

Electoral Amendment (Ticket Voting and Associated Reforms) Bill 2019

Contents

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Section 4 amended	2
5.	Section 80 amended	3
6.	Section 113A deleted	3
7.	Section 113B amended	3
8.	Section 113C amended	3
9.	Section 113D amended	4
10.	Section 128 amended	4
11.	Section 146E replaced	6
	146E. Informal ballot papers	6
12.	Sections 146EA, 146EB and 146EC inserted	8
	146EA. Formal votes below the line	8
	146EB. Formal votes above the line	8
	146EC. Treatment of ballot papers of electors who have voted above the line	9
13.	Section 146F deleted	10
14.	Section 146G amended	10
15.	Section 146H amended	11

Western Australia

LEGISLATIVE COUNCIL

(Introduced by Hon. Alison Xamon, MLC)

**Electoral Amendment (Ticket Voting and
Associated Reforms) Bill 2019**

A Bill for

An Act to amend the *Electoral Act 1907*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Electoral Amendment (Ticket Voting and Associated*
3 *Reforms) Act 2019*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,
9 and different days may be fixed for different provisions.

10 **3. Act amended**

11 This Act amends the *Electoral Act 1907*.

12 **4. Section 4 amended**

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

14 *voting ticket*

15 *voting ticket square*

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

17

18 *above the line*, in relation to a ballot paper, has the
19 meaning given in section 128(1A)(a);

20 *below the line*, in relation to a ballot paper, has the
21 meaning given in section 128(1A)(b);

22 *dividing line* means the line on a ballot paper that
23 separates the voting method described in section 128(2)
24 from the voting method described in section 128(2A);

25 *group voting square* means a square printed on a ballot
26 paper in accordance with section 113B(3)(b);
27

1 **5. Section 80 amended**

2 After section 80(6) insert:

3

4 (7) A candidate's name cannot be included in more than
5 1 group.

6

7 **6. Section 113A deleted**

8 Delete section 113A.

9 **7. Section 113B amended**

10 Delete section 113B(3)(b) and insert:

11

12 (b) where the names of candidates have been
13 included in a group, a square must be printed
14 above the dividing line and above the squares
15 printed opposite those names.

16

17 **8. Section 113C amended**

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

19

20 (2) If each candidate in a group applies to have the same
21 name printed under subsection (1), the following
22 requirements apply to the printing of the ballot
23 papers —

24 (a) the name must be printed adjacent to the name
25 of that candidate on the ballot papers;

26 (b) if a group voting square is printed above the
27 line in relation to the candidates — the name
28 must be printed on the ballot papers adjacent to
29 that square.

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s. 9

1 (2) Delete section 113C(6).

2 **9. Section 113D amended**

3 In section 113D(1):

4 (a) delete “voting ticket,”;

5 (b) delete “80, 113A or” and insert:

6

7 80 or

8

9 **10. Section 128 amended**

10 (1) Before section 128(1) insert:

11

12 (1A) In this section —

13 (a) a square is *above the line* on a ballot paper if
14 the square is printed on the ballot paper in
15 accordance with section 113B(3)(b);

16 (b) a square is *below the line* on a ballot paper if
17 the square is printed on the ballot paper in
18 accordance with section 113B(3)(a).

19

20 (2) Delete section 128(2) and insert:

21

22 (2) Except where an elector follows the procedure set out
23 in subsection (2A), in an election in a region the
24 elector’s vote must be marked on the ballot paper as
25 follows —

26 (a) if there are at least 13 squares on the ballot
27 paper below the line —

28 (i) the numeral 1 must be placed in the
29 square on the ballot paper below the line
30 opposite the name of a candidate so as

- 1 to indicate the candidate for whom the
2 elector votes as a first preference; and
- 3 (ii) at least the consecutive numerals 2 to 12
4 must be placed in the squares on the
5 ballot paper below the line opposite the
6 names of other candidates so as to
7 indicate the elector's order of preference
8 for other candidates;
- 9 (b) if there are 12 or fewer squares on the ballot
10 paper below the line —
- 11 (i) the numeral 1 must be placed in the
12 square on the ballot paper below the line
13 opposite the name of a candidate so as
14 to indicate the candidate for whom the
15 elector votes as a first preference; and
- 16 (ii) consecutive numerals from 2 must be
17 placed in the squares on the ballot paper
18 below the line opposite the names of the
19 other candidates so as to indicate the
20 elector's order of preference for all
21 remaining candidates.
- 22 (2A) In an election in a region where there are more than
23 2 candidates on the ballot paper, and there is at least
24 one square on the ballot paper above the line, the
25 elector's vote may be marked on the ballot paper by the
26 elector as follows —
- 27 (a) if there are at least 7 squares on the ballot paper
28 above the line —
- 29 (i) by placing the numeral 1 in a square on
30 the ballot paper above the line so as to
31 indicate the group for whom the elector
32 votes as a first preference; and
- 33 (ii) by placing at least the numerals 2, 3, 4,
34 5 and 6 in squares on the ballot paper

s. 11

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

21 **11. Section 146E replaced**

22 Delete section 146E and insert:
23

24 **146E. Informal ballot papers**

- 25 (1) Section 139(a), (c) and (e) apply to and in relation to
26 ballot papers used in an election in a region.
- 27 (2) A ballot paper is informal, where there are only
28 2 candidates, if it does not indicate the candidate for
29 whom the elector votes.

- 1 (3) A ballot paper is informal, where there are more than
2 2 candidates, if —
- 3 (a) in the case of a ballot paper described in
4 section 128(2)(a) — it does not indicate the
5 elector’s preference for candidates to the extent
6 described in section 128(2)(a); or
- 7 (b) in the case of a ballot paper described in
8 section 128(2)(b) — it does not indicate the
9 elector’s preference for all candidates.
- 10 (4) The operation of subsections (2) and (3) is subject to
11 sections 146EA and 146EB.
- 12 (5) A ballot paper is not informal for any reason other than
13 the reasons enumerated in subsections (2) and (3) and
14 section 139(a), (c) and (e).
- 15 (6) Without limiting the generality of subsection (5),
16 where the vote of an elector is marked on a ballot paper
17 in a manner other than the prescribed manner but the
18 ballot paper clearly indicates the elector’s intention as
19 necessary under subsection (2) or (3)(a) or (b) and is
20 not informal under section 139(a), (c) or (e), that ballot
21 paper —
- 22 (a) is not informal; and
- 23 (b) is to be given effect according to the elector’s
24 intention.
- 25 (7) In subsection (6) —
- 26 *prescribed manner* means —
- 27 (a) where there are only 2 candidates on the ballot
28 paper, the manner required by section 128(1);
- 29 (b) where there are more than 2 candidates on the
30 ballot paper, the manner authorised by
31 section 128(2)(a) or (b), whichever is
32 applicable.
33

s. 12

1 **12. Sections 146EA, 146EB and 146EC inserted**

2 After section 146E insert:

3

4 **146EA. Formal votes below the line**

5 (1) Where there are more than 6 squares on a ballot paper
6 below the line, the ballot paper is not informal under
7 section 146E(3) if the elector has placed consecutive
8 numerals from 1 to 6 in any of those squares (whether
9 or not the elector has also included one or more higher
10 numerals in other squares on the ballot paper below the
11 line).

12 (2) For the purposes of this Act —

13 (a) an elector who, in a square printed on the ballot
14 paper below the line, marks only a single tick
15 or cross is taken to have written the numeral
16 1 in the square; and

17 (b) the following numerals written in a square
18 printed on the ballot paper below the line are to
19 be disregarded —

20 (i) numerals that are repeated and any
21 higher numerals;

22 (ii) if a numeral is missed — any numerals
23 that are higher than the missing
24 numeral.

25 **146EB. Formal votes above the line**

26 (1) A ballot paper is not informal under section 146E(3)
27 if —

28 (a) the elector has marked the ballot paper in
29 accordance with section 128(2A); or

30 (b) the elector has marked the numeral 1, or the
31 numeral 1 and one or more higher numerals, in

- 1 squares printed on the ballot paper above the
2 line.
- 3 (2) For the purposes of this Act —
- 4 (a) an elector who, in a square printed on the ballot
5 paper above the line, marks only a single tick or
6 cross is taken to have written the numeral 1 in
7 the square; and
- 8 (b) the following numerals written in a square
9 printed on the ballot paper above the line are to
10 be disregarded —
- 11 (i) numerals that are repeated and any
12 higher numerals;
- 13 (ii) if a numeral is missed — any numerals
14 that are higher than the missing
15 numeral.
- 16 (3) If this subsection applies under subsection (4), then, for
17 the purposes of sections 146EC, 146G and 146H, the
18 only squares that are taken to have been marked on the
19 ballot paper are the squares that are marked below the
20 line.
- 21 (4) Subsection (3) applies if a ballot paper for an election
22 in a region —
- 23 (a) has one or more squares marked above the line
24 in accordance with subsection (1)(b) or
25 section 128(2A); and
- 26 (b) has one or more squares marked below the line
27 in accordance with section 128(2) or 146EA.

28 **146EC. Treatment of ballot papers of electors who have**
29 **voted above the line**

- 30 (1) This section applies if —
- 31 (a) a ballot paper is marked in accordance with
32 section 128(2A) or 146EB(1)(b); and

s. 13

- 1 (b) one or more numerals are written in squares
2 printed on the ballot paper above the line in
3 relation to groups of candidates (each group
4 being a *preferenced group*).
- 5 (2) The ballot paper is taken to have been marked as if,
6 instead of the numerals referred to in
7 subsection (1)(b) —
- 8 (a) each candidate in a preferred group was
9 given a different numeral starting from 1; and
- 10 (b) candidates in a preferred group were given
11 numerals consecutively starting with the
12 candidate whose name on the ballot paper is at
13 the top of the group to the candidate whose
14 name is at the bottom; and
- 15 (c) the order in which candidates in different
16 preferred groups are given numerals is
17 worked out by reference to the order in which
18 the groups were given numerals on the ballot
19 paper, starting with the group marked 1; and
- 20 (d) when all the candidates in a preferred group
21 have been given numerals, the candidate whose
22 name is at the top of the next preferred group
23 is given the next consecutive numeral.
24

25 **13. Section 146F deleted**

26 Delete section 146F.

27 **14. Section 146G amended**

- 28 (1) Delete section 146G(1)(a) and insert:
29
- 30 (a) open all ballot boxes received at the assistant
31 returning officer's counting place and reject all
32 informal ballot papers; and

1 (aa) count the number of first preference votes
2 marked in each of the squares above the line;
3 and
4

5 (2) In section 146G(1)(c) delete “given for each candidate” and
6 insert:

7
8 marked in each of the squares above the line
9

10 **15. Section 146H amended**

11 (1) Delete section 146H(1)(a) and insert:

12
13 (a) open all ballot boxes received at the assistant
14 returning officer’s counting place and reject all
15 informal ballot papers; and

16 (aa) count the number of first preference votes
17 marked in each of the squares above the line;
18 and
19

20 (2) In section 146H(1)(d) delete “given for each candidate” and
21 insert:

22
23 marked in each of the squares above the line
24

