

**PARLIAMENTARY ELECTORATES AND
ELECTIONS (AMENDMENT) ACT.**

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 108, 1975.

An Act to make further provision with respect to the conduct of elections; and for this and other purposes to amend the Parliamentary Electorates and Elections Act, 1912. [Assented to, 23rd December, 1975.]

BE

Parliamentary Electorates and Elections (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 108, 1975
and with the advice and consent of the Legislative
Council and Legislative Assembly of New South Wales in
Parliament assembled, and by the authority of the same, as
follows:—

1. This Act may be cited as the "Parliamentary Elector- Short title.
ates and Elections (Amendment) Act, 1975".

2. (1) This section and section 1 shall commence on the Commence-
date of assent to this Act. ment.

(2) Except as provided in subsection (1), the several
provisions of this Act shall commence on such day or days as
may be appointed by the Governor in respect thereof and as
may be notified by proclamation published in the Gazette.

3. The Parliamentary Electorates and Elections Act, Principal
1912, is, in this Act, referred to as the Principal Act. Act.

4. The Principal Act is amended—

- (a) (i) by omitting from section 1 the matter relating Amendment
to Part II and by inserting instead the following of Act No.
matter :— 41, 1912.
Sec. 1.
(Short title,
arrange-
ment, &c.)

**PART II.—NUMBERS OF MEMBERS AND
OF ELECTORATES—DISTRIBUTION OF
ELECTORATES—ss. 4–19.**

- (ii) by omitting from the matter relating to Part
III in section 1 the matter "21A" and by
inserting instead the matter "21";

(iii)

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(iii) by omitting from the matter relating to Part IV in section 1 the matter "67" and by inserting instead the matter "55";

(iv) by omitting from section 1 the matter relating to Part V and by inserting instead the following matter :—

PART V.—CONDUCT OF ELECTIONS—ss.
68–154.

(v) by omitting from section 1 the matter relating to Part VII and by inserting instead the following matter :—

PART VII.—MISCELLANEOUS PROVISIONS,
PENALTIES, &c.—ss. 176–186.

Sec. 3.
(Interpre-
tation of
terms.)

(b) (i) by omitting from section 3 the words "In the construction of this Act the following expressions within inverted commas shall bear the respective meanings hereby assigned to them, unless the context or subject-matter otherwise indicates or requires, namely :—" and by inserting instead the words "In this Act, except in so far as the context or subject-matter otherwise indicates or requires—";

(ii) by inserting in section 3 after the definition of "Authorised agent" the following definition :—

"Authorised witness" means a person who is an authorised witness for the purposes of this Act by virtue of section 114B.

(c)

Parliamentary Electorates and Elections (Amendment).

(c) by omitting section 11 and by inserting instead the No. 108, 1975
following section :—

Sec. 11.

11. (1) A person shall not be appointed a commissioner under this Act if he is a person—

Disqualifi-
cations for
appoint-
ment as
commis-
sioner.

- (a) who is a bankrupt, is applying to take the benefit of any law for the relief of bankrupt or insolvent debtors, whose debts are subject to a composition with his creditors, or whose remuneration would, on his appointment, be subject to an assignment for their benefit;
- (b) who has been convicted in New South Wales of a crime or an offence which is punishable by imprisonment for 12 months or more, or has been convicted elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would have been a crime or an offence so punishable; or
- (c) who is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

(2) A commissioner shall be deemed to have vacated his office if he—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(b)

Parliamentary Electorates and Elections (Amendment).

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(b) is convicted in New South Wales of a crime or an offence which is punishable by imprisonment for 12 months or more, or is convicted elsewhere than in New South Wales of a crime or an offence which, if committed in New South Wales, would be a crime or an offence so punishable, or is convicted of a crime or an offence, whether in New South Wales or elsewhere, and is sentenced to imprisonment for that crime or offence; or

(c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act.

Sec. 21.

(d) by omitting section 21 and by inserting instead the following section :—

Disquali-
fications
from
voting.

21. A person shall not be entitled to have his name placed or retained on any roll of electors for the Assembly if he—

(a) is a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or

(b) has been convicted of a crime or an offence, whether in New South Wales or elsewhere, and has been sentenced in respect of that crime or offence to imprisonment for 12 months or more and is in prison serving that sentence.

(e)

Parliamentary Electorates and Elections (Amendment).

(e) (i) by omitting section 21A (7) (b) and by inserting instead the following paragraph:—

No. 108, 1975
 Sec. 21A.
 (Appointment of Electoral Commissioner.)

(b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

(ii) by omitting section 21A (7) (d) and by inserting instead the following paragraph:—

(d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or;

(f) (i) by omitting from section 26 (4) (b) the words "christian or other" and by inserting instead the words "given name or";

Sec. 26.
 (Rolls for districts and subdivisions.)

(ii) by omitting from section 26 (4) (d) the words "christian or other" and by inserting instead the words "given name or";

(g) (i) by omitting from section 41 (1) the words "christian or other" and by inserting instead the words "given name or";

Sec. 41.
 (Information as to deaths and convictions.)

(ii) by omitting from section 41 (2) the words "christian or other" and by inserting instead the words "given name or";

(h)

Parliamentary Electorates and Elections (Amendment).

No. 108, 1975 (h) by omitting section 55 (3) and by inserting instead the following subsection :—

Sec. 55.
(Regulations.)

(3) Section 41 of the Interpretation Act, 1897, applies in respect of regulations made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

Further amendment of Act No. 41, 1912. Part V, heading.

5. The Principal Act is further amended—

(a) by omitting the heading to Part V and by inserting instead the following heading :—

PART V.

CONDUCT OF ELECTIONS.

Sec. 79.
(Nominations of candidates.)

(b) by omitting from section 79 (7A) (a) the words “fifty dollars” and by inserting instead the matter “\$100”;

Sec. 82A.

(c) by inserting after section 82 the following section :—

Returning officer to determine order in which candidates' names are to be entered on ballot-paper.

82A. (1) If after noon on the day of nomination there are two or more candidates, the returning officer shall forthwith hold a ballot to determine the order in which the candidates' names are to be entered on the ballot-papers.

(2) Every such ballot shall be held in accordance with the procedure prescribed by regulations made under this Act.

(d)

Parliamentary Electorates and Elections (Amendment).

(d) by omitting section 83 (a) and (b) and by inserting instead the following paragraphs :—

Sec. 83.
(Printing
ballot-
papers.)

(a) the names of all candidates duly nominated shall be entered on the ballot-papers in the order in which those names were drawn by a ballot held pursuant to section 82A;

(b) the surname of each candidate shall be in more conspicuous type than that used for his given name or names;

(e) by inserting after section 89 (1) the following subsection :—

Sec. 89.
(Deputy
returning
officers
to be
furnished
with
copies of
rolls and
ballot-
papers.)

(1A) The returning officer shall retain for use at his office—

(a) at least one copy of the printed rolls in force for his district; and

(b) such number of ballot-papers as he considers will be required for the use of electors who are permitted to vote at his office before polling day,

and shall keep an exact count of those ballot-papers.

(f) (i) by omitting from section 90 (4) the words “presiding officer” where firstly occurring and by inserting instead the words “returning officer or deputy”;

Sec. 90.
(How
scrutineers
to be
appointed.)

(ii) by omitting from section 90 (4) the words “twenty-five dollars, and may be removed from the polling-booth by any member of the police force or person authorised by the presiding officer to remove him” and by inserting instead the matter “\$25”;

(g)

Parliamentary Electorates and Elections (Amendment).

No. 108, 1975
 Sec. 95. (g) by omitting section 95 and by inserting instead the following section :—

Hours of
 polling.

95. (1) Subject to subsection (2), every polling shall commence at 8 a.m. on the day appointed for the polling to take place, and shall, unless lawfully adjourned, close at 6 p.m. on that day.

(2) Subject to sections 111 (d) and 114 (1) (b) (iii), if any elector is in a polling-booth at 6 p.m. on polling day and desires to vote, his vote shall be taken and the polling shall not close until he has voted.

Sec. 97.
 (Where
 electors
 may vote.)

(h) by omitting from section 97 (2) the words “presiding officer” and by inserting instead the words “returning officer or deputy”;

Sec. 99.

(i) by omitting section 99 and by inserting instead the following section :—

Persons
 claiming
 to vote to
 give name
 and address,
 etc.

99. Every person claiming to vote at any polling-booth shall—

(a) state his surname and his given name or names;

(b) if required to do so by the returning officer or deputy, state any other particulars necessary for the purpose of identifying the name on the roll under which the vote is claimed; and

(c) require a ballot-paper to be handed to him.

(j)

Parliamentary Electorates and Elections (Amendment).

- (j) (i) by omitting from section 100 (1) the words “presiding officer” and by inserting instead the words “returning officer or deputy”; No. 108, 1975
Sec. 100.
(Questions to be put if voter challenged.)
- (ii) by omitting from section 100 (2) the words “presiding officer” and by inserting instead the words “returning officer or deputy”;
- (k) (i) by omitting from section 101 the words “christian name” wherever occurring and by inserting instead the words “given name or names”; Sec. 101.
(Errors not to forfeit vote.)
- (ii) by omitting from section 101 the words “presiding officer” wherever occurring and by inserting instead the words “returning officer or deputy”;
- (l) by omitting from section 102 the words “presiding officer” wherever occurring and by inserting instead the words “returning officer or deputy”; Sec. 102.
(Ballot-papers signed or initialled.)
- (m) by omitting from section 103 (1) (b) the words “initials of the presiding officer, and exhibit it so folded to the presiding officer” and by inserting instead the words “signature or initials of the returning officer or deputy, and exhibit it so folded to the returning officer or deputy”; Sec. 103.
(Vote, how given.)
- (n) by omitting from section 104 the words “presiding officer” wherever occurring and by inserting instead the words “returning officer or deputy”; Sec. 104.
(Spoilt ballot-papers.)
- (o) by omitting from section 108A the words “the last preceding section, or under paragraph (f) of section 114H of this Act” and by inserting instead the words “section 108, section 114H (1) (f) or section 114T”; Sec. 108A.
(Instructions.)

(p)

Parliamentary Electorates and Elections (Amendment).

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Sec. 111.

Ballot-papers not to be removed from polling-booth, &c.

(p) by omitting section 111 and by inserting instead the following section :—

111. A person shall not, without lawful authority—

- (a) remove a ballot-paper from any polling-booth or, where the office of a returning officer is open to enable electors to vote before polling day, remove a ballot-paper from that office;
- (b) enter into a compartment of a polling-booth while any person is in the compartment;
- (c) remain in the compartment of a polling-booth, or, where he is voting at the office of a returning officer before polling day, remain at that office, for a longer period than is necessary for the purpose of marking his ballot-paper; or
- (d) obstruct or unnecessarily delay the proceedings at a polling-booth or, where the office of a returning officer is open to enable electors to vote before polling day, the proceedings at that office.

Penalty : \$50.

Sec. 113.

Penalty for obstructing elector from access to polling-place.

(q) by omitting section 113 and by inserting instead the following section :—

113. A person shall not, on polling day, or on any day to which polling is adjourned, or on any day on which the office of a returning officer is open to enable electors to vote before polling day, obstruct the access or approaches to the polling-booth or the office of the returning officer, as the case may be.

Penalty : \$50.

(r)

Parliamentary Electorates and Elections (Amendment).

- (r) by omitting section 114 and by inserting instead the No. 108, 1975 following section :—

Sec. 114.

114. (1) Every returning officer and deputy Returning officer, &c., may arrest offenders under this Act. returning officer, any assistant returning officer or clerical assistant acting under the authority of the returning officer or deputy, and every member of the police force shall have and may exercise such powers as may be necessary to maintain order and keep the peace at any election or polling under this Act, and for that purpose and without prejudice to any other powers conferred on him by law—

(a) may—

- (i) without warrant, arrest or cause to be arrested any person who he has reasonable grounds to believe is committing or has committed or is attempting to commit an offence under this Act at or in the immediate vicinity of any polling-place or, where the office of the returning officer is open to enable electors to vote before polling day, at or in the vicinity of that office; or
- (ii) instead of arresting or causing the arrest of the person, remove or cause the removal of that person from the polling-place or immediate vicinity of that polling-place or, as the case may be, from the office of the returning officer or immediate vicinity of that office; and

(b)

Parliamentary Electorates and Elections (Amendment).

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(b) may remove or cause to be removed from a polling-booth and from the immediate vicinity of the polling-booth, and, where the office of the returning officer is open to enable electors to vote before polling day, from that office and from the immediate vicinity of that office, any person—

(i) who, having been given a lawful direction by or under the authority of the returning officer or deputy, fails to comply with that direction;

(ii) who is obstructing the access or approaches to the polling-booth or, as the case may be, to that office;

(iii) who is obstructing or unnecessarily delaying the proceedings at the polling-booth or, as the case may be, at that office; or

(iv) who is behaving in a disorderly manner or is causing a disturbance.

(2) Any person arrested under subsection (1) shall, as soon as practicable thereafter, be taken before a justice of the peace to be dealt with according to law for the offence for which he was arrested.

Further amendment of Act No. 41, 1912.

Sec. 114A. (Application for a postal vote certificate and postal ballot-paper.)

6. The Principal Act is further amended—

(a) (i) by omitting from section 114A (1) (b) the words “five miles” and by inserting instead the words “eight kilometres”;

(ii)

Parliamentary Electorates and Elections (Amendment).

(ii) by omitting from section 114A (1) the words No. 108, 1975 “may make application for a postal vote certificate and postal ballot-paper” and by inserting instead the words “may make an application for a postal vote certificate and a postal ballot-paper to the returning officer for the district for which the elector is enrolled or, if the elector has reason to believe that the application may not reach that returning officer so as to enable him to receive from that returning officer the postal vote certificate and the postal ballot-paper in time to permit him to vote at the election, to some other district returning officer”;

(iii) by omitting section 114A (2) and (2A) and by inserting instead the following subsections :—

(2) An application under subsection (1) shall—

- (a) be in or to the effect of the prescribed form and specify the ground on which the elector is making the application;
- (b) be signed by the elector in his own handwriting;
- (c) be witnessed by an authorised witness; and
- (d) be sent not earlier than the ninth day preceding the issue of the writ for the election to which it relates.

(2A)

No. 108, 1975

(2A) An elector who has made an application under subsection (1) shall, notwithstanding that the application complies with subsection (2), be entitled to a postal ballot-paper and postal vote certificate only if the application is received by the returning officer to whom it is addressed—

- (a) in the case of an application sent from within Australia, before 6 p.m. on the third day preceding polling day; or
- (b) in the case of an application sent from outside Australia, before 6 p.m. on the fifth day preceding polling day.

Sec. 114B.
(Authorised
witnesses.)

(b) by omitting section 114B (2) and by inserting instead the following subsection :—

(2) A person is not eligible to be an authorised witness at or in connection with an election if he—

- (a) is a candidate at the election; or
- (b) is a returning officer, a deputy returning officer, an assistant returning officer, a substitute returning officer, a poll clerk or a clerical assistant appointed to assist a returning officer in the performance of his duties.

(c)

Parliamentary Electorates and Elections (Amendment).

- (c) by omitting section 114D and by inserting instead the following section :—

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Sec. 114D.

114D. (1) Where a returning officer receives an application made in accordance with section 114A, he shall deliver or post to the elector who made the application—

Issue of certificate and ballot paper.

- (a) a postal ballot-paper that is in or to the effect of the form prescribed in Schedule 15; and
- (b) an envelope bearing—
 - (i) the address of the returning officer for the district for which the elector has declared that he is enrolled; and
 - (ii) a postal vote certificate that is in or to the effect of the prescribed form.

(2) Before delivering or posting a ballot-paper under subsection (1), the returning officer shall, if the particulars of the candidates are not already printed thereon, enter on the ballot-paper—

- (a) the name of the electoral district for which the elector has declared that he is enrolled; and
- (b) the names of the candidates for that district in the order in which those names were drawn by ballot held pursuant to section 82A.

(d)

Parliamentary Electorates and Elections (Amendment).

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Sec. 114E.
(Inspection of applications.)

- (d) by omitting from section 114E (1) the words “before six o’clock in the afternoon of the day immediately preceding the polling day” and by inserting instead the words “before the time specified in section 114A (2A) (a) or (b), whichever is applicable”;

Sec. 114G.
(Returning officer to notify issue of postal vote certificates and postal ballot-papers.)

- (e) (i) by omitting from section 114G (2) the words “presiding officer” and by inserting instead the words “deputy returning officer”;
- (ii) by omitting from section 114G (3) the words “presiding officer” and by inserting instead the words “returning officer or deputy”;

Sec. 114H.
(Directions for postal voting.)

- (f) by omitting from section 114H (2) the word “ten” and by inserting instead the word “seven”;

Sec. 114L.
(Preliminary scrutiny of postal ballot-papers.)

- (g) (i) by omitting from section 114L the word “ten” and by inserting instead the word “seven”;
- (ii) by omitting section 114L (b) and by inserting instead the following paragraph :—

(b) if he is satisfied that—

- (i) the signature on the certificate is that of the elector who signed the application for the certificate;
- (ii) the signature purports to have been witnessed by an authorised witness;

(iii)

Parliamentary Electorates and Elections (Amendment).

(iii) the envelope bearing the certificate and containing the ballot-paper was delivered, or, if posted, bears a postmark clearly indicating that it was posted, to him before the close of the poll; and

(iv) the elector is enrolled for the district,

accept the ballot-paper for further scrutiny, but if he is not so satisfied, disallow the ballot-paper without opening the envelope;

(iii) by omitting from section 114L (d) the words "and preserve";

(iv) by omitting section 114L (e) and by inserting instead the following paragraph:—

(e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny—

(i) by removing those ballot-papers from the ballot-box in which they were placed in accordance with paragraph (c); and

(ii) by opening the ballot-papers so removed and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal.

(h)

Parliamentary Electorates and Elections (Amendment).

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(h) by omitting the short heading after section 114N.

Short heading after sec. 114N.

Further amendment of Act No. 41, 1912. Secs. 114P-114z.

7. The Principal Act is further amended by inserting before the short heading preceding section 115 the following sections and short heading :—

Pre-poll voting.

Application for permission to vote before polling day.

114P. (1) An elector who—

- (a) will not throughout the hours of polling on polling day be within New South Wales;
- (b) will not throughout the hours of polling on polling day be within eight kilometres by the nearest practicable route of any polling-booth open for the purposes of the election;
- (c) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from voting at any polling-booth; or
- (d) by reason of his membership of a religious order or his religious beliefs—
 - (i) is precluded from attending at a polling-booth; or
 - (ii) will be precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours,

may make an application to the returning officer for the district for which he is enrolled for permission to vote before polling day.

(2)

Parliamentary Electorates and Elections (Amendment).

(2) An application under subsection (1) No. 108, 1975 shall—

- (a) be in or to the effect of the prescribed form and specify the ground on which the elector is making the application;
- (b) be signed by the elector in his own handwriting;
- (c) be witnessed by an authorised witness; and
- (d) be delivered by the elector in person to the office of the returning officer during the ordinary business hours of that office between noon on the day of nomination and 7 p.m. on the second day preceding polling day.

(3) An elector shall not in an application under subsection (1) make any statement which is, to his knowledge, false or misleading as to a material particular.

Penalty : \$100 or imprisonment for one month.

(4) A person shall not persuade or induce an elector to make any statement in an application under subsection (1) which is, to the knowledge of that person, false or misleading as to a material particular.

Penalty : \$100 or imprisonment for one month.

(5) A person shall not—

- (a) persuade or induce; or
- (b) associate himself with any other person in persuading or inducing,

an elector to make an application under subsection (1).

Penalty : \$100 or imprisonment for one month.

(6)

Parliamentary Electorates and Elections (Amendment).

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(6) An authorised witness shall not witness the signature of an elector to an application under subsection (1) unless—

- (a) he has satisfied himself as to the identity of the elector;
- (b) he has seen the elector sign the application in the elector's own handwriting; and
- (c) he knows that the statements contained in the application are true, or has satisfied himself by inquiring from the elector or otherwise that the statements contained in the application are true.

Penalty : \$100 or imprisonment for one month.

(7) An authorised witness witnessing the signature of an elector making an application under subsection (1) shall sign his name in his own handwriting on the application in the space provided for that purpose, and shall add his address and the date.

Procedure
for voting
before
polling day.

114Q. (1) Where a returning officer receives an application made in accordance with section 114P, he may, and, if requested to do so by any scrutineer, shall, put to the elector who made the application any of the questions prescribed by section 100 (1) which are applicable to the case, and, if the elector answers the questions satisfactorily or if no questions are put to the elector, the elector shall, after making a declaration in the prescribed form, be permitted to vote.

(2) The form of declaration shall be either printed or written on an envelope and shall, after being filled in, be signed by the elector in his own handwriting in the presence of the returning officer who shall then witness the elector's signature.

(3)

Parliamentary Electorates and Elections (Amendment).

(3) Subject to subsection (4), the returning officer shall then hand to the elector a ballot-paper that is in or to the effect of the form prescribed in Schedule 4, and on receiving that ballot-paper, the elector shall—

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- (a) mark his vote on the ballot-paper in accordance with the directions thereon in the view of the returning officer but so that the returning officer is unable to see what marks he makes on the ballot-paper;
- (b) fold the ballot-paper so that the marks made by him cannot be seen; and
- (c) at once return the ballot-paper so folded to the returning officer.

(4) Before handing the ballot-paper to the elector under subsection (3), the returning officer shall—

- (a) if the particulars of the candidates are not already printed on it, enter on the ballot-paper—
 - (i) the name of the electoral district for which the elector has declared that he is enrolled; and
 - (ii) the names of the candidates for that district in the order in which those names were drawn by ballot held pursuant to section 82A; and
- (b) sign the back of the ballot-paper in his own handwriting in such a position as to be readily seen when the elector has folded the ballot-paper in accordance with subsection (3) (b).

(5)

Parliamentary Electorates and Elections (Amendment).

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(5) On the ballot-paper being returned to him in accordance with subsection (3) (c), the returning officer shall—

- (a) in the presence of the elector, enclose it in the envelope bearing the elector's declaration and securely fasten the envelope; and
- (b) retain the envelope and ballot-paper until the close of the poll.

(6) When an elector has voted under this section, the returning officer shall endorse on the application made by that elector under section 114P (1) the fact that the elector has voted and the date of the vote.

(7) An authorised witness shall not, in any way, influence or attempt to influence the vote of an elector voting under this section.

Penalty : \$250 or imprisonment for three months.

Applications to be available for public inspection.

114R. The returning officer shall retain every application made to him under section 114P (1) until the election can no longer be questioned and shall, on being requested to do so by any person attending his office at any time during the ordinary business hours of that office from and including the third day after polling day until the election can no longer be questioned, make any such application available for inspection by that person.

Returning officer to notify deputy returning officer that elector has voted before polling day.

114S. When an elector has voted in accordance with section 114Q, the returning officer shall, if certified copies of the roll have been furnished to the deputy returning officers responsible for the subdivision for which the elector is enrolled, immediately notify those deputy

returning

Parliamentary Electorates and Elections (Amendment).

returning officers that the elector has voted and, on being so notified, each such deputy returning officer shall enter a note of that fact on the certified copies of the roll furnished to him, but if certified copies of the roll have not been so furnished, the returning officer shall enter such a note on the certified copies of the roll in his possession. No. 108, 1975

114r. (1) If an elector permitted to vote under section 114q satisfies the returning officer that his sight is so impaired that he is unable to vote without assistance, the returning officer shall permit a person appointed by the elector to assist the elector, and the person so appointed shall, in the same manner as would be required if he were the elector, mark a vote on the ballot-paper according to the instructions of the elector and then fold and return the ballot-paper to the returning officer. Assistance
to certain
electors.

(2) If any such elector fails to appoint a person as provided by subsection (1), the returning officer, in the presence of such scrutineers as are present, or, if there are no scrutineers present, in the presence of any person employed in his office, shall, in the same manner as would be required if he were the elector, mark a vote on the ballot-paper according to the instructions of the elector and then fold the ballot-paper.

114u. (1) A candidate may, by writing under his hand, appoint one or more scrutineers in order to observe voting by electors under section 114q. Appoint-
ment of
scrutineers.

(2) Subject to subsection (3), a scrutineer so appointed is, during the ordinary business hours of the office of the returning officer between noon on the day of nomination and 7 p.m. on the second day preceding polling day, entitled to be present in that part of the office of the returning officer in which voting under section 114q takes place.

(3)

No. 108, 1975

(3) If a scrutineer so appointed leaves the office of the returning officer during the period that he is entitled to be present at that office, another scrutineer so appointed may act in his place, but only one scrutineer is entitled to be present at that office in respect of a candidate at any one time.

(4) A scrutineer appointed under subsection (1) shall not—

- (a) fail or refuse to comply with any lawful direction given to him by the returning officer;
- (b) interfere with or attempt to influence an elector who is making an application under section 114P (1) or who is voting under section 114Q;
- (c) communicate with any such elector, except so far as it is necessary to do so in the discharge of his functions; or
- (d) misconduct himself at the office of the returning officer when present at that office pursuant to subsection (2) or (3).

Penalty : \$25.

(5) A scrutineer shall, before acting as such at the office of the returning officer when open to enable electors to vote before polling day, make and sign before the returning officer a declaration in the same terms as are prescribed in section 91 (1).

(6) Where a declaration is made and signed in accordance with subsection (5), the returning officer shall transmit the declaration to the Electoral Commissioner, and Part IV of the Oaths Act, 1900, shall apply to the declaration as if it had been made under that Act.

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114v. A person shall not mark or attempt or purport to mark a vote on a ballot-paper handed to an elector under section 114Q unless he—

Penalty for unlawfully marking ballot-paper.

- (a) is that elector; or
- (b) is a person appointed by that elector under section 114T (1) or is the returning officer acting in accordance with section 114T (2).

Penalty : \$500 or imprisonment for six months.

114w. A person who is present when an elector is attending the office of the returning officer for the purpose of voting under section 114Q shall not—

Duty of persons present when elector votes under section 114Q.

- (a) fail or refuse to comply with any lawful direction given to him by the returning officer; or
- (b) except as provided in section 114T—
 - (i) communicate with the elector in relation to the marking of that elector's vote;
 - (ii) assist the elector or in any manner interfere with the elector in relation to the marking of that elector's vote; or
 - (iii) look at the elector's vote or do anything which may result in his obtaining knowledge of the elector's vote.

Penalty : \$250 or imprisonment for three months.

114x. (1) At the scrutiny the returning officer shall produce unopened all envelopes containing ballot-papers marked by electors who have voted under section 114Q and shall also produce all applications made to him under section 114P (1).

Preliminary scrutiny of ballot-papers of electors under section 114Q.

(2)

Parliamentary Electorates and Elections (Amendment).

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(2) The returning officer shall then compare the signature of the elector in the declaration on each of those envelopes with the signature in the application made by that elector under section 114P (1) and allow the scrutineers to examine both signatures; and if, after making that comparison, the returning officer is satisfied that the signature in the declaration is that of the elector who signed the application and if he is also satisfied that—

- (a) the signature purports to have been witnessed by an authorised witness; and
- (b) the elector is enrolled for the district for which the returning officer is appointed,

he shall remove the ballot-paper from the envelope and, without unfolding the ballot-paper or allowing any other person to do so, place the ballot-paper in a locked and sealed ballot-box for further scrutiny, together with any other ballot-papers accepted for further scrutiny under this subsection, but if he is not so satisfied he shall disallow the ballot-paper without opening the envelope.

(3) After dealing with all envelopes, ballot-papers and applications in the manner prescribed by subsection (2), the returning officer—

- (a) shall seal up in separate parcels—
 - (i) those envelopes from which ballot-papers have been removed for further scrutiny; and
 - (ii) those envelopes containing disallowed ballot-papers; and

(b)

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(b) shall then proceed with the further scrutiny— No. 108, 1975

- (i) by removing the ballot-papers from the ballot-box in which they were placed in accordance with subsection (2); and
- (ii) by opening the ballot-papers so removed and allowing and counting those which are formal and disallowing and rejecting those which, by virtue of section 122, are informal.

114y. If any elector voting under section 114Q Spoilt ballot-papers. satisfies the returning officer that he has spoilt the ballot-paper handed to him under that section by reason of accident or mistake, and that ballot-paper has not been enclosed in an envelope in accordance with subsection (5) of that section, the returning officer, on receipt of the spoilt ballot-paper, shall—

- (a) hand to the elector a new ballot-paper; and
- (b) cancel and preserve the spoilt ballot-paper.

114z. Every reference in sections 114Q, 114R, 114T, Reference to returning officer deemed to include clerical assistant in certain cases. 114U, 114v, 114w (a) and 114Y to a returning officer shall be deemed to include a reference to a clerical assistant appointed to assist the returning officer in the performance of his duties.

8. The Principal Act is further amended—

- (a) (i) by omitting from section 115 (1) (d) the words “and completed and attested by him” and by inserting instead the words “who shall then attest the signature of the elector”;

(ii)

Further amendment of Act No. 41, 1912.

Sec. 115. (Voting outside district.)

Parliamentary Electorates and Elections (Amendment).

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- (ii) by omitting from section 115 (1) (e) the words “arranged in alphabetical order according to their surnames in according with section eighty-three of this Act” and by inserting instead the words “in the order in which those names were drawn by ballot held pursuant to section 82A”;
- (iii) by omitting section 115 (2) and by inserting instead the following subsections :—

(2) If the returning officer or deputy is unable to supply the elector with a printed or a partly printed and partly written ballot-paper in or to the effect of the prescribed form, he shall, after the declaration has been made by the elector pursuant to subsection (1) (d), supply to the elector a paper which is signed or initialled by the returning officer or deputy on the back and on which is written—

- (a) the name of the electoral district;
- (b) the names of the candidates in the order in which those names were drawn by ballot held pursuant to section 82A; and
- (c) the directions as to the method of voting set out in Schedule 4.

(2A) On receiving the paper, the elector shall—

- (a) retire alone into an unoccupied compartment of the polling-booth and there in private record his vote in the manner directed on the paper;

(b)

Parliamentary Electorates and Elections (Amendment).

(b) fold the paper so that the vote so No. 108, 1975 recorded cannot be seen; and

(c) at once return the paper so folded to the returning officer or deputy.

(2B) The paper shall, on being returned to the returning officer or deputy, be dealt with as a ballot-paper.

(b) by omitting section 118 (3) (a) and by inserting Sec. 118. instead the following paragraph :— (Further scrutiny.)

(a) if it is not duly signed or initialled by the returning officer or deputy who took the poll at the polling-place where the voter voted;

(c) by omitting section 119 and by inserting instead Sec. 119. the following section :—

119. The decision of the returning officer as to the allowance or disallowance or the acceptance or rejection of— Decision of returning officer re validity of ballot-paper.

(a) the ballot-paper of an absent voter;

(b) the ballot-paper of an elector who has voted by post;

(c) the ballot-paper of an elector who has voted before polling day; or

(d)

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(d) any ballot-paper to which section 106 applies,

shall, subject only to review by the Court of Disputed Returns when hearing a petition in accordance with Part VI, be final.

Sec. 120.

(d) by omitting section 120 and by inserting instead the following section :—

Certain
duties of
returning
officer.

120. (1) The returning officer shall—

(a) with respect to ballot-papers marked by absent voters, seal up in separate parcels—

(i) all envelopes from which any such ballot-papers have been taken;

(ii) all unopened envelopes containing any such ballot-papers;

(iii) any such ballot-papers allowed as formal; and

(iv) any such ballot-papers rejected as informal;

(b) with respect to ballot-papers marked by persons in accordance with section 106, seal up in separate parcels—

(i) all envelopes from which any such ballot-papers have been taken;

(ii) all unopened envelopes containing any such ballot-papers;

(iii)

Parliamentary Electorates and Elections (Amendment).

- (iii) any such ballot-papers allowed as No. 108, 1975 formal; and
 - (iv) any such ballot-papers rejected as informal;
- (c) with respect to postal ballot-papers, seal up in separate parcels—
- (i) any such ballot-papers allowed as formal; and
 - (ii) any such ballot-papers disallowed as informal; and
- (d) with respect to ballot-papers marked by persons who voted before polling day, seal up in separate parcels—
- (i) any such ballot-papers allowed as formal; and
 - (ii) any such ballot-papers disallowed as informal.
- (2) The provisions of sections 127, 128 and 129 shall apply to parcels of ballot-papers and envelopes referred to in subsection (1), and to parcels of envelopes referred to in sections 114L (d) and 114x (3) (a), as if those parcels were parcels of used ballot-papers referred to in those provisions.
- (e) (i) by omitting from section 120c (1) (b) (i) the word “Christian” and by inserting instead the words “given name or”;
- (ii) Sec. 120c.
(Notice to electors who have not voted.)

Parliamentary Electorates and Elections (Amendment).

No. 108, 1975

- (ii) by omitting from section 120c (2) (b) (iii) the word "election." and by inserting instead the following words and subparagraph :—

election; or

- (iv) had a valid and sufficient reason for his failure to vote at the election.

Sec. 122.
(Informal ballot-papers.)

- (f) (i) by omitting section 122 (1) (a) and by inserting instead the following paragraph :—

(a) it is not duly signed or initialled by the returning officer or deputy;

- (ii) by omitting from section 122 (1) (b) the word "if";

Sec. 122A.
(Ballot-papers not to be informal in certain circumstances.)

- (g) by omitting from section 122A (3) the words "presiding officer" and by inserting instead the words "returning officer or deputy";

Sec. 126.
(Declaration of poll.)

- (h) by inserting in section 126 (1) after the words "absent voters' ballot-papers" wherever occurring the words ", ballot-papers of persons who voted before polling day".

Further amendment of Act No. 41, 1912.

9. The Principal Act is further amended—

Sec. 151B.
(Exhibition of posters.)

- (a) (i) by omitting from section 151B (2) the words "A poster" and by inserting instead the words "For the purpose of subsection (1), a poster";

(ii)

Parliamentary Electorates and Elections (Amendment).

(ii) by inserting after section 151B (2) the No. 108, 1975 following subsection :—

(2A) A person shall not post up, or permit or cause to be posted up, a poster—

(a) on or within any premises occupied or used by, or under the control or management of—

(i) the Crown or any instrumentality or agency of, or statutory body representing, the Crown; or

(ii) any local authority; or

(b) in the case of premises which have no one in occupation, on or within those premises, unless that person has obtained—

(i) in the case of premises owned by one person alone, the permission in writing of that person; or

(ii) in the case of premises owned by two or more persons, whether as joint tenants or as tenants in common or otherwise, the permission in writing of at least one of those persons.

(iii) by omitting from section 151B (3) (a) the word “or” where lastly occurring;

(iv)

Parliamentary Electorates and Elections (Amendment).

No.108,1975

- (iv) by omitting from section 151B (3) (b) the words "Theatres and Public Halls Act, 1908, as subsequently amended." and by inserting instead the following words and paragraph :—

Theatres and Public Halls Act, 1908;
or

- (c) the posting up, exhibiting, writing, drawing or depicting of any poster within a hall or room that is being or is about to be used for a meeting held by or on behalf of a candidate in connection with an election.

- (v) by inserting in section 151B (6) before the definition of "poster" the following definition :—

"local authority" means the council of a city, municipality or shire, or a county council.

- (vi) by inserting in section 151B (6) after the definition of "poster" the following definitions :—

"premises" includes any structure, building, vehicle or vessel or any place, whether built on or not, and any part thereof.

"statutory body representing the Crown" has the meaning ascribed to that expression by section 4 of the Local Government Act, 1919.

(vii)

Parliamentary Electorates and Elections (Amendment).

(vii) by omitting from the definition of “the No. 108, 1975 prescribed size” in section 151B (6) the words “one thousand two hundred square inches” and by inserting instead the words “8 000 square centimetres”;

(viii) by inserting after section 151B (6) the following subsection :—

(7) Where premises referred to in paragraph (b) of subsection (2A) are subject to a lease for a term of six months or more, the reference in that paragraph to the owner of the premises shall be read as a reference to the lessee of the premises.

(b) by inserting in section 151D after the words “deputy Sec. 151D. returning officer” the words “, any officer appointed (Removal of illegal posters.) by the returning officer for the purpose”;

(c) by omitting section 176 (1A) and by inserting Sec. 176. (Regulations.) instead the following subsection :—

(1A) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation made under subsection (1) as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

(d) by omitting from Schedule 11 the words Schedule 11. “(Christian name)” and by inserting instead the words “(Given name or names)”;

(e) by omitting from the Schedule to Form 7 in Schedule 20. Schedule 20 the words “Christian or other” and by inserting instead the word “Given”.

Parliamentary Electorates and Elections (Amendment).

No. 108, 1975 **10.** Each provision of the Principal Act specified in Column 1 of Schedule 1 is amended in the manner specified opposite that provision in Column 2 of that Schedule.

Further amendment of Act No. 41, 1912. Statute Law Revision.

Sec. 10.

SCHEDULE 1.

AMENDMENT OF PRINCIPAL ACT.

Column 1.	Column 2.
Provision of Principal Act.	Amendment.
Section 6 (2)	Omit "a District Court" and insert instead "the District Court".
Section 7 (2)	Omit "as amended by subsequent Acts".
Section 8	Omit "subsection two of section six of this Act" and insert instead "section 6 (2)".
Section 12	Omit "a District Court" and insert instead "the District Court".
Section 13 (2)	Omit "subsection two of section seven or in section eleven of this Act" and insert instead "section 7 (2) or in section 11".
Section 19	Omit "subsection (3) of section 6" and insert instead "section 6 (3)".
Section 21A (3)	Omit "as amended by subsequent Acts,".
Section 21A (5)	Omit "or of any Act amending that Act,".
Section 21A (8) (b)	Omit "the said" and insert instead "that".
Section 41 (2) (a)	Omit "and any Act amending the same".
Section 49 (1)	Omit "as amended by subsequent Acts,".
Section 85 (3)	Omit "as amended by subsequent Acts,".
Section 88 (2)	Omit "the said" and insert instead "that".
Section 91 (2)	Omit "1900-1936" and insert instead "1900".
Section 114L	Omit "Comptroller-General of Prisons" and insert instead "Commissioner of Corrective Services".
Section 118 (3) (c)	Omit "police or".
Section 120F	Omit "as amended by subsequent Acts,".
	Omit "the said" and insert instead "that".
	Omit "1900-1936" and insert instead "1900".
	Omit "subsection two of section 114H of this Act" and insert instead "section 114H (2)".
	Omit "If" and insert instead "if".
	Omit from paragraph (c) of the proviso "Small Debts Recovery Act, 1912" and insert instead "Courts of Petty Sessions (Civil Claims) Act, 1970".

SCHEDULE

*Parliamentary Electorates and Elections (Amendment).*SCHEDULE 1—*continued.*

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AMENDMENT OF PRINCIPAL ACT—*continued.*

Column 1.	Column 2.
Provision of Principal Act.	Amendment.
Section 122A	Omit subsection (1) and insert instead the following:— (1) Notwithstanding anything to the contrary in this Act, a ballot-paper shall not, by reason of any marking thereon that is not authorised or required by this Act, be treated as informal, or be rejected or disallowed at the scrutiny, if, in the opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.
Section 179	Omit "Colonial".
Section 183	Omit "or police".
Section 185	Omit "Colonial".
Schedule 4	Omit "1912-1928" and insert instead "1912".
Schedule 15	Omit ", as amended".
Schedule 18	Omit from clause 3 "in pursuance of subsection two of section one hundred and twenty-six of this Act" and insert instead "pursuant to section 126 (2)".
Schedule 20	Omit from clause 7 "paragraph (b) of section 120F of this Act" and insert instead "section 120F (b)". Omit from clause 8 "paragraph (a) or paragraph (b) of section 120F of this Act" and insert instead "section 120F (a) or (b)". Omit from Form 1 "1912-1928" wherever occurring and insert instead "1912". Omit from Form 1 "as amended". Omit from Form 2 "1912-1928" wherever occurring and insert instead "1912". Omit from Form 2 "Polling-place Area" and insert instead "Subdivision". Omit "Chief Secretary's Office," from the matter headed "(Back of Forms 2 and 3.)". Omit from Form 4 "1912-1928" and insert instead "1912". Omit from Form 4 "Polling-place Area" and insert instead "Subdivision". Omit from Form 5 "polling-place area" and insert instead "subdivision". Omit "Chief Secretary's Office," from the matter headed "(Back of Forms 4 and 5.)". Omit from Form 6 "1912-1928" and insert instead "1912". Omit from Form 6 "Address—Chief Secretary's Office,". Omit from Form 7 "1912-1928" wherever occurring and insert instead "1912".

SCHEDULE

Parliamentary Electorates and Elections (Amendment).

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SCHEDULE 1—*continued.*AMENDMENT OF PRINCIPAL ACT—*continued.*

Column 1.	Column 2.
Provision of Principal Act.	Amendment.
Schedule 20— <i>contd</i> . .	<p>Omit from Form 7 "Chief Secretary's Office" and insert instead "Office of the Electoral Commissioner for the State of New South Wales".</p> <p>Omit from the Schedule to Form 7 "Polling-place area" and insert instead "Subdivision".</p> <p>Omit from Form 8 "1912-1928" wherever occurring and insert instead "1912".</p> <p>Omit from Form 9 "1912-1928" and insert instead "1912".</p> <p>Omit from Form 10 "1912-1928" wherever occurring and insert instead "1912".</p> <p>Omit from Form 10 "Polling-place Area" wherever occurring and insert instead "Subdivision".</p> <p>Omit from Form 10 "(a) the names of the electors who did not vote at the election;" and insert instead "(a) the names of electors who appear to have failed to vote at the election;".</p> <p>Omit from paragraph (b) in Form 10 "the" where secondly occurring.</p>

COMPANIES