

New South Wales

# Parliamentary Electorates and Elections Amendment Act 2006 No 68

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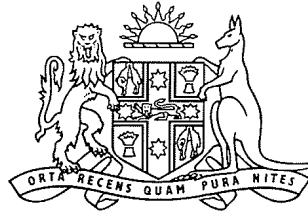
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New South Wales

# Parliamentary Electorates and Elections Amendment Act 2006 No 68

Act No 68, 2006

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An Act to amend the *Parliamentary Electorates and Elections Act 1912* with respect to the office and functions of the Electoral Commissioner and other officials, redistributions of electoral districts, the preparation, maintenance and cost of rolls of electors, the conduct of elections, the appointment of accredited election service providers for elections and elections under other legislation; to amend other legislation with respect to the conduct of those elections and polls; and for other purposes. [Assented to 5 October 2006]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Parliamentary Electorates and Elections Amendment Act 2006*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41**

- (1) The *Parliamentary Electorates and Elections Act 1912* is referred to in this Act as the Principal Act.
- (2) The Principal Act is amended as set out in Schedules 1–18.
- (3) The omission of words by Schedule 18 does not apply to provisions or parts of provisions omitted by other Schedules.

**4 Amendment of other legislation**

The Acts and other instruments listed in Schedule 19 are amended as set out in that Schedule.

**5 Repeal of Act**

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

## Schedule 1 Amendment of Part 1 of Principal Act

(Section 3)

### [1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

***Australian medical practitioner*** means a person registered as a medical practitioner under a law of this or another State or Territory.

***Commission*** means the New South Wales Electoral Commission constituted by section 21A.

***Election assistant*** means a person appointed as an election assistant under section 21AE.

***Election official*** means:

- (a) a returning officer or acting returning officer, or
- (b) a polling place manager, or
- (c) an election assistant.

***Electoral Commissioner*** means the Electoral Commissioner appointed under section 21AA.

***Exercise*** a function includes perform a duty.

***Function*** includes a power, authority or duty.

***Member of the staff of the Commission*** means a member of the staff of the Office of the New South Wales Electoral Commission employed under the *Public Sector Employment and Management Act 2002*.

***Office*** of the Commission means the only or the principal office of the Commission.

***Polling place*** means a place appointed by the Electoral Commissioner under section 84 to be a polling place for the purpose of taking the poll at an election.

***Polling place manager*** means a person appointed as a polling place manager under section 21AE.

***Pre-poll voting officer*** means:

- (a) a returning officer for any district, or

Schedule 1      Amendment of Part 1 of Principal Act

(b) an election official assigned by a returning officer for any district to conduct pre-poll voting.

*Silent elector* means an elector whose residence is not shown on a roll because of a request made under section 38A.

**[2] Section 3 (1), definition of “Postal voting officer”**

Omit “Division 3 of Part 5”. Insert instead “Division 5 of Part 3A”.

**[3] Section 3 (1), definition of “Principal Returning Officer”**

Omit the definition.

**[4] Section 3 (1), definition of “Returning officer”**

Omit “, but does not include the Principal Returning Officer”.

**[5] Section 3 (5)**

Insert after section 3 (4):

(5) A reference (however expressed) in this Act to the place of residence as enrolled of an elector is, in relation to a silent elector, a reference to the place of residence in respect of which the person is enrolled, even though the particulars of the elector’s residence are not shown on the roll because of a request made under section 38A.

## Schedule 2 Amendment of Part 2 of Principal Act

(Section 3)

### [1] Section 6 Appointment of commissioners for redistribution of seats

Omit “person who for the time being holds the office of Surveyor-General under the *Public Sector Management Act 1988*” from section 6 (2) (c).

Insert instead “person holding office or acting as the Surveyor-General under Chapter 2 of the *Public Sector Employment and Management Act 2002*”.

### [2] Section 6 (4)

Omit the subsection.

### [3] Section 11 Disqualifications for appointment as commissioner

Omit section 11 (1) (c). Insert instead:

(c) who is a mentally incapacitated person.

### [4] Section 11 (2) (c)

Omit the paragraph. Insert instead:

(c) becomes a mentally incapacitated person.

### [5] Section 14 Notice of proposed alteration of existing boundaries to be given

Omit section 14 (4). Insert instead:

(4) The commissioners must complete:

- (a) their consideration of any suggestions or objections lodged with them under subsection (2), and
- (b) any inquiries under subsection (5) into those suggestions or objections,

as soon as practicable and in any event before the end of the period of 60 days after the period referred to in subsection (2) or, at their discretion and if an extension is required, before the end of a further period of 10 days. The 60-day and the further

10-day period does not cover the process of formulating and making the commissioners' determination or draft determination under subsection (12).

**[6] Section 14 (12)**

Omit section 14 (12) and (13). Insert instead:

- (12) As soon as practicable after the commissioners have concluded their consideration of any suggestion or objection (including any inquiries into any suggestion or objection), they must consider the form of a draft determination of the names and boundaries of electoral districts, and:
- (a) if the commissioners are of the opinion that the draft determination would not be significantly different from the proposal notified under subsection (1)—determine the names and boundaries of electoral districts in accordance with the draft determination, or
  - (b) if the commissioners are of the opinion that the draft determination is significantly different from the proposal notified under subsection (1) in respect of an electoral district—the commissioners must publish in the Gazette and in a newspaper published or circulating in that district a notice containing a summary of the draft determination so far as is relevant and a statement to the effect that:
    - (i) a person who, or an organisation that, was entitled to make submissions under subsection (8) may within the prescribed period (or the period determined by the commissioners if there is no prescribed period) lodge with the commissioners a written objection, and
    - (ii) subject to subsection (5), the commissioners will hold an inquiry into any such objection.

**[7] Section 14 (14) (a)**

Omit “forthwith upon”.

Insert instead “within the prescribed period (or the period determined by the commissioners if there is no prescribed period) after”.



**[8] Section 14 (14A)**

Insert after section 14 (14):

(14A) The commissioners must complete:

- (a) their consideration of any objections lodged with them under subsection (14), and
- (b) any inquiries under subsection (5) (as applied by subsection (14)) into those objections,

as soon as practicable and before the end of the prescribed period (if any). That prescribed period does not cover the process of formulating and making the commissioners' determination under subsection (15).

**[9] Section 14 (15)**

Insert "The commissioners are not required to invite further submissions, suggestions or objections or to hold any inquiries into any such further submissions, suggestions or objections that are received." at the end of the subsection.

**[10] Section 14 (16)**

Insert after section 14 (15):

(16) The Electoral Commissioner must ensure, as far as is reasonably practicable, that maps indicating the proposed boundaries of electoral districts under proposed alterations under subsection (1) are available for inspection:

- (a) at the office of the Commission, and
- (b) at the offices of the councils of the local government areas within current or proposed boundaries, and
- (c) on the Commission's internet website.

**[11] Section 14A**

Insert after section 14:

**14A Manner of identifying boundaries of electoral districts**

- (1) The commissioners are required to determine the boundaries of electoral districts by determining the area of each district by

Schedule 2      Amendment of Part 2 of Principal Act

reference to such matters (including cadastral, topographical, administrative and other spatial information) as they think fit.

- (2) The commissioners are required to cause the area of each electoral district to be recorded in digital or electronic form in such a way as to be capable of generating a digital or electronic version and a printed version of a map of the area of each district.
- (3) If for any reason it is not practicable to record the area of an electoral district in digital or electronic form, the area may be identified and recorded as or by means of:
  - (a) a printed version of a map of the area of the district, or
  - (b) a printed version describing the physical boundaries of the area of the district, or
  - (c) a printed version of the area of the district prepared by reference to other matters (such as local government areas or parts of local government areas).
- (4) The commissioners are required to lodge a copy of the printed version of the areas of the electoral districts, signed by the commissioners, with the Surveyor-General, who is required to keep that copy at least until the next distribution of electoral districts.
- (5) The copy lodged with the Surveyor-General is evidence of the areas of the electoral districts to which it relates.

**Note.** Section 9C of the *Surveying Act 2002* requires details of electoral districts to be included in the register of public surveys.

**[12] Section 15 Proclamation of names and maps of electoral districts**

Omit “and the boundaries thereof to be published in the Gazette” from section 15 (2).

Insert instead “to be published in the Gazette, together with a printed version of the area of each district generated as referred to in section 14A (2) or a description of the area of each district identified as referred to in section 14A (3)”.

## **Schedule 3 Amendment of Part 3 of Principal Act**

(Section 3)

**[1] Section 20A Enrolled electors leaving Australia**

Omit “3 years” from section 20A (b). Insert instead “6 years”.

**[2] Section 20B Eligibility of spouse or child of eligible overseas elector**

Omit “3 years” from section 20B (1) (f). Insert instead “6 years”.

**[3] Section 21 Disqualifications from voting**

Omit section 21 (a). Insert instead:

- (a) is, because of being of unsound mind, incapable of understanding the nature and significance of enrolment and voting, or

## Schedule 4 Substitution of Part 3A of Principal Act

(Section 3)

### Part 3A

Omit the Part. Insert instead:

### Part 3A Electoral administration

#### Division 1 New South Wales Electoral Commission

##### 21A New South Wales Electoral Commission

- (1) There is constituted by this Act a corporation with the corporate name of the New South Wales Electoral Commission.
- (2) The Commission has the functions conferred or imposed on it by or under this or any other Act.
- (3) The functions of the Commission are exercisable by the Electoral Commissioner, and any act, matter or thing done in the name of, or on behalf of, the Commission by the Electoral Commissioner, or with the authority of the Electoral Commissioner, is taken to have been done by the Commission.
- (4) Any functions conferred or imposed on the Electoral Commissioner by or under this or any other Act may be exercised by the Electoral Commissioner in his or her official name as Electoral Commissioner or in the name of the Commission.
- (5) The Commission cannot employ any staff.

**Note.** Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

## **Division 2      Electoral Commissioner**

### **21AA    Electoral Commissioner**

- (1) The Governor may appoint an Electoral Commissioner for New South Wales.
- (2) Subject to this Act, the Electoral Commissioner has the responsibility of administering this Act and any provisions of any other Act, so far as this Act and those provisions relate to the enrolment of electors, the preparation of rolls of electors, and the conduct of elections.
- (3) In addition to the functions conferred or imposed by this Act, the Electoral Commissioner has the functions conferred or imposed on the Commissioner by or under any other Act.

### **21AB    Tenure of office of Electoral Commissioner**

- (1) The Electoral Commissioner:
  - (a) holds office for a term of such period, not exceeding 10 years, as is specified in the instrument of appointment, and
  - (b) may be re-appointed for no more than one term of such period (commencing as from the end of the term referred to in paragraph (a)), not exceeding 10 years, as is specified in the instrument of re-appointment.
- (2) The office of Electoral Commissioner becomes vacant if the holder:
  - (a) dies, or
  - (b) completes a term of office and is not re-appointed, or
  - (c) resigns the office by instrument in writing addressed to the Minister, or
  - (d) is absent from duty for a period of 14 consecutive days except on leave granted by the Minister, or
  - (e) engages in any paid employment outside the duties of the office, or
  - (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an

assignment of his or her remuneration for their benefit,  
or

- (g) becomes a mentally incapacitated person, or
  - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
  - (i) is imprisoned in respect of a conviction for an offence punishable in New South Wales by imprisonment or for an offence committed elsewhere than in New South Wales that, if committed in New South Wales, would be an offence so punishable, or
  - (j) becomes a member of a party, or
  - (k) is removed from office by the Governor under this section.
- (3) The Electoral Commissioner may be suspended from office by the Governor for misbehaviour or incompetence, but cannot be removed from office except in the following manner:
- (a) The Minister is to cause to be laid before each House of Parliament a full statement of the grounds of suspension within 7 sitting days of that House after the suspension.
  - (b) An Electoral Commissioner suspended under this subsection is restored to office by force of this Act unless each House of Parliament at the expiry of the period of 21 days from the day when the statement was laid before that House declares by resolution that the Electoral Commissioner ought to be removed from office.
  - (c) If each House of Parliament does so declare within the relevant period of 21 days, the Electoral Commissioner is to be removed from office by the Governor accordingly.
- (4) A person who:
- (a) is a member of a party, or

- (b) has been a member of a party at any time during the period of 5 years immediately preceding the date of the proposed appointment,

cannot be appointed to be the Electoral Commissioner.

- (5) A person who holds or has held office as Electoral Commissioner is not entitled to re-appointment, or further appointment, as Electoral Commissioner except as permitted by subsection (1) (b).

**21AC Provisions applicable to Electoral Commissioner**

- (1) The provisions of the *Public Sector Employment and Management Act 2002* do not apply to the appointment of the Electoral Commissioner, and the Electoral Commissioner is not subject to the provisions of that Act during his or her tenure of office.
- (2) The Electoral Commissioner is entitled to be paid remuneration in accordance with the *Statutory and Other Offices Remuneration Act 1975*.
- (3) The Governor may by order fix the terms and conditions of appointment that are applicable to the Electoral Commissioner.

**21AD Acting Electoral Commissioner**

- (1) **Appointment by Governor—vacancy**  
The Governor may appoint a person to act as Electoral Commissioner during a vacancy in the office of Electoral Commissioner. The person so appointed may act as Electoral Commissioner during such a vacancy, until a person is appointed to the office under section 21AA.
- (2) **Appointment by Minister—illness or absence**  
The Minister may appoint a person to act as Electoral Commissioner during the illness or absence of the Electoral Commissioner. The person so appointed may act as Electoral Commissioner during such an illness or absence.
- (3) **Appointment by Electoral Commissioner—substitute to act during election period**  
The Electoral Commissioner may appoint a member of the staff of the Commission to act as Electoral Commissioner in the event of a future vacancy in the office of Electoral

Commissioner or in the event of a future illness or absence of the Electoral Commissioner occurring during an election period. The person so appointed may, during an election period, act as Electoral Commissioner:

- (a) during such a vacancy, until a person is appointed by the Governor as or to act as Electoral Commissioner under section 21AA or under subsection (1), or
- (b) during such an illness or absence, until a person is appointed by the Minister to act as Electoral Commissioner under subsection (2).

**(4) Functions of person acting as Electoral Commissioner**

A person, while acting as Electoral Commissioner under this section, has and may exercise the functions of the Electoral Commissioner and is taken to be the Electoral Commissioner.

**(5) Ineligibility for appointment**

A person who:

- (a) is a member of a party, or
- (b) has been a member of a party at any time during the period of 5 years immediately preceding the date of the proposed appointment,

cannot be appointed to act as Electoral Commissioner under this section.

**(6) Notification of appointment of substitute**

The Electoral Commissioner must, as soon as practicable, advise the Minister of any appointment under subsection (3) or of the termination of any such appointment.

**(7) Termination of appointment of member of staff**

The appointment of a person under subsection (3) terminates if the person ceases to be a member of the staff of the Commission.

**(8) Remuneration**

A person, while acting as Electoral Commissioner under this section, is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person while so acting.



- (9) **Implied powers not affected**  
Nothing in this section limits the application of section 47 of the *Interpretation Act 1987* in relation to any appointment under this section.
- (10) **No inquiry into certain matters**  
No person is to be concerned to inquire whether or not occasion has arisen authorising a person to be appointed to act as Electoral Commissioner, or authorising such a person to act as Electoral Commissioner, under this section.
- (11) **Definition of “election period”**  
In this section:  
*election period* means the period between the issue of the writ or writs for an election and the return of the writ or all the writs.

### **Division 3 Election officials for districts**

#### **21AE Election officials**

- (1) The Electoral Commissioner may, by instrument in writing, appoint appropriate persons to be:
- (a) returning officers, or
  - (b) polling place managers, or
  - (c) election assistants.
- (2) An election official is to be appointed for a specified district and for a specified term. The term may be specified by reference to a particular period of time or by reference to a particular Assembly general election (and the concurrent periodic Council election) or a particular by-election.
- (3) A person is not qualified for appointment as an election official unless the person is an elector. A person is not ineligible for appointment as an election official for a district merely because the person is not enrolled as an elector on the electoral roll for the district.

**21AF Acting returning officers**

- (1) The Electoral Commissioner may appoint a person (whether or not already an election official) to act as a returning officer for a district during the illness or absence of the returning officer or during a vacancy in the office of returning officer for the district. The appointment need not be in writing, but is to be confirmed in writing as soon as is practicable afterwards.
- (2) The person may act as, and is taken to be, the returning officer during the illness or absence of the returning officer or during a vacancy in the office of the returning officer.
- (3) This section does not prevent the appointment of a person as a returning officer to fill a vacancy in that office.

**21AG Functions of election officials**

The functions of a class of persons appointed under this Division are:

- (a) the functions specified by or under this or any other Act in respect of that class of persons, and
- (b) any other functions not inconsistent with this or any other Act as may be specified by the Electoral Commissioner by:
  - (i) the instrument of appointment of persons of that class, or
  - (ii) another instrument applicable to persons of that class or a particular person of that class.

**21AH Returning officer not eligible to vote at Assembly election**

A returning officer is ineligible to vote at any election of a member of the Assembly.

**Division 4 Election assistants for periodic Council elections**

**21AI Appointment of assistants for Electoral Commissioner for periodic Council elections**

The Electoral Commissioner may appoint one or more persons who are electors to act as his or her assistants in the exercise of

the Commissioner's functions in relation to the conduct of periodic Council elections.

## **Division 5      Postal voting officers**

### **21AJ    Postal voting officers and deputy postal voting officers**

- (1) The Electoral Commissioner may, by instrument in writing, appoint appropriate persons to be:
  - (a) postal voting officers, or
  - (b) deputy postal voting officers,at a place outside New South Wales (whether overseas or in Australia), for the purposes of all elections.
- (2) A deputy postal voting officer may act as, and is taken to be, the postal voting officer during the illness or absence of the postal voting officer or during a vacancy in the office of the postal voting officer.
- (3) This section does not prevent the appointment of a person as a postal voting officer to fill a vacancy in that office.

### **21AK    Appointment of assistants for postal voting officer**

A postal voting officer may appoint persons to act as his or her assistants in the exercise of the officer's functions.

## **Division 6      Miscellaneous**

### **21AL    Definition of "appointed official"**

In this Division:

*appointed official* means a person who holds an appointment as:

- (a) an election official, or
- (b) a postal voting officer or deputy postal voting officer, or
- (c) an assistant to the Electoral Commissioner under section 21AI, or

- (d) an assistant to a postal voting officer under section 21AK.

**21AM Delegation**

- (1) The Commission may delegate any of the Commission's functions to:
  - (a) the Electoral Commissioner, or
  - (b) an appointed official, or
  - (c) a member of the staff of the Commission.
- (2) The Electoral Commissioner may delegate any of the Commissioner's functions to:
  - (a) an appointed official, or
  - (b) a member of the staff of the Commission.
- (3) Without limiting subsection (2), the Electoral Commissioner may delegate to a returning officer the Commissioner's functions relating to the appointment or termination of the appointment (or both) of polling place managers or election assistants (or both).
- (4) A delegation under this section may be to a particular person or the holder of a particular position or to a class of persons or holders of positions.

**21AN Appointed officials subject to control and direction**

An appointed official is subject to the control and direction of the Electoral Commissioner in respect of his or her functions under or in connection with:

- (a) this Act, or
- (b) the *Constitution Act 1902* so far as those functions relate to the conduct of elections (within the meaning of this Act) or referendums, or
- (c) any other legislation so far as those functions relate to the conduct of elections (of any kind), polls or referendums under that or any other legislation.

**21AO Declarations to be made by appointed officials**

- (1) An appointed official must, before he or she enters upon any of the duties assigned to him or her by or under this Act with regard to any election, make and sign before a justice of the peace, a school teacher or a prescribed person a declaration:
  - (a) in a form approved by the Electoral Commissioner, unless paragraph (b) applies, or
  - (b) in a form prescribed by the regulations.
- (2) The declaration must be transmitted to:
  - (a) the Electoral Commissioner, unless paragraph (b) applies, or
  - (b) a returning officer or polling place manager, as directed by the Electoral Commissioner.
- (3) Justices of the peace, school teachers and prescribed persons are authorised to receive any such declaration.
- (4) Part 4 of the *Oaths Act 1900* applies to any such declaration as if it were made under that Act.

**21AP Remuneration of appointed officials**

Appointed officials are entitled to be paid the remuneration and allowances (if any) determined by the Electoral Commissioner after consultation with the Director of Public Employment.

**21AQ Termination of appointment of appointed officials**

- (1) An appointed official ceases to hold his or her appointment if:
  - (a) he or she dies, or
  - (b) his or her appointment was for a term and the term expires, or
  - (c) he or she resigns the appointment by instrument in writing addressed to the Electoral Commissioner, or
  - (d) the Electoral Commissioner terminates his or her appointment.
- (2) The Electoral Commissioner may terminate the appointment of an appointed official at any time, for any or no reason, without notice and without affording a hearing. This subsection does

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Schedule 4 Substitution of Part 3A of Principal Act

not limit section 47 of the *Interpretation Act 1987* in its application to or in respect of holders of those appointments.

**21AR Notification of appointments and termination of appointments of returning officers**

Notice of any appointment or termination of an appointment of a returning officer is to be published in the Gazette at a time determined by the Electoral Commissioner.

## Schedule 5 Amendment of Part 3B of Principal Act

(Section 3)

### [1] Section 21AB Definition

Renumber the section as section 21BAA.

### [2] Section 21B Arrangement with Commonwealth as to rolls

Insert after section 21B (2):

- (3) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the collection, use or disclosure of personal information to the extent that personal information is furnished to the Australian Electoral Commission:
  - (a) for the purposes of or in connection with any arrangement referred to in this section, or
  - (b) for any other purpose relating to the rolls.

### [3] Section 21E

Insert after section 21D:

#### **21E Contributions from local councils for cost of maintaining the roll**

- (1) Local councils are to make contributions to the State, in accordance with this section, in respect of amounts paid or payable by the State to the Commonwealth under an arrangement referred to in section 21B.
- (2) The amount of a contribution payable by a local council is to be as determined annually by the Electoral Commissioner in accordance with the regulations. Contributions are payable only if relevant provisions of the regulations are in force in respect of the contributions.
- (3) The total contributions by local councils in respect of an amount paid or payable by the State are not to exceed one-half of that amount in or in relation to any period of 12 months.

- (4) The amount of a contribution payable by a local council and the manner in which and the time by which it is to be paid is to be as notified to the council by a written notice served on the council by the Electoral Commissioner.
- (5) Any unpaid amount of a contribution payable by a local council is recoverable from the council as a debt due to the Electoral Commissioner as the holder of that office.
- (6) Without limiting any other provision authorising expenditure by local councils, a local council is authorised to pay from its funds the amount of contributions for which it is liable under this section.
- (7) No part of the costs incurred under an arrangement under this Part are recoverable from local councils under section 296 of the *Local Government Act 1993*, but otherwise nothing in this section affects the liability of a local council under that section to meet the costs incurred by the Electoral Commissioner and other officials in connection with an election as defined in that Act.
- (8) A reference in this section to:
  - (a) an amount payable by the State includes a reference to an amount payable by the Electoral Commissioner or another officer or authority of the State, and
  - (b) an amount payable to the Commonwealth includes a reference to an amount payable to the Australian Electoral Commission or another officer or authority of the Commonwealth.
- (9) A reference in this section to:
  - (a) a local council includes a reference to the Lord Howe Island Board, and
  - (b) the funds of a local council includes a reference to money standing to the credit of the Lord Howe Island Account.



## **Schedule 6 Amendment of Part 4 of Principal Act**

(Section 3)

**[1] Section 26 Rolls for districts and subdivisions**

Insert “date of birth,” after “residence,” in section 26 (4) (b).

**[2] Section 29 Printing of rolls**

Omit section 29 (2).

**[3] Section 30 Inspection of rolls**

Omit the section.

**[4] Section 31 Persons who are to furnish information**

Omit “application”. Insert instead “request”.

**[5] Section 31 (2)–(6)**

Insert at the end of section 31:

(2) Without limiting subsection (1), all officers and employees referred to in that subsection must upon request furnish to the Electoral Commissioner or to any officer acting under the direction of the Electoral Commissioner:

(a) any information of a kind required by the Electoral Commissioner or any such officer for any purpose relating to the rolls, or

(b) without limiting paragraph (a), all such information as is required to enable the Electoral Commissioner or any such officer to detect:

(i) persons or classes of persons who may be incorrectly enrolled, or

(ii) persons or classes of persons (whether of particular ages or otherwise) who may be entitled to enrolment or who, being 17 years but not 18 years of age, may be entitled to make claims under section 33A to have their names placed on a roll, or

- (iii) other persons or classes of persons who may be affected by this Part or regulations made for the purposes of this Part.
- (3) The Electoral Commissioner may inform any persons who, from information obtained under subsection (2):
  - (a) appear to be incorrectly enrolled—of their obligation to be correctly enrolled, or
  - (b) appear not to be enrolled—of their present or forthcoming obligation to be enrolled.
- (4) Persons and public service agencies are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the disclosure of personal information to the extent that personal information is furnished under this section to the Electoral Commissioner or any officer acting under the direction of the Electoral Commissioner.
- (5) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the collection, use or disclosure of personal information to the extent that personal information is furnished under this section.
- (6) Without limiting the meaning of the term “officers in the service of the Government of New South Wales” in subsection (1), that term includes persons employed in a public sector service within the meaning of the *Public Sector Employment and Management Act 2002*.

**[6] Part 4, Division 3A**

Insert after Division 3:

**Division 3A      Inspection of rolls and provision of enrolment information**

**31A      Electoral Commissioner to determine manner and form of access to rolls and enrolment information**

- (1) The Electoral Commissioner may determine the manner and form in which information is to be provided under this Division.

- (2) Without limiting subsection (1), the Electoral Commissioner may determine that the information is to be provided electronically or in electronic form.
- (3) If the Electoral Commissioner:
  - (a) makes a copy of a roll available for public inspection in a particular form, or
  - (b) gives a copy of a roll to a person in a particular form, the copy is, subject to section 31B (3), to be a copy of the most up-to-date version of the roll that is available in that form.
- (4) Information provided under this Division must not contain:
  - (a) particulars of a silent elector's residence, or
  - (b) any prescribed particulars relating to an elector.

**Note.** Section 38A provides for the exclusion of the address of an elector from the roll in certain circumstances.
- (5) A reference in this section to information being provided includes a reference to:
  - (a) a copy of a roll being made available for public inspection, and
  - (b) a copy of a roll or list of electors being given to a person.

**31B Public inspection of rolls**

- (1) A copy of a roll for a district is to be available, at any time during ordinary office hours, for public inspection without fee at:
  - (a) the office of the Commission, and
  - (b) such other place or places as the Electoral Commissioner determines.
- (2) The Electoral Commissioner may make a copy of a roll available for public inspection without fee in any other way that the Commissioner considers appropriate.
- (3) The copy of a roll for a district to be available under this section is to be the copy of the roll as in force as at the time of the last Assembly general election or the last by-election for the district, whichever is the later.

- (4) A person inspecting a copy of a roll under this section is not entitled to use a device (such as a photocopier, camera, telephone, mobile phone, voice recorder or video recorder) to copy, record or transmit the contents of the roll or any part of the roll, but this subsection does not prevent a person taking hand-written notes of any of those contents.
- (5) A copy of a roll available under this section must not contain any particulars relating to a person's occupation.

**31C Provision of enrolment information to parties, members and candidates**

**(1) Registered parties**

The Electoral Commissioner must provide to each registered party, free of charge, a list specifying electors and their particulars:

- (a) once each 4 years, and
- (b) as soon as practicable after the redistribution of the State into districts, and
- (c) on receiving a request from the registered officer of the party.

**(2) Members of Council**

The Electoral Commissioner must provide to each member of the Council, free of charge, a list specifying electors and their particulars:

- (a) once each 4 years, and
- (b) as soon as practicable after the redistribution of the State into districts, and
- (c) on receiving a request from the member but not more than once each year.

**(3) Members of Assembly**

The Electoral Commissioner must provide to each member of the Assembly, free of charge, a list specifying electors and their particulars for the district for which the member was elected:

- (a) once each 4 years, and
- (b) on receiving a request from the member but not more than once each year.

- (4) On a redistribution of the State into districts, the Electoral Commissioner must provide to each member of the Assembly, free of charge:
- (a) a list specifying electors for the district for which the member was elected, and
  - (b) a list specifying electors for the district whose name and area are published under section 15 and that, in the opinion of the Commissioner, most resemble the district for which the member was elected,
- and their particulars:
- (c) as soon as practicable after the redistribution, and
  - (d) on receiving a request from the member but not more than once each year.
- (5) At the request of a member of the Assembly but not more than 6 times each year, the Electoral Commissioner must provide to the member, free of charge:
- (a) a list specifying electors whose addresses for which they are enrolled were in the district represented by the member immediately before a list was last provided under this subsection but are no longer in that district, and
  - (b) a list specifying electors whose addresses for which they are enrolled were not in the district represented by the member immediately before a list was last provided under this subsection but are now in that district,
- and their particulars.
- (6) **Candidates for Council**  
At the request of any candidate for a periodic Council election, the Electoral Commissioner must provide to the candidate, free of charge, a list of electors and their particulars in a form determined by the Commissioner.
- (7) **Candidates for Assembly**  
At the request of any candidate for an Assembly general election or by-election, the Electoral Commissioner must provide to the candidate, free of charge, a list of electors for the district for which the candidate is seeking election and their particulars in a form determined by the Commissioner.

**31D Provision of enrolment information to others**

- (1) After receiving a request from any person not referred to in section 31C for a list of electors and their particulars, the Electoral Commissioner must:
  - (a) identify the public interest in providing the requested information, and
  - (b) make a finding whether or not the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information in the particular circumstances.
- (2) Subject to subsection (3), if the Electoral Commissioner has made a finding under subsection (1) that the public interest in providing the requested information outweighs the public interest in protecting the privacy of personal information, the Commissioner may:
  - (a) provide to the person a list specifying electors and their particulars, and
  - (b) charge a fee that covers the cost to the Commissioner of providing the list.
- (3) The Electoral Commissioner must obtain from the person to be provided with information under this section an undertaking that the person will:
  - (a) only use the information for the purpose for which the Commissioner agreed to provide the information, and
  - (b) not copy the information or give it to any other person, and
  - (c) return the information to the Commissioner or destroy the information after using it for the purpose for which the Commissioner agreed to provide the information.
- (4) If the Electoral Commissioner provides enrolment information under this section:
  - (a) to a person who conducts medical research, or
  - (b) to a person who provides a health screening program,the Commissioner may include in the enrolment information the age ranges and sex of electors in a form determined by the Commissioner.

- (5) The Electoral Commissioner must make available for public inspection, free of charge, at the office of the Commission, any finding made under subsection (1) and the reasons for that finding.
- (6) A summary of any findings made under subsection (1) and the reasons for each of them during a year must be included in the annual report of the Commission relating to that year.

**31E Use of enrolment information**

- (1) A registered party or other person must not use enrolment information that is provided by the Electoral Commissioner under section 31C or 31D except for a purpose that is a permitted purpose in relation to the party or person to whom the information was provided.

Maximum penalty: 1,000 penalty units.

- (2) The permitted purposes in relation to a registered party or a candidate are:
  - (a) any purpose in connection with an election, and
  - (b) monitoring the accuracy of information contained on a roll, and
  - (c) any purpose prescribed by the regulations.
- (3) The permitted purposes in relation to a member of the Council are:
  - (a) any purpose in connection with an election, and
  - (b) monitoring the accuracy of information contained on a roll, and
  - (c) exercising the functions of a member in relation to an elector.
- (4) The permitted purposes in relation to a member of the Assembly are:
  - (a) any purpose in connection with an election, and
  - (b) monitoring the accuracy of information contained on a roll, and
  - (c) exercising the functions of a member in relation to the member's constituents.

- (5) The permitted purpose in relation to a person (other than a registered party, a candidate or a member of the Assembly or the Council) is the purpose for which the Electoral Commissioner agreed to provide the information.
- (6) Proceedings for an alleged contravention of subsection (1) by a registered party that is not a corporation may be brought against the registered officer of the party in a representative capacity. The maximum penalty in that case is the maximum penalty applicable to a corporation.

**31F Prohibition of disclosure or commercial use of enrolment information**

- (1) For the purposes of this section, enrolment information is protected information in relation to a person if the person knows, or has reasonable grounds for believing, that the information has been provided under section 31C or 31D.
- (2) A person must not disclose protected information unless the disclosure would be a use of the information for a permitted purpose under section 31E.
- (3) A person must not use protected information for a commercial purpose.
- (4) Without limiting subsection (3), protected information is used for a commercial purpose if it is sold or offered for sale.
- (5) Subsection (3) does not apply to the use of protected information provided under section 31D for a commercial purpose where that use is in accordance with or is implicit in the finding of the Electoral Commissioner under that section concerning the public interest in providing the information.

Maximum penalty: 1,000 penalty units.

**31G On-line access by an individual to information about the individual**

- (1) The Electoral Commissioner may provide internet on-line access to information contained in the roll for a district for the purpose of allowing an individual to ascertain whether or not he or she is correctly enrolled for the district.
- (2) The Electoral Commissioner may determine the manner and form in which information is to be available under this section.



- (3) The Electoral Commissioner must provide such security measures as the Commissioner considers necessary to ensure that information relating to an individual is available only to:
  - (a) that individual, or
  - (b) a person who is authorised by that individual to access that information.

**31H Division does not affect arrangements with Commonwealth**

Nothing in this Division applies in relation to the furnishing of information to the Australian Electoral Commission for the purposes of or in connection with an arrangement referred to in section 21B.

**[7] Section 32 Addition of names to rolls**

Omit section 32 (2) (c). Insert instead:

- (c) either:
  - (i) be attested by an elector or a person entitled to have the person's name placed on a roll (who must sign the claim as witness in the witness's own hand writing), unless subparagraph (ii) applies, or
  - (ii) be supported by the evidence of the claimant's identity that is required by the regulations, if regulations for the purposes of this subparagraph are in force when the claim is made.

**[8] Section 32 (6)**

Insert after section 32 (5):

- (6) The regulations may:
  - (a) require a claim to be supported by evidence of the claimant's identity for the purposes of subsection (2) (c) (ii), and
  - (b) impose additional requirements in relation to identification for enrolment, including requirements as to:
    - (i) the attestation of a claim, or

- (ii) the inclusion in a claim, or the attachment to a claim, of particulars or material regarding identification.

**[9] Section 33 Claims for enrolment or transfer of enrolment**

Omit “who lives in a subdivision, and has so lived” from section 33 (1).  
Insert instead “who lives at an address in a subdivision, and has lived at that address”.

**[10] Section 33 (2)**

Omit “who lives in any other subdivision, and has so lived”.  
Insert instead “who lives at an address in any other subdivision, and has lived at that address”.

**[11] Section 33 (2)**

Insert “, in respect of residence at that address,” after “entitled”.

**[12] Section 42 Name on roll may be objected to**

Omit the proviso.

**[13] Section 47 Determination of objection**

Insert “, unless the name is removed on the ground referred to in subsection (4)” after “the election” in the proviso to section 47 (1).

**[14] Section 47 (4)**

Insert after section 47 (3):

- (4) The divisional returning officer must not remove an elector’s name from the roll on the ground specified in section 21 (a) unless the objection is accompanied by a certificate of an Australian medical practitioner stating that, in the opinion of the medical practitioner, the elector, because of unsoundness of mind, is incapable of understanding the nature and significance of enrolment and voting.

**[15] Section 50 Roll for purposes of election**

Omit “State returning officer for the district” from section 50 (1).  
Insert instead “Electoral Commissioner”.

**[16] Section 50 (2)**

Omit “State returning officer”. Insert instead “Electoral Commissioner”.

**[17] Section 50 (5)**

Omit “powers, authorities, duties and”.

**[18] Section 50 (6)**

Insert after section 50 (5):

- (6) A copy of a roll referred to in this section must not contain any particulars relating to a person’s occupation.

## **Schedule 7 Amendment of Divisions 1A–7 of Part 5 of Principal Act**

(Section 3)

### **[1] Section 72 Writs directed to Electoral Commissioner**

Omit “returning officer of the district for which the election is to be held” from section 72 (1).

Insert instead “Electoral Commissioner”.

### **[2] Section 72 (2)**

Omit “section 22A (2) and (3) of the *Constitution Act 1902*”.

Insert instead “section 22A (3) of the *Constitution Act 1902*”.

### **[3] Section 74**

Omit the section. Insert instead:

#### **74 Duties of Electoral Commissioner on receipt of writ**

- (1) The Electoral Commissioner must, on receiving a writ under section 72, endorse on it the date of its receipt, and forthwith give public notice of:
  - (a) the purport of the writ, and
  - (b) the day of nomination, the day of polling and the return day mentioned in the writ, and
  - (c) a place within the district concerned (to be appointed by the Commissioner) at which the returning officer will receive nomination papers for the election to which the writ relates, and the time by which they must be received, and
  - (d) a place within the State (to be appointed by the Commissioner) at which the Commissioner will receive nomination papers for the election to which the writ relates delivered by registered officers of registered parties, and the time by which they must be received.

- (2) The public notice is to be by way of notice:
  - (a) in any newspaper published or circulating in the district to which the writ relates, and
  - (b) on the Commission’s internet website.
- (3) The returning officer must attend at all reasonable hours in the daytime, in the interval between being notified of the receipt of the writ and noon on the day of nomination, at the place appointed for receiving nomination papers.
- (4) The Electoral Commissioner must attend at all reasonable hours in the daytime, in the interval between the receipt of the writ and noon on the day before the day of nomination, at the place appointed for receiving nomination papers.

**[4] Section 74C Writ directed to Electoral Commissioner**

Omit “section 22A (2) and (3) of the *Constitution Act 1902*” from section 74C (3).

Insert instead “section 22A (3) of the *Constitution Act 1902*”.

**[5] Section 74D**

Omit the section. Insert instead:

**74D Duties of Electoral Commissioner on receipt of writ**

- (1) The Electoral Commissioner must, on receiving a writ under section 74C, endorse on it the date of its receipt, and forthwith give public notice of:
  - (a) the purport of the writ, and
  - (b) the day of nomination, the day of polling, and the return day mentioned in the writ, and
  - (c) a place within the State (to be appointed by the Electoral Commissioner) at which the Electoral Commissioner will receive the nomination papers for the election to which the writ relates, and the time by which they must be received.
- (2) The public notice is to be by way of notice:
  - (a) in any newspaper circulating in the State, and
  - (b) on the Commission’s internet website.

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- (3) The Electoral Commissioner must attend at all reasonable hours in the daytime, in the interval between the receipt of the writ and noon on the day of nomination, at the place appointed for receiving nomination papers.

**[6] Part 5, Division 2**

Omit the Division. Insert instead:

**Division 2 General conduct of Assembly and Council elections**

**75 General conduct of Assembly elections**

- (1) The Electoral Commissioner is, subject to this Act and the *Constitution Act 1902*, responsible for the conduct and administration of Assembly general elections and by-elections.
- (2) The returning officer for a district is, subject to this Act, responsible to the Electoral Commissioner for the administration of the election of a member of the Assembly for the district at a general election or by-election.

**76 General conduct of Council elections**

- (1) The Electoral Commissioner is, subject to this Act and the *Constitution Act 1902*, by this Act appointed to conduct periodic Council elections as Council returning officer.
- (2) The returning officer for a district is, subject to this Act, responsible to the Electoral Commissioner for the administration of a periodic Council election within the district.

**[7] Part 5, Division 2A**

Omit the Division.

**[8] Part 5, Division 3**

Omit the Division.

**[9] Section 79 Nomination of Assembly candidates**

Omit section 79 (3). Insert instead:

- (3) A nomination of a candidate is to be made by delivering a nomination paper:
- (a) in the case of a nomination made by the registered officer—to the Electoral Commissioner at some time after the issue of the writ and before noon on the day before the day of nomination, or
  - (b) in any case—to the returning officer at some time after the issue of the writ and before noon on the day of nomination.

The person receiving the nomination paper must, if required to do so, give a receipt for it.

**[10] Section 79 (3A)**

Omit “*occupation*”. Insert instead “*date of birth*”.

**[11] Section 79 (3A) and (4)**

Omit “19 .” wherever occurring. Insert instead “20 .”.

**[12] Section 79 (4)**

Omit “*occupation*” and “**Occupation**”.

Insert instead “*date of birth*” and “**Date of birth**”, respectively.

**[13] Section 79 (7A)–(7E)**

Omit section 79 (7A). Insert instead:

- (7A) The nomination of a candidate is not valid unless at the time of the delivery of the nomination paper the person nominated or some person on his or her behalf deposits the sum of \$250, in cash or in a cheque drawn by an authorised deposit-taking institution, with:
- (a) the Electoral Commissioner, if the nomination paper was delivered to the Electoral Commissioner, or
  - (b) the returning officer, if the nomination paper was delivered to the returning officer.

- (7B) The deposit is to be retained pending the election.
- (7C) The deposit is to be returned if:
- (a) the candidate is elected, or
  - (b) the total number of votes polled in the candidate's favour as first preferences is at least 4 per cent of the total number of first preference votes polled in the district, or
  - (c) the candidate dies before the date of the election, or
  - (d) the candidate withdraws his or her name from nomination under section 79A.
- (7D) The deposit that is to be returned under subsection (7C) is to be returned:
- (a) if the candidate was nominated by the registered officer of a registered party which has endorsed the person for the election—to the registered officer of the party, or
  - (b) in any other case:
    - (i) to the candidate (or to some person authorised by the candidate to receive it), unless subparagraph (ii) applies, or
    - (ii) to the candidate's personal representatives, if the candidate died before the date of the election.
- (7E) In any other case the deposit is forfeited to Her Majesty.

**[14] Section 79 (9)**

Insert after section 79 (8):

- (9) As soon as practicable after a nomination paper for a candidate is delivered to the Electoral Commissioner or returning officer under this section, the Electoral Commissioner must cause the following details relating to the nomination to be displayed on the Commission's internet website:
- (a) the candidate's name,
  - (b) the district for which the candidate is nominated for election,
  - (c) the suburb, town or other locality of the place of residence as enrolled of the candidate (as stated on the nomination paper).



**[15] Section 79A Withdrawal of nomination for Assembly election**

Omit “to the returning officer before”. Insert instead:

to:

- (a) the Electoral Commissioner, if the nomination paper for the candidate was delivered to the Electoral Commissioner, or
- (b) the returning officer, if the nomination paper for the candidate was delivered to the returning officer,

before

**[16] Section 80**

Omit the section. Insert instead:

**80 Proceedings on nomination day if one candidate only**

- (1) If at noon on the day of nomination there is only one candidate for election for a district, the returning officer must, at that time and at the place named for the delivery of nomination papers to the returning officer, publicly declare that candidate to be duly elected.
- (2) The returning officer must notify the Electoral Commissioner in writing (including, without limitation, by facsimile transmission, email or other electronic means) of that declaration.
- (3) The Electoral Commissioner must publish the declaration in a newspaper published or circulating in the district, and return the writ indorsed according to that declaration.

**[17] Section 81**

Omit the section. Insert instead:

**81 When poll to be taken**

- (1) If at noon on the day of nomination there are two or more candidates for election for a district, a poll is to take place on the day named in the writ for that purpose and at the several polling places for the district.

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- (2) The returning officer must, at noon on the day of nomination and at the place named in the public notice for the delivery of nomination papers to the returning officer, announce:
  - (a) that a poll is to be taken, and
  - (b) the names of the candidates, and
  - (c) the suburb, town or other locality of the place of residence as enrolled of each candidate (as stated on the nomination paper).
- (3) The returning officer must, as soon as practicable, notify the Electoral Commissioner of the matters referred to in subsection (2).
- (4) The Electoral Commissioner must publish in a newspaper published or circulating in the district an announcement of the matters referred to in subsection (2), together with the date of the poll and a list of polling places for the district.

**[18] Section 81B Nomination of Council candidates**

Omit “**Occupation**” wherever occurring in section 81B (3A) and (4).  
Insert instead “**Date of birth**”.

**[19] Section 81B (3A) and (4)**

Omit “19 .” wherever occurring. Insert instead “20 .”.

**[20] Section 81B (8) and (9)**

Insert after section 81B (7):

- (8) As soon as practicable after a nomination paper for a candidate is delivered to the Electoral Commissioner under this section, the Electoral Commissioner must cause the following details relating to the nomination to be displayed on the Commission’s internet website:
  - (a) the candidate’s name,
  - (b) the suburb, town or other locality of the place of residence as enrolled of the candidate (as stated on the nomination paper).

- (9) Where two or more candidates are included in a group, the names and other details required by subsection (8) to be exhibited on the Commission’s internet website are to be displayed in the order referred to in section 81C (2) in which they are included in that group.

**[21] Section 81F Deposit for periodic Council election**

Omit “in money or in a banker’s cheque” from section 81F (1).

Insert instead “in cash or in a cheque drawn by an authorised deposit-taking institution”.

**[22] Section 81F (3) and (4)**

Omit section 81F (3)–(5). Insert instead:

- (3) The deposit is to be returned if:
- (a) the candidate is elected, or
  - (b) at least one of the candidates in the group in which the candidate is included is elected, or
  - (c) the total number of votes polled as first preference votes in the candidate’s favour or in favour of the members of the group in which the candidate is included is at least 4 per cent of the total number of first preference votes polled in the election, or
  - (d) the candidate dies before the date of the election, or
  - (e) the candidate withdraws his or her name from nomination under section 81G.
- (4) The deposit that is to be returned under subsection (3) is to be returned:
- (a) if the candidate is included in a group that consists only of persons who belong to the same registered party—to the registered officer of the party, or
  - (b) if the candidate is included in a group that does not consist only of persons who belong to the same registered party and all the members of the group have authorised the same person to receive their deposits—to that person, or

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- (c) in any other case:
  - (i) to the candidate (or to some person authorised by the candidate to receive it), unless subparagraph (ii) applies, or
  - (ii) to the candidate’s personal representatives, if the candidate died before the date of the election.

**[23] Section 82 Ballot papers to be provided**

Omit “in” from section 82 (1). Insert instead “for”.

**[24] Section 82 (1)**

Omit “returning officer”. Insert instead “Electoral Commissioner”.

**[25] Section 83 Printing of ballot papers**

Omit “or the returning officer for the district” from section 83 (c).

**[26] Part 5, Division 7, heading**

Omit “, poll clerks etc”.

**[27] Section 84 Polling places**

Omit “, by notice in the Gazette” from section 84 (1).

**[28] Section 84 (1) (a)**

Omit the paragraph.

**[29] Section 84 (1) (b)**

Omit “other”.

**[30] Section 84 (1) (d)**

Omit the paragraph.

**[31] Section 84 (2)**

Omit the subsection. Insert instead:

- (2) Notice of any appointment or abolition of a polling place under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.

**[32] Section 85 Booths to be erected or rooms hired**

Omit section 85 (2).

**[33] Section 85 (3)**

Omit the subsection. Insert instead:

- (3) Premises licensed for the sale of intoxicating liquor may be used for the purpose of a polling booth if, and only if, the Electoral Commissioner is satisfied that, during the hours of polling on polling day:
  - (a) intoxicating liquor will not be available for sale or consumption on the part of the premises proposed for use for the purpose of a polling booth, and
  - (b) the part of the premises proposed for use for the purpose of a polling booth will be segregated from the part of the premises where intoxicating liquor will be available for sale or consumption, and
  - (c) access to the part of the premises proposed for use for the purpose of a polling booth will not involve passing through the part of the premises where intoxicating liquor will be available for sale or consumption.

**[34] Section 86 Booths—arrangements, ballot boxes etc**

Omit “returning officer or the returning officer’s deputy”.

Insert instead “polling place manager”.

**[35] Section 87**

Omit the section. Insert instead:

**87 Polling place—arrangements**

- (1) The returning officer must assign a polling place manager to preside at each polling place.
- (2) The returning officer or polling place manager must assign at least one election assistant to assist in taking the poll at a polling place.
- (3) If the returning officer’s instrument of appointment or another instrument issued by the Electoral Commissioner authorises him or her to do so, the returning officer may act as the polling place manager at a polling place, in which case the returning officer is taken to be a polling place manager duly assigned to preside at the polling place.
- (4) Assignments under this section must be made in writing.
- (5) The functions of polling place managers and election assistants are to be as determined by the returning officer, subject to this Act and any directions of the Electoral Commissioner.
- (6) The functions of election assistants are to be as determined by the polling place manager, subject to this Act and any directions of the Electoral Commissioner.

**[36] Section 87A Mobile booths in hospitals etc**

Omit “returning officer” where secondly occurring in section 87A (1).  
Insert instead “Electoral Commissioner”.

**[37] Section 87A (2) (c)**

Omit “deputy returning officer in charge of the polling place”.  
Insert instead “polling place manager”.

**[38] Section 87A (2)**

Omit “deputy returning officer” where secondly occurring.  
Insert instead “polling place manager”.

**[39] Section 87A (2)**

Omit “deputy returning officer in charge of the polling place” where lastly occurring.

Insert instead “polling place manager”.

**[40] Section 87A (3)**

Omit “deputy returning officer in charge of the polling place”.

Insert instead “polling place manager”.

**[41] Section 87A (3)**

Omit “deputy returning officer” where secondly and thirdly occurring.

Insert instead “election official”.

**[42] Section 87A (3)**

Omit “his or her poll clerk”. Insert instead “another election official”.

**[43] Section 88 Returning officers etc to make declarations**

Omit the section.

**[44] Section 89 Polling place managers to be furnished with copies of rolls and ballot papers**

Omit “deputy” from section 89 (1) (b).

Insert instead “polling place manager”.

**[45] Section 89 (1) (b)**

Omit “deputies”. Insert instead “polling place managers”.

**[46] Section 89 (2)**

Omit the subsection. Insert instead:

(2) It is the duty of an election official:

- (a) to initial the front of a ballot paper when issued to a voter at the polling booth at which the election official is presiding, and

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- (b) to write or cause to be written any additional ballot papers that may be required, and to initial the front of any such additional ballot papers.

**[47] Section 89 (4)**

Insert after section 89 (3):

- (4) A copy of a roll referred to in this section must not contain any particulars relating to a person's occupation.

**[48] Section 90 Scrutineers**

Omit “, by writing under his or her hand,” from section 90 (1).

**[49] Section 90 (4) and (7)**

Omit “deputy” wherever occurring. Insert instead “polling place manager”.

**[50] Section 90, note**

Insert at the end of the section:

**Note.** Section 137 contains provisions relating to the appointment of and declarations by scrutineers.

**[51] Section 91 Scrutineer to make declaration**

Omit the section.



## **Schedule 8 Amendment of Division 8 of Part 5 of Principal Act**

(Section 3)

**[1] Section 92**

Omit the section. Insert instead:

**92 Exercise of functions of election officials under this Division by election assistants**

A function expressed to be conferred or imposed on an election official by this Division may be exercised by an election assistant only if the election assistant has been assigned to exercise the function by the returning officer or polling place manager.

**[2] Section 93 Who may be present at polling place**

Omit “There” from section 93 (1). Insert instead “The following persons”.

**[3] Section 93**

Omit “polling-booth” wherever occurring. Insert instead “polling place”.

**[4] Section 93 (1) (a)–(c)**

Omit the paragraphs. Insert instead:

- (a) the Electoral Commissioner,
- (b) election officials,
- (c) scrutineers,

**[5] Section 93**

Omit “returning officer or deputy” wherever occurring. Insert instead “polling place manager”.

**[6] Section 93 (1) (e)**

Omit “, not more than six in number,”.

**[7] Section 93 (1)**

Omit the proviso.

**[8] Section 93 (2)**

Omit “such booth”. Insert instead “the polling place”.

**[9] Section 94 Ballot box to be exhibited before taking of poll**

Omit “booth” and “polling-booth” wherever occurring.  
Insert instead “polling place”.

**[10] Section 94**

Omit “returning officer or deputy (as the case may be)”.  
Insert instead “polling place manager”.

**[11] Section 94**

Omit “poll clerks”. Insert instead “other election officials”.

**[12] Section 95 Hours of polling**

Omit “polling-booth” from section 95 (2). Insert instead “polling place”.

**[13] Section 96, heading**

Omit “**polling-booth**” from the heading. Insert instead “**polling place**”.

**[14] Section 97 Where electors may vote**

Omit “the returning officer or deputy” from section 97 (2).  
Insert instead “an election official”.

**[15] Section 98 Appointment of polling places outside electoral district**

Omit “Governor” wherever occurring in section 98 (1).  
Insert instead “Electoral Commissioner”.

**[16] Section 98 (1)**

Omit “, by notice in the Gazette,” and “by a like notice”.

**[17] Section 98 (1)**

Omit “: Provided that no such polling-place shall be abolished after the issue of the writ and before the time appointed for its return”.

**[18] Section 98 (2)**

Omit “deputy returning officer”. Insert instead “polling place manager”.

**[19] Section 98 (3)**

Insert after section 98 (2):

- (3) Notice of any appointment or abolition of a polling place under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.

**[20] Section 99 Questions to be put to voter**

Omit “The returning officer or deputy” from section 99 (1).  
Insert instead “An election official”.

**[21] Section 99 (1) (a1)**

Insert after section 99 (1) (a):

- (a1) What is your date of birth?

**[22] Section 99 (2)**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[23] Section 99 (3)**

Omit “a returning officer or deputy”. Insert instead “an election official”.

**[24] Section 99 (3)**

Omit “the returning officer or deputy”. Insert instead “the election official”.

**[25] Section 99 (4)**

Omit “subsection (1) (a) and (b)”.  
Insert instead “subsection (1) (a), (a1) and (b)”.

**[26] Section 99 (4)**

Omit “returning officer or deputy”. Insert instead “election official”.

**[27] Section 99A Person whose residence is not on the roll**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[28] Section 100 Questions to be put if voter challenged**

Omit “The returning officer or deputy” from section 100 (1).  
Insert instead “An election official”.

**[29] Section 100 (2)**

Omit “returning officer or deputy”. Insert instead “election official”.

**[30] Section 101 Errors not to forfeit vote**

Omit “occupation”. Insert instead “date of birth”.

**[31] Section 101**

Omit “returning officer or deputy” wherever occurring.  
Insert instead “election official”.

**[32] Section 102**

Omit the section. Insert instead:

**102 Ballot papers to be initialled**

No ballot paper is to be issued to any voter without being first initialled by an election official on the front of the ballot paper, and an exact count must be kept of all initialled ballot papers.

**[33] Section 103 Vote, how given**

Omit “and to clearly show the signature or initials of the returning officer or deputy, and exhibit it so folded to the returning officer or deputy” from section 103 (1) (b).

**[34] Section 103A Vote of person whose residence is not shown on the roll**

Omit “the returning officer or deputy” from section 103A (1).  
Insert instead “an election official”.

**[35] Section 103A (2)**

Omit “returning officer or deputy”. Insert instead “election official”.

**[36] Section 103A (3)**

Omit “deputy”. Insert instead “polling place manager”.

**[37] Section 103A (4)**

Omit “the deputy”.  
Insert instead “an election official authorised by the returning officer”.

**[38] Section 104 Spoilt ballot papers**

Omit “the returning officer or deputy” wherever occurring.  
Insert instead “an election official”.

**[39] Section 106 Disputed vote**

Omit “the returning officer or deputy” wherever occurring in section 106 (1)  
and (1A).  
Insert instead “an election official”.

**[40] Section 106 (2)**

Omit “the deputy returning officer” wherever occurring.  
Insert instead “an election official”.

**[41] Section 106 (3) (a) (i)**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[42] Section 106 (3) (a) (ii), (iv) and (v)**

Omit “returning officer or deputy” wherever occurring.  
Insert instead “election official”.

**[43] Section 106 (3) (a) (iii)**

Omit “polling-booth”. Insert instead “polling place”.

**[44] Section 106 (3) (c)**

Omit “a person authorised in that behalf by the returning officer”.  
Insert instead “the polling place manager”.

**[45] Section 106 (3) (d)**

Omit the paragraph. Insert instead:

- (d) The polling place manager must, immediately after the close of the poll, send to the returning officer advice of the number of envelopes delivered and forwarded.

**[46] Section 106 (3) (e) and (f) and (4)**

Omit “the officer” wherever occurring. Insert instead “election official”.

**[47] Section 106 (5)**

Omit “returning officer or deputy” where firstly occurring.  
Insert instead “polling place manager”.

**[48] Section 106 (5)**

Omit “returning officer or deputy and a poll clerk”.  
Insert instead “polling place manager and another election official”.

**[49] Section 108 Assistance to certain electors**

Omit “the returning officer or deputy” wherever firstly occurring in section 108 (1) and (2).  
Insert instead “an election official”.

**[50] Section 108 (1) and (2)**

Omit “the returning officer or deputy” wherever secondly occurring.  
Insert instead “the election official”.

**[51] Section 108 (2) (a)**

Omit “the poll clerk”. Insert instead “another election official”.

**[52] Section 108 (2) (b)**

Omit “the poll clerk”. Instead “an election official”.

**[53] Section 108A Instructions**

Omit “returning officer or deputy”. Insert instead “election official”.

**[54] Section 109 Provision when poll falls on Saturday**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[55] Section 109**

Omit “the poll clerk and”. Insert instead “another election official and the”.

**[56] Section 110 When votes to be rejected**

Omit “returning officer or officers”.

Insert instead “election official or election officials”.

**[57] Section 114 Maintenance of order**

Omit “returning officer and deputy returning officer, any assistant returning officer or clerical assistant acting under the authority of the returning officer or deputy, and every” from section 114 (1).

**[58] Section 114 (1) (b) (i)**

Omit “deputy”. Insert instead “polling place manager”.

**[59] Section 114 (3) and (4)**

Insert after section 114 (2):

- (3) Every returning officer and polling place manager may give such directions as are necessary to maintain order at any election or polling under this Act.

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- (4) A person must not, without lawful authority, contravene any such direction.

Maximum penalty (subsection (4)): 5 penalty units.



## **Schedule 9 Amendment of Division 9 of Part 5 of Principal Act**

(Section 3)

**[1] Part 5, Division 9, heading**

Omit “(returning officers)”.

**[2] Section 114A Application for a postal vote certificate and postal ballot paper**

Omit “or” where lastly occurring in section 114A (1) (f).

**[3] Section 114A (1) (h)**

Insert at the end of section 114A (1) (g):

or

(h) is a silent elector,

**[4] Section 114A (1)**

Insert “the Electoral Commissioner or” before “the returning officer”.

**[5] Section 114A (1)**

Insert “the Electoral Commissioner or” before “that returning officer” wherever occurring.

**[6] Section 114A (2A)**

Insert “the Electoral Commissioner or” before “the returning officer”.

**[7] Section 114AA Registration of general postal voters**

Insert after paragraph (c) of the definition of *prescribed elector* in section 114AA (1):

(c1) an elector who, because he or she will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, is unable to travel from that place to a polling place,

**[8] Section 114AA (1), definition of “prescribed elector”**

Omit “or” from paragraph (e).

**[9] Section 114AA (1), definition of “prescribed elector”**

Omit “a registered medical practitioner” from paragraph (f).

Insert instead “an Australian medical practitioner”.

**[10] Section 114AA (1), definition of “prescribed elector”**

Insert after paragraph (f):

- (g) an elector who is a silent elector, or
- (h) an elector who, because of his or her religious beliefs or membership of a religious order:
  - (i) is precluded from attending a polling booth, or
  - (ii) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth.

**[11] Section 114AA (12)**

Omit the subsection. Insert instead:

- (12) A copy of a register is to be open for public inspection, without fee, during ordinary office hours at the office of the registrar. The copy must not contain:
- (a) any particulars of a silent elector’s residence, or
  - (b) any prescribed particulars relating to an elector.

**[12] Section 114AA (18)**

Omit “the functions of a registrar under this section in relation to the registration of an elector to whom subsection (1) (a1) applies”.

Insert instead “all or any specified functions of a registrar under this section”.

**[13] Section 114AB Dispatch of ballot papers to registered general postal voters**

Omit “A returning officer for a district”.

Insert instead “The Electoral Commissioner”.

**[14] Section 114AB**

Omit “the district” where firstly occurring. Insert instead “a district”.

**[15] Section 114B Authorised witnesses**

Omit “and” from section 114B (1) (b).

**[16] Section 114B (1) (d)**

Insert after section 114B (1) (c):

(d) an Australian citizen.

**[17] Section 114B (2)**

Omit the subsection. Insert instead:

(2) A person is not eligible to be an authorised witness at or in connection with an election if he or she is a candidate at the election.

**[18] Section 114D Issue of certificate and ballot paper**

Insert “the Electoral Commissioner or” before “a returning officer” in section 114D (1).

**[19] Section 114D (1) (a)**

Omit “Schedule 15” wherever occurring. Insert instead “Schedule 4”.

**[20] Section 114D (1) (a)**

Omit “Schedule 15A”. Insert instead “Schedule 4A”.

**[21] Section 114D (2)**

Insert “Electoral Commissioner or” before “returning officer”.

**[22] Section 114E Inspection of applications**

Insert after section 114E (1):

- (1A) All applications for postal vote certificates and postal ballot papers received by the Electoral Commissioner must be sent to the returning officer for the district to which the applications relate.

**[23] Section 114F**

Omit the section. Insert instead:

**114F Postal ballot papers to be initialled**

No postal ballot paper is to be delivered or posted to any elector without being first initialled by an election official on the front of the ballot paper, and an exact count must be kept of all initialled postal ballot papers.

**[24] Section 114G Returning officer to notify issue of postal vote certificates and postal ballot papers**

Omit “deputy returning officer” from section 114G (2).  
Insert instead “polling place manager”.

**[25] Section 114G (3)**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[26] Section 114GA Person claiming to vote, whose name is noted under section 114G**

Omit “the returning officer or deputy” wherever occurring in section 114GA (1).  
Insert instead “an election official”.

**[27] Section 114GA (1) (b)**

Omit “postal certificate”. Insert instead “postal vote certificate”.

**[28] Section 114H Directions for postal voting**

Omit section 114H (1) (b). Insert instead:

- (b) The elector shall there and then, in the presence of the authorised witness, sign his or her name on the postal ballot certificate in the place provided for the signature of the voter, unless the elector became a registered general postal voter pursuant to an application made under section 114AA as an elector to whom paragraph (e) or (f) of the definition of *prescribed elector* in section 114AA (1) applies.

**Note.** Paragraphs (e) and (f) of the definition of *prescribed elector* refer to persons who are physically incapacitated.

**[29] Section 114H (2)**

Omit “deputy returning officer” wherever occurring.

Insert instead “polling place manager”.

**[30] Section 114J Penalty for unlawfully marking etc ballot paper**

Omit “officer” where secondly occurring in section 114J (2).

Insert instead “election official”.

**[31] Section 114J (3)**

Omit “deputy returning officer”. Insert instead “polling place manager”.

**[32] Section 114L Preliminary scrutiny of postal ballot papers**

Omit “the officer assisting him or her”.

Insert instead “an election official assigned by the returning officer”.

**[33] Section 114L**

Omit “deputy returning officer”. Insert instead “polling place manager”.

**[34] Section 114N Spoilt postal ballot paper**

Insert “Electoral Commissioner or” before “returning officer” where firstly occurring.

**[35] Section 114N**

Omit “the returning officer” where secondly occurring.

Insert instead “the Electoral Commissioner or returning officer (as the case may be)”.

**[36] Section 114O**

Omit the section. Insert instead:

**114O Assistance for returning officer**

A returning officer may be assisted by other election officials in the exercise of his or her functions under this Division (except section 114L), and a reference in this Division (except section 114L) to a returning officer includes a reference to other election officials so assisting him or her.

## **Schedule 10 Amendment of Divisions 10–12 of Part 5 of Principal Act**

(Section 3)

**[1] Part 5, Division 10, heading**

Omit “(offices of returning officers)”.

Insert instead “(electoral offices and appointed places)”.

**[2] Section 114P Application for permission to vote before polling day**

Omit “or” where lastly occurring in section 114P (1) (e).

**[3] Section 114P (1) (g)**

Insert at the end of section 114P (1) (f):

or

(g) is a silent elector,

**[4] Section 114P (1)**

Omit “to the returning officer for the district for which he or she is enrolled (or, if the elector so wishes, to some other district returning officer)”.

Insert instead “to any pre-poll voting officer (whether for the district for which he or she is enrolled or for some other district)”.

**[5] Section 114P (2)**

Omit section 114P (2) (a) and (b). Insert instead:

(a) be made by the elector in person, and

**[6] Section 114P (2) (d)**

Omit the paragraph. Insert instead:

(d) be made between noon on the day of nomination and 6 pm on the day preceding polling day to a pre-poll voting officer:

(i) at the office of a returning officer during the ordinary business hours of that office, or

- (ii) at a place, and during hours, respectively appointed under subsection (6).

**[7] Section 114P (2A)**

Insert after section 114P (2):

- (2A) The elector making an application under subsection (1) must inform the pre-poll voting officer to whom the application is made of:
  - (a) the district for which the elector is enrolled, and
  - (b) the ground on which the elector is making the application, and
  - (c) any matters prescribed by the regulations.

**[8] Section 114P (3) and (4)**

Omit the subsections. Insert instead:

- (3) An elector must not in or in connection with an application under subsection (1) make any statement to a pre-poll voting officer that is, to the knowledge of the elector, false or misleading as to a material particular.  
Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.
- (4) A person must not persuade or induce an elector to make any statement to a pre-poll voting officer in or in connection with an application under subsection (1) that is, to the knowledge of that person, false or misleading as to a material particular.  
Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.

**[9] Section 114P (6)**

Omit the subsection. Insert instead:

- (6) The Electoral Commissioner may appoint places and hours for the purposes of this section. Notice of any appointment under this subsection is to be published in the Gazette at a time determined by the Electoral Commissioner.



**[10] Section 114Q Procedure for voting before polling day**

Omit “a returning officer receives an application made” from section 114Q (1).

Insert instead “an application is made to a pre-poll voting officer”.

**[11] Section 114Q (2)–(4)**

Omit “returning officer” wherever occurring.

Insert instead “pre-poll voting officer”.

**[12] Section 114Q (4) (b)**

Omit the paragraph. Insert instead:

(b) initial the front of the ballot paper.

**[13] Section 114Q (4A)**

Omit “returning officer” where firstly occurring.

Insert instead “pre-poll voting officer”.

**[14] Section 114Q (5)**

Omit “returning officer”. Insert instead “pre-poll voting officer”.

**[15] Section 114Q (6)**

Omit the subsection.

**[16] Section 114QA Ballot papers etc forwarded to district for which elector enrolled**

Omit “returning officer” where firstly occurring.

Insert instead “pre-poll voting officer”.

**[17] Section 114QA**

Insert “for the first-mentioned district” after “returning officer” where secondly occurring.

**[18] Section 114R Applications to be available for public inspection**

Omit the section.

**[19] Section 114S Returning officer to notify polling place managers that elector has voted before polling day**

Omit “deputy returning officers” wherever occurring.  
Insert instead “polling place managers”.

**[20] Section 114S**

Omit “deputy returning officer”. Insert instead “polling place manager”.

**[21] Section 114T Assistance to certain electors**

Omit “returning officer” wherever occurring.  
Insert instead “pre-poll voting officer”.

**[22] Section 114U Scrutineers**

Omit “, by writing under his or her hand,” from section 114U (1).

**[23] Section 114U (2) and (3)**

Omit the subsections. Insert instead:

- (2) Subject to subsection (3), a scrutineer so appointed is entitled to be present at any part of a place in which voting under section 114Q takes place, during the ordinary business hours of that place on that day.
- (3) If a scrutineer so appointed leaves that part of that place during the period he or she is entitled to be present, another scrutineer so appointed may act in his or her place, but only one scrutineer is entitled to be present at that part of that place in respect of a candidate at any one time.

**[24] Section 114U (4) (d)**

Omit “the office of the returning officer when present at that office”.  
Insert instead “a place when voting under section 114Q takes place at that place”.

**[25] Section 114U (5) and (6)**

Omit the subsections.

**[26] Section 114U, note**

Insert at the end of the section:

**Note.** Section 137 contains provisions relating to the appointment of and declarations by scrutineers.

**[27] Section 114V Penalty for unlawfully marking ballot paper**

Omit “returning officer” from section 114V (b).

Insert instead “pre-poll voting officer”.

**[28] Section 114W Duty of persons present when elector votes under section 114Q**

Omit “the office of the returning officer for the purpose of voting under section 114Q”.

Insert instead “a place at which voting under section 114Q takes place for the purpose of voting under that section”.

**[29] Section 114W (a)**

Omit “returning officer”. Insert instead “pre-poll voting officer”.

**[30] Section 114X Preliminary scrutiny of ballot papers of electors under section 114Q**

Omit “and shall also produce all applications made to him or her under section 114P (1)” from section 114X (1).

**[31] Section 114X (2)**

Omit “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 or she is also satisfied that”.

Insert instead “The returning officer must allow the scrutineers to examine the unopened envelopes and if the returning officer is satisfied that”.

**[32] Section 114X (3)**

Omit “envelopes, ballot-papers and applications”.  
Insert instead “envelopes and ballot papers”.

**[33] Section 114Y Spoilt ballot papers**

Omit “returning officer” wherever occurring.  
Insert instead “pre-poll voting officer”.

**[34] Section 114Z**

Omit the section. Insert instead:

**114Z Assistance for pre-poll voting officer**

A pre-poll voting officer may be assisted by other election officials in the exercise of his or her functions under sections 114P, 114Q, 114QA, 114T, 114V, 114W (a) and 114Y, and a reference in those sections to a pre-poll voting officer includes a reference to other election officials so assisting him or her.

**[35] Part 5, Division 11, heading**

Omit “(postal voting officers)”. Insert instead “(interstate and overseas)”.

**[36] Section 114ZB Procedure for polling before polling day**

Omit “Schedule 15” wherever occurring in section 114ZB (1) (a).  
Insert instead “Schedule 4”.

**[37] Section 114ZB (1) (a)**

Omit “Schedule 15A”. Insert instead “Schedule 4A”.

**[38] Section 114ZC**

Omit the section. Insert instead:

**114ZC Postal ballot papers to be initialled**

No ballot paper is to be issued to any voter without being first initialled by the postal voting officer on the front of the ballot

paper, and an exact count must be kept of all initialled postal ballot papers.

**[39] Section 114ZE Applications etc to be sent to Electoral Commissioner and returning officer**

Omit “, unless the Commissioner directs the Principal Returning Officer to deal with them under section 114ZG” from section 114ZE (3).

**[40] Section 114ZF Returning officer to note issue of ballot papers etc**

Omit “returning officer or deputy” from section 114ZF (2).

Insert instead “polling place manager or election official assigned by the polling place manager”.

**[41] Section 114ZG Scrutiny of postal ballot papers**

Omit “the officer” from section 114ZG (1). Insert instead “election official”.

**[42] Section 114ZG (2)–(4)**

Omit the subsections.

**[43] Section 114ZK**

Omit the section. Insert instead:

**114ZK Assistance for postal voting officer**

A postal voting officer may be assisted by assistants appointed under section 21AK in the exercise of his or her functions under this Division, and a reference in this Division to a postal voting officer includes a reference to assistants so assisting him or her.

**[44] Section 114ZN Declared institutions**

Omit “, by notice in the Gazette,”.

**[45] Section 114ZN (2)**

Insert at the end of the section:

- (2) Notice of any declaration under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.

**[46] Section 114ZO**

Omit the section. Insert instead:

**114ZO Taking of poll at declared institutions**

- (1) The returning officer for a district in which a declared institution is situated may assign at least two pre-poll voting officers to take the poll at the institution.
- (2) The pre-poll voting officers may, on any one or more of the fifth, fourth and third days preceding polling day, enter into and remain in the institution for the purpose of taking the poll at the institution.
- (3) Both or at least two of the pre-poll voting officers must be present for the taking of the poll at the institution.
- (4) A person must not hinder or obstruct a pre-poll voting officer or scrutineer in the exercise of his or her functions in relation to voting under this Division.

Maximum penalty (subsection (4)): 2 penalty units.

**[47] Section 114ZP Entitlement to vote at declared institution**

Omit “the deputy returning officer appointed” from section 114ZP (1) (b).  
Insert instead “a pre-poll voting officer assigned”.

**[48] Section 114ZP (1)**

Omit “the returning officer or deputy returning officer is”.  
Insert instead “the pre-poll voting officers are”.

**[49] Section 114ZP (2)**

Omit “the returning officer or deputy returning officer”.  
Insert instead “a pre-poll voting officer”.

**[50] Section 114ZQ Duty to deliver request to vote**

Omit “a returning officer or deputy returning officer”.

Insert instead “a pre-poll voting officer”.

**[51] Section 114ZQ**

Omit “the returning officer or deputy returning officer” wherever occurring.

Insert instead “a pre-poll voting officer”.

**[52] Section 114ZR Procedure for voting at declared institutions**

Omit “A returning officer or deputy returning officer” from section 114ZR (1).

Insert instead “The pre-poll voting officers”.

**[53] Section 114ZR (2)**

Omit “returning officer or deputy returning officer”.

Insert instead “pre-poll voting officer”.

**[54] Section 114ZR (3)**

Omit “The returning officer or deputy returning officer”.

Insert instead “A pre-poll voting officer”.

**[55] Section 114ZR (4) and (5)**

Omit “the returning officer or deputy returning officer” wherever occurring.

Insert instead “a pre-poll voting officer”.

**[56] Section 114ZR (5)**

Omit “Subject to subsection (6)”.

Insert instead “Subject to subsections (6) and (6A)”.

**[57] Section 114ZR (5) (a) and (c)**

Omit “returning officer or deputy” wherever occurring.

Insert instead “pre-poll voting officer”.

**[58] Section 114ZR (6)**

Omit “the returning officer or deputy returning officer”.  
Insert instead “a pre-poll voting officer”.

**[59] Section 114ZR (6) (b)**

Omit the paragraph. Insert instead:

- (b) initial the front of the ballot paper.

**[60] Section 114ZR (6A) and (6B)**

Insert after section 114ZR (6):

(6A) The following provisions have effect for the purpose of enabling electors engaging in pre-poll voting at a declared institution to peruse registered “how to vote” electoral material:

- (a) When or immediately after handing a ballot paper for an election to an elector under subsection (5) and before the elector marks the ballot paper, the pre-poll voting officer must:
  - (i) ask the elector if the elector wishes to view any “how to vote” electoral material applicable to the election, and
  - (ii) if the elector gives a positive response, permit the elector to peruse:
    - (A) a folder of relevant electoral material relating to the election of a member of the Assembly for the district concerned, and
    - (B) a separate folder of relevant electoral material relating to the periodic Council election, if such an election is being held, being a folder or folders and electoral material that comply with this subsection, and
  - (iii) provide the elector with assistance, as far as practicable, in locating particular electoral material in a folder, if the elector requests assistance for that purpose.



- (b) The electoral material relating to candidates must be arranged in a folder in the order in which their names appear on the ballot paper.
  - (c) The pre-poll voting officer must ensure that:
    - (i) a folder and any material in the folder are used only for the purposes of perusal by electors voting at the declared institution and of inspection by scrutineers at the declared institution, and
    - (ii) the folder is returned to the officer together with the ballot paper, and
    - (iii) no material in the folder is copied in any way at the declared institution, other than on the ballot paper itself.
  - (d) Electoral material relating to a candidate must not be made available for perusal under this subsection unless:
    - (i) the material was registered under section 151G for the election and for the district concerned, and
    - (ii) the application for registration of the material under that section indicated that it should be available for perusal under this subsection, and
    - (iii) the electoral material complies with the requirements (if any) regarding the size and shape of the electoral material prescribed by the regulations or, if the regulations do not prescribe any such requirements, determined by the Electoral Commissioner, and
    - (iv) any additional requirements prescribed by the regulations are satisfied.
- (6B) Subsection (6A) does not have effect in relation to a declared institution if no relevant electoral material is available for perusal at the institution.

**[61] Section 114ZR (7)**

Omit “The returning officer or deputy returning officer”.  
Insert instead “A pre-poll voting officer”.

**[62] Section 114ZR (8)**

Omit “returning officer or deputy returning officer”.  
Insert instead “pre-poll voting officer”.

**[63] Section 114ZR (8) (b) (ii)**

Omit “a deputy returning officer”. Insert instead “another election official”.

**[64] Section 114ZR (9)**

Omit “the returning officer or deputy returning officer”.  
Insert instead “a pre-poll voting officer”.

**[65] Section 114ZR (10) (a) (i)**

Omit “deputy returning officers” wherever occurring.  
Insert instead “polling place managers”.

**[66] Section 114ZR (11)**

Omit “deputy returning officer”. Insert instead “polling place manager”.

**[67] Section 114ZS Assistance to certain electors**

Omit “the returning officer or deputy returning officer” from section 114ZS (1).  
Insert instead “a pre-poll voting officer”.

**[68] Section 114ZS (1)**

Omit “returning officer or deputy” where secondly, thirdly and fourthly occurring.  
Insert instead “pre-poll voting officer”.

**[69] Section 114ZS (2)**

Omit “returning officer” where firstly occurring.  
Insert instead “pre-poll voting officer”.

**[70] Section 114ZS (2)**

Omit “returning officer or deputy returning officer”.  
Insert instead “pre-poll voting officer”.

**[71] Section 114ZS (2)**

Omit “or, if there are no scrutineers present, in the presence of his or her poll clerk”.

**[72] Section 114ZT Scrutineers**

Omit “, by writing under his or her hand,” from section 114ZT (1).

**[73] Section 114ZT (2)**

Omit “a returning officer or deputy returning officer while he or she is performing his or her”.  
Insert instead “the pre-poll voting officers while they are performing their”.

**[74] Section 114ZT (3)**

Omit “the returning officer or deputy returning officer while he or she is performing his or her” wherever occurring.  
Insert instead “the pre-poll voting officers while they are performing their”.

**[75] Section 114ZT (4) (a)**

Omit “the returning officer or deputy returning officer”.  
Insert instead “a pre-poll voting officer”.

**[76] Section 114ZT (4) (d)**

Omit “the returning officer or deputy”.  
Insert instead “a pre-poll voting officer”.

**[77] Section 114ZT (5)–(7)**

Omit the subsections.

**[78] Section 114ZT, note**

Insert at the end of the section:

**Note.** Section 137 contains provisions relating to the appointment of and declarations by scrutineers.

**[79] Section 114ZU Penalty for unlawfully marking ballot paper etc**

Omit “the returning officer or deputy returning officer” from section 114ZU (b).

Insert instead “a pre-poll voting officer”.

**[80] Section 114ZV Duty of persons present when elector votes under this Division**

Omit “returning officer or deputy returning officer”.

Insert instead “pre-poll voting officer”.

**[81] Section 114ZV (a)**

Omit “returning officer or deputy”. Insert instead “pre-poll voting officer”.

**[82] Section 114ZX Spoilt ballot papers**

Omit “the returning officer or deputy returning officer”.

Insert instead “a pre-poll voting officer”.

**[83] Section 114ZX**

Omit “returning officer or deputy” where secondly occurring.

Insert instead “pre-poll voting officer”.

**[84] Section 114ZY**

Omit the section. Insert instead:

**114ZY Assistance for pre-poll voting officer**

A pre-poll voting officer may be assisted by other election officials in the exercise of his or her functions under this Division, and a reference in this Division to a pre-poll voting officer includes a reference to other election officials so assisting him or her.

**[85] Section 115 Voting outside subdivision**

Omit “occupation therein” from section 115 (1) (a).  
Insert instead “date of birth”.

**[86] Section 115 (1) (b)**

Omit “The returning officer or deputy”. Insert instead “An election official”.

**[87] Section 115 (1) (d), (e), (g) and (h) and (2A) (c)**

Omit “returning officer or deputy” wherever occurring.  
Insert instead “election official”.

**[88] Section 115 (1) (e)**

Omit “signed or initialled on the back”.  
Insert instead “initialled on the front”.

**[89] Section 115 (2)**

Omit “returning officer or deputy” where firstly occurring.  
Insert instead “election official”.

**[90] Section 115 (2)**

Omit “signed or initialled by the returning officer or deputy on the back”.  
Insert instead “initialled by the election official on the front”.

**[91] Section 116 Forwarding of absent voters’ ballot papers**

Omit the second paragraph of the section. Insert instead:

- (2) Immediately after the close of the poll, the returning officer or another election official is, in writing (including, without limitation, by facsimile transmission, email or other electronic means), to send to each returning officer to whom envelopes containing absent voters’ ballot papers have been forwarded under subsection (1), advice of the number of envelopes so forwarded.

**[92] Section 117 Returning officer satisfied to accept ballot paper for further scrutiny**

Omit “officer” where secondly occurring in section 117 (1).  
Insert instead “election official”.

**[93] Section 117 (2)**

Omit “certifies that the returning officer or deputy has forwarded an envelope containing the absent voter’s ballot-paper in accordance with section 116”.

Insert instead “has in accordance with section 116 (2) sent advice in writing to the returning officer for the district for which the voter declares that he or she is enrolled that an envelope containing the absent voter’s ballot paper has been forwarded in accordance with section 116 (1)”.

**[94] Section 117 (3)**

Omit “the officer”. Insert instead “election official”.

**[95] Section 117 (4)**

Omit “officer” where secondly occurring. Insert instead “election official”.

**[96] Section 118 Further scrutiny**

Omit “officer assisting” from section 118 (1).  
Insert instead “election official assisting”.

**[97] Section 120**

Insert after section 119:

**120 Exercise of functions of election officials under this Division by election assistants**

A function expressed to be conferred or imposed on an election official by this Division may be exercised by an election assistant only if the election assistant has been assigned to exercise the function by the returning officer or polling place manager.

## **Schedule 11 Amendment of Divisions 13 and 13A of Part 5 of Principal Act**

(Section 3)

**[1] Section 120B**

Omit the section. Insert instead:

**120B Electoral Commissioner to prepare list of electors failing to vote**

The Electoral Commissioner must after every election prepare a list of the names of the electors who were entitled to vote at the election and did not vote.

**[2] Section 120C Penalty notices for certain offences**

Omit “sufficient reason for failing to vote” from section 120C (1).  
Insert instead “voted”.

**[3] Section 120C (3)**

Insert after section 120C (2):

- (3) The Electoral Commissioner is not required to serve a penalty notice on an elector if it appears to the Commissioner that the elector has a sufficient reason for the failure to vote.

**[4] Section 120C (6)**

Omit “, or had voted in the election under an enrolment on a roll for a district other than the one in relation to which the elector’s name appears on a list prepared under section 120B”.

**[5] Section 120E List to be evidence**

Insert after section 120E (1):

- (1A) The list prepared under section 120B containing the name of an elector is evidence that the elector did not vote at the election.

**[6] Section 120E (2)**

Omit “Subsection (1) applies”.

Insert instead “Subsections (1) and (1A) apply”.

**[7] Section 120E (2)**

Omit “and certified”.

**[8] Section 120G Opening sealed parcels containing rolls and list used at election**

Omit “returning officer”. Insert instead “Electoral Commissioner”.

**[9] Section 120I Issue of writs and nomination day for concurrent Assembly and periodic Council elections**

Omit “section 22A (2) or (3) of the *Constitution Act 1902*”.

Insert instead “section 22A (3) of the *Constitution Act 1902*”.



## **Schedule 12 Amendment of Divisions 14 and 14A of Part 5 of Principal Act**

(Section 3)

**[1] Section 121 How and when number of votes to be ascertained**

Omit “returning officer and every deputy at the polling-place at which each presides”.

Insert instead “polling place manager for each polling place and other election officials assigned by the polling place manager for the purpose”.

**[2] Section 121**

Omit “and the poll clerks (if any),”.

**[3] Section 122 Informal ballot papers**

Omit section 122 (1) (a). Insert instead:

- (a) it is not duly initialled by an election official, pre-poll voting officer or postal voting officer, as the case may require, or

**[4] Section 122A Ballot papers not to be informal in certain circumstances**

Omit section 122A (3). Insert instead:

- (3) Notwithstanding anything to the contrary in this Act, a ballot paper is not informal by reason only that it is not duly initialled by an election official, pre-poll voting officer or postal voting officer, as the case may require, if it bears such mark as is prescribed as an official mark.

**[5] Section 122A (5A)**

Insert after section 122A (5):

- (5A) Notwithstanding anything to the contrary in this Act, a ballot paper is not informal by reason only that the voter has placed one or more numbers, a tick or one or more crosses adjacent to but outside a square or squares if, in the opinion of the returning officer, the voter’s intention is clearly indicated on the

ballot paper. In such a case, each such number, tick or cross is taken to have been placed within the relevant square.

**[6] Section 122A (6)**

Omit “ballot-paper”.

Insert instead “ballot paper or to place a number, tick or cross on a ballot paper outside a square”.

**[7] Section 122A (7)**

Omit “ballot-paper”.

Insert instead “ballot paper or to place a number, tick or cross on a ballot paper outside a square”.

**[8] Section 123 Sealing and transmission by polling place managers of separate parcels of ballot papers etc**

Omit “deputy” where firstly occurring.

Insert instead “polling place manager”.

**[9] Section 123**

Omit “polling-booth” wherever occurring. Insert instead “polling place”.

**[10] Section 123 (c)**

Omit “said deputy”. Insert instead “polling place manager”.

**[11] Section 124 Account of ballot papers and verification thereof and of list of votes**

Omit “Each deputy”. Insert instead “Each polling place manager”.

**[12] Section 124**

Omit “such deputy”. Insert instead “the polling place manager”.

**[13] Section 124**

Omit “said deputy and the poll clerk (if any)”.

Insert instead “polling place manager and one or more other election officials”.

**[14] Section 125 Returning officers' parcels**

Omit "deputy returning officers" wherever occurring.  
Insert instead "polling place managers".

**[15] Section 125**

Omit "the poll clerk (if any)".  
Insert instead "one or more other election officials".

**[16] Section 126 Declaration of poll**

Omit section 126 (2A). Insert instead:

(2A) As soon as practicable after the count has been completed, the returning officer must notify the Electoral Commissioner of the result of the election.

(2B) As soon as practicable after being notified of the result of the election, the Electoral Commissioner must, by notice signed by the Commissioner and inserted in a newspaper circulating in the State, announce the result of the election.

**[17] Section 126 (3)**

Omit "returning officer". Insert instead "Electoral Commissioner".

**[18] Section 126A Scrutiny for statistical information**

Omit "other electoral official" from section 126A (3).  
Insert instead "an election official".

**[19] Section 127 Separate parcels to be enclosed in packets, sealed etc**

Omit "Clerk of the Assembly" where firstly occurring.  
Insert instead "Electoral Commissioner".

**[20] Section 127**

Omit "said clerk" wherever occurring.  
Insert instead "Electoral Commissioner".

**[21] Section 127**

Omit “said election” where firstly occurring. Insert instead “election”.

**[22] Section 127**

Omit “his or her deputies”. Insert instead “polling place managers”.

**[23] Section 127**

Omit “Packets and parcels forwarded or transmitted under this section to the Clerk of the Assembly shall be by him or her safely kept until the period during which the validity of the said election may be disputed under the provisions of this Act has expired, or, where a petition has or petitions have been filed pursuant to section 155, the Court of Disputed Returns has determined the matters referred to in such petition or petitions, when such packets and parcels shall then be transmitted to the Electoral Commissioner.”.

**[24] Section 127 (2)**

Insert at the end of the section:

- (2) Packets and parcels transmitted to the Electoral Commissioner under this section must be safely kept by him or her until:
- (a) the period of 6 months after the day of polling has expired, or
  - (b) the period during which the validity of the election may be disputed under this Act has expired, or
  - (c) where a petition has or petitions have been filed under section 155—the Court of Disputed Returns has determined the matters referred to in the petition or petitions,

whichever is the latest, after which the Electoral Commissioner must cause the packets and parcels and their contents to be destroyed.

**[25] Section 128 Ballot papers, copies of rolls and books to be evidence**

Omit “Clerk of the Assembly”. Insert instead “Electoral Commissioner”.

**[26] Section 129B Counting of votes**

Omit “returning officer for each district and every deputy at the polling-place at which each presides”.

Insert instead “polling place manager for each polling place and other election officials assigned by the polling place manager for the purpose”.

**[27] Section 129B**

Omit “and the poll clerks (if any)”.

**[28] Section 129C Sealing and transmission of separate parcels of ballot papers etc**

Omit “deputy” where firstly occurring in section 129C (1).

Insert instead “polling place manager”.

**[29] Section 129C (1) (h)**

Omit “the deputy”. Insert instead “a polling place manager”.

**[30] Section 129C (3)**

Omit “deputy” where firstly occurring.

Insert instead “polling place manager”.

**[31] Section 129C (3)**

Omit “written out by him or her”.

Insert instead “written out at the relevant polling place”.

**[32] Section 129C (3)**

Omit “the deputy and any poll clerk”.

Insert instead “polling place manager and one or more other election officials”.

**[33] Section 129D, heading**

Omit the heading to the section.

Insert instead “**Returning officers’ parcels**”.

**[34] Section 129E Lists and accounts of ballot papers**

Omit section 129E (1) (b). Insert instead:

- (b) make out an account in which he or she charges himself or herself with the number of ballot papers originally delivered to him or her or written out by election officials, specifying therein the number thereof delivered by election officials to and used by voters and the number not so delivered or left unused (the particulars in that account being ascertained from the accounts transmitted to him or her pursuant to section 129C (3) and from his or her own records).

**[35] Section 129F Informal ballot papers**

Omit “signed or” and “sign or” from section 129F (1) (a).

**[36] Section 129F (2E)**

Insert after section 129F (2D):

- (2E) Notwithstanding anything to the contrary in this Act, a ballot paper is not informal by reason only that the voter has placed one or more numbers, a tick or one or more crosses adjacent to but outside a square or squares if, in the opinion of the Electoral Commissioner, the voter’s intention is clearly indicated on the ballot paper. In such a case, each such number, tick or cross is taken to have been placed within the relevant square.

**[37] Section 129H Retention and destruction of parcels**

Omit “and forward that packet to the Clerk of the Council” from section 129H (1).

**[38] Section 129H (1)**

Omit “and transmit to that Clerk”.

**[39] Section 129H (1)**

Omit “; and that Clerk shall forthwith give or send to the Electoral Commissioner a receipt under his or her hand for the packet and parcel”.

**[40] Section 129H (2)**

Omit “and forward it to the Clerk of the Council as provided by subsection (1)”.

**[41] Section 129H (3)**

Omit the subsection. Insert instead:

- (3) Packets and parcels transmitted to the Electoral Commissioner under this section must be safely kept by him or her until:
- (a) the period of 6 months after the day of polling has expired, or
  - (b) the period during which the validity of the election may be disputed under this Act has expired, or
  - (c) where a petition has or petitions have been filed under section 155—the Court of Disputed Returns has determined the matters referred to in the petition or petitions,

whichever is the latest, after which the Electoral Commissioner must cause the packets and parcels and their contents to be destroyed.

**[42] Section 129I Ballot papers, copies of rolls and books to be evidence**

Omit “Clerk of the Council” from section 129I (1).

Insert instead “Electoral Commissioner”.

## **Schedule 13 Amendment of Divisions 15–17 of Part 5 of Principal Act**

(Section 3)

**[1] Section 130 When polling may be adjourned etc**

Omit “deputy” wherever occurring. Insert instead “polling place manager”.

**[2] Section 130 (2)**

Omit “poll clerk” wherever occurring (except where lastly occurring).  
Insert instead “election official”.

**[3] Section 130 (2)**

Omit “a poll clerk”. Insert instead “an election official”.

**[4] Section 131 Notice of adjournment to be given**

Omit “deputy” wherever occurring. Insert instead “polling place manager”.

**[5] Section 131 (2)**

Insert “, who may give public notice of the adjournment in such manner as the Commissioner thinks fit” after “Commissioner”.

**[6] Section 134 Election not to be questioned for omission etc of a formal nature**

Insert “no election for a district and” before “no periodic Council election”.

**[7] Section 135 Violation of secrecy by officers**

Omit “returning officer or the substitute of any returning officer, or any deputy returning officer, poll clerk, clerical assistant”.

Insert instead “election official, pre-poll voting officer, postal voting officer, deputy postal voting officer”.

**[8] Section 135**

Omit “returning officer, substitute, deputy, poll clerk, clerical assistant”.

Insert instead “official, officer”.



**[9] Section 135A Electoral official to vacate office upon becoming a candidate**

Omit section 135A (1). Insert instead:

(1) In this section:

*electoral official* means an election official, a postal voting officer, a deputy postal voting officer, a pre-poll voting officer, an assistant appointed for the purposes of Division 11 or an assistant to the Electoral Commissioner.

**[10] Section 136 Penalty for neglect etc by electoral officials**

Omit “returning officer, or any person appointed to act as such returning officer, or his or her substitute, or deputy returning officer”.

Insert instead “electoral official as defined in section 135A”.

**[11] Section 137**

Insert after section 136:

**137 Appointment of and declaration by scrutineers**

(1) This section applies to scrutineers appointed under this Act.

**Note.** Sections 90, 114U and 114ZT provide for the appointment of scrutineers.

(2) The regulations may prescribe a form for the purposes of this section that provides for both:

- (a) the appointment of a scrutineer by a candidate, and
- (b) a declaration to be made and signed by the scrutineer.

If there is no prescribed form, the Electoral Commissioner may approve a form for the purposes of this section.

(3) The appointment by a candidate of a scrutineer is to be made in the form prescribed or approved under subsection (2).

(4) A person appointed as a scrutineer is to make and sign a declaration in the form prescribed or approved under subsection (2).

(5) The person appointed as a scrutineer cannot act as scrutineer on any day unless the person presents the completed form (comprising a single document) on that day to the returning

officer or polling place manager or to the pre-poll voting officer, as the case requires.

- (6) The declaration is to be made and signed on each day referred to in subsection (5) before the returning officer or polling place manager or the pre-poll voting officer, as the case requires, at the place at which the scrutineer intends to act as scrutineer.
- (7) A reference in this section to a completed form includes a reference to a photocopy, carbon copy or similar identical copy of a completed form, but the copy is to be duly signed on each day as required by subsection (6).
- (8) Part 4 of the *Oaths Act 1900* applies to a declaration made under this section as if it were made under that Act.
- (9) A person is not qualified for appointment as a scrutineer unless the person is an elector. A person is not ineligible for appointment as a scrutineer for a district merely because the person is not enrolled as an elector on the electoral roll for the district.

**[12] Section 148 Extended meaning of terms “candidate” and “election”**

Insert at the end of the section:

- (2) For the purposes of section 149, *candidate at an election*, in relation to an election, also includes any person who has declared his or her intention of becoming a candidate at the election or his or her consent so to do.

**[13] Section 149**

Omit the section. Insert instead:

**149 Electoral treating**

- (1) A candidate at an election must not, before or during the election, either directly or indirectly:
  - (a) offer, promise or supply food, drink or entertainment, or
  - (b) offer or promise to pay for, or pay for, food, drink or entertainment, or
  - (c) offer or provide transport to or from polling places for the purpose of voting, or

(d) offer, promise or give a gift, donation, voucher or prize to or for any person, club, association or body, with the intention of corruptly influencing a person's election conduct at an election.

(2) For the purposes of subsection (1):

*election conduct*, in relation to a person, means:

- (a) whether or not the person votes, or
- (b) whether or not the person votes for the candidate.

(3) For the purposes of subsection (1), it is immaterial:

- (a) whether or not an offer is accepted and, if accepted, whether it is accepted before, on or after polling day, and
- (b) whether or not a promise is fulfilled and, if fulfilled, whether it is fulfilled before, on or after polling day.

(4) In proceedings for an offence under subsection (1) (d) it is a defence to show that gifts, donations, vouchers or prizes similar in nature and in amount or value are regularly given to the club, association or body for similar purposes.

(5) An elector who corruptly:

- (a) accepts:
  - (i) food, drink or entertainment, or
  - (ii) transport, or
  - (iii) a gift, donation, voucher or prize, or
- (b) without limiting paragraph (a), accepts or agrees to:
  - (i) an offer or promise of food, drink or entertainment, or
  - (ii) an offer or promise to pay for food, drink or entertainment, or
  - (iii) an offer of transport, or
  - (iv) an offer, a promise or the giving of a gift, donation, voucher or prize,

referred to in subsection (1) during an election is incapable of voting at the election.

**[14] Section 150 Penalty for electoral treating**

Omit “the offence of treating as defined in section 149, or who gives or causes to be given to any elector during any election on account of such elector having voted or being about to vote, any meat, drink, or entertainment by way of refreshment, or any money or ticket to enable such elector to obtain refreshment.”.

Insert instead “an offence against section 149 before or during an election”.

**[15] Section 151B Exhibition of posters**

Omit section 151B (1) and (2). Insert instead:

- (1) A person must not exhibit or post or cause to be exhibited or posted any poster of any size exceeding the prescribed size on the outer wall, fence or other boundary, or within 5 metres, of:
  - (a) a polling place, or
  - (b) the grounds of an enclosure in which a building used as polling place is situated,

at any time on the day of polling for an election.

Maximum penalty: 3 penalty units.

**[16] Section 151B (6)**

Omit “*Electoral*” from the second definition of *Electoral matter*.

Insert instead “*electoral*”.

**[17] Section 151D**

Omit the section. Insert instead:

**151D Removal and confiscation of posters**

- (1) The returning officer, any polling place manager or any election official assigned by the returning officer or polling place manager for the purpose may remove or cause to be removed any poster exhibited or posted in contravention of this Act:
  - (a) within a polling place, or
  - (b) in or on a public place within 6 metres of an entrance to a polling place.

- (2) Any police officer may remove or cause to be removed any poster exhibited or posted in contravention of this Act.
- (3) A police officer may use reasonable force for the purposes of this section.

**Note.** Section 151J contains provisions concerning what forms part of a polling place for the purposes of this section where the polling place is a building within an enclosure.

**[18] Section 151F Distribution of electoral material on polling day**

Omit “unless the material has been registered under section 151G” from section 151F (1).

Insert instead “, and on all days to which the polling is adjourned, unless the material has been registered under section 151G for the election”.

**[19] Section 151F (2A)**

Insert after section 151F (2):

- (2A) Subsection (1) does not apply to the handing out, distribution, sale or otherwise making available of a newspaper by or on behalf of a newsagent, newspaper seller or distributor if the handing out, distribution, sale or making available is in the course of the newsagent’s, newspaper seller’s or distributor’s employment or business.

**[20] Section 151F (3)**

Omit the subsection. Insert instead:

- (3) In this section:
  - electoral material* means a “how to vote” card, handbill, pamphlet or notice containing:
    - (a) electoral matter as defined in section 151B, or
    - (b) without limiting paragraph (a), an express or implicit reference to or comment on:
      - (i) the election or referendum, or
      - (ii) the Government, the Opposition, a previous Government or a previous Opposition, of the State, or
      - (iii) the Government, the Opposition, a previous Government or a previous Opposition, of the

- Commonwealth or any other State or a Territory,  
or
- (iv) a member or a former member of Parliament or the Parliament of the Commonwealth, any other State or a Territory, or
  - (v) a political party, a branch or division of a political party or a candidate in the election, or
  - (vi) an issue submitted to, or otherwise before, the electors in connection with the election or referendum.

**[21] Section 151G Registration of electoral material**

Insert “and for a particular district or districts” after “election” in section 151G (1).

**[22] Section 151G (2)**

Insert “at 5 pm” after “ending”.

**[23] Section 151G (3A)**

Insert after section 151G (3):

- (3A) The form of application must make provision for the applicant to indicate whether or not the electoral material to which it relates should be available for perusal under section 114ZR (6A).

**[24] Section 151G (7A)**

Insert after section 151G (7):

- (7A) The Electoral Commissioner must not register the electoral material if it appears to the Commissioner:
  - (a) that the material does not include in legible characters:
    - (i) the name and address of the person on whose instructions the material was printed, and
    - (ii) the name of the printer and address at which it was printed, or
  - (b) that the material could result in an elector casting an informal vote, or

- (c) that the material contains words that are obscene or offensive.

**[25] Section 151G (8)**

Omit “The Electoral Commissioner shall not register the electoral material”.  
Insert instead “Without affecting the generality of subsection (7A), the Electoral Commissioner must not register electoral material referred to in subsection (8A)”.

**[26] Section 151G (8) (e) (ii)**

Insert “or” at the end of the subparagraph.

**[27] Section 151G (8) (f)**

Omit “or” where lastly occurring.

**[28] Section 151G (8) (g)**

Omit the paragraph.

**[29] Section 151G (8A) and (8B)**

Insert after section 151G (8):

- (8A) Subsection (8) applies only to electoral material consisting of a “how to vote” card, handbill, pamphlet or notice:
  - (a) containing any representation of a ballot paper or portion of a ballot paper, or
  - (b) containing any representation apparently intended to represent a ballot paper or portion of a ballot paper, or
  - (c) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.
- (8B) The certificate of registration must specify the election and the district or districts for which the electoral material is registered.

**[30] Section 151G (10)**

Omit the subsection. Insert instead:

- (10) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered:

- (a) on a specified day or during a specified period, or
  - (b) for a particular election, or
  - (c) for a particular district or particular districts,
- is admissible in proceedings for an offence under section 151F and is prima facie evidence of the matters certified.

**[31] Section 151G (12A)**

Insert after section 151G (12):

(12A) A copy of:

- (a) electoral material registered under this section for a district, and
- (b) the relevant certificate of registration,

must be available for inspection at the office of the returning officer for the district during the hours of polling on polling day, and on all days to which the polling is adjourned, at the request of any person enrolled for the district or of any scrutineer.

**[32] Section 151GA**

Insert after section 151G:

**151GA Registration of electoral matter involving joint tickets**

**(1) Assembly elections**

Nothing in section 151G prevents the Electoral Commissioner from registering under that section electoral material to which section 151G (8) applies that contains directions or suggestions (express or implied) as to how to vote in accordance with the joint ticket of two or more participants in respect of one or more electoral districts, so long as:

- (a) one or other of the participants has nominated a candidate for each one of the districts, and
- (b) the material does not direct or suggest that a candidate nominated by none of the participants should be given the first preference vote, and



- (c) the application for registration of the material was made jointly by the registered officer or official agent (as the case may be) of each participant, and
- (d) the application for registration of the material otherwise complies with the relevant requirements of section 151G (apart from subsection (8) (c)).

(2) **Council elections**

Nothing in section 151G prevents the Electoral Commissioner from registering under that section electoral material to which section 151G (8) applies that contains directions or suggestions (express or implied) as to how to vote in accordance with the joint ticket of two or more participants in respect of a periodic Council election, so long as:

- (a) each of the participants has nominated at least one candidate for the election, and
- (b) the material does not direct or suggest that a candidate or candidates nominated by none of the participants should be given the first or highest preference or preferences, and
- (c) the application for registration of the material was made jointly by the registered officer or official agent (as the case may be) of each participant, and
- (d) the application for registration of the material otherwise complies with the relevant requirements of section 151G (apart from subsection (8) (d)).

(3) **Concurrent elections**

Nothing in section 151G or this section prevents the registration of one set of electoral material that contains material of the kind referred to in both subsections (1) and (2) involving the same participants and relating to elections being held concurrently.

(4) **Definition of “participant”**

In this section:

*participant* means a political party registered under Part 4A or a group of candidates registered under the *Election Funding Act 1981*.

**[33] Sections 151H–151J**

Insert after section 151G:

**151H Prohibition of canvassing near polling places**

- (1) The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling place or in any public or private place within 6 metres of an entrance to a polling place, namely:
- (a) canvassing for votes,
  - (b) soliciting the vote of any elector,
  - (c) inducing any elector not to vote for any particular candidate,
  - (d) inducing any elector not to vote at the election,
  - (e) exhibiting any notice or sign (other than an official notice) relating to the election.

Maximum penalty: 5 penalty units.

- (2) A person commits an offence against this subsection if:
- (a) on polling day, or on a day to which the polling is adjourned, the person engages in any of the following activities:
    - (i) canvassing for votes,
    - (ii) soliciting the vote of an elector,
    - (iii) inducing an elector not to vote for a particular candidate,
    - (iv) inducing an elector not to vote at the election,and
  - (b) the person engages in that activity 6 metres or more from an entrance to a polling place, and
  - (c) the person uses any of the following to engage in that activity:
    - (i) a loud speaker,
    - (ii) a public address system,
    - (iii) an amplifier (whether fixed or mobile),
    - (iv) a broadcasting van,
    - (v) a sound system,
    - (vi) radio equipment,

- (vii) any other equipment or device for broadcasting, and
- (d) that activity is audible:
  - (i) within the polling place, or
  - (ii) at an entrance to the polling place, or
  - (iii) within 6 metres of an entrance to the polling place.

Maximum penalty: 5 penalty units.

- (3) Subsection (2) applies whether the person engages in the activity in a public place or a private place.
- (4) Without limiting the generality of subsection (1), a reference to canvassing for votes includes a reference to distributing electoral material as defined for the purposes of section 151F, whether or not the material is registered in accordance with section 151G.

**Note.** Section 151J contains provisions concerning what forms part of a polling place for the purposes of this section where the polling place is a building within an enclosure.

#### **151I Confiscation of electoral material**

- (1) The returning officer, any polling place manager or any election official assigned by the returning officer or polling place manager for the purpose may:
  - (a) within a polling place, or
  - (b) in or on a public place within 6 metres of an entrance to a polling place, or
  - (c) in or on a public place in the vicinity of, but beyond 6 metres of an entrance to, a polling place,confiscate or cause to be confiscated any electoral material that is apparently available to be distributed in contravention of section 151F.
- (2) The returning officer, any polling place manager or any election official assigned by the returning officer or polling place manager for the purpose may:
  - (a) within a polling place, or

- (b) in or on a public place within 6 metres of an entrance to a polling place,

confiscate or cause to be confiscated any electoral material that is apparently available for distribution in contravention of section 151H.

- (3) Any police officer may confiscate or cause to be confiscated any electoral material that is apparently available for distribution in contravention of section 151F or 151H.
- (4) This section does not authorise a returning officer, polling place manager or other election official to use force.
- (5) Without limiting subsection (1), a place is, for the purposes of that subsection, taken to be in the vicinity of a polling place if the returning officer, polling place manager or other election official concerned is satisfied on reasonable grounds that the electoral material is being offered to, or is available to, persons intending to vote at the election at that polling place.
- (6) A police officer may use reasonable force for the purposes of this section.
- (7) Electoral material confiscated must be destroyed without undue delay, but destruction may be delayed if the material is or may reasonably be required for evidentiary purposes.

**Note.** Section 151J contains provisions concerning what forms part of a polling place for the purposes of this section where the polling place is a building within an enclosure.

**151J Application of provisions to grounds of polling place**

- (1) If:
- (a) a building used as a polling place is situated in grounds within an enclosure, and
- (b) the appointment under section 84 of the polling place does not indicate whether or not the grounds are part of the polling place,

the grounds are not, but the building is, taken to be part of the polling place for the purposes of sections 151D, 151H and 151I.

- (2) However, those grounds are taken to be part of the polling place for the purposes of those sections if the returning officer, with the concurrence of the Electoral Commissioner, causes to be displayed throughout the hours of polling at each entrance to those grounds a notice signed by the returning officer stating that those grounds are treated as part of the polling place.

## **Schedule 14 Amendment of Division 18 of Part 5 of Principal Act**

(Section 3)

**[1] Section 154AC Application of this Part to polling in Antarctica**

Omit “the poll clerk” from section 154AC (2) (b).  
Insert instead “another election official”.

**[2] Section 154AF Ballot papers to be initialled**

Omit “the returning officer or deputy”. Insert instead “an election official”.

**[3] Section 154AO Result of the polling in Antarctica**

Omit “back” from section 154AO (1) (a). Insert instead “front”.

**[4] Section 154AO (2)**

Omit “deputy”. Insert instead “polling place manager”.

**[5] Section 154AP Preservation of ballot papers etc**

Insert “, after which the Electoral Commissioner must cause the documents to be destroyed” after “occurs” in section 154AP (2).

**[6] Section 154AQ**

Insert after section 154AP:

**154AQ Appointment of assistants for Antarctic Returning Officer**

- (1) An Antarctic Returning Officer may appoint persons to act as his or her assistants in the exercise of the Officer’s functions.
- (2) An Antarctic Returning Officer may be assisted by assistants so appointed in the exercise of his or her functions under this Division, and a reference in this Division to an Antarctic Returning Officer includes a reference to assistants so assisting him or her.

- (3) Section 21AN applies to an assistant appointed under this section in the same way as it applies to an appointed official referred to in that section.

## Schedule 15 Insertion of Part 6A into Principal Act

(Section 3)

### Part 6A

Insert after Part 6:

### Part 6A Accredited election service providers

#### 175K Accredited election service providers

- (1) The Electoral Commissioner may accredit persons as accredited election service providers who are eligible to be authorised or appointed under other Acts or statutory rules to exercise functions under those other Acts or statutory rules in connection with the conduct of elections, polls or other matters.
- (2) Except to the extent that such another Act or statutory rule expressly provides otherwise:
  - (a) the authorisation or appointment of an accredited election service provider under the other Act or statutory rule may be made by a contractual or other arrangement, and
  - (b) a statutory authority or other person by or in respect of which or whom such an arrangement is entered into is authorised to pay, in accordance with the terms of the arrangement, for the provision of services by the accredited election service provider in the exercise of functions under the other Act or statutory rule, and
  - (c) subject to any such arrangement, the accredited election service provider may be assisted by employees, contractors or other persons in the exercise of functions under the other Act or statutory rule.
- (3) Accreditation may be conditional or unconditional, and may be general or may be limited to particular elections, polls or other matters or particular classes or kinds of elections, polls or other matters.



- (4) The regulations may make provision for or with respect to:
  - (a) the accreditation of persons as accredited election service providers and the removal of accreditation, and
  - (b) the audit of the performance of accredited election service providers in the exercise of their functions under other Acts or statutory rules.
- (5) The Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide.
- (6) The Australian Electoral Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide.
- (7) A reference in this section to the conduct of an election or poll includes a reference to the exercise of functions as returning officer for the election or poll.

**175L Ministerial exercise of power to authorise or appoint accredited election service providers**

- (1) If:
  - (a) another Act or statutory rule provides for the authorisation or appointment of an accredited election service provider for an election, poll or other matter, and
  - (b) the relevant Minister is satisfied that there is or will be no provider authorised or appointed to conduct or complete the conduct of the election, poll or other matter,

the relevant Minister may, by instrument in writing, exercise the power to authorise or appoint an accredited election service provider for the election, poll or other matter.

- (2) In this section:
  - relevant Minister*, in relation to an election, poll or other matter under an Act or statutory rule, means:
    - (a) the Minister administering the Act or the Act under which the statutory rule was made or has effect, or
    - (b) the Minister administering this Act.

**175M Powers of authorisation or appointment imply additional powers**

- (1) Without limiting anything in the *Interpretation Act 1987*, section 47 of that Act applies, with any necessary modifications, to the power conferred by another Act or statutory rule to authorise or appoint a person to conduct an election, poll or other matter in the same way as it applies to a power to appoint a person to an office.
- (2) Subsection (1) extends to a power exercisable by a Minister under section 175L.
- (3) This section has effect subject to a contrary intention appearing in the other Act or statutory rule concerned.

**Note.** Section 47 of the *Interpretation Act 1987* provides that a power to appoint may be exercised from time to time and implies other powers, including the power to remove an appointed person.

## Schedule 16 Amendment of Part 7 of Principal Act

(Section 3)

### [1] Section 176A

Insert after section 176:

#### **176A Destruction of ballot papers and other documents**

Any provision of this Act that provides for the destruction of ballot papers or other documents has effect despite section 21 of the *State Records Act 1998*.

### [2] Section 180 Summary penalties for neglect

Omit “salary”. Insert instead “remuneration”.

### [3] Section 183

Omit the section. Insert instead:

#### **183 Proceedings for offences**

- (1) Proceedings for an offence against this Act or the regulations may be dealt with:
  - (a) summarily before a Local Court, or
  - (b) summarily before the Supreme Court in its summary jurisdiction.
- (2) If proceedings for an offence against this Act or the regulations that is punishable by a monetary penalty are brought in a Local Court, the maximum monetary penalty that the Local Court may impose for the offence is the lesser of:
  - (a) the maximum monetary penalty provided in respect of the offence apart from this subsection, or
  - (b) 200 penalty units.
- (3) Proceedings for an offence against this Act or the regulations may be instituted by the Electoral Commissioner or any other person.

Parliamentary Electorates and Elections Amendment Act 2006 No 68

Schedule 16      Amendment of Part 7 of Principal Act

**[4] Section 186A**

Insert after section 186:

**186A Savings, transitional and other provisions**

Schedule 22 has effect.

## Schedule 17 Amendment of Principal Act—Schedules

(Section 3)

### [1] Schedule 4

Omit the Schedule. Insert instead:

### Schedule 4 Ballot paper

(Sections 82, 114D, 114Q, 114ZB, 114ZR and 115)

Issuing officer's initials

#### Ballot paper

Legislative Assembly Election

Electoral District of *(here insert name of district)*

Place the number “1” in the square opposite the name of the candidate for whom you desire to give your first preference vote.

\*You may, if you wish, vote for additional candidates by placing consecutive numbers beginning with the number “2” in the squares opposite the names of those additional candidates in the order of your preferences for them.

Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.

#### Candidates\*\*

- .....
- .....
- .....
- .....

Schedule 17      Amendment of Principal Act—Schedules

- .....
- .....

\*These words may be excluded where there are only 2 candidates.

\*\*Insert after the name of each candidate, if appropriate, the name of a registered party or the word “Independent”.

**[2] Schedule 4A Ballot paper**

Omit “Electoral District Elector enrolled .....”.

**[3] Schedule 4A**

Insert after “them.” where firstly and thirdly occurring:

Fold the ballot paper so that the vote cannot be seen, and put it in the ballot box or in the envelope provided as appropriate.

**[4] Schedule 15**

Omit the Schedule.

**[5] Schedule 15A**

Omit the Schedule.

**[6] Schedule 22**

Insert at the end of the Act:

**Schedule 22 Savings, transitional and other provisions**

(Section 186A)

**Part 1 General**

**1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts or provisions of Acts:

*Parliamentary Electorates and Elections Amendment Act 2006*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**Part 2 Provisions consequent on enactment of Parliamentary Electorates and Elections Amendment Act 2006**

**2 Definition**

In this Part:

*amending Act* means the *Parliamentary Electorates and Elections Amendment Act 2006*.

**3 State Electoral Office**

- (1) A reference in any Act or statutory instrument, or in any document of any kind, to the State Electoral Office is taken to be or to include a reference to the New South Wales Electoral Commission.
- (2) A reference in any Act or statutory instrument, or in any other document of any kind, to an officer or employee (however expressed) of the State Electoral Office is taken to be a reference to a person who is a member of the staff of the Commission.

**4 Electoral Commissioner**

- (1) The person holding office as Electoral Commissioner immediately before the date of commencement of section 21AA as inserted by the amending Act is taken to have been appointed as Electoral Commissioner under that section for a term of 10 years commencing on that date.
- (2) The person's previous appointment to that office is taken to have terminated on the person's appointment under subclause (1).
- (3) The person is eligible for re-appointment under section 21AB as if the person's appointment under subclause (1) were his or her first appointment. This subclause has effect despite anything to the contrary in section 21AB, including section 21AB (5).

**5 Returning officers**

- (1) The appointment of a person as a returning officer that is in force immediately before the repeal of section 75 by the amending Act is terminated by force of this clause.
- (2) A person whose appointment is terminated under this clause is eligible to be appointed to any position under this Act as amended by the amending Act.



**6 Surveys of electoral districts**

- (1) Section 14A of this Act and section 9C of the *Surveying Act 2002* as respectively inserted by the amending Act apply in relation to determinations of boundaries of electoral districts occurring after the date of assent to the amending Act.
- (2) The Surveyor-General may, at his or her discretion, include in the register of public surveys such details or maps relating to electoral districts whose boundaries were determined before the date of assent to the amending Act as he or she thinks fit.

**7 Dates of birth on rolls**

- (1) In the case of an elector who is enrolled immediately before the insertion of references to date of birth in this Act by the amending Act:
  - (a) the elector's enrolment is valid despite the absence of particulars of the elector's date of birth, and
  - (b) the roll or supplementary roll may be altered to include particulars of the elector's date of birth if they are provided by the elector.
- (2) Nothing in this clause affects the duty of a person to include particulars of the person's date of birth when making a claim for enrolment, provisional enrolment or transfer of enrolment or otherwise as required by or under this Act.

**8 Elections and polls under other Acts or statutory rules**

- (1) If:
  - (a) the Electoral Commissioner is satisfied that the processes involved in the conduct of a particular election or poll under another Act or statutory rule amended by Schedule 19 to the amending Act had commenced but not concluded at the commencement of the amendment, and
  - (b) the Electoral Commissioner (or a person appointed by the Electoral Commissioner) had before that commencement been authorised or appointed to conduct the election or poll,

Schedule 17      Amendment of Principal Act—Schedules

the Electoral Commissioner may by order in writing make a declaration to that effect. The order is to be published in the Gazette as soon as practicable after it is made.

- (2) An election or poll that is the subject of an order so made is to be conducted as if the Act or statutory rule had not been amended.
- (3) A reference in this clause to the conduct of an election or poll includes a reference to the exercise of functions as returning officer for the election or poll.

## **Schedule 18 Amendment of Principal Act—general**

(Section 3)

**[1] The whole Act**

Omit “ballot-box” wherever occurring. Insert instead “ballot box”.

**[2] The whole Act**

Omit “ballot-boxes” wherever occurring. Insert instead “ballot boxes”.

**[3] The whole Act**

Omit “ballot-paper” and “Ballot-paper” wherever occurring.  
Insert instead “ballot paper” and “Ballot paper”, respectively.

**[4] The whole Act**

Omit “ballot-papers” and “Ballot-papers” wherever occurring.  
Insert instead “ballot papers” and “Ballot papers”, respectively.

**[5] The whole Act**

Omit “nomination-paper” wherever occurring.  
Insert instead “nomination paper”.

**[6] The whole Act**

Omit “nomination-papers” wherever occurring.  
Insert instead “nomination papers”.

**[7] The whole Act**

Omit “polling-booth” and “polling-booths” wherever occurring.  
Insert instead “polling booth” and “polling booths”, respectively.

**[8] The whole Act**

Omit “polling-day” wherever occurring. Insert instead “polling day”.

Parliamentary Electorates and Elections Amendment Act 2006 No 68

Schedule 18 Amendment of Principal Act—general

**[9] The whole Act**

Omit “polling-place” wherever occurring. Insert instead “polling place”.

**[10] The whole Act**

Omit “polling-places” and “Polling-places” wherever occurring.  
Insert instead “polling places” and “Polling places”, respectively.

## Schedule 19 Amendment of other legislation

(Section 4)

### 19.1 Agricultural Industry Services Act 1998 No 45

#### **Section 32J Special provisions for polls relating to extra-territorial committees**

Omit “The Minister may authorise the Electoral Commissioner or a person appointed by the Electoral Commissioner” from section 32J (1).

Insert instead “The Minister may authorise an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*)”.

### 19.2 Agricultural Industry Services (Polls and Elections) Regulation 2005

#### **[1] Clause 3 Definitions**

Omit the definition of *returning officer* from clause 3 (1). Insert instead:

*returning officer*, in relation to a poll or election, means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the appropriate officer to exercise the functions conferred or imposed on a returning officer by this Regulation.

#### **[2] Clauses 16 (a) and 44 (a)**

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” wherever occurring.

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

Schedule 19 Amendment of other legislation

**[3] Clauses 23 (4) (a) and 50 (4) (a)**

Omit the paragraphs. Insert instead:

- (a) it is not initialled by the returning officer (or a person authorised by the returning officer), or

**19.3 Architects Regulation 2004**

**[1] Schedule 2 Election of Board members**

Omit the definition of *returning officer* from clause 1 (1). Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Board for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

**[2] Schedule 2, clause 15 Distribution of ballot-papers**

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 15 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**[3] Schedule 2, clause 21 Scrutiny of votes**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 21 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## **19.4 Banana Industry Regulation 2003**

### **[1] Clause 5**

Omit the clause. Insert instead:

#### **5 Returning officer**

The Committee may appoint an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) as the returning officer for the purposes of any election, poll or class of polls.

### **[2] Clauses 15 (a) and 41 (a)**

Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” wherever occurring.

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

### **[3] Clauses 21 (2) (a) and 48 (2) (a)**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” wherever occurring.

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## **19.5 Dental Practice Regulation 2004**

### **Clause 12**

Omit the clause. Insert instead:

#### **12 Returning Officer**

The Board may appoint an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) to be the Returning Officer at an election.

## **19.6 Election Funding Act 1981 No 78**

### **[1] Section 4 Definitions**

Omit “and includes the Principal Returning Officer under that Act” from the definition of *returning officer* in section 4 (1).

### **[2] Section 13 Vacation of office**

Omit “Section 21A (6)” from section 13 (2).  
Insert instead “Section 21AB (3)”.

### **[3] Section 35 Lodging of applications**

Insert “or with the Authority” after “district” in section 35 (1).

### **[4] Section 35 (3)**

Omit “Chairperson”. Insert instead “Authority”.

## **19.7 Electronic Transactions Regulation 2001**

### **Clause 4 Certain laws excluded from section 7 (1) of the Act**

Insert “or by an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*)” after “Electoral Commissioner”.

## **19.8 Fisheries Management (General) Regulation 2002**

### **[1] Clause 374 Definitions**

Omit the definition of *returning officer*. Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) nominated by the Director for the purpose of exercising the functions of a returning officer.



**[2] Clause 392 Scrutiny of votes**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 392 (1) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

**19.9 Grain Marketing Act 1991 No 15**

**[1] Section 28 Provisions as to polls**

Omit “The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner,” from section 28 (2).

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Director-General”.

**[2] Section 61 Payment of costs and expenses**

Omit section 61 (1). Insert instead:

- (1) The costs and expenses of any poll under this Act taken or held with respect to the Board are to be paid by the Board to the accredited election service provider concerned in accordance with the contract or other arrangement entered into with the provider in connection with the poll.

**[3] Section 61 (3)**

Omit the subsection. Insert instead:

- (3) Any amount required to be paid under subsection (2) is to be paid within such period as is specified in the notice or such further period as the Minister may allow.

## **19.10 Industrial Relations Act 1996 No 17**

### **Section 172 Power to order secret ballot**

Omit “the Electoral Commissioner” from section 172 (6) (b).

Insert instead “an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*)”.

## **19.11 Institute of Teachers Regulation 2005**

### **[1] Clause 17 Designation of returning officer**

Omit “The Electoral Commissioner of New South Wales, or a person or body approved by the Electoral Commissioner of New South Wales”.

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Institute”.

### **[2] Clause 40 Information concerning government school teachers**

Omit the clause.

## **19.12 Local Government (General) Regulation 2005**

### **Clauses 284A–284C**

Insert after clause 284:

#### **284A Provision of enrolment information to candidates**

- (1) At the request of any candidate for an election, the Electoral Commissioner must provide to the candidate, free of charge and in the manner and form determined by the Commissioner, enrolment information consisting of:
  - (a) a list of electors for the candidate’s ward or, if the area is not divided into wards, a list of electors for the candidate’s area, and

(b) their particulars,

as appearing in the roll of electors referred to in section 301 of the Act.

- (2) Without limiting subclause (1), the Electoral Commissioner may determine that enrolment information to be provided under this clause is to be provided electronically or in electronic form.

**284B Use of enrolment information—application of section 31E of Parliamentary Electorates and Elections Act 1912**

- (1) The provisions of section 31E (1) and (2) (other than section 31E (2) (c)) of the *Parliamentary Electorates and Elections Act 1912* are adopted in connection with enrolment information provided under clause 284A, with modifications so that those provisions as modified are as set out in subclauses (2) and (3), including the penalty set out at the end of subclause (2).

**Note.** Section 748 (3) and (4) of the Act provide for the creation of offences in connection with elections and polls by adopting, with such modifications as are necessary, any of the provisions of the *Parliamentary Electorates and Elections Act 1912*, and for the penalty for such an offence not to exceed the penalty for the corresponding offence in that Act.

- (2) A person must not use enrolment information that is provided by the Electoral Commissioner under clause 284A except for a purpose that is a permitted purpose in relation to the person to whom the information was provided.

Maximum penalty: 1,000 penalty units.

- (3) A permitted purpose is any purpose in connection with an election under the Act.

**284C Prohibition of disclosure or commercial use of enrolment information—application of section 31F of Parliamentary Electorates and Elections Act 1912**

- (1) The provisions of section 31F (other than section 31F (5)) of the *Parliamentary Electorates and Elections Act 1912* are adopted in connection with enrolment information provided under clause 284A, with modifications so that those provisions as modified are as set out in subclauses (2)–(5), including the penalty set out at the end of this clause.

**Note.** Section 748 (3) and (4) of the Act provide for the creation of offences in connection with elections and polls by adopting, with such

Schedule 19 Amendment of other legislation

modifications as are necessary, any of the provisions of the *Parliamentary Electorates and Elections Act 1912*, and for the penalty for such an offence not to exceed the penalty for the corresponding offence in that Act.

- (2) For the purposes of this clause, enrolment information is protected information in relation to a person if the person knows, or has reasonable grounds for believing, that the information has been provided under clause 284A.
- (3) A person must not disclose protected information unless the disclosure would be a use of the information for a permitted purpose under clause 284B.
- (4) A person must not use protected information for a commercial purpose.
- (5) Without limiting subclause (4), protected information is used for a commercial purpose if it is sold or offered for sale.

Maximum penalty: 1,000 penalty units.

### 19.13 Marketing of Primary Products Regulation 2005

#### [1] Clause 3 Definitions

Omit the definition of *returning officer* from clause 3 (1). Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Director-General for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.

#### [2] Clause 18 Distribution of ballot-papers

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 18 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**[3] Clauses 24 (2) (a) and 51 (2) (a)**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” wherever occurring.

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

**[4] Clause 45 Distribution of ballot-papers**

Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 45 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**19.14 Nurses and Midwives Regulation 2003**

**[1] Clause 3 Definitions**

Omit the definition of *returning officer* from clause 3 (1). Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Board for the purpose of exercising the functions of a returning officer for an election.

**[2] Clause 20 Distribution of ballot-papers**

Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 20 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**[3] Clause 26 Scrutiny of votes**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 26 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## 19.15 Pharmacy (Elections) Regulation 1998

### [1] Clause 4

Omit the clause. Insert instead:

#### 4 Returning officer

The Pharmacy Board may appoint an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) to be the returning officer for the purposes of this Regulation.

### [2] Clause 14 Distribution of ballot-papers

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 14 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

### [3] Clause 20 Scrutiny of votes

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 20 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## 19.16 Physiotherapists Regulation 2002

### Clause 9

Omit the clause. Insert instead:

#### 9 Returning Officer

The Board may appoint an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) to be the Returning Officer at an election.

**19.17 Ports Corporatisation and Waterways Management Act 1995  
No 13**

**Section 18 Special provision for election of staff director**

Omit section 18 (5). Insert instead:

- (5) An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by a Port Corporation is to be the returning officer in relation to the Port Corporation and has all the functions conferred on the returning officer by the regulations under this section.

**19.18 Ports Corporatisation (Staff Director Elections) Regulation 2002**

**[1] Clause 15 Distribution of ballot-papers**

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 15 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**[2] Clause 21 Scrutiny of votes**

Omit “nor bears a mark prescribed as an official mark for the purpose of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 21 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## 19.19 Poultry Meat Industry Regulation 2003

### [1] Clause 3 Definitions

Omit the definition of *returning officer* from clause 3 (1). Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Poultry Meat Industry Committee for the purpose of exercising the functions of a returning officer for an election.

### [2] Clause 31 Distribution of ballot-papers

Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 31 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

### [3] Clause 37 Scrutiny of votes

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 37 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

## 19.20 Public Finance and Audit Act 1983 No 152

### Schedule 3 Departments

Omit:

State Electoral Office

Electoral Commissioner

Insert instead in appropriate order:

Office of the New South Wales  
Electoral Commission

Electoral Commissioner



## 19.21 Public Sector Employment and Management Act 2002 No 43

### Schedule 1 Divisions of the Government Service

Omit:

State Electoral Office

\*Electoral Commissioner

Insert instead in Part 1 in appropriate order:

Office of the New South Wales  
Electoral Commission

\*Electoral Commissioner

## 19.22 Rice Marketing Act 1983 No 176

### [1] Sections 39 (2), 40 (2), 101 (2) and 102 (2)

Omit “The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner,” wherever occurring.

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Director-General”.

### [2] Section 107 Payment of costs and expenses

Omit section 107 (1). Insert instead:

(1) The costs and expenses of any poll or election under this Act taken or held with respect to:

- (a) a board or committee, or
- (b) the primary product in respect of which a board or committee is or may be constituted,

are to be paid by the board or committee to the accredited election service provider concerned in accordance with the

Schedule 19 Amendment of other legislation

contract or other arrangement entered into with the provider in connection with the poll or election.

**[3] Section 107 (3) and (4)**

Omit the subsections. Insert instead:

- (3) Any amount required to be paid under subsection (2) is to be paid within such period as is specified in the notice or such further period as the Minister may allow.
- (4) The costs and expenses referred to in subsection (1) are, if the board or committee is non-existent or not functioning, to be met by the Minister from money available for the purpose.

**19.23 Rural Lands Protection (General) Regulation 2001**

**Schedule 2 Elections**

Insert at the end of the definition of *returning officer* in clause 1:

Without limiting paragraph (a) or (b), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed or determined to be the returning officer.

**19.24 Stock Diseases Regulation 2004**

**[1] Schedule 2 Nominations and elections for Board of Tick Control**

Omit the definition of *returning officer* from clause 1 (1). Insert instead:

*returning officer* means an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by the Board for the purpose of exercising the functions of a returning officer.

**[2] Schedule 2, clause 30 Distribution of ballot-papers**

Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 30 (a).

Insert instead “or that bears a mark authorised by the Electoral Commissioner”.

**[3] Schedule 2, clause 36 Scrutiny of votes**

Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the *Parliamentary Electorates and Elections Act 1912*” from clause 36 (2) (a).

Insert instead “nor bears a mark authorised by the Electoral Commissioner”.

**19.25 Surveying Act 2002 No 83**

**Section 9C**

Insert after section 9B:

**9C Register of public surveys to include details of electoral districts**

- (1) The register of public surveys is to include details of the boundaries or areas of electoral districts determined under Part 2 of the *Parliamentary Electorates and Elections Act 1912* if the Surveyor-General is satisfied that the details are available in a format that is compatible with the format of the register.
- (2) The area of each electoral district required to be recorded under section 14A of the *Parliamentary Electorates and Elections Act 1912* may be recorded in the register.
- (3) The Electoral Commissioner is to forward to the Surveyor-General such information as the Surveyor-General requests to enable the details to be included in the register.
- (4) Details of electoral districts may but need not be included or retained in the register if they are superseded by later details.

**19.26 Sydney Cricket Ground and Sydney Football Stadium By-law 2004**

**Clause 51 Returning Officer**

Omit clause 51 (2). Insert instead:

- (2) Without limiting subclause (1), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed under that subclause.

**19.27 Water Management Act 2000 No 92**

**Schedule 5 Constitution and procedure of water supply authorities**

Omit “The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election” from clause 2 (3).

Insert instead “An accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) appointed by a water supply authority is to be the returning officer for an election in relation to the water supply authority”.

**19.28 Water Management (General) Regulation 2004**

**[1] Clause 56 Returning officer for election of members of a private water trust or directors of a private drainage board**

Insert after clause 56 (2):

- (3) Without limiting subclause (1), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed as the returning officer for an election.

**[2] Clause 57 Returning officer for election of members of a private irrigation board**

Insert after clause 57 (3):

- (4) Without limiting subclause (1) or (2), an accredited election service provider (referred to in Part 6A of the *Parliamentary Electorates and Elections Act 1912*) may be appointed as the returning officer for an election referred to in either subclause.

[Second reading speech made in—

Legislative Assembly on 30 August 2006

Legislative Council on 26 September 2006]