- 13 (i) by placing the numeral 2 in one of the
14 other squares on the ballot paper above
15 the line so as to indicate the elector’s
16 second preference; or
- 17 (ii) by placing consecutive numerals from 2
18 in 2 or more of the other squares on the
19 ballot paper above the line in the
20 elector’s order of preference.
21

22 **69. Section 140 amended**

23 In section 140(3)(a) delete “section 128(1);” and insert:

24

25 section 128(2);

26

27 **70. Section 141 amended**

28 In section 141(2) and (3) delete “region or” (each occurrence).

1 **71. Section 146B amended**

2 In section 146B(1) delete “a region.” and insert:

3

4 the whole of State electorate.

5

6 **72. Section 146D amended**

7 In section 146D delete “ballot papers used in an election in a
8 region” and insert:

9

10 Council ballot papers

11

12 **73. Sections 146E and 146F replaced**

13 Delete sections 146E and 146F and insert:

14

15 **146E. Informal ballot papers**

16 (1) Section 139(a), (c) and (e) apply to and in relation to a
17 Council ballot paper.

18 (2) A Council ballot paper is informal, where the relevant
19 number in the election is one —

20 (a) where there are only 2 candidates — if it does
21 not indicate the candidate for whom the elector
22 votes; or

23 (b) where there are more than 2 candidates — if it
24 does not indicate the elector’s preference for all
25 candidates.

26 (3) A Council ballot paper is informal, where the relevant
27 number is more than one, if —

28 (a) in the case of a ballot paper described in
29 section 128(4)(a) or (5)(a) — it does not

s. 73

- 1 indicate the elector's preference for at least
2 20 candidates; or
- 3 (b) in the case of a ballot paper described in
4 section 128(4)(b) or (5)(b) — it does not
5 indicate the elector's preference for all
6 candidates.
- 7 (4) The operation of subsection (2) is subject to
8 section 146EA and the operation of subsection (3) is
9 subject to sections 146EA and 146EB.
- 10 (5) A Council ballot paper is not informal for any reason
11 other than the reasons enumerated in section 139(a), (c)
12 and (e) and subsections (2) and (3) of this section.
- 13 (6) A Council ballot paper is not informal under
14 subsection (3) if it is marked in accordance with
15 section 128(6).
- 16 (7) Without limiting the generality of subsection (5), if,
17 after the nominations have been declared and before or
18 on polling day before the hour of closing the poll in an
19 election where the relevant number is more than one, a
20 candidate dies and the number of candidates remaining
21 is greater than the number of candidates to be elected, a
22 Council ballot paper is not informal by reason only —
- 23 (a) of the inclusion on the ballot paper of the name
24 of the deceased candidate; or
- 25 (b) of the marking of any consecutive number
26 opposite that name; or
- 27 (c) of the omission to place a number opposite that
28 name, or of any resultant failure to indicate in
29 consecutive order the voter's preference.
- 30 (8) Without limiting the generality of subsection (5),
31 where the vote of an elector is marked on a ballot paper
32 in a manner other than the prescribed manner but the
33 ballot paper clearly indicates the elector's intention as

1 necessary under subsection (2)(a) or (b) or (3)(a) or (b)
2 and is not informal under section 139(a), (c) or (e), that
3 ballot paper —

- 4 (a) is not informal; and
5 (b) is to be given effect according to the elector's
6 intention.

7 (9) In subsection (8) —

8 *prescribed manner* means —

- 9 (a) where the relevant number in the election is one
10 and there are only 2 candidates on the ballot
11 paper, the manner required by section 128(2);
12 (b) where the relevant number in the election is one
13 and there are more than 2 candidates on the
14 ballot paper, the manner required by
15 section 128(3);
16 (c) where the relevant number in the election is
17 more than one, the manner authorised by
18 section 128(4)(a) or (b) or (5)(a) or (b),
19 whichever is applicable.

20 **146EA. Formal votes for individual candidates**

21 (1) In a Council election where the relevant number is one
22 and there are more than 2 candidates, or where the
23 relevant number is more than one and there are no
24 squares printed on the ballot papers under
25 section 113B(5)(b), the following numerals placed in a
26 square printed on a ballot paper must be disregarded —

- 27 (a) numerals that are repeated and any numerals
28 that are higher than a repeated numeral;
29 (b) if a numeral is missed — any numerals that are
30 higher than the missing numeral.

31 (2) In a Council election where the relevant number is
32 more than one and there are one or more squares

s. 73

1 printed on the ballot papers under section 113B(5)(b),
2 the following numerals placed in a square printed on a
3 ballot paper below the line must be disregarded —

- 4 (a) numerals that are repeated and any numerals
5 that are higher than a repeated numeral;
6 (b) if a numeral is missed — any numerals that are
7 higher than the missing numeral.

8 **146EB. Formal votes for groups**

- 9 (1) In a Council election an elector who, in a square
10 printed on a ballot paper above the line, places only a
11 single tick or cross is taken to have written the
12 numeral 1 in the square in accordance with
13 section 128(6).
- 14 (2) In a Council election the following numerals placed in
15 a square printed on a ballot paper above the line must
16 be disregarded —
17 (a) numerals that are repeated and any numerals
18 that are higher than a repeated numeral;
19 (b) if a numeral is missed — any numerals that are
20 higher than the missing numeral.
- 21 (3) If a ballot paper is marked above the line in accordance
22 with section 128(6) and is marked below the line but
23 not in accordance with section 128(5), then, for the
24 purposes of sections 146EC, 146G and 146H, the only
25 squares that are taken to have been marked on the
26 ballot paper are the squares that are marked above the
27 line.
- 28 (4) If a ballot paper is marked above the line, whether in
29 accordance with section 128(6) or not, and is marked
30 below the line in accordance with section 128(5), then,
31 for the purposes of sections 146EC, 146G and 146H,
32 the only squares that are taken to have been marked on

1 the ballot paper are the squares that are marked below
2 the line.

3 **146EC. Treatment of ballot papers of electors who have**
4 **voted above the line**

5 (1) This section applies if —

6 (a) a ballot paper is marked in accordance with
7 section 128(6); and

8 (b) one or more numerals are placed in squares
9 printed on the ballot paper above the line in
10 relation to groups of candidates (each group
11 being a *preferenced group*).

12 (2) The ballot paper is taken to have been marked as if,
13 instead of the numerals referred to in
14 subsection (1)(b) —

15 (a) each candidate in a preferred group was
16 given a different numeral starting from 1; and

17 (b) candidates in a preferred group were given
18 numerals consecutively, starting with the
19 candidate whose name on the ballot paper is at
20 the top of the group and ending with the
21 candidate whose name is at the bottom of the
22 group; and

23 (c) the order in which candidates in different
24 preferred groups are given numerals is
25 worked out by reference to the order in which
26 the groups were given numerals on the ballot
27 paper, starting with the group marked 1; and

28 (d) when all the candidates in a preferred group
29 have been given numerals, the candidate whose
30 name is at the top of the next preferred group
31 is given the next consecutive numeral.
32

s. 74

1 **74. Section 146G amended**

2 (1) Delete section 146G(1) and insert:

3

4 (1) As soon as practicable after the close of the poll each
5 assistant returning officer must —

6 (a) open all ballot boxes received at the assistant
7 returning officer's counting place and reject all
8 informal ballot papers; and

9 (b) on the other ballot papers —

10 (i) if there are one or more squares above
11 the line, count the number of first
12 preference votes marked in that square
13 or each of those squares; or

14 (ii) in a single member election or if there
15 are no squares printed on the ballot
16 papers under section 113B(5)(b), count
17 the number of first preference votes
18 given for each candidate;

19 and

20 (c) enclose —

21 (i) in one packet (the *ballot paper packet*),
22 all the used ballot papers in the assistant
23 returning officer's possession; and

24 (ii) in another packet, all the unused ballot
25 papers in the assistant returning
26 officer's possession; and

27 (iii) in another packet, all copies of rolls,
28 books, communications from officers,
29 or other papers or documents used or
30 received at or in connection with the
31 election, that are in the assistant
32 returning officer's possession;

33 and

- 1 (d) seal up those packets, endorse each with a
2 description of its contents and with the name of
3 the counting place and the date of the polling,
4 sign the endorsement, and forward the packets
5 to the deputy returning officer for the district
6 together with —
- 7 (i) if paragraph (b)(i) applies, a list of the
8 total number of first preference votes
9 marked in the square, or each of the
10 squares, above the line on the ballot
11 papers contained in the ballot paper
12 packet; or
- 13 (ii) if paragraph (b)(ii) applies, a list of the
14 total number of first preference votes
15 given for each candidate on the ballot
16 papers contained in the ballot paper
17 packet.
18
- 19 (2) In section 146G(2) delete “packet mentioned in
20 subsection (1)(b)(i) shall” and insert:
21
- 22 ballot paper packet must
23
- 24 (3) In section 146G(3) delete “subsection (1)(c) shall” and insert:
25
- 26 subsection (1)(d)(i) or (ii) must
27
- 28 (4) In section 146G(4) delete “subsection (1)(b)(iii)” and insert:
29
- 30 subsection (1)(c)(iii)
31

s. 75

1 **75. Section 146H amended**

2 (1) In section 146H(1):

3 (a) delete “shall —” and insert:

4

5 (the *DRO*) must —

6

7 (b) delete paragraph (a) and insert:

8

9 (a) open all ballot boxes received from polling
10 places within the district that have not been
11 opened by an assistant returning officer and
12 reject all informal ballot papers; and

13 (aa) on the other ballot papers —

14 (i) if there are one or more squares above
15 the line, count the number of first
16 preference votes marked in that square
17 or each of those squares; or

18 (ii) in a single member election or if there
19 are no squares printed on the ballot
20 papers under section 113B(5)(b), count
21 the number of first preference votes
22 given for each candidate;

23 and

24

25 (c) in paragraph (b) delete “his” (each occurrence) and
26 insert:

27

28 the DRO’s

29

- 1 (d) in paragraph (b) delete “him under section 146G(1)(c);
2 and” and insert:
3
4 the DRO under section 146G(1)(d); and
5
6 (e) delete paragraphs (d) and (e) and insert:
7
8 (d) make out —
9 (i) if paragraph (aa)(i) applies, a list of the
10 total number of first preference votes
11 marked in the square, or each of the
12 squares, above the line on the ballot
13 papers contained in the packet
14 mentioned in paragraph (b)(i); or
15 (ii) if paragraph (aa)(ii) applies, a list of the
16 total number of first preference votes
17 given for each candidate on the ballot
18 papers contained in the packet
19 mentioned in paragraph (b)(i);
20 and
21 (e) enclose —
22 (i) in one packet, all the packets made up
23 under section 146G(1)(c)(i) and
24 forwarded to the DRO under
25 section 146G(1)(d), the lists forwarded
26 to the DRO with those packets, the
27 packet made up by the DRO under
28 paragraph (b)(i) and the list made out by
29 the DRO under paragraph (d)(i) or (ii);
30 and
31 (ii) in another packet, all the packets made
32 up under section 146G(1)(c)(ii) and
33 forwarded to the DRO under
34 section 146G(1)(d) and the packet made

s. 76

1 up by the DRO under paragraph (b)(ii);
2 and
3 (iii) in another packet, all the packets made
4 up under section 146G(1)(c)(iii) and
5 forwarded to the DRO under
6 section 146G(1)(d) and the packet made
7 up by the DRO under paragraph (b)(iii);
8 and
9

10 (2) In section 146H(3) delete “subsection (1)(d) shall” and insert:
11
12 subsection (1)(d)(i) or (ii) must
13

14 **76. Section 146I amended**

15 In section 146I(1) delete “sections 146G(1)(b)(i)” and insert:
16
17 sections 146G(1)(c)(i)
18

19 **77. Section 147 amended**

20 (1) In section 147(2) delete “in the region or district”.
21 (2) Delete section 147(3).
22 (3) In section 147(4) delete “any other election in a region,” and
23 insert:
24
25 a Council election,
26
27 (4) In section 147(7) delete “(3),”.

1 **78. Section 150 amended**

2 In section 150(2):

3 (a) delete “He shall” and insert:

4

5 The returning officer must

6

7 (b) delete “in his region or district by himself and by” and
8 insert:

9

10 at the election by the returning officer and

11

12 **79. Section 151 amended**

13 In section 151(b) delete “and the name of the region or the
14 district and the date of the polling,” and insert:

15

16 and the date of the polling, and, in the case of an election for a
17 district, the name of the district,

18

19 **80. Section 152 amended**

20 In section 152(1):

21 (a) in paragraph (a) delete “an election other than a full
22 election in a region,” and insert:

23

24 a Council election other than a general election for the
25 Council,

26

s. 81

1 (b) in paragraph (b) delete “full election in a region, the
2 members elected at the next succeeding full election in
3 the region” and insert:

4
5 general election for the Council, the members elected at
6 the next succeeding general election for the Council
7

8 **81. Section 155 amended**

9 In section 155(2) delete “full election in a region” and insert:

10
11 general election for the Council
12

13 **82. Section 156 amended**

14 Delete section 156(1) and (2) and insert:

15
16 (1) An elector must vote at any election for the whole of
17 State electorate, and at any election for the district for
18 which the elector is enrolled, unless prevented from
19 doing so by absence from the State, or by illness or
20 infirmity, or any physical incapacity on the day of the
21 election.

22 (2) As soon as practicable after the election the Electoral
23 Commissioner must ensure that there is prepared a list
24 of the names and addresses of the electors who were
25 enrolled on the roll for the whole of State electorate or
26 the roll for the district, as the case requires, and did not
27 vote at the election.
28

1 **83. Section 156A amended**

2 In section 156A in the definition of *original election* delete “full
3 election in the region” and insert:

4

5 general election for the Council

6

7 **84. Section 156C amended**

8 In section 156C(1)(a) delete “in at least 2 newspapers
9 circulating generally in the region in respect of which the
10 vacancy has occurred” and insert:

11

12 on the Commission website, and in any other way the Electoral
13 Commissioner considers appropriate,

14

15 **85. Section 156E amended**

16 In section 156E(1) delete “region concerned” and insert:

17

18 whole of State electorate

19

20 **86. Section 163 amended**

21 In section 163(2):

22 (a) delete “a region or” and insert:

23

24 the whole of State electorate or a

25

26 (b) delete “such region” (each occurrence) and insert:

27

28 that electorate

29

s. 87

1 **87. Section 175D amended**

2 In section 175D(3) delete “section 113B(1)(c)” and insert:

3

4 section 113B(3)(c)

5

6 **88. Section 175LA amended**

7 In section 175LA(2) delete “deemed under section 146F” and
8 insert:

9

10 taken under section 146EC(2)

11

12 **89. Section 213 amended**

13 Delete section 213(3) to (8).

14 **90. Part 9 inserted**

15 Before Schedule 1 insert:

16

17 **Part 9 — Transitional provisions for**
18 ***Constitutional and Electoral Legislation***
19 ***Amendment (Electoral Equality) Act 2021***

20 **215. Terms used**

21 In this Part —

22 ***amending provisions*** means the *Constitutional and*
23 *Electoral Legislation Amendment (Electoral Equality)*
24 *Act 2021* Parts 3 and 4;

25 ***commencement day*** means the day on which the
26 *Constitutional and Electoral Legislation Amendment*

1 (*Electoral Equality*) Act 2021 section 90 comes into
2 operation;
3 *existing party* means a political party that, immediately
4 before commencement day, is a registered political
5 party;
6 *former provisions* means this Act and the *Constitution*
7 *Acts Amendment Act 1899* as they were enacted
8 immediately before commencement day;
9 *previous electoral distribution* means the division of
10 the State into regions for the election of members of
11 the Council that took effect on 27 November 2019;
12 *register of political parties* has the meaning given in
13 section 62C(1).

14 **216. Vacancies and representation in Legislative Council**

15 Despite the amendments made to this Act and the
16 *Constitution Acts Amendment Act 1899* by the
17 amending provisions, the former provisions and the
18 previous electoral distribution continue to apply in
19 respect of —

- 20 (a) the filling of a vacancy in the Council under
21 sections 156C and 156D before 22 May 2025;
22 and
23 (b) the representation of electoral regions by
24 members of the Council elected —
25 (i) before the commencement of the
26 amending provisions; or
27 (ii) as referred to in paragraph (a).

28 **217. Continued registration of existing parties**

- 29 (1) An existing party may, in the period of 12 months
30 beginning on commencement day, make an application
31 to the Electoral Commissioner under this section (an
32 *application for continued registration*).

s. 90

- 1 (2) Sections 62E, 62F and 62G apply for the purposes of
2 this section as if references in those sections to an
3 application or an application for registration were
4 references to an application for continued registration.
- 5 (3) The Electoral Commissioner must cancel the
6 registration of an existing party if —
- 7 (a) the existing party does not make an application
8 for continued registration within the period
9 referred to in subsection (1); or
- 10 (b) the Electoral Commissioner, after considering
11 an application for continued registration made
12 by the existing party within that period, is
13 satisfied that the application would have been
14 refused under section 62J if the application had
15 been an application for the registration of the
16 existing party.
- 17 (4) Sections 62L(3) to (6) and 62N apply to and in relation
18 to a cancellation of registration under subsection (3) as
19 if it were a cancellation of registration under
20 section 62L (other than because of section 62L(2)(d)).
- 21 (5) If the Electoral Commissioner does not cancel the
22 registration of an existing party under subsection (3),
23 the Electoral Commissioner must replace the
24 information and documents in the register of political
25 parties relating to the existing party with —
- 26 (a) the information set out in the existing party's
27 application for continued registration (other
28 than under section 62E(4)(d) as applied by
29 subsection (2)); and
- 30 (b) any document accompanying the existing
31 party's application for continued registration
32 (other than under section 62E(4)(da) as applied
33 by subsection (2)).

- 1 (6) Nothing in this section prevents the cancellation of the
2 registration of an existing party under section 62L.

3
4 **91. Schedule 1 heading amended**

5 In the heading to Schedule 1 delete “**Legislative**”.

6 **92. Schedule 1 amended**

- 7 (1) Delete Schedule 1 clause 8 and insert:
8

9 8. Where, after the counting of first preference votes or the
10 transfer of surplus votes (if any) of elected candidates, no
11 candidate has, or less than the number of candidates required
12 to be elected have, received a number of votes equal to the
13 quota, the candidate who has the fewest votes must be
14 excluded and —

15 (a) if the ballot papers of the excluded candidate express the
16 first preference vote for the excluded candidate and the
17 next available preference for a particular continuing
18 candidate, the total number of those ballot papers must be
19 transferred, each ballot paper at a transfer value of one, to
20 the continuing candidate and added to the number of votes
21 of the continuing candidate and all those ballot papers must
22 be transferred to the continuing candidate;

23 (b) if votes have been obtained by the excluded candidate on a
24 transfer from a particular candidate under this Schedule
25 and ballot papers transferred to the excluded candidate
26 from that candidate express the next available preference
27 for a particular continuing candidate —

28 (i) the total number of those ballot papers must be
29 multiplied by the transfer value at which the votes
30 were so transferred to the excluded candidate; and

s. 92

- 1 (ii) the number so obtained (disregarding any fraction)
2 must be added to the number of votes of the
3 continuing candidate; and
- 4 (iii) all those ballot papers must be transferred to the
5 continuing candidate.
- 6 8A. If votes have been obtained by the excluded candidate on
7 transfers from 2 or more candidates under this Schedule,
8 clause 8(b) must be applied to those transfers in the order in
9 which they were received, the earliest transfer being dealt
10 with first.
- 11 8B. A ballot paper must be set aside as exhausted if it is found
12 that the ballot paper expresses no preference for any
13 continuing candidate.
14
- 15 (2) In Schedule 1 clause 9:
- 16 (a) delete “on the completion” and insert:
17
18 as a result
19
- 20 (b) delete “the remaining votes of the excluded candidate have
21 been transferred in accordance with clause 8(a) and (b) to
22 continuing candidates.” and insert:
23
24 clause 8(a) and (b) have been applied to the remaining votes
25 of the excluded candidate.
26
- 27 (3) In Schedule 1 clause 10:
- 28 (a) delete “transfer of all” and insert:
29
30 application of clause 8(a) and (b) to
31

1 (b) delete “his votes shall be transferred in accordance with
2 clause 8(a) and (b).” and insert:

3
4 clause 8(a) and (b) must be applied to the continuing
5 candidate’s votes.
6

7 (4) Delete Schedule 1 clause 13 and insert:
8

9 13. Despite any other provision of this Schedule, if the number
10 of continuing candidates is equal to the number of remaining
11 unfilled vacancies, each of those candidates is elected
12 regardless of whether the candidate has received a number of
13 votes below, equal to or greater than the quota.
14

15 (5) After Schedule 1 clause 19 insert:
16

17 20. In a case to which section 146E(7) applies, a vote indicated
18 on a ballot paper opposite the name of the deceased
19 candidate must be counted to the candidate next in the order
20 of the elector’s preference, and the numbers indicating any
21 subsequent preferences, if any, must be taken to be altered
22 accordingly.
23

24 **93. Various references to “and regions” deleted**

25 In the provisions listed in the Table delete “and regions”.

26 **Table**

s. 16A def. of <i>relevant day</i>	s. 16F(1)
s. 24(3)	s. 51(2)

s. 94

1 **94. Various references to “an election in a region” replaced**

2 In the provisions listed in the Table delete “an election in a
3 region” and insert:

4
5 a Council election
6
7

Table

s. 4(1) def. of <i>election</i>	s. 4(1) def. of <i>relevant number</i>
s. 4(1) def. of <i>single member election</i> par. (b)	s. 80(1)
s. 81A(4)	s. 84(1)(a)
s. 89(2)	s. 99G(3)
s. 114(1)(b)	s. 146A(1) and (2)
s. 146B(1)	s. 147(1a)(b)
s. 156A def. of <i>vacancy</i> par. (b) and (c)	s. 175LF(2)
Sch. 1 cl. 1	

1 **Part 5 — Consequential amendments and repeal**

2 **Division 1 — Other Acts amended**

3 **95. *Local Government Act 1995* amended**

4 (1) This section amends the *Local Government Act 1995*.

5 (2) In section 4.1A(1):

6 (a) delete “a district or region” and insert:

7
8 the whole of State electorate or a district

9
10 (b) delete “that district or region.” and insert:

11
12 that electorate or district.

13
14 **96. *Salaries and Allowances Act 1975* amended**

15 (1) This section amends the *Salaries and Allowances Act 1975*.

16 (2) In section 6(6):

17 (a) delete “or electoral region”;

18 (b) delete “districts and electoral regions,” and insert:

19
20 districts,

21
22 **Division 2 — Regulations repealed**

23 **97. *Electoral (Ballot Paper Forms) Regulations 1990* repealed**

24 The *Electoral (Ballot Paper Forms) Regulations 1990* are
25 repealed.

=====