

EXPLANATORY MEMORANDUM

Electoral Amendment (Ticket Voting and Associated Reforms) Bill 2019

Overview of the Bill

The purpose of the Electoral Amendment (Ticket Voting and Associated Reforms) Bill 2019 is to return control of preferences to West Australian voters by abolishing ticket voting and implementing optional preferential voting both above and below the line.

This Bill proposes to:

- abolish ticket voting in Western Australia
- introduce optional preferential voting above the line with voters instructed to mark at least 6 preferences
- introduce partial optional preferential voting below the line with voters instructed to mark at least 12 preferences
- prevent candidates from listing on more than one group
- include savings provisions to ensure a vote remains formal including -
 - any vote above the line with a valid first preference and with all preferences counted even if they fall short of the six specified
 - below the line votes require only six valid preferences, saving the votes of voters who mistakenly used the above the line instructions for a below the line vote.

Clause Notes

Clause 1

This clause provides that the Bill, once enacted, will be known as the *Electoral Amendment (Ticket Voting and Associated Reforms) Act 2019*.

Clause 2

This clause sets out the commencement provisions.

Sections 1 and 2 come into operation on the day on which the Act receives Royal Assent.

The rest of the Act will come into operation on a day that will be fixed by Proclamation. Different days may be fixed for different provisions.

Clause 3

This clause provides that this Act will amend the *Electoral Act 1907* (WA).

Clause 4

This clause deletes the definitions of voting ticket and voting ticket square from section 4(1) and inserts new definitions.

The new definitions are designed to ensure the provisions of the Act are applied as intended.

Above the line is defined in the proposed section 4(1) in relation to a ballot paper, has the meaning given in section 128(1A)(a).

Below the line, in relation to the ballot paper, has the meaning given in section 128(1A)(b).

Dividing line means the line on a ballot paper that separates the voting method described in section 128(2) from the voting method described in section 128(2A).

Group voting square means a square printed on a ballot paper in accordance with section 113B(3)(b).

Clause 5

This clause amends section 80 to prevent a candidate's name from being included in more than 1 group.

Clause 6

This clause deletes section 113A which contains provisions for lodging a voting ticket in Western Australia as it is no longer required.

Clause 7

This clause amends section 113B by deleting 113B(3)(b) which provides for printing of an additional square for a registered voting ticket. The clause then inserts a new section (b) which specifies the placement of a square above the dividing line for candidates that have been included in a group.

Clause 8

This clause deletes sections 113C(2) and 113C(6) thereby removing references to voting ticket squares that are printed on ballot papers in relation to the candidate or a group in which the candidate is included.

The clause replaces section 113C(2) with the requirement that if a group voting square is printed above the line in relation to the candidates – the name of that group must be printed on the ballot papers next to that square.

Clause 9

This clause amends section 113D to delete its reference to voting tickets as it is no longer required. The clause removes reference to section 113A as it provides for ticket voting and is no longer required.

Clause 10

This clause amends section 128 to define when a square is considered above the line and when a square is considered below the line.

The clause replaces section 128(2) and describes the procedure to be followed if an elector chooses to vote below the line. When there are at least 13 squares on the ballot below the line the elector must place a 1 opposite the name of the candidate to indicate their first preference. The elector must then place consecutive numerals 2 to 12 opposite the names of other candidates below the line so as to indicate the elector's order of preference for the other candidates.

If there are 12 or fewer squares below the line an elector must place a 1 opposite the name of the candidate to indicate their first preference. The voter must then place consecutive numerals from 2 opposite the names of the other candidates so as to indicate the elector's order of preference for all remaining candidates.

The insertion of section 2(A) describes the procedure to be followed in an election in a region if there are at least 2 candidates on the ballot paper and at least one square above the line and the elector has chosen to vote above the line. If there are at least 7 squares on the ballot paper above the line the voter must place the numeral 1 in a square on a ballot paper above the line so as to indicate the group for whom the elector votes as a first preference. The voter must then place at least the numerals 2,3,4,5 and 6 in squares on the ballot paper above the line to indicate the elector's order of preference for other groups.

If there are 3 to 6 squares on the ballot paper above the line the voter must place the numeral 1 in a square above the line to indicate the group for whom the elector votes as a first preference and then place consecutive numerals starting with the numeral 2 in the other squares on the ballot paper above the line to indicate the elector's order of preference for the other groups.

If there are 1 or 2 squares on the ballot paper above the line the voter must place the numeral 1 in a square on the ballot paper above the line so as to indicate the group for which the elector votes.

Clause 11

This clause replaces section 146E and describes when a ballot paper will be considered informal.

A ballot paper will be informal if:

- there are only 2 candidates and it does not indicate the candidate for whom the elector votes
- there are more than 2 candidates and it does not indicate the first candidate for whom the elector votes when voting below the line, or it does not indicate the elector's preference for all candidates.

The clause also contains savings provisions to ensure that wherever possible if a voter's intention is clear and is not informal under section 139(a), (c) and (e) that the vote will be considered formal.

Clause 12

This clause inserts sections containing savings provisions pertaining to formal votes above and below the line and the treatment of ballot papers of electors who have voted above the line.

Where there are 6 or more squares on a ballot paper below the line, the ballot paper is not informal if the elector has placed consecutive numerals from 1 to 6 in any of those squares whether or not the elector has also included one or more higher numerals in other squares.

For above the line votes if an elector has marked the numeral 1, or numeral 1 and one or more higher numerals in the square printed on the ballot paper above the line then the ballot paper is not informal.

Section 146EC describes the procedure that will be followed for allocating preferences when an elector votes above the line. Each candidate in the preferred group will be given a different numeral starting from 1. Once preferences have been allocated to the first group, the candidate whose name is at the top of the next group will be allocated the next consecutive numeral and so on.

Clause 13

This clause deletes section 146F because it refers to voting tickets and is no longer required.

Clause 14

This clause amends section 146G - *count of votes by assistant returning officers, procedure for* - to remove references to candidates above the line and replace with references to squares.

Clause 15

This clause amends section 146H - *count of votes by deputy returning officers, procedure for* - to remove references to candidates above the line and replace with references to squares.