

CLAUSE NOTES

ELECTORAL REFORM BILL 2002 (WA)

- Clause 1 - provides that the title to this Act will be the *Electoral Reform Act 2002* (WA).
- Clause 2 - provides that the Act will come into operation on a day fixed by proclamation
- Clause 3 - indicates that the amendments in Part 2 of this Bill are made to the *Electoral Act 1907* (WA).
- Clause 4 - proposes to insert into the *Electoral Act 1907* a new Part IIA (proposed sections 16A to 16M) dealing with electoral districts, and electoral regions and their representation in Parliament.

Proposed section 16A This provision defines certain terms used in Part IIA.

Proposed section 16B Reflects section 2 of the *Electoral Distribution Act 1947* by providing for the WA Chief Justice, Electoral Commissioner and Government Statistician, to be the State's Electoral Distribution Commissioners.

Provisions are also made for acting arrangements if any of those officers are unavailable.

In carrying out their duties the Commissioners have the same powers as a Royal Commission.

Proposed section 16C This provision was previously in section 19 of the *Constitution Acts Amendment Act 1899*. Proposed section 16C provides for there to be 57 electoral districts which will elect the number of Legislative Assembly members required by section 18 of the *Constitution Acts Amendment Act 1899*.

Proposed section 16D Provides for the State to be divided into 6 electoral regions. Each of the regions will be represented by 6 Legislative Council members.

Proposed section 16E Under this proposed provision, the first division of the State into electoral districts and regions under the new provisions will begin as soon as practicable after the day on which the *Electoral Reform Act 2002* is proclaimed to come into operation.

Proposed section 16F

Periodical redistributions will take place approximately every 4 years; namely 2 years after every general election for the Legislative Assembly. Previously, under section 2A(2) of the *Electoral Distribution Act* 1947, a redistribution was required 1 year after that general election.

Proposed section 16G

As under section 2A(3) and (4) of the *Electoral Distribution Act* 1947, the Governor can direct, by proclamation, additional redistributions to be made. The Governor must give such a direction if both Houses of Parliament pass a resolution to that effect.

Proposed section 16H

This sets out the procedural requirements as to how the Electoral Distribution Commissioners are to carry out a redistribution. Except in relation to proposed section 16I(4)(2), (b) and (c), this proposed section 16I is identical to section 3 of the *Electoral Distribution Act* 1947.

Proposed section 16I (4)(c) requires the number of square kilometres in the district to be specified in the notice published in the Gazette. This area is relevant for the purposes of the proposed section 16I.

Proposed section 16I

This provision requires the Electoral Distribution Commissioners, when dividing the States into districts, to act on the principle that the number of electors within a district will not be more or less than 10% of the average district enrolment.

However, if a district is 100,000 square kilometres or more in area, the principle is to be modified in two ways.

Firstly, the Electoral Distribution Commissioners are to notionally increase the number of electors in the district by one notional elector for every 200 square kilometres in the district.

Secondly, the number of electors in the district (as notionally increased) can be up to 20% less than the average district enrolment at the time when the division of the State into districts is to be done.

The proposed Act does not impose any limitation on the number of metropolitan electoral districts. Subject to proposed section 16K, the proposed Act does not prevent an electoral district being partly metropolitan and partly non-metropolitan in character.

Proposed section 16J

Subject to two variations, this provision requires the Electoral Distribution Commissioners to divide the State into electoral regions on the same basis as in section 9 of the *Electoral Distribution Act 1947* (WA).

The first variation is that the regions into which the State are divided are to generally reflect the recognised communities of interest and land use patterns in the State.

The second variation is that there will not be a statutory dividing line between the metropolitan regions on the one hand and the Agricultural region and the South West region on the other hand. Currently, that statutory line is constituted by the “metropolitan region” as described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959* (WA).

However, the concept of “metropolitan region” is not defined in the proposed legislation. Rather, the proposed legislation (proposed section 16J(1)(a)) indicates to the Electoral Distribution Commissioners that the combined area of the three metropolitan regions is to be generally co-extensive with the metropolitan area of Perth. Section 16J(2) defines “metropolitan area of Perth” for the purposes of proposed section 16J(1)(a)(ii).

Proposed sections 16K, 16L, and 16M

These provisions replicate the existing provisions in sections 8 and 11 of the *Electoral Distribution Act 1947* (WA) as to the general duties and powers of the Electoral Distribution Commissioners when dividing the State into electoral regions and districts and as to the effect of a notice published in the Gazette setting out that division.

Clause 5

Makes consequential amendments to the *Electoral Act 1907* (WA) to remove references in that Act to the *Electoral Distribution Act 1947* (WA). Currently section 24(3) of the *Electoral Act 1907* (WA) refers to section 3(2)(f) of the *Electoral Distribution Act 1947* (WA). That latter provision refers to the Electoral Distribution Commissioners publishing in the Gazette a notice dividing the State into electoral districts. It is proposed that clause 8 of this *Electoral Reform Bill 2002* (WA) will repeal the *Electoral Distribution Act 1947* (WA). The same requirement to publish a notice is imposed on the Commissioners under proposed section 16H(2)(f).

Clause 6 Currently section 51(2) of the *Electoral Act 1907* (WA) refers to the *Electoral Distribution Act 1947* (WA). The latter Act is to be repealed. As a result, section 51(2) of the *Electoral Act 1907* (WA) will state “the Electoral Commissioner may take such action and give such directions as he considers necessary in order for the rolls to be adjusted to give effect to a division of the State into districts and regions.

Clause 7 Indicates that the amendments in Part 3 of this Bill are made to the *Constitution Acts Amendment Act 1889* (WA). These amendments will integrate the provisions currently in this Act into and with the provisions in the *Electoral Act 1907* (WA).

Amends section 5 of the *Constitution Acts Amendment Act 1889* (WA) by deleting “34” and inserting “36” which indicates that the Legislative Council will comprise 36 members (in accordance with the division of the State into 6 electoral regions each region returning 6 members as in proposed section 16D of the *Electoral Act 1907* (WA) (as amended by this Bill).

Repeals section 6 of the *Constitution Acts Amendment Act 1889* (WA) which currently sets out matters relating to the division of the State into electoral regions. These matters will now be dealt with pursuant to proposed section 16D of the *Electoral Act 1907* (WA) (as amended by this Bill). This will integrate these matters with other provisions in the *Electoral Act 1907* (WA).

Repeals sections 18 and 19 of the *Constitution Acts Amendment Act 1889* (WA) which deal with the number of members in the Legislative Assembly and the division of the State into electoral districts. These matters will now be dealt with pursuant to proposed section 16C of the *Electoral Act 1907* (WA) (as amended by this Bill). This will integrate these matters with other provisions in the *Electoral Act 1907* (WA).

Clause 8 Repeals, in its entirety, the *Electoral Distribution Act 1947* (WA). That Act provided for the appointment of Electoral Distribution Commissioners consisting of the Chief Justice of WA; the Electoral Commissioner; and the Government Statistician. The Commissioners’ functions are to divide the State into districts and regions in accordance with that Act. Such a division is to be made after every second general election or when required by proclamation. The Commissioners’ redistribution takes effect when it is published by the Commissioners in the Government Gazette. The repeal of the *Electoral Distribution Act 1947* (WA) will facilitate the process of consolidating this State’s electoral legislation.

Provides for transitional arrangements so that the redistribution which applied for the last general elections (held on 10 February 2001) will continue to apply to any elections held before the next general elections (due by 2005) and to the districts and regions that members represent until candidates elected at the next general elections take up office.

The effect is that current Legislative Council and Legislative Assembly members continue to represent the same regions and districts and any by-elections that may be needed will be held in respect of those same regions and districts.

Clause 9 Makes consequential amendments to section 11(1) of the *Juries Act* 1957 (WA) which states:

“If an Assembly district part or the whole of which forms or is comprised in a jury district is altered or abolished pursuant to the *Electoral Distribution Act 1947*, or any other law for the time being in operation; the jury district, as constituted immediately prior to the alteration or abolition of the Assembly district, shall nevertheless remain as so constituted until varied by proclamation under this Act, and any Jurors' Book in force immediately prior to the alteration or abolition of the Assembly district shall continue to be the Jurors' Book for the jury district until a new Jurors' Book is prepared under this Act.”

Clause 10 Makes consequential amendments to section 6(6) of the *Salaries and Allowances Act* 1975 (WA) which states:

“Notwithstanding any other provision of this Act, where any provision of a determination dealing with the payment of electorate allowances or other allowances to members of Parliament which vary according to the electoral district or electoral region of a member becomes inapplicable, or, in the opinion of the Chairman, inequitable as a consequence of action taken under the *Electoral Distribution Act 1947*, the Chairman may without further authority than this subsection alter the determination in that regard to such extent as he thinks necessary for that purpose, and any variation of the determination shall be published in the *Government Gazette* .”