

CLAUSE NOTES

ELECTORAL AMENDMENT BILL 2001

- Clause 1** Provides that the title to the Act will be the *Electoral Amendment Act 2001*.
- Clause 2** Provides that this Act will come into operation on a day fixed by proclamation. This will ensure that the operation of the Act will commence at an appropriate date to allow the Electoral Distribution Commissioners to carry out the first electoral redistribution under the Act's provisions.
- Clause 3** Indicates that this Bill will amend the *Electoral Act 1907*.
- Clause 4** Proposes to insert into the *Electoral Act 1907* a new Part IIA (proposed sections 16A to 16N) 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 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. Seven members are to represent each of the regions known as the North Metropolitan Region and the South West Region. Five members are to represent each of the regions known as the South Metropolitan Region, the East Metropolitan Region, the Agricultural Region and the Mining and Pastoral Region.

That representation will provide for the number (34) of members required by section 5 of the *Constitution Acts Amendment Act 1899*.

Proposed section 16D continues the names of the regions and their representation as previously set out in section 6 of the *Constitution Acts Amendment Act 1899*.

Proposed section 16E Under this proposed section the first division of the State into districts and regions under the new provisions will begin as soon as this Act is proclaimed.

Proposed section 16F Periodical redistributions will take place approximately every 8 years - 2 years after every second general election. Previously, under section 2A(2) of the *Electoral Distribution Act 1947* a redistribution was required one year after that election. The two year period implements the Commission of Government Recommendation 44(1) which is discussed in Chapter 8 of Report No. 1 at page 308.

Proposed section 16G As under section 2A(3) and (4) of the *Electoral Distribution Act 1947*, the Governor can direct 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 The effect of this provision is that where the Electoral Distribution Commissioners are making a redistribution, under proposed sections 16E, 16F or 16G, they are to do so on the basis of estimated enrolments 4 years ahead. Currently, the distribution is carried out using a quota calculated on the enrolment on the date the distribution commences. Proposed section 16H implements the Commission on Government Recommendation 53(2). See Report No. 1 at page 302 chapter 8.3.5.5. (2) which states:

"The quota of enrolled voters for each Legislative Assembly electoral district should be determined by dividing the total State enrolment, projected four years in advance, by the number of seats to be distributed."

Proposed section 16I 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 is identical to section 3 of the *Electoral Distribution Act 1947*.

As the Commissioners will be redistributing on a prospective basis 4 years in advance (see proposed section 16H), proposed section 16I(4)(a) and (b) require the Commissioners in their redistribution notice to specify the average district enrolment both at the time when they started their redistribution and the average district enrolment projected 4 years ahead.

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 proposed section 16J.

Proposed section 16J This provision requires the Electoral Distribution Commissioners when dividing the State 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 at the end of the projected 4 year period. However, if a district is 100,000 square kilometres or more in area, the principle is modified in 2 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 end of the projected 4 year period.

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

Proposed section 16K Subject to one significant variation, 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.

The 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*.

However, the concept of "metropolitan area" is not defined in the proposed legislation. Rather, the proposed legislation indicates to the Electoral Distribution Commissioners that the combined area of the three metropolitan regions is to be generally co-extensive with what they view as the metropolitan area of Perth.

Proposed section 16L, 16M, and 16N

Replicates the existing provisions in sections 7, 8 and 11 of the *Electoral Distribution Act 1947* 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.