



New South Wales

CONSULTATION DRAFT BILL

Parliamentary Electorates and Elections Amendment Bill 2006

June 2006

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New South Wales

Parliamentary Electorates and Elections Amendment Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Parliamentary Electorates and Elections Act 1912* (the *Principal Act*) in connection with electoral administration, redistribution of electoral districts, the conduct of State elections, and associated matters, and in particular to make the following amendments:

- (a) with respect to electoral administration:
 - (i) to replace the State Electoral Office with a New South Wales Electoral Commission, which is to be administered by the Electoral Commissioner,
 - (ii) to revise provisions for the appointment, tenure and functions of the Electoral Commissioner,
 - (iii) to revise provisions for the appointment and functions of returning officers,

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- (iv) to provide for the appointment of polling place managers and election assistants,
- (v) to abolish the position of Principal Returning Officer,
- (vi) to transfer the responsibility for carrying out certain duties from returning officers to the Electoral Commissioner,
- (vii) to replace references to deputy returning officers, poll clerks and similar officials with references to the new categories of election officials,
- (b) with respect to electoral redistributions:
 - (i) to make adjustments to the procedures to be followed by the Electoral Districts Commissioners when preparing a redistribution of electoral districts,
 - (ii) to provide for the boundaries of electoral districts to be described by reference to maps in digital or electronic form,
- (c) with respect to overseas electors—to extend to 6 years the period for which electors may remain enrolled and vote after leaving Australia, with similar arrangements for spouses and children,
- (d) with respect to the joint roll arrangements with the Commonwealth:
 - (i) to ensure that privacy legislation does not affect the furnishing of information to the Australian Electoral Commission under those arrangements,
 - (ii) to provide for local councils to contribute one-half of the amounts payable by the State to the Commonwealth under those arrangements,
- (e) with respect to the electoral rolls:
 - (i) to revise provisions for the inspection of the rolls and the provision of enrolment information,
 - (ii) to revise requirements for State agencies to provide information to the Electoral Commissioner for purposes connected with the rolls,
 - (iii) to provide that details of an elector's occupation will no longer appear on the roll, but that details of an elector's date of birth will be included on the roll,
 - (iv) to provide that a person is not entitled to be enrolled or to remain enrolled if the person, because of unsoundness of mind, is incapable of understanding the nature and significance of enrolment and voting, but to require production of a medical certificate before a person's name can be removed from the roll on that ground,

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- (f) with respect to elections for the Legislative Assembly:
 - (i) to provide that the Electoral Commissioner is responsible for the conduct of elections, and that the returning officer for a district is responsible to the Electoral Commissioner for the administration of the election within the district,
 - (ii) to provide that the writs are to be directed to and returnable by the Electoral Commissioner,
 - (iii) to provide that it is the responsibility of the Electoral Commissioner to give public notice of a writ, the nomination day, polling day and return day, and the places at which nominations will be received,
 - (iv) to enable the registered officer of a party to deliver nomination papers to the Electoral Commissioner up to noon on the day before the day by which nominations must be made (without affecting the right to deliver nomination papers to the returning officer up to noon on the day by which nominations must be made),
 - (v) to require details of nominations to be placed on the Commission's internet website as soon as they are received,
 - (vi) to provide that it is the responsibility of the Electoral Commissioner to give public notice of a declaration by the returning officer for a district that a sole candidate is elected or of an announcement by the returning officer that a poll will be held because there are two or more candidates,
 - (vii) to require the suburb, town or other locality of the place of residence of each nominated candidate to be included in the announcement and public notice of a poll,
- (g) with respect to elections for the Legislative Council:
 - (i) to require details of nominations to be placed on the Commission's internet website as soon as they are received,
 - (ii) to provide for the return of a candidate's deposit to the registered officer of the party to which the candidate belongs or to the nominated person in the case of a group to which the candidate belongs,
- (h) with respect to elections generally:
 - (i) to remove the provision declaring polling day to be a public holiday,
 - (ii) to enable licensed premises to be used as polling places, subject to certain restrictions,
 - (iii) to require assignment of a polling place manager and election assistants to each polling place,
 - (iv) to require ballot papers to be initialled on the front instead of being signed or initialled on the back,

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- (v) to require electors seeking to vote to state their date of birth, for the purpose of checking entitlement to vote,
 - (vi) to provide that the Electoral Commissioner is responsible for preparing a list of electors who appear not to have voted at an election,
 - (vii) to require ballot papers and other material relating to an election to be retained by the Electoral Commissioner for 6 months after polling day or until the election cannot be challenged or all challenges have been determined, after which the ballot papers and other material are to be destroyed,
 - (viii) to provide that a ballot paper is not informal merely because the elector has placed a number, tick or cross adjacent to but outside the square, if the elector's intention is clearly indicated,
- (i) with respect to postal voting:
 - (i) to provide for the Electoral Commissioner to be responsible for administering the scheme for postal voting,
 - (ii) to revise the provisions relating to the registration of general postal voters and applications for registration,
 - (iii) to permit silent electors to be registered as general postal voters,
 - (iv) to permit any Australian citizen to be an authorised witness for postal voting outside Australia,
 - (j) with respect to scrutineers:
 - (i) to revise the provisions relating to the appointment of scrutineers and the making of declarations by scrutineers,
 - (ii) to require a scrutineer to present a completed form of appointment and declaration each day at the place at which he or she will act as scrutineer,
 - (k) with respect to posters and other printed electoral matter or material:
 - (i) to remove the limit on the size of posters that may be exhibited,
 - (ii) to revise the provisions relating to the registration of electoral material,
 - (iii) to authorise returning officers, polling place managers and police officers to confiscate posters that are illegally exhibited or electoral material that is being illegally distributed,
 - (l) with respect to canvassing on polling day—to prohibit canvassing on polling day within a polling place, at an entrance to a polling place or on any public or private place within 6 metres of an entrance to a polling place,
 - (m) with respect to the offence of “electoral treating”—to modernise the provisions creating the offence,

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- (n) with respect to polls and elections under other Acts, regulations or by-laws—to provide for the accreditation by the Electoral Commissioner of election service providers, who may be appointed under the other legislation to conduct polls and elections (but not State or local government elections),
- (o) to make amendments by way of statute law revision,
- (p) to make amendments of a savings or transitional nature,
- (q) to make other amendments of a minor, consequential or ancillary nature.

The Bill also amends:

- (a) the *Public Sector Employment and Management Act 2002* and the *Public Finance and Audit Act 1983*, consequentially on the establishment of the New South Wales Electoral Commission, and
- (b) the *Surveying Act 2002*, to require the register of public surveys to include details of the areas of electoral districts, and
- (c) other Acts and instruments, to enable accredited election service providers to be authorised or appointed to conduct polls and elections (but not State or local government elections).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the Principal Act set out in Schedules 1–18.

Clause 4 is a formal provision giving effect to the amendments to other legislation set out in Schedule 19.

Clause 5 provides for the repeal of the proposed Act after all the amendments have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

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Schedule 1 Amendment of Part 1 of Principal Act

Schedule 1 amends Part 1, which contains introductory matters, including section 3 containing definitions of various terms used in the Principal Act.

Definitions

New definitions of terms are inserted, including definitions of *Polling place manager*, *Election assistant*, *Election official* (to mean a returning officer, polling place manager or election assistant), and *Silent elector* (to mean a person whose residence is not shown on a roll because of a request made under section 38A of the Principal Act).

Schedule 2 Amendment of Part 2 of Principal Act

Schedule 2 amends Part 2, which deals with the distribution of electorates. Amendments include the following:

Procedures for determining boundaries

Substituted section 14 (4) requires the Electoral Districts Commissioners to complete the first (or only) round of inquiries within 60 days or, at their discretion, a further 10 days. Substituted section 14 (12) requires the commissioners, after they have completed the first (or only) round of inquiries to make a final determination, or a draft determination if their revised proposals are significantly different from their original proposals. New section 14 (14A) requires the commissioners to complete the second round of inquiries (into objections to the proposals in the draft determination) within a prescribed period. Section 14 (15) is amended to provide that the commissioners are not required to invite further submissions or hold further inquiries.

Maps of electoral districts

New section 14 (16) requires maps of proposed electoral districts to be available for inspection at the office of the Electoral Commission, at local council offices and on the Electoral Commission's website.

New section 14A requires the Electoral Districts Commissioners to determine the boundaries of electoral districts by determining the areas of each district. Maps of electoral districts are to be available in digital or electronic format.

Section 15 is amended to require a printed version of electoral maps to be published in the Gazette.

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Schedule 3 Amendment of Part 3 of Principal Act

Schedule 3 amends Part 3, which deals with qualifications of electors. Amendments include the following:

Enrolled persons overseas

Section 20A is amended to permit an enrolled elector who leaves Australia to remain enrolled and to vote for 6 years (instead of 3 years).

Section 20B is amended to permit the spouse and children of an enrolled elector referred to in section 20A to be enrolled and vote for a similar period.

Disqualifications from voting

Section 21 is amended to provide that a person is not entitled to be or remain enrolled if the person is, because of being of unsound mind, incapable of understanding the nature and significance of enrolment and voting. Removal of a person's name from the roll on that ground is subject to production of a medical certificate under new section 47 (4).

Schedule 4 Substitution of Part 3A of Principal Act

Schedule 4 substitutes Part 3A, which deals with electoral administration. Amendments include the following:

Electoral Commission

New section 21A constitutes the New South Wales Electoral Commission. Its functions are exercisable by the Electoral Commissioner, and it replaces the State Electoral Office.

Electoral Commissioner

New section 21AA provides for the appointment by the Governor of the Electoral Commissioner.

New section 21AB provides for the initial term of office of an Electoral Commissioner to be for a period of up to 10 years, with one extension for a further period of up to 10 years. Current provisions for the Electoral Commissioner to vacate office on reaching 65 years of age are not included. The office becomes vacant in certain specified circumstances, including removal on an address of both Houses of Parliament. A person is not eligible for appointment to the office if he or she is a member of a party or has been a member of a party at any time during the 5-year period before appointment.

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New section 21AD provides for the appointment of an acting Electoral Commissioner to act during the illness or absence of the Electoral Commissioner or during a vacancy in the office of Electoral Commissioner.

Election officials

New section 21AE provides for the appointment of election officials by the Electoral Commissioner. Election officials are of three kinds: returning officers, polling place managers and election assistants. Election officials are appointed for a particular district and for a specified term, which may be for the duration of a particular election. Their functions are as provided by the Principal Act and as specified by the Electoral Commissioner.

Other officials

New sections 21AI–21AK provide for the appointment of assistants for the Electoral Commissioner in his or her role as returning officer for Legislative Council elections, and for the appointment of postal voting officers, deputy postal voting officers and assistants for postal voting officers.

Other provisions

The substituted Part 3A contains other provisions regarding electoral personnel appointed under the Part. New section 21AM provides for the delegation of the functions of the Electoral Commission and Electoral Commissioner.

Schedule 5 Amendment of Part 3B of Principal Act

Schedule 5 amends Part 3B, which deals with the joint arrangements with the Commonwealth for electoral rolls. Amendments include the following:

Provision of information to Australian Electoral Commission

Section 21B is amended to ensure that privacy legislation does not affect the furnishing of information to the Australian Electoral Commission under the joint roll arrangements.

Local council contributions

New section 21E provides for local councils to contribute one-half of the amounts payable by the State to the Commonwealth under the joint roll arrangements. The contribution scheme extends to Lord Howe Island.

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Schedule 6 Amendment of Part 4 of Principal Act

Schedule 6 amends Part 4, which deals with enrolment and electoral rolls. Amendments include the following:

Particulars of occupation and date of birth

Section 26 is amended to remove the occupation of an elector from the particulars to be included in a roll, and to add the date of birth of an elector to the particulars to be included.

Provision of information to Electoral Commissioner

Section 31 is amended to clarify the power of the Electoral Commissioner to obtain information from State agencies in relation to electoral rolls and persons eligible to be enrolled.

Inspection of rolls and provision of enrolment information

New Division 3A (sections 31A–31H) sets out a scheme for the inspection of rolls and the provision of enrolment information.

New section 31A provides that the Electoral Commissioner may determine the manner and form in which enrolment information (including the inspection of rolls) is to be provided under the Division. Disclosure of the residence of a silent elector is specifically prohibited.

New section 31B provides for the public inspection of a copy of a district roll as in force for the last general election or by-election. No fee is payable to inspect the roll. A person inspecting the roll is not permitted to use a device (such as a photocopier, camera or voice recorder) to record any contents of the roll, but may make hand-written notes.

New section 31C provides for the provision of enrolment information to registered parties, members of the Legislative Assembly and Legislative Council, and candidates for election.

New section 31D provides for the provision of enrolment information to other persons at their request, but the Electoral Commissioner must consider the public interest before agreeing to such a request. The person receiving the information must give an undertaking to treat the information confidentially.

New section 31E makes it an offence to use enrolment information provided under the new Division, unless the use is for a permitted purpose.

New section 31F makes it an offence to disclose enrolment information provided under the new Division, unless the disclosure would be for a permitted purpose. The section also makes it an offence to use such information for commercial purpose, including selling it or offering it for sale.

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New section 31G authorises the Electoral Commissioner to provide internet on-line access to information of a roll for the purpose of allowing a person to ascertain whether or not he or she is correctly enrolled, subject to such security measures as the Commissioner considers necessary.

New section 31H makes it clear that the new Division does not apply to the provision of enrolment information to the Australian Electoral Commission.

Enrolment at an address

Section 33 is amended to provide that enrolment is for an address in a subdivision rather than just for the subdivision.

Removal of name from roll

Section 47 is amended to provide that medical certificate is needed before a person's name can be removed from a roll on the ground that the person, because of unsoundness of mind, is incapable of understanding the nature and significance of enrolment and voting.

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

Schedule 7 amends Divisions 1A–7 of Part 5. That Part deals with the conduct of elections. Amendments include the following:

Writs for elections

Section 72 is amended to provide that the writ for the return of a member to serve in the Legislative Assembly is to be directed to the Electoral Commissioner instead of the returning officer for the district concerned.

Substituted section 74 sets out the duties of the Electoral Commissioner on receipt of a writ for an Assembly election, including the giving of public notice of the writ and the places for receiving nominations.

Section 74D is amended to make amendments that correspond to amendments to section 74 in connection with writs for elections for the Legislative Council.

Electoral Commissioner's responsibility for general conduct of elections

New sections 75 and 76 set out the overall responsibility of the Electoral Commissioner in the general conduct of Assembly and Council elections. The sections replace other provisions in Part 5.

Nomination of Assembly candidates

Section 79 is amended to provide a candidate is nominated for the Legislative Assembly by delivering a nomination paper (in the case of a nomination made by the registered officer of a party) to the Electoral Commissioner up to noon on the

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day before the final day for making nominations or (in any case) to the returning officer for the district concerned.

Section 79 is also amended to require details of a candidate's name, the district for which the candidate is nominated and the suburb, town or other locality of the candidate's place of residence to be placed on the Commission's internet website as soon as the candidate's nomination for election to the Legislative Assembly is received.

Procedure where only one candidate nominated for Assembly election

Substituted section 80 provides that, where only one candidate is nominated for a district at an Assembly election, the returning officer is to declare the candidate elected and notify the Electoral Commissioner of the outcome. The Electoral Commissioner is then responsible for publishing the declaration in a newspaper and for the return of the writ.

Procedure where two or more candidates nominated for Assembly election

Substituted section 81 provides that, where two or more candidates are nominated for a district at an Assembly election, the returning officer is to announce that a poll will be taken, the name of each candidate and the suburb, town or other locality where each candidate resides.

Nomination of Council candidates

Section 81B is amended to require details of a candidate's name and the suburb, town or other locality of the candidate's place of residence to be placed on the Commission's internet website as soon as the candidate's nomination for election to the Legislative Council is received.

Return of deposit to Council candidate

Section 81F is amended to provide for the return of a candidate's deposit to the registered officer of the party to which a candidate belongs or to the nominated person in the case of a group to which the candidate belongs.

Provision of ballot papers for Assembly elections

Section 82 is amended to provide that the Electoral Commissioner is responsible for providing ballot papers for Assembly elections.

Division of booths according to alphabetical list of names

Section 85 is amended to remove the provision for assigning polling booths according to the alphabetical order of the names of electors.

Licensed premises

Section 85 is amended to enable licensed premises to be used as polling places, but only if:

- liquor will not be available on polling day in the area where polling will take place, and

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- that area will be segregated from any place where liquor will be sold, and
- access to that area will not involve passing through any place where liquor will be available.

Assignment of polling place managers and election assistants at polling places

Substituted section 87 requires the returning officer to assign a polling place manager to each polling place, and requires the returning officer or polling place manager to assign at least one election assistant to each polling place. The returning officer may assign himself or herself to a polling place to act as polling place manager, if authorised to do so by the Electoral Commissioner.

Declarations by returning officers and others

Section 88 is repealed. It provides for the making of declarations by returning officers and other officials, and is replaced by new section 21AO.

Ballot papers to be initialled on front

Section 89 is amended to require ballot papers to be initialled on the front.

Scrutineers

Section 91 is repealed. It provides for the making of declarations by scrutineers. New section 137 contains provisions relating to the appointment of and declarations by scrutineers.

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

Schedule 8 amends Division 8 of Part 5. Amendments include the following:

Public holiday on polling day

Section 92 as currently in force is repealed. It provides for a half-day holiday on polling day. It is replaced by a provision relating to election assistants being authorised to exercise functions under Division 8.

Polling places outside district

Section 98 is amended to make it the responsibility of the Electoral Commissioner to appoint polling places for a district outside the area of the district, for the convenience of a large number of electors, and to dispense with the restriction on abolishing such a polling place during an election period.

Questions to be asked of electors

Section 99 is amended to require electors intending to vote to answer the question “What is your date of birth?”.

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Maintaining order

Section 114 is amended to enable returning officers and polling place managers to give directions to maintain order at an election. It will be an offence to contravene such a direction without lawful authority.

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

Schedule 9 amends Division 9 of Part 5. Division 9 deals with postal voting. Amendments include the following:

Applications for postal voting

Section 114A is amended to enable applications for postal ballot papers to be made to and granted by the Electoral Commissioner as well as returning officers, and to add silent electors to the categories of persons who can apply for and be granted postal ballot papers.

Registration of general postal voters

Substituted section 114AA revises the scheme for the registration of general postal voters. The scheme extends the categories of person who can apply for registration to include silent electors, seriously ill or infirm persons and certain members of religious orders, and is to be administered by the Electoral Commissioner instead of electoral registrars.

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

Schedule 10 amends Divisions 10–12 of Part 5. Amendments include the following:

Voting before polling day (Division 10)

Division 10 (sections 114P–114Z) is revised in connection with voting before polling day.

Sections 114P and 114Q are amended to revise the procedure for voting before polling day, and to add silent electors to the categories of persons who can apply for permission to vote before polling day.

Section 114R is repealed. It provides for the public inspection of applications for permission to vote before polling day.

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Section 114U (2) and (3) are substituted and authorise a scrutineer to be present, at any part of a place in which voting before polling day takes place, during the ordinary business hours of that place on that day.

Section 114U (5) and (6) are repealed. Those subsections provide for the making of declarations by scrutineers. New section 137 contains provisions relating to the appointment of and declarations by scrutineers.

Voting outside the State by post (Division 11)

Division 11 (sections 114ZA–114ZL) is revised in connection with voting outside the State by post.

Voting before polling day at declared institutions (Division 11A)

Division 11A (sections 114ZM–114ZY) is revised in connection with pre-poll voting in nursing homes and other declared institutions.

Absent voters (Division 12)

Division 12 (sections 115–119) is revised in connection with absent voters.

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

Schedule 11 amends Divisions 13 and 13A of Part 5.

List of voters failing to vote

Substituted section 120B makes the Electoral Commissioner responsible for preparing a list of the names of enrolled electors who did not vote.

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

Schedule 12 amends Divisions 14 and 14A of Part 5, which provide for the procedure to be followed after the close of poll. Amendments include the following:

Certain ballot papers not informal

Sections 122A and 129F are amended to provide that a ballot paper is not informal merely because the elector has placed a number, tick or cross adjacent to but outside the square, if the elector's intention is clearly indicated.

Keeping and destruction of ballot papers and other material

Sections 127 and 129H are amended to require ballot papers and other material relating to an election to be retained by the Electoral Commissioner for 6 months after polling day or until the election cannot be challenged or all challenges have

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been determined, after which the ballot papers and other material are to be destroyed.

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

Schedule 13 amends Divisions 15–17 of Part 5. Amendments include the following:

Scrutineers

New section 137 makes provision for scrutineers appointed under other sections of the Principal Act. There will be a single form for scrutineers, containing the form of appointment of the scrutineer and the form of declaration to be made by the scrutineer. The completed form, or a copy of it signed by the scrutineer, is to be presented each day at the place at which the scrutineer intends to act as scrutineer.

Electoral treating

Substituted sections 149 and 150 modernise the offence of “electoral treating”.

Posters—size and removal

Section 151B is amended to remove the prohibition on the size of posters that may be exhibited.

Substituted section 151D provides for the removal and confiscation of illegally exhibited posters by electoral officials (within a polling place or within 6 metres of an entrance to a polling place) or by police officers (in any place).

Distribution of electoral material on polling day

Section 151F is amended to widen the scope of the unregistered electoral material that is not to be distributed on polling day, and provides protection for newspaper vendors.

Registration of electoral material

Section 151G is amended to revise the procedures for the registration of electoral material by the Electoral Commissioner and widens the scope of the material to which they apply.

Canvassing near polling places

New section 151H (1) prohibits canvassing for votes or a similar activity on polling day within a polling place, at the entrance to a polling place or within 6 metres of an entrance to a polling place. New section 151H (2) prohibits the use of loud speakers or similar equipment on polling day for canvassing for votes or a similar activity, if the activity is audible within a polling place, at the entrance to a polling place or within 6 metres of an entrance to a polling place.

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Electoral material—confiscation

New section 151I provides for the confiscation of electoral material being illegally distributed on polling day. The confiscation is to be effected by electoral officials (within a polling place, within 6 metres of an entrance to a polling place or in the vicinity of a polling booth) or by police officers (in any place).

Schedule 14 Amendment of Division 18 of Part 5 of Principal Act

Schedule 14 amends Division 18 of Part 5. Amendments include the following:

Administrative arrangements relating to voting in Antarctica

Division 18 (sections 154AA–154AP) is amended to make minor amendments to the administrative arrangements relating to voting in Antarctica.

Schedule 15 Insertion of Part 6A into Principal Act

Schedule 15 inserts Part 6A, which deals with accredited election service providers.

Accreditation of election service providers

New Part 6A (sections 175K–175M) provides a scheme for the accreditation by the Electoral Commissioner of persons as election service providers. Other legislation (including the Acts, regulations and by-laws to be amended by Schedule 19 to the proposed Act) may in the future contain provisions for authorising or appointing accredited election service providers to conduct elections and polls under the other legislation. State and local government elections are not affected.

New section 175K contains accreditation provisions, and authorises regulations to be made in connection with the accreditation scheme. The Electoral Commission and the Australian Electoral Commission are taken to be accredited until regulations provide otherwise.

New section 175L allows a Minister to authorise or appoint an accredited election service provider for the purposes of the other legislation referred to above, if satisfied that there is or will be no provider to conduct or complete the election or poll. This could occur, for example, if a board with the responsibility for authorising or appointing the provider has not come into existence or has ceased to exist or to function. The section would operate only if there were no provision made for such a contingency in the other legislation.

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New section 175M provides that the additional powers implied under section 47 of the *Interpretation Act 1987* in relation to appointments extend to authorisations and appointments of accredited election service providers under the other legislation referred to above.

Schedule 16 Amendment of Part 7 of Principal Act

Schedule 16 amends Part 7, which contains miscellaneous provisions. Amendments include the following:

Destruction of ballot papers and other documents

New section 176A states that any provision of the Principal Act that provides for the destruction of ballot papers or other documents has effect despite section 21 of the *State Records Act 1998*. The section is inserted to ensure that section 21 of that Act does not operate to prevent or restrict the destruction of that material. Section 21 (7) of that Act provides that “[a]n Act enacted after the commencement of this section is not to be interpreted as prevailing over or otherwise altering the effect or operation of this section except in so far as that Act provides expressly for that Act to have effect despite this section”. The new section 176A is expressed in terms of that subsection.

Institution of proceedings for offences

Substituted section 183 provides that proceedings for an offence against the Principal Act or the regulations may be dealt with summarily before a Local Court (in which case the maximum pecuniary penalty that can be imposed is 200 penalty units) or the Supreme Court, and may be instituted by any person.

Schedule 17 Insertion and omission of Schedules to Principal Act

Schedule 17 inserts and omits certain Schedules.

Ballot paper for Assembly elections

Substituted Schedule 4 sets out a single form for ballot papers for elections for the Legislative Assembly. It replaces the forms currently set out in Schedules 4 and 15, the latter being the form for postal ballot papers.

Schedule 15 is accordingly omitted.

Savings, transitional and other provisions

New Schedule 22 contains savings, transitional and other provisions, including the following:

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- Regulations of a savings or transitional nature are authorised to be made (clause 1).
- The person holding office as Electoral Commissioner immediately before the commencement of new section 21AA is taken to have been appointed as Electoral Commissioner for a term of 10 years from that commencement, and will be eligible for re-appointment for a further term of up to 10 years (clause 4).
- Any current appointments of returning officers are terminated (clause 5).

Schedule 18 General amendment of Principal Act

Schedule 18 makes certain minor amendments to the whole Act.

Consistency of terms

Consistency in spelling is promoted by removing hyphens in the terms “ballot-box”, “ballot-paper”, nomination-paper”, “polling-day”, “polling-place” and associated terms, wherever occurring in the Principal Act.

Schedule 19 Amendment of other legislation

The *Public Sector Employment and Management Act 2002* and the *Public Finance and Audit Act 1983* are amended consequentially on the establishment of the New South Wales Electoral Commission. References to the State Electoral Office are replaced by references to the Electoral Commission.

The *Surveying Act 2002* is amended to require the register of public surveys kept under that Act to include details of the areas of electoral districts as determined by the Electoral Districts Commissioners.

Other Acts and instruments are amended to enable accredited election service providers to be authorised or appointed to conduct polls and elections (but not State or local government elections).

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Parliamentary Electorates and Elections Amendment Bill 2006

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Consultation draft



New South Wales

Parliamentary Electorates and Elections Amendment Bill 2006

No , 2006

A Bill for

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.

Consultation draft

Clause 1 Parliamentary Electorates and Elections Amendment Bill 2006

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Parliamentary Electorates and Elections Amendment Act 2006</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41	8
(1) The <i>Parliamentary Electorates and Elections Act 1912</i> is referred to in this Act as the Principal Act.	9 10
(2) The Principal Act is amended as set out in Schedules 1–18.	11
(3) The omission of words by Schedule 18 does not apply to provisions or parts of provisions omitted by other Schedules.	12 13
4 Amendment of other legislation	14
The Acts and other instruments listed in Schedule 19 are amended as set out in that Schedule.	15 16
5 Repeal of Act	17
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	18 19
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	20 21 22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 1 of Principal Act

Schedule 1

Schedule 1 Amendment of Part 1 of Principal Act

1

(Section 3)

2

[1] Section 3 Definitions

3

Insert in section 3 (1):

4

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

5

6

7

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

8

9

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

10

11

Election official means:

12

(a) a returning officer or acting election official, or

13

(b) a polling place manager, or

14

(c) an election assistant.

15

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

16

17

Exercise a function includes perform a duty.

18

Function includes a power, authority or duty.

19

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*.

20

21

22

23

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

24

25

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.

26

27

28

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

29

30

Pre-poll voting officer means:

31

(a) a returning officer for any district, or

32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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.	1 2
	<i>Silent elector</i> means an elector whose residence is not shown on a roll because of a request made under section 38A.	3 4
[2]	Section 3 (1), definition of “Principal Returning Officer”	5
	Omit the definition.	6
[3]	Section 3 (1), definition of “Returning officer”	7
	Omit “, but does not include the Principal Returning Officer”.	8
[4]	Section 3 (5)	9
	Insert after section 3 (4):	10
	(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.	11 12 13 14 15 16

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 2 of Principal Act

Schedule 2

Schedule 2	Amendment of Part 2 of Principal Act	1
	(Section 3)	2
[1]	Section 6 Appointment of commissioners for redistribution of seats	3
	Omit “person who for the time being holds the office of Surveyor-General under the <i>Public Sector Management Act 1988</i> ” from section 6 (2) (c).	4
	Insert instead “person holding office or acting as the Surveyor-General under Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> ”.	5
		6
		7
		8
[2]	Section 6 (4)	9
	Omit the subsection.	10
[3]	Section 11 Disqualifications for appointment as commissioner	11
	Omit section 11 (1) (c). Insert instead:	12
	(c) who is a mentally incapacitated person.	13
[4]	Section 11 (2) (c)	14
	Omit the paragraph. Insert instead:	15
	(c) becomes a mentally incapacitated person.	16
[5]	Section 14 Notice of proposed alteration of existing boundaries to be given	17
	Omit section 14 (4). Insert instead:	18
	(4) The commissioners must complete:	19
	(a) their consideration of any suggestions or objections lodged with them under subsection (2), and	20
		21
	(b) any inquiries under subsection (5) into those suggestions or objections,	22
		23
		24
	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	25
		26
		27
		28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 2 Amendment of Part 2 of Principal Act

10-day period does not cover the process of formulating and 1
making the commissioners' determination or draft 2
determination under subsection (12). 3

[6] Section 14 (12) and (13) 4

Omit the subsections. Insert instead: 5

(12) As soon as is practicable after the commissioners have 6
concluded their consideration of any suggestion or objection 7
(including any inquiries into any suggestion or objection), they 8
must consider the form of a draft determination of the names 9
and boundaries of electoral districts, and: 10

(a) if the commissioners are of the opinion that the draft 11
determination would not be significantly different from 12
the proposal notified under subsection (1)—determine 13
the names and boundaries of electoral districts in 14
accordance with the draft determination, or 15

(b) if the commissioners are of the opinion that the draft 16
determination is significantly different from the proposal 17
notified under subsection (1) in respect of an electoral 18
district—the commissioners must publish in the Gazette 19
and in a newspaper published or circulating in that 20
district a notice containing a summary of the draft 21
determination so far as is relevant and a statement to the 22
effect that: 23

(i) a person who, or an organisation that, was 24
entitled to make submissions under subsection 25
(8) may forthwith (but within the prescribed 26
period) lodge with the commissioners a written 27
objection, and 28

(ii) subject to subsection (5), the commissioners will 29
hold an inquiry into any such objection. 30

[7] Section 14 (14) (a) 31

Insert "(but within the prescribed period)" after "forthwith". 32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 2 of Principal Act

Schedule 2

[8] Section 14 (14A)	1
Insert after section 14 (14):	2
(14A) The commissioners must complete:	3
(a) their consideration of any objections lodged with them under subsection (14), and	4
(b) any inquiries under subsection (5) (as applied by subsection (14)) into those objections,	6
as soon as practicable and in any event before the end of the prescribed period referred to in subsection (14) (a). That period does not cover the process of formulating and making the commissioners' determination under subsection (15).	8
	9
	10
	11
[9] Section 14 (15)	12
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.	13
	14
	15
	16
[10] Section 14 (16)	17
Insert after section 14 (15):	18
(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:	19
(a) at the office of the Commission, and	20
(b) at the offices of the councils of the local government areas within current or proposed boundaries, and	21
(c) on the Commission's internet website.	22
	23
	24
	25
	26
[11] Section 14A	27
Insert after section 14:	28
14A Manner of identifying boundaries of electoral districts	29
(1) The commissioners are required to determine the boundaries of electoral districts by determining the area of each district by	30
	31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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.	1 2
(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 4 5 6 7
(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:	8 9 10
(a) a printed version of a map of the area of the district, or	11
(b) a printed version describing the physical boundaries of the area of the district, or	12 13
(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).	14 15 16
(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.	17 18 19 20 21
(5) The copy lodged with the Surveyor-General is evidence of the areas of the electoral districts to which it relates.	22 23
Note. Section 9C of the Surveying Act 2002 requires details of electoral districts to be included in the register of public surveys.	24 25
[12] Section 15 Proclamation of names and maps of electoral districts	26
Omit “and the boundaries thereof to be published in the Gazette” from section 15 (2).	27 28
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)”.	29 30 31 32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 3 of Principal Act

Schedule 3

Schedule 3	Amendment of Part 3 of Principal Act	1
	(Section 3)	2
[1]	Section 20A Enrolled electors leaving Australia	3
	Omit “3 years” from section 20A (b). Insert instead “6 years”.	4
[2]	Section 20B Eligibility of spouse or child of eligible overseas elector	5
	Omit “3 years” from section 20B (1) (f). Insert instead “6 years”.	6
[3]	Section 21 Disqualifications from voting	7
	Omit section 21 (a). Insert instead:	8
	(a) is, because of being of unsound mind, incapable of understanding the nature and significance of enrolment and voting, or	9 10 11

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

Schedule 4	Substitution of Part 3A of Principal Act	1
	(Section 3)	2
Part 3A		3
	Omit the Part. Insert instead:	4
Part 3A	Electoral administration	5
Division 1	New South Wales Electoral Commission	6
21A	New South Wales Electoral Commission	7
(1)	There is constituted by this Act a corporation with the corporate name of the New South Wales Electoral Commission.	8 9 10
(2)	The Commission has the functions conferred or imposed on it by or under this or any other Act.	11 12
(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.	13 14 15 16 17
(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.	18 19 20 21 22
(5)	The Commission cannot employ any staff.	23
	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.	24 25 26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Substitution of Part 3A of Principal Act

Schedule 4

Division 2	Electoral Commissioner	1
21AA	Electoral Commissioner	2
(1)	The Governor may appoint an Electoral Commissioner for New South Wales.	3 4
(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.	5 6 7 8 9
(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.	10 11 12
21AB	Tenure of office of Electoral Commissioner	13
(1)	The Electoral Commissioner:	14
(a)	holds office for a term of such period, not exceeding 10 years, as is specified in the instrument of appointment, and	15 16 17
(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.	18 19 20 21
(2)	The office of Electoral Commissioner becomes vacant if the holder:	22 23
(a)	dies, or	24
(b)	completes a term of office and is not re-appointed, or	25
(c)	resigns the office by instrument in writing addressed to the Minister, or	26 27
(d)	is absent from duty for a period of 14 consecutive days except on leave granted by the Minister, or	28 29
(e)	engages in any paid employment outside the duties of the office, or	30 31
(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	32 33 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

- assignment of his or her remuneration for their benefit, 1
or 2
- (g) becomes a mentally incapacitated person, or 3
- (h) is convicted in New South Wales of an offence that is 4
punishable by imprisonment for 12 months or more or 5
is convicted elsewhere than in New South Wales of an 6
offence that, if committed in New South Wales, would 7
be an offence so punishable, or 8
- (i) is imprisoned in respect of a conviction for an offence 9
punishable in New South Wales by imprisonment or for 10
an offence committed elsewhere than in New South 11
Wales that, if committed in New South Wales, would be 12
an offence so punishable, or 13
- (j) becomes a member of a party, or 14
- (k) is removed from office by the Governor under this 15
section. 16
- (3) The Electoral Commissioner may be suspended from office by 17
the Governor for misbehaviour or incompetence, but cannot be 18
removed from office except in the following manner: 19
- (a) The Minister is to cause to be laid before each House of 20
Parliament a full statement of the grounds of suspension 21
within 7 sitting days of that House after the suspension. 22
- (b) An Electoral Commissioner suspended under this 23
subsection is restored to office by force of this Act, 24
unless each House of Parliament at the expiry of the 25
period of 21 days from the day when the statement was 26
laid before that House declares by resolution that the 27
Electoral Commissioner ought to be removed from 28
office. 29
- (c) If each House of Parliament does so declare within the 30
relevant period of 21 days, the Electoral Commissioner 31
is to be removed from office by the Governor 32
accordingly. 33

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Substitution of Part 3A of Principal Act

Schedule 4

(4) A person who:	1
(a) is a member of a party, or	2
(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,	3 4 5
cannot be appointed to be the Electoral Commissioner.	6
(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).	7 8 9 10
21AC Provisions applicable to Electoral Commissioner	11
(1) The provisions of the <i>Public Sector Employment and Management Act 2002</i> 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.	12 13 14 15 16
(2) The Electoral Commissioner is entitled to be paid remuneration in accordance with the <i>Statutory and Other Offices Remuneration Act 1975</i> .	17 18 19
(3) The Governor may by order fix the terms and conditions of appointment that are applicable to the Electoral Commissioner.	20 21
21AD Acting Electoral Commissioner	22
(1) Appointment by Governor—vacancy	23
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.	24 25 26 27 28
(2) Appointment by Minister—illness or absence	29
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.	30 31 32 33

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

- (3) **Appointment by Electoral Commissioner—substitute to act during election period** 1
The Electoral Commissioner may appoint a member of the staff 2
of the Commission to act as Electoral Commissioner, in the 3
event of a future vacancy in the office of Electoral 4
Commissioner or in the event of the future illness or absence of 5
the Electoral Commissioner, occurring during an election 6
period. The person so appointed may, during an election period, 7
act as Electoral Commissioner: 8
(a) during such a vacancy, until a person is appointed by 9
the Governor as or to act as Electoral Commissioner 10
under section 21AA or under subsection (1), or 11
(b) during such an illness or absence, until a person is 12
appointed by the Minister to act as Electoral 13
Commissioner under subsection (2). 14
15
- (4) **Functions of person acting as Electoral Commissioner** 16
A person, while acting as Electoral Commissioner under this 17
section, has and may exercise the functions of the Electoral 18
Commissioner and is taken to be the Electoral Commissioner. 19
- (5) **Ineligibility for appointment** 20
A person who: 21
(a) is a member of a party, or 22
(b) has been a member of a party at any time during the 23
period of 5 years immediately preceding the date of the 24
proposed appointment, 25
cannot be appointed to act as Electoral Commissioner under 26
this section. 27
- (6) **Notification of appointment of substitute** 28
The Electoral Commissioner must, as soon as practicable, 29
advise the Minister of any appointment under subsection (3) or 30
of the termination of any such appointment. 31
- (7) **Termination of appointment of member of staff** 32
The appointment of a person under subsection (3) terminates if 33
the person ceases to be a member of the staff of the 34
Commission. 35
- (8) **Remuneration** 36
A person, while acting as Electoral Commissioner under this 37
section, is entitled to be paid such remuneration (including 38

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Substitution of Part 3A of Principal Act

Schedule 4

travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person while so acting.	1 2 3
(9) Implied powers not affected Nothing in this section limits the application of section 47 of the <i>Interpretation Act 1987</i> in relation to any appointment under this section.	4 5 6 7
(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.	8 9 10 11 12
(11) Definition of “election period” In this section: <i>election period</i> means the period between the issue of the writ or writs for an election and the return of the writ or all the writs.	13 14 15 16 17
Division 3 Election officials for districts	18
21AE Election officials	19
(1) The Electoral Commissioner may, by instrument in writing, appoint appropriate persons to be:	20 21
(a) returning officers, or	22
(b) polling place managers, or	23
(c) election assistants.	24
(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.	25 26 27 28 29
(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.	30 31 32 33 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

21AF	Acting returning officers	1
(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 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 3 4 5 6
(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.	7 8 9
(3)	This section does not prevent the appointment of a person as a returning officer to fill a vacancy in that office.	10 11
21AG	Functions of election officials	12
	The functions of a class of persons appointed under this Division are:	13 14
(a)	the functions specified by or under this or any other Act in respect of that class of persons, and	15 16
(b)	any other functions not inconsistent with this or any other Act as may be specified by the Electoral Commissioner by:	17 18 19
(i)	the instrument of appointment of persons of that class, or	20 21
(ii)	another instrument applicable to persons of that class or a particular person of that class.	22 23
21AH	Returning officer not eligible to vote at Assembly election	24
	A returning officer is ineligible to vote at any election of a member of the Assembly.	25 26
Division 4	Election assistants for periodic Council elections	27 28
21AI	Appointment of assistants for Electoral Commissioner for periodic Council elections	29 30
	The Electoral Commissioner may appoint one or more persons who are electors to act as his or her assistants in the exercise of	31 32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Substitution of Part 3A of Principal Act

Schedule 4

the Commissioner's functions in relation to the conduct of periodic Council elections.	1 2
Division 5 Postal voting officers	3
21AJ Postal voting officers and deputy postal voting officers	4
(1) The Electoral Commissioner may, by instrument in writing, appoint appropriate persons to be:	5 6
(a) postal voting officers, or	7
(b) deputy postal voting officers,	8
at a place outside New South Wales (whether overseas or in Australia), for the purposes of all elections.	9 10
(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.	11 12 13 14
(3) This section does not prevent the appointment of a person as a postal voting officer to fill a vacancy in that office.	15 16
21AK Appointment of assistants for postal voting officer	17
A postal voting officer may appoint persons to act as his or her assistants in the exercise of the officer's functions.	18 19
Division 6 Miscellaneous	20
21AL Definition of "appointed official"	21
In this Division:	22
<i>appointed official</i> means a person who holds an appointment as:	23 24
(a) an election official, or	25
(b) a postal voting officer or deputy postal voting officer, or	26
(c) an assistant to the Electoral Commissioner under section 21AI, or	27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

(d)	an assistant to a postal voting officer under section 21AK.	1 2
21AM	Delegation	3
(1)	The Commission may delegate any of the Commission's functions to:	4 5
(a)	the Electoral Commissioner, or	6
(b)	an appointed official, or	7
(c)	a member of the staff of the Commission.	8
(2)	The Electoral Commissioner may delegate any of the Commissioner's functions to:	9 10
(a)	an appointed official, or	11
(b)	a member of the staff of the Commission.	12
(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).	13 14 15 16 17
(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.	18 19 20
21AN	Appointed officials subject to control and direction	21
	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:	22 23 24
(a)	this Act, or	25
(b)	the <i>Constitution Act 1902</i> so far as those functions relate to the conduct of elections (within the meaning of this Act) or referendums, or	26 27 28
(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.	29 30 31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Substitution of Part 3A of Principal Act

Schedule 4

21AO	Declarations to be made by appointed officials	1
(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:	2
		3
		4
		5
(a)	in a form approved by the Electoral Commissioner, unless paragraph (b) applies, or	6
		7
(b)	in a form prescribed by the regulations.	8
(2)	The declaration must be transmitted without delay to:	9
(a)	the Electoral Commissioner, unless paragraph (b) applies, or	10
		11
(b)	a returning officer, as directed by the Electoral Commissioner.	12
		13
(3)	Justices of the peace, school teachers and prescribed persons are authorised to receive any such declaration.	14
		15
(4)	Part 4 of the <i>Oaths Act 1900</i> applies to any such declaration as if it were made under that Act.	16
		17
21AP	Remuneration of appointed officials	18
	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.	19
		20
		21
21AQ	Termination of appointment of appointed officials	22
(1)	An appointed official ceases to hold his or her appointment if:	23
(a)	he or she dies, or	24
(b)	his or her appointment was for a term and the term expires, or	25
		26
(c)	he or she resigns the appointment by instrument in writing addressed to the Electoral Commissioner, or	27
		28
(d)	the Electoral Commissioner terminates his or her appointment.	29
		30
(2)	The Electoral Commissioner may terminate the appointment at any time, for any or no reason, without notice and without affording a hearing. This subsection does not limit section 47	31
		32
		33

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 4 Substitution of Part 3A of Principal Act

of the *Interpretation Act 1987* in its application to or in respect of holders of those appointments. 1
2

21AR Notification of appointments and termination of appointments of returning officers 3
4

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. 5
6
7

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 3B of Principal Act

Schedule 5

Schedule 5	Amendment of Part 3B of Principal Act	1
	(Section 3)	2
[1]	Section 21AB Definition	3
	Re-number the section as section 21BA.	4
[2]	Section 21B Arrangement with Commonwealth as to rolls	5
	Insert after section 21B (2):	6
	(3) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the <i>Privacy and Personal Information Protection Act 1998</i> relating to the collection, use or disclosure of personal information to the extent that personal information is furnished to the Australian Electoral Commission:	7 8 9 10 11 12
	(a) for the purposes of or in connection with any arrangement referred to in this section, or	13 14
	(b) for any other purpose relating to the rolls.	15
[3]	Section 21E	16
	Insert after section 21D:	17
21E	Contributions from local councils for cost of maintaining the roll	18
	(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.	19 20 21 22
	(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.	23 24 25
	(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.	26 27 28
	(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	29 30

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Schedule 5 Amendment of Part 3B of Principal Act

- be as notified to the council by a written notice served on the council by the Electoral Commissioner. 1
2
- (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. 3
4
5
- (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. 6
7
8
9
- (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. 10
11
12
13
14
15
16
- (8) A reference in this section to: 17
- (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 18
19
20
- (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. 21
22
23
24
- (9) A reference in this section to: 25
- (a) a local council includes a reference to the Lord Howe Island Board, and 26
27
- (b) the funds of a local council includes a reference to money standing to the credit of the Lord Howe Island Account. 28
29
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Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 4 of Principal Act

Schedule 6

Schedule 6	Amendment of Part 4 of Principal Act	1
	(Section 3)	2
[1]	Section 26 Rolls for districts and subdivisions	3
	Omit “occupation (or other prescribed particulars) and sex” from section 26 (4) (b).	4
	Insert instead “date of birth, sex and other prescribed particulars”.	5
[2]	Section 29 Printing of rolls	6
	Omit section 29 (2).	7
[3]	Section 30 Inspection of rolls	8
	Omit the section.	9
[4]	Section 31 Persons who are to furnish information	10
	Omit “application”. Insert instead “request”.	11
[5]	Section 31 (2)–(5)	12
	Insert at the end of the section:	13
	(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:	14
	(a) any information of a kind required by the Electoral Commissioner or any such officer for any purpose relating to the rolls, or	15
	(b) without limiting paragraph (a), all such information as is required to enable the Electoral Commissioner or any such officer to detect:	16
	(i) persons or classes of persons who may be incorrectly enrolled, or	17
	(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	18

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Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 6 Amendment of Part 4 of Principal Act

claims under section 33A to have their names placed on a roll, or	1
(iii) other persons or classes of persons who may be affected by this Part or regulations made for the purposes of this Part.	2
(3) The Electoral Commissioner may inform any persons who, from information obtained under subsection (2):	3
(a) appear to be incorrectly enrolled—of their obligation to be correctly enrolled, or	4
(b) appear not to be enrolled—of their present or forthcoming obligation to be enrolled.	5
(4) Persons and public service agencies are exempt from any requirements of the <i>Privacy and Personal Information Protection Act 1998</i> 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.	6
(5) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the <i>Privacy and Personal Information Protection Act 1998</i> relating to the collection, use or disclosure of personal information to the extent that personal information is furnished under this section.	7
[6] Part 4, Division 3A	8
Insert after Division 3:	9
Division 3A Inspection of rolls and provision of enrolment information	10
31A Electoral Commissioner to determine manner and form of access to rolls and enrolment information	11
(1) The Electoral Commissioner may determine the manner and form in which information is to be provided under this Division.	12
(2) Without limiting subsection (1), the Electoral Commissioner may determine that the information is to be provided electronically or in electronic form.	13

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Amendment of Part 4 of Principal Act

Schedule 6

- (3) If the Electoral Commissioner: 1
- (a) makes a copy of a roll available for public inspection in a particular form, or 2
3
 - (b) gives a copy of a roll to a person in a particular form, 4
the copy is, subject to section 31B (3), to be a copy of the most 5
up-to-date version of the roll that is available in that form. 6
- (4) Information provided under this Division must not contain: 7
- (a) particulars of a silent elector's residence, or 8
 - (b) any prescribed particulars relating to an elector. 9
- Note.** Section 38A provides for the exclusion of the address of an elector 10
from the roll in certain circumstances. 11
- (5) A reference in this section to information being provided 12
includes a reference to: 13
- (a) a copy of a roll being made available for public 14
inspection, and 15
 - (b) a copy of a roll or list of electors being given to a 16
person. 17
- 31B Public inspection of rolls** 18
- (1) A copy of a roll for a district is to be available, at any time 19
during ordinary office hours, for public inspection without fee 20
at: 21
- (a) the office of the Commission, and 22
 - (b) such other places as the Electoral Commissioner 23
determines. 24
- (2) The Electoral Commissioner may make a copy of a roll 25
available for public inspection without fee in any other way that 26
the Commissioner considers appropriate. 27
- (3) The copy of a roll for a district to be available under this 28
section is to be the copy of the roll as in force as at the time of 29
the last Assembly general election or the last by-election for the 30
district, whichever is the later. 31
- (4) A person inspecting a copy of a roll under this section is not 32
entitled to use a device (such as a photocopier, camera, 33
telephone, mobile phone, voice recorder or video recorder) to 34
copy, record or transmit the contents of the roll or any part or 35

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Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 6 Amendment of Part 4 of Principal Act

the roll, but this subsection does not prevent a person taking hand-written notes of any of those contents.	1 2
31C Provision of enrolment information to parties, members and candidates	3 4
(1) Registered parties	5
The Electoral Commissioner must provide to each registered party, free of charge, a list specifying electors and their particulars:	6 7 8
(a) once each 4 years, and	9
(b) as soon as practicable after the redistribution of the State into districts, and	10 11
(c) on receiving a request from the registered officer of the party.	12 13
(2) Members of Council	14
The Electoral Commissioner must provide to each member of the Council, free of charge, a list specifying electors and their particulars:	15 16 17
(a) once each 4 years, and	18
(b) as soon as practicable after the redistribution of the State into districts, and	19 20
(c) on receiving a request from the member but not more than once each year.	21 22
(3) Members of Assembly	23
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:	24 25 26
(a) once each 4 years, and	27
(b) on receiving a request from the member but not more than once each year.	28 29
(4) On a redistribution of the State into districts, the Electoral Commissioner must provide to each member of the Assembly, free of charge:	30 31 32
(a) a list specifying electors for the district for which the member was elected, and	33 34
(b) a list specifying electors for the district whose name and area are published under section 15 and that, in the	35 36

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Amendment of Part 4 of Principal Act

Schedule 6

opinion of the Commissioner, most resemble the district for which the member was elected,	1 2
and their particulars:	3
(c) as soon as practicable after the redistribution, and	4
(d) on receiving a request from the member but not more than once each year.	5 6
(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:	7 8 9
(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 their particulars, and	10 11 12 13 14
(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.	15 16 17 18 19
(6) Candidates At the request of any candidate for an 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.	20 21 22 23 24
31D Provision of enrolment information to others	25
(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:	26 27 28
(a) identify the public interest in providing the requested information, and	29 30
(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.	31 32 33 34
(2) Subject to subsection (3), if the Electoral Commissioner has made a finding under subsection (1) that the public interest in	35 36

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Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 6 Amendment of Part 4 of Principal Act

- 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

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Amendment of Part 4 of Principal Act

Schedule 6

- permitted purpose in relation to the party or person to whom
the information was provided. 1
2
- Maximum penalty: 1,000 penalty units. 3
- (2) The permitted purposes in relation to a registered party or a
candidate are: 4
5
- (a) any purpose in connection with an election, and 6
- (b) monitoring the accuracy of information contained on a
roll, and 7
8
- (c) any purpose prescribed by the regulations. 9
- (3) The permitted purposes in relation to a member of the Council
are: 10
11
- (a) any purpose in connection with an election, and 12
- (b) monitoring the accuracy of information contained on a
roll, and 13
14
- (c) exercising the functions of a member in relation to an
elector. 15
16
- (4) The permitted purposes in relation to a member of the
Assembly are: 17
18
- (a) any purpose in connection with an election, and 19
- (b) monitoring the accuracy of information contained on a
roll, and 20
21
- (c) exercising the functions of a member in relation to the
member's constituents. 22
23
- (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. 24
25
26
27
- (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. 28
29
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Schedule 6 Amendment of Part 4 of Principal Act

31F	Prohibition of disclosure or commercial use of enrolment information	1
		2
(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.	3 4 5 6
(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.	7 8 9
(3)	A person must not use protected information for a commercial purpose.	10 11
(4)	Without limiting subsection (3), protected information is used for a commercial purpose if it is sold or offered for sale.	12 13
(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.	14 15 16 17 18
	Maximum penalty: 1,000 penalty units.	19
31G	On-line access by an individual to information about the individual	20 21
(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.	22 23 24 25
(2)	The Electoral Commissioner may determine the manner and form in which information is to be available under this section.	26 27
(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:	28 29 30
(a)	that individual, or	31
(b)	a person who is authorised by that individual to access that information.	32 33

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Amendment of Part 4 of Principal Act

Schedule 6

31H	Division does not affect arrangements with Commonwealth	1
	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.	2 3 4 5
[7]	Section 33 Claims for enrolment or transfer of enrolment	6
	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”.	7 8 9
[8]	Section 33 (2)	10
	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 12 13
[9]	Section 33 (2)	14
	Insert “, in respect of residence at that address,” after “entitled”.	15
[10]	Section 39 Alteration of rolls	16
	Omit “, address, or occupation” from section 39 (1) (b). Insert instead “or address”.	17 18
[11]	Section 41 Information as to deaths and convictions	19
	Omit “occupation and” wherever occurring.	20
[12]	Section 42 Name on roll may be objected to	21
	Omit the proviso.	22
[13]	Section 47 Determination of objection	23
	Insert “, unless the name is removed on the ground referred to in subsection (4)” after “the election” in the proviso to section 47 (1).	24 25

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Schedule 6 Amendment of Part 4 of Principal Act

[14] Section 47 (4)	1
Insert after section 47 (3):	2
(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.	3 4 5 6 7 8 9
[15] Section 50 Roll for purposes of election	10
Omit "State returning officer for the district" from section 50 (1). Insert instead "Electoral Commissioner".	11 12
[16] Section 50 (2)	13
Omit "State returning officer". Insert instead "Electoral Commissioner".	14
[17] Section 50 (5)	15
Omit "powers, authorities, duties and".	16

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Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

Schedule 7	Amendment of Divisions 1A–7 of Part 5 of Principal Act	1
		2
	(Section 3)	3
[1]	Section 72 Writs directed to Electoral Commissioner	4
	Omit “returning officer of the district for which the election is to be held” from section 72 (1).	5
	Insert instead “Electoral Commissioner”.	6
		7
[2]	Section 72 (2)	8
	Omit “section 22A (2) and (3) of the <i>Constitution Act 1902</i> ”.	9
	Insert instead “section 22A (3) of the <i>Constitution Act 1902</i> ”.	10
[3]	Section 74	11
	Omit the section. Insert instead:	12
	74 Duties of Electoral Commissioner on receipt of writ	13
	(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:	14
		15
	(a) the purport of the writ, and	16
		17
	(b) the day of nomination, the day of polling and the return day mentioned in the writ, and	18
		19
	(c) some 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	20
		21
		22
		23
		24
	(d) some 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.	25
		26
		27
		28
		29

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

- (2) The public notice is to be by way of notice: 1
- (a) in any newspaper published or circulating in the district 2
to which the writ relates, and 3
 - (b) on the Commission’s internet website. 4
- (3) The returning officer must attend at all reasonable hours in the 5
daytime, in the interval between being notified of the receipt of 6
the writ and noon on the day of nomination, at the place 7
appointed for receiving nomination papers. 8
- (4) The Electoral Commissioner must attend at all reasonable hours 9
in the daytime, in the interval between the receipt of the writ 10
and noon on the day before the day of nomination, at the place 11
appointed for receiving nomination papers. 12
- [4] Section 74C Writ directed to Electoral Commissioner 13**
- Omit “section 22A (2) and (3) of the *Constitution Act 1902*” from section 14
74C (3). 15
- Insert instead “section 22A (3) of the *Constitution Act 1902*”. 16
- [5] Section 74D Duties of Electoral Commissioner on receipt of writ 17**
- Omit section 74D (1)–(4). Insert instead: 18
- (1) The Electoral Commissioner must, on receiving a writ under 19
section 74C, endorse on it the date of its receipt, and forthwith 20
give public notice of: 21
- (a) the purport of the writ, and 22
 - (b) the day of nomination, the day of polling, and the return 23
day mentioned in the writ, and 24
 - (c) some place within the State (to be appointed by the 25
Electoral Commissioner) at which the Electoral 26
Commissioner will receive the nomination papers for 27
the election to which the writ relates, and the time by 28
which they must be received. 29
- (2) The public notice is to be by way of notice: 30
- (a) in any newspaper circulating in the State, and 31
 - (b) on the Electoral Commissioner’s internet website. 32

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Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

(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.	1 2 3 4
[6] Part 5, Division 2	5
Omit the Division. Insert instead:	6
Division 2 General conduct of Assembly and Council elections	7 8
75 General conduct of Assembly elections	9
(1) The Electoral Commissioner is, subject to this Act and the <i>Constitution Act 1902</i> , responsible for the conduct and administration of Assembly general elections and by-elections.	10 11 12
(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.	13 14 15 16
76 General conduct of Council elections	17
(1) The Electoral Commissioner is, subject to this Act and the <i>Constitution Act 1902</i> , by this Act appointed to conduct periodic Council elections as Council returning officer.	18 19 20
(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.	21 22 23
[7] Part 5, Division 2A	24
Omit the Division.	25
[8] Part 5, Division 3	26
Omit the Division.	27

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Parliamentary Electorates and Elections Amendment Bill 2006

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

[9] Section 79 Nomination of Assembly candidates	1
Omit section 79 (3). Insert instead:	2
(3) A nomination of a candidate is to be made by delivering a nomination paper:	3
(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	4
(b) in any case—the returning officer at some time after the issue of the writ and before noon on the day of nomination.	5
The person receiving the nomination paper must, if required to do so, give a receipt for it.	6
[10] Section 79 (3A)	7
Omit “ <i>occupation</i> ”. Insert instead “ <i>date of birth</i> ”.	8
[11] Section 79 (4)	9
Omit “ <i>occupation</i> ” and “ Occupation ”.	10
Insert instead “ <i>date of birth</i> ” and “ Date of birth ”, respectively.	11
[12] Section 79 (7A) (a)	12
Omit “or person acting as his or her substitute (as the case may be)”.	13
[13] Section 79 (7A) (a)	14
Omit “in money or in Australian notes or in a banker’s cheque”.	15
Insert instead “in cash or in a cheque drawn by an authorised deposit-taking institution”.	16
[14] Section 79 (9)	17
Insert after section 79 (8):	18
(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	19

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Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

following details relating to the nomination to be displayed on the Commission’s internet website:	1
	2
(a) the candidate’s name,	3
(b) the district for which the candidate is nominated for election,	4
	5
(c) the suburb, town or other locality of the place of residence as enrolled of the candidate (as stated on the nomination paper).	6
	7
	8
[15] Section 80	9
Omit the section. Insert instead:	10
80 Proceedings on nomination day if one candidate only	11
(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.	12
	13
	14
	15
	16
(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.	17
	18
	19
	20
(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.	21
	22
	23
[16] Section 81	24
Omit the section. Insert instead:	25
81 When poll to be taken	26
(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.	27
	28
	29
	30
(2) The returning officer must, at noon on the day of nomination and at the place named in the writ for the delivery of nomination papers to the returning officer, announce:	31
	32
	33

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

(a)	that a poll is to be taken, and	1
(b)	the names of the candidates, and	2
(c)	the suburb, town or other locality of the place of residence as enrolled of each candidate (as stated on the nomination paper).	3 4 5
(3)	The returning officer must, as soon as practicable, notify the Electoral Commissioner of the matters referred to in subsection (2).	6 7 8
(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.	9 10 11 12
[17]	Section 81B Nomination of Council candidates	13
	Omit “ Occupation ” wherever occurring in section 81B (3A) and (4).	14
	Insert instead “ Date of birth ”.	15
[18]	Section 81B (8)	16
	Insert after section 81B (7):	17
(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:	18 19 20 21 22
(a)	the candidate’s name,	23
(b)	the suburb, town or other locality of the place of residence as enrolled of the candidate (as stated on the nomination paper).	24 25 26
[19]	Section 81F Deposit for periodic Council election	27
	Omit “in money or in a banker’s cheque” from section 81F (1).	28
	Insert instead “in cash or in a cheque drawn by an authorised deposit-taking institution”.	29 30

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Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

[20] Section 81F (3)	1
Omit “to the candidate (or some person authorised by the candidate in writing to receive it)”.	2
Insert instead “in accordance with subsection (3A)”.	3
	4
[21] Section 81F (3A)	5
Insert after section 81F (3):	6
(3A) The deposit referred to in subsection (3) is to be returned:	7
(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	8
	9
	10
(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	11
	12
	13
	14
	15
(c) in any other case—to the candidate (or to some person authorised by the candidate to receive it).	16
	17
[22] Section 82 Ballot papers to be provided	18
Omit “in” from section 82 (1). Insert instead “for”.	19
[23] Section 82 (1)	20
Omit “returning officer”. Insert instead “Electoral Commissioner”.	21
[24] Section 83 Printing of ballot papers	22
Omit “or the returning officer for the district” from section 83 (c).	23
[25] Part 5, Division 7, heading	24
Omit “, poll clerks etc”.	25
[26] Section 84 Polling places	26
Omit “, by notice in the Gazette” from section 84 (1).	27

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[27] Section 84 (1) (a)	1
Omit the paragraph.	2
[28] Section 84 (1) (b)	3
Omit “other”.	4
[29] Section 84 (1) (d)	5
Omit the paragraph.	6
[30] Section 84 (2)	7
Omit the subsection.	8
[31] Section 84 (3)	9
Insert at the end of section 84:	10
(3) Notice of any appointment, abolition or declaration under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.	11 12 13
[32] Section 85 Booths to be erected or rooms hired	14
Omit section 85 (2).	15
[33] Section 85 (3)	16
Omit the subsection. Insert instead:	17
(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:	18 19 20 21
(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	22 23 24
(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	25 26 27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

(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.	1 2 3 4
[34]	Section 86 Booths—arrangements, ballot boxes etc	5
	Omit “returning officer or the returning officer’s deputy”.	6
	Insert instead “polling place manager”.	7
[35]	Section 87	8
	Omit the section. Insert instead:	9
	87 Polling place—arrangements	10
(1)	The returning officer must assign a polling place manager to preside at each polling place.	11 12
(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.	13 14 15
(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.	16 17 18 19 20 21
(4)	Assignments under this section must be made in writing.	22
(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 direction of the Electoral Commissioner.	23 24 25
(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.	26 27 28
[36]	Section 87A Mobile booths in hospitals etc	29
	Omit “returning officer” where secondly occurring in section 87A (1).	30
	Insert instead “Electoral Commissioner”.	31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[37] Section 87A (2) (c)	1
Omit “deputy returning officer in charge of the polling place”.	2
Insert instead “polling place manager”.	3
[38] Section 87A (2)	4
Omit “deputy returning officer” where secondly occurring.	5
Insert instead “polling place manager”.	6
[39] Section 87A (2)	7
Omit “deputy returning officer in charge of the polling place” where lastly occurring.	8
Insert instead “polling place manager”.	9
[40] Section 87A (3)	11
Omit “deputy returning officer in charge of the polling place”.	12
Insert instead “polling place manager”.	13
[41] Section 87A (3)	14
Omit “deputy returning officer” where secondly and thirdly occurring.	15
Insert instead “election official”.	16
[42] Section 87A (3)	17
Omit “his or her poll clerk”.	18
Insert instead “another election official”.	19
[43] Section 88 Returning officers etc to make declarations	20
Omit the section.	21
[44] Section 89 Polling place managers to be furnished with copies of rolls and ballot papers	22
	23
Omit “deputy” from section 89 (1) (b).	24
Insert instead “polling place manager”.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 1A–7 of Part 5 of Principal Act

Schedule 7

[45] Section 89 (1) (b)	1
Omit “deputies”. Insert instead “polling place managers”.	2
[46] Section 89 (2)	3
Omit the subsection. Insert instead:	4
(2) It is the duty of an election official:	5
(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	6 7 8
(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 paper.	9 10 11
[47] Section 90 Scrutineers	12
Omit “, by writing under his or her hand,” from section 90 (1).	13
[48] Section 90 (4) and (7)	14
Omit “deputy” wherever occurring. Insert instead “polling place manager”.	15
[49] Section 90, note	16
Insert at the end of the section:	17
Note. Section 137 contains provisions relating to the appointment of and declarations by scrutineers.	18 19
[50] Section 91 Scrutineer to make declaration	20
Omit the section.	21

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

Schedule 8	Amendment of Division 8 of Part 5 of Principal Act	1
		2
	(Section 3)	3
[1]	Section 92 Polling-day a public holiday	4
	Omit the section. Insert instead:	5
	92 Exercise of functions of election officials under this Division by election assistants	6
		7
	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.	8
		9
		10
		11
		12
[2]	Section 93 Who may be present at polling place	13
	Omit “polling-booth” wherever occurring. Insert instead “polling place”.	14
[3]	Section 93 (1) (a)–(c)	15
	Omit the paragraphs. Insert instead:	16
	(a) the Electoral Commissioner,	17
	(b) election officials,	18
	(c) scrutineers,	19
[4]	Section 93	20
	Omit “returning officer or deputy” wherever occurring.	21
	Insert instead “polling place manager”.	22
[5]	Section 93 (1)	23
	Omit the proviso.	24
[6]	Section 93 (2)	25
	Omit “polling-booth”. Insert instead “polling place”.	26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 8 of Part 5 of Principal Act

Schedule 8

[7] Section 93 (2)	1
Omit “such booth”. Insert instead “the polling place”.	2
[8] Section 94 Ballot box to be exhibited before taking of poll	3
Omit “booth” and “polling-booth” wherever occurring.	4
Insert instead “polling place”.	5
[9] Section 94	6
Omit “returning officer or deputy (as the case may be)”.	7
Insert instead “polling place manager”.	8
[10] Section 94	9
Omit “poll clerks”. Insert instead “other election officials”.	10
[11] Section 95 Hours of polling	11
Omit “polling-booth” from section 95 (2).	12
Insert instead “polling place”.	13
[12] Section 96 Permission to be granted to employees to go to polling-booth	14
	15
Omit “ polling-booth ” from the heading.	16
Insert instead “ polling place ”.	17
[13] Section 97 Where electors may vote	18
Omit “the returning officer or deputy” from section 97 (2).	19
Insert instead “an election official”.	20
[14] Section 98 Appointment of polling places outside electoral district	21
Omit “Governor” wherever occurring in section 98 (1).	22
Insert instead “Electoral Commissioner”.	23
[15] Section 98 (1)	24
Omit “, by notice in the Gazette,” and “by a like notice”.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[16] Section 98 (1)	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”.	2 3
[17] Section 98 (2)	4
Omit “deputy returning officer”. Insert instead “polling place manager”.	5
[18] Section 98 (3)	6
Insert after section 98 (2):	7
(3) Notice of any appointment or abolition under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.	8 9 10
[19] Section 99 Questions to be put to voter	11
Omit “The returning officer or deputy” from section 99 (1). Insert instead “An election official”.	12 13
[20] Section 99 (1)	14
Insert after section 99 (1) (a):	15
(a1) What is your date of birth?	16
[21] Section 99 (2)	17
Omit “the returning officer or deputy”. Insert instead “an election official”.	18
[22] Section 99 (3)	19
Omit “a returning officer or deputy”. Insert instead “an election official”.	20
[23] Section 99 (3)	21
Omit “the returning officer or deputy”. Insert instead “the election official”.	22
[24] Section 99 (4)	23
Omit “subsection (1) (a) and (b)”.	24
Insert instead “subsection (1) (a), (a1) and (b)”.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 8 of Part 5 of Principal Act

Schedule 8

[25] Section 99 (4)	1
Omit “returning officer or deputy”.	2
Insert instead “election official”.	3
[26] Section 99A Person whose residence is not on the roll	4
Omit “the returning officer or deputy”.	5
Insert instead “an election official”.	6
[27] Section 100 Questions to be put if voter challenged	7
Omit “The returning officer or deputy” from section 100 (1).	8
Insert instead “An election official”.	9
[28] Section 100 (2)	10
Omit “returning officer or deputy”.	11
Insert instead “election official”.	12
[29] Section 101 Errors not to forfeit vote	13
Omit “occupation”. Insert instead “date of birth”.	14
[30] Section 101	15
Omit “returning officer or deputy” wherever occurring.	16
Insert instead “election official”.	17
[31] Section 102	18
Omit the section. Insert instead:	19
102 Ballot papers to be initialled	20
No ballot paper is to be delivered to any voter without being	21
first initialled by an election official on the front of the ballot	22
paper, and an exact count must be kept of all initialled ballot	23
papers.	24

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[32] Section 103 Vote, how given	1
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).	2 3 4
[33] Section 103A Vote of person whose residence is not shown on the roll	5
Omit “the returning officer or deputy” from section 103A (1). Insert instead “an election official”.	6 7
[34] Section 103A (2)	8
Omit “returning officer or deputy”. Insert instead “election official”.	9
[35] Section 103A (3)	10
Omit “deputy”. Insert instead “polling place manager”.	11
[36] Section 103A (4)	12
Omit “the deputy”. Insert instead “an election official authorised by the returning officer”.	13 14
[37] Section 104 Spoilt ballot papers	15
Omit “the returning officer or deputy” wherever occurring. Insert instead “an election official”.	16 17
[38] Section 106 Disputed vote	18
Omit “the returning officer or deputy” wherever occurring in section 106 (1) and (1A). Insert instead “an election official”.	19 20 21
[39] Section 106 (2)	22
Omit “the deputy returning officer” wherever occurring. Insert instead “an election official”.	23 24

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 8 of Part 5 of Principal Act

Schedule 8

[40] Section 106 (3) (a) (i)	1
Omit “the returning officer or deputy”.	2
Insert instead “an election official”.	3
[41] Section 106 (3) (a) (ii), (iv) and (v)	4
Omit “returning officer or deputy” wherever occurring.	5
Insert instead “election official”.	6
[42] Section 106 (3) (a) (iii)	7
Omit “polling-booth”. Insert instead “polling place”.	8
[43] Section 106 (3) (c)	9
Omit “a person authorised in that behalf by the returning officer”.	10
Insert instead “the polling place manager”.	11
[44] Section 106 (3) (d)	12
Omit the paragraph. Insert instead:	13
(d) The polling place manager must, immediately after the	14
close of the poll, send to the returning officer advice of	15
the number of envelopes delivered and forwarded.	16
[45] Section 106 (3) (e) and (f) and (4)	17
Omit “the officer” wherever occurring.	18
Insert instead “election official”.	19
[46] Section 106 (5)	20
Omit “returning officer or deputy” where firstly occurring.	21
Insert instead “polling place manager”.	22
[47] Section 106 (5)	23
Omit “returning officer or deputy and a poll clerk”.	24
Insert instead “polling place manager and another election official”.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[48] Section 108 Assistance to certain electors	1
Omit “the returning officer or deputy” where firstly occurring in section 108 (1) and (2).	2
Insert instead “an election official”.	3
	4
[49] Section 108 (1) and (2)	5
Omit “the returning officer or deputy” wherever secondly occurring.	6
Insert instead “the election official”.	7
[50] Section 108 (2) (a)	8
Omit “the poll clerk”. Insert instead “another election official”.	9
[51] Section 108 (2) (b)	10
Omit “the poll clerk”. Instead “an election official”.	11
[52] Section 108A Instructions	12
Omit “returning officer or deputy”. Insert instead “election official”.	13
[53] Section 109 Provision when poll falls on Saturday	14
Omit “the returning officer or deputy”. Insert instead “an election official”.	15
[54] Section 109	16
Omit “the poll clerk and”.	17
Insert instead “another election official and the”.	18
[55] Section 110 When votes to be rejected	19
Omit “returning officer or officers”.	20
Insert instead “election official or election officials”.	21
[56] Section 114 Maintenance of order	22
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).	23
	24
	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 8 of Part 5 of Principal Act

Schedule 8

[57] Section 114 (1) (b) (i)	1
Omit “deputy”. Insert instead “polling place manager”.	2
[58] Section 114 (3) and (4)	3
Insert after section 114 (2):	4
(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.	5 6 7
(4) A person must not, without lawful authority, contravene any such direction.	8 9
Maximum penalty (subsection (4)): 5 penalty units.	10

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

Schedule 9	Amendment of Division 9 of Part 5 of Principal Act	1
		2
	(Section 3)	3
[1]	Part 5, Division 9, heading	4
	Omit “(returning officers)”.	5
[2]	Section 114A Application for a postal vote certificate and postal ballot paper	6
	Omit “or” where lastly occurring in section 114A (1) (f).	7
[3]	Section 114A (1)	8
	Insert at the end of section 114A (1) (g):	9
	or	10
	(h) is a silent elector,	11
[4]	Section 114A (1)	12
	Insert “the Electoral Commissioner or” before “the returning officer”.	13
[5]	Section 114A (1)	14
	Insert “the Electoral Commissioner or” before “that returning officer” wherever occurring.	15
[6]	Section 114A (2A)	16
	Insert “the Electoral Commissioner or” before “the returning officer”.	17
[7]	Section 114AA	18
	Omit the section. Insert instead:	19
	114AA Registration of general postal voters	20
	(1) Definitions	21
	In this section:	22
	<i>prescribed elector</i> means:	23
		24
		25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 9 of Part 5 of Principal Act

Schedule 9

- | | | |
|-----|---|----------------------|
| (a) | an elector whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place, or | 1
2
3 |
| (b) | if the regulations so provide, an elector who will not be within the State during any particular period, or | 4
5 |
| (c) | an elector who: | 6 |
| | (i) is a patient in a hospital (not being a hospital that is a polling place or a declared institution under section 114ZN), and | 7
8
9 |
| | (ii) by reason of being seriously ill or infirm, is unable to travel from the hospital, or | 10
11 |
| (d) | an elector who: | 12 |
| | (i) is not a patient in a hospital, and | 13 |
| | (ii) by reason of being seriously ill or infirm, is unable to travel from the place where he or she resides, or | 14
15
16 |
| (e) | 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, or | 17
18
19
20 |
| (f) | an elector who is being kept in a correctional centre (within the meaning of the <i>Crimes (Administration of Sentences) Act 1999</i>), or | 21
22
23 |
| (g) | an elector who is enrolled pursuant to a claim made under section 32 (3), or | 24
25 |
| (h) | an elector whom an Australian medical practitioner has certified, in writing, to be so physically incapacitated that the elector cannot sign the elector's name, or | 26
27
28 |
| (i) | an elector who is a silent elector, or | 29 |
| (j) | an elector who, because of his or her religious beliefs or membership of a religious order: | 30
31 |
| | (i) is precluded from attending a polling booth, or | 32 |
| | (ii) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth. | 33
34
35 |
| | Register means the Register of General Postal Voters kept under this section. | 36
37 |

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 9

Amendment of Division 9 of Part 5 of Principal Act

- (2) **Application to be registered** 1
A prescribed elector may apply to the Electoral Commissioner, 2
in the prescribed form, to be registered as a general postal 3
voter. 4
- (3) An application for registration in relation to an elector to whom 5
paragraph (g) or (h) of the definition of *prescribed elector* in 6
subsection (1) applies may be made by another person acting 7
on behalf of the elector. 8
- (4) An application for registration in relation to an elector to whom 9
paragraph (h) of the definition of *prescribed elector* in 10
subsection (1) applies must be accompanied by the relevant 11
certificate referred to in that paragraph. 12
- (5) If a claim for enrolment or transfer of enrolment is made in 13
respect of a person under section 32 (3) and the claim indicates 14
that the person wishes to be a registered general postal voter, 15
the registrar must notify the Electoral Commissioner that the 16
person wishes to be so registered. The notification is taken to 17
be an application for registration made by the person. 18
- (6) **Registration** 19
If the Electoral Commissioner is satisfied that an elector 20
making an application under this section is a prescribed elector, 21
the Commissioner must register the elector as a general postal 22
voter by entering the name of the elector in the register. 23
- (7) The Electoral Commissioner may register an elector to whom 24
paragraph (b) of the definition of *prescribed elector* in 25
subsection (1) applies as a general postal voter only during the 26
period that the elector has specified as the period during which 27
he or she will not be within the State. 28
- (8) The Electoral Commissioner must advise an elector of the 29
elector's registration as a general postal voter. 30
- (9) **Refusal of registration** 31
If the Electoral Commissioner is not satisfied that an elector 32
who makes an application under this section is a prescribed 33
elector, the Commissioner must advise the elector, in writing, 34
to that effect. 35

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 9 of Part 5 of Principal Act

Schedule 9

- (10) **Cancellation of registration** 1
The Electoral Commissioner may cancel the registration of an 2
elector as a general postal voter in such circumstances as are 3
prescribed. 4
- (11) **Offence for false statements** 5
A person must not make, and a person must not induce another 6
person to make, any false statement in, or in connection with, 7
an application under this section or in any declaration 8
contained in, or made in connection with, such an application. 9
Maximum penalty: 10 penalty units or imprisonment for 6 10
months, or both. 11
- (12) **Register of General Postal Voters** 12
The Electoral Commissioner must cause a Register of General 13
Postal Voters to be kept and must cause to be entered in the 14
Register in relation to an elector who is registered as a general 15
postal voter: 16
- (a) the name of the elector, and 17
- (b) in the case of an elector to whom paragraph (b) of the 18
definition of *prescribed elector* in subsection (1) 19
applies, the period of registration, the fact that the 20
elector is registered under that paragraph and the 21
address of the place outside New South Wales to which 22
ballot papers are to be sent, and 23
- (c) the residence shown on the roll for the division for 24
which the elector is enrolled as the real place of living 25
of the elector, and 26
- (d) the district for which the elector is enrolled, and 27
- (e) such other particulars as the Electoral Commissioner 28
determines. 29
- (13) The Electoral Commissioner may keep the Register up to date 30
in any manner the Commissioner thinks appropriate, including 31
by substituting: 32
- (a) the current address of a registered general postal voter 33
for that shown on the Register, or 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

(b)	the current district for which a registered general postal voter is enrolled for that shown on the Register,	1
	where the voter has duly notified a change of address or transfer of enrolment.	2
		3
		4
(14)	The Electoral Commissioner may from time to time conduct a review of the Register and, on completion of the review, make such alterations to the Register as the Commissioner thinks necessary to ensure that:	5
		6
		7
		8
(a)	only electors entitled to be registered general postal voters are registered, and	9
		10
(b)	the details entered in the Register in relation to registered general postal voters are accurate.	11
		12
(15)	The regulations may make provision for or with respect to arrangements with the Commonwealth or the Australian Electoral Commission for the maintenance of the Register, including arrangements for treating applications made under Part XV of the <i>Commonwealth Electoral Act 1918</i> of the Commonwealth as also being applications under this section.	13
		14
		15
		16
		17
		18
(16)	Inspection of Register	19
	A copy of the Register is to be open for public inspection, without fee, during ordinary office hours at the office of the Commission.	20
		21
		22
(17)	The copy of the Register to be available under this section must not contain:	23
		24
(a)	any particulars of a silent elector's residence, or	25
(b)	any prescribed particulars relating to an elector.	26
[8]	Section 114AB Dispatch of ballot papers to registered general postal voters	27
		28
	Omit "A returning officer for a district".	29
	Insert instead "The Electoral Commissioner".	30
[9]	Section 114AB	31
	Omit "the district" where firstly occurring. Insert instead "a district".	32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 9 of Part 5 of Principal Act

Schedule 9

[10] Section 114B Authorised witnesses	1
Omit “and” from section 114B (1) (b).	2
[11] Section 114B (1) (d)	3
Insert after section 114B (1) (c):	4
(d) an Australian citizen.	5
[12] Section 114B (2) (a)	6
Omit “election, or”. Insert instead “election.”.	7
[13] Section 114B (2) (b)	8
Omit the paragraph.	9
[14] Section 114D Issue of certificate and ballot paper	10
Insert “the Electoral Commissioner or” before “a returning officer” in section 114D (1).	11 12
[15] Section 114D (1) (a)	13
Omit “Schedule 15” wherever occurring. Insert instead “Schedule 4”.	14
[16] Section 114D (2)	15
Insert “Electoral Commissioner or” before “returning officer”.	16
[17] Section 114E Inspection of applications	17
Insert after section 114E (1):	18
(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.	19 20 21 22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[18] Section 114F	1
Omit the section. Insert instead:	2
114F Postal ballot papers to be initialled	3
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.	4 5 6 7
[19] Section 114G Returning officer to notify issue of postal vote certificates and postal ballot papers	8 9
Omit “deputy returning officer” from section 114G (2). Insert instead “polling place manager”.	10 11
[20] Section 114G (3)	12
Omit “returning officer or deputy”. Insert instead “polling place manager”.	13 14
[21] Section 114GA Person claiming to vote, whose name is noted under section 114G	15 16
Omit “returning officer or deputy” from section 114GA (1) (b). Insert instead “polling place manager”.	17 18
[22] Section 114GA (1)	19
Omit “returning officer or deputy” where secondly occurring. Insert instead “polling place manager”.	20 21
[23] Section 114H Directions for postal voting	22
Omit section 114H (1) (b). Insert instead:	23
(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	24 25 26 27 28 29

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 9 of Part 5 of Principal Act

Schedule 9

	(g) or (h) of the definition of <i>prescribed elector</i> in section 114AA (1) applies.	1 2
	Note. Paragraphs (g) and (h) of the definition of prescribed elector refer to persons who are physically incapacitated.	3 4
[24]	Section 114H (2)	5
	Omit “deputy returning officer” wherever occurring.	6
	Insert instead “polling place manager”.	7
[25]	Section 114J Penalty for unlawfully marking etc ballot paper	8
	Omit “officer” where secondly occurring in section 114J (2).	9
	Insert instead “election official”.	10
[26]	Section 114J (3)	11
	Omit “deputy returning officer”.	12
	Insert instead “polling place manager”.	13
[27]	Section 114L Preliminary scrutiny of postal ballot papers	14
	Omit “the officer assisting him or her” from section 114L.	15
	Insert instead “an election official assigned by the returning officer”.	16
[28]	Section 114L	17
	Omit “deputy returning officer”.	18
	Insert instead “polling place manager”.	19
[29]	Section 114N Spoilt postal ballot paper	20
	Insert “Electoral Commissioner or” before “returning officer” where firstly occurring.	21 22
[30]	Section 114N	23
	Omit “the returning officer” where secondly occurring.	24
	Insert instead “the Electoral Commissioner or returning officer (as the case may be)”.	25 26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[31] Section 114O	1
Omit the section. Insert instead:	2
114O Assistance for returning officer	3
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.	4 5 6 7 8

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

Schedule 10 Amendment of Divisions 10–12 of Part 5 of Principal Act	1
	2
(Section 3)	3
[1] Part 5, Division 10, heading	4
Omit “(offices of returning officers)”.	5
Insert instead “(electoral offices and appointed places)”.	6
[2] Section 114P Application for permission to vote before polling day	7
Omit “or” where lastly occurring in section 114P (1) (e).	8
[3] Section 114P (1)	9
Insert at the end of section 114P (1) (f):	10
or	11
(g) is a silent elector,	12
[4] Section 114P (1)	13
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)”.	14
Insert instead “to any pre-poll voting officer (whether for the district for which he or she is enrolled or for some other district)”.	15
	16
	17
[5] Section 114P (2) (a) and (b)	18
Omit the paragraphs. Insert instead:	19
(a) be made by the elector in person, and	20
[6] Section 114P (2) (d)	21
Omit the paragraph. Insert instead:	22
(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:	23
	24
	25
(i) at the office of a returning officer during the ordinary business hours of that office, or	26
	27

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

(ii)	at a place, and during hours, respectively appointed under subsection (6).	1 2
[7]	Section 114P (2A)	3
	Insert after section 114P (2):	4
	(2A) The elector making an application under subsection (1) must inform the pre-poll voting officer to whom the application is made of:	5 6 7
	(a) the district for which the elector is enrolled, and	8
	(b) the ground on which the elector is making the application, and	9 10
	(c) any matters prescribed by the regulations.	11
[8]	Section 114P (3) and (4)	12
	Omit the subsections. Insert instead:	13
	(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.	14 15 16 17
	Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.	18 19
	(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.	20 21 22 23
	Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.	24 25
[9]	Section 114P (6)	26
	Omit the subsection. Insert instead:	27
	(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.	28 29 30 31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[10] Section 114Q Procedure for voting before polling day	1
Omit “a returning officer receives an application made” from section 114Q (1).	2
Insert instead “an application is made to a pre-poll voting officer”.	3
	4
[11] Section 114Q (2)–(4)	5
Omit “returning officer” wherever occurring.	6
Insert instead “pre-poll voting officer”.	7
[12] Section 114Q (4) (b)	8
Omit the paragraph. Insert instead:	9
(b) initial the front of the ballot paper.	10
[13] Section 114Q (4A)	11
Omit “returning officer” where firstly occurring.	12
Insert instead “pre-poll voting officer”.	13
[14] Section 114Q (5)	14
Omit “returning officer”. Insert instead “pre-poll voting officer”.	15
[15] Section 114Q (6)	16
Omit the subsection.	17
[16] Section 114QA Ballot papers etc forwarded to district for which elector enrolled	18
	19
Omit “returning officer” where firstly occurring.	20
Insert instead “pre-poll voting officer”.	21
[17] Section 114QA	22
Insert “for the first-mentioned district” after “returning officer” where secondly occurring.	23
	24
[18] Section 114R Applications to be available for public inspection	25
Omit the section.	26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[19] Section 114S Returning officer to notify polling place managers that elector has voted before polling day	1 2
Omit “deputy returning officers” wherever occurring.	3
Insert instead “polling place managers”.	4
[20] Section 114S	5
Omit “deputy returning officer”.	6
Insert instead “polling place manager”.	7
[21] Section 114T Assistance to certain electors	8
Omit “returning officer” wherever occurring.	9
Insert instead “pre-poll voting officer”.	10
[22] Section 114U Scrutineers	11
Omit “, by writing under his or her hand,” from section 114U (1).	12
[23] Section 114U (2) and (3)	13
Omit the subsections. Insert instead:	14
(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.	15 16 17 18
(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.	19 20 21 22 23
[24] Section 114U (4) (d)	24
Omit “the office of the returning officer when present at that office”.	25
Insert instead “a place when voting under section 114Q takes place at that place”.	26 27
[25] Section 114U (5) and (6)	28
Omit the subsections.	29

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[26] Section 114U, note	1
Insert at the end of the section:	2
Note. Section 137 contains provisions relating to the appointment of and declarations by scrutineers.	3 4
[27] Section 114V Penalty for unlawfully marking ballot paper	5
Omit “returning officer” from section 114V (b).	6
Insert instead “pre-poll voting officer”.	7
[28] Section 114W Duty of persons present when elector votes under section 114Q	8 9
Omit “the office of the returning officer for the purpose of voting under section 114Q”.	10 11
Insert instead “a place at which voting under section 114Q takes place for the purpose of voting under that section”.	12 13
[29] Section 114W (a)	14
Omit “returning officer”. Insert instead “pre-poll voting officer”.	15
[30] Section 114X Preliminary scrutiny of ballot papers of electors under section 114Q	16 17
Omit “and shall also produce all applications made to him or her under section 114P (1)” from section 114X (1).	18 19
[31] Section 114X (2)	20
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”.	21 22 23 24 25 26 27
Insert instead “The returning officer must allow the scrutineers to examine the unopened envelopes and if the returning officer is satisfied that”.	28 29

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[32] Section 114X (3)	1
Omit “envelopes, ballot-papers and applications”.	2
Insert instead “envelopes and ballot papers”.	3
[33] Section 114Y Spoilt ballot papers	4
Omit “returning officer” wherever occurring.	5
Insert instead “pre-poll voting officer”.	6
[34] Section 114Z	7
Omit the section. Insert instead:	8
114Z Assistance for pre-poll voting officer	9
A pre-poll voting officer may be assisted by other election	10
officials in the exercise of his or her functions under sections	11
114P, 114Q, 114QA, 114T, 114V, 114W (a) and 114Y, and a	12
reference in those sections to a pre-poll voting officer includes	13
a reference to other election officials so assisting him or her.	14
[35] Part 5, Division 11, heading	15
Omit “(postal voting officers)”.	16
Insert instead “(interstate and overseas)”.	17
[36] Section 114ZB Procedure for polling before polling day	18
Omit “Schedule 15” wherever occurring in section 114ZB (1) (a).	19
Insert instead “Schedule 4”.	20
[37] Section 114ZC	21
Omit the section. Insert instead:	22
114ZC Postal ballot papers to be initialled	23
No ballot paper is to be issued to any voter without being first	24
initialled by the postal voting officer on the front of the ballot	25
paper, and an exact count must be kept of all initialled postal	26
ballot papers.	27

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[38] Section 114ZE Applications etc to be sent to Electoral Commissioner and returning officer	1 2
Omit “, unless the Commissioner directs the Principal Returning Officer to deal with them under section 114ZG” from section 114ZE (3).	3 4
[39] Section 114ZF Returning officer to note issue of ballot papers etc	5
Omit “returning officer or deputy” from section 114ZF (2).	6
Insert instead “polling place manager or election official assigned by the polling place manager”.	7 8
[40] Section 114ZG Scrutiny of postal ballot papers	9
Omit “the officer” from section 114ZG (1).	10
Insert instead “election official”.	11
[41] Section 114ZG (2)–(4)	12
Omit the subsections.	13
[42] Section 114ZK	14
Omit the section. Insert instead:	15
114ZK Assistance for postal voting officer	16
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.	17 18 19 20 21
[43] Section 114ZN Declared institutions	22
Omit “, by notice in the Gazette,”.	23
[44] Section 114ZN (2)	24
Insert at the end of section 114ZN:	25
(2) Notice of any declaration under this section is to be published in the Gazette at a time determined by the Electoral Commissioner.	26 27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[45] Section 114ZO	1
Omit the section. Insert instead:	2
114ZO Taking of poll at declared institutions	3
(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.	4 5 6
(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.	7 8 9 10
(3) Both or at least two of the pre-poll voting officers must be present for the taking of the poll at the institution.	11 12
(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.	13 14 15
Maximum penalty (subsection (4)): 2 penalty units.	16
[46] Section 114ZP Entitlement to vote at declared institution	17
Omit “the deputy returning officer appointed” from section 114ZP (1) (b). Insert instead “a pre-poll voting officer assigned”.	18 19
[47] Section 114ZP (1)	20
Omit “the returning officer or deputy returning officer is”. Insert instead “the pre-poll voting officers are”.	21 22
[48] Section 114ZP (2)	23
Omit “the returning officer or deputy returning officer”. Insert instead “a pre-poll voting officer”.	24 25
[49] Section 114ZQ Duty to deliver request to vote	26
Omit “a returning officer or deputy returning officer”. Insert instead “a pre-poll voting officer”.	27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[50] Section 114ZQ	1
Omit “the returning officer or deputy returning officer” wherever occurring.	2
Insert instead “a pre-poll voting officer”.	3
[51] Section 114ZR Procedure for voting at declared institutions	4
Omit “A returning officer or deputy returning officer” from section 114ZR (1).	5
Insert instead “The pre-poll voting officers”.	6
[52] Section 114ZR (2)	8
Omit “returning officer or deputy returning officer”.	9
Insert instead “pre-poll voting officer”.	10
[53] Section 114ZR (3)	11
Omit “The returning officer or deputy returning officer”.	12
Insert instead “A pre-polling voting officer”.	13
[54] Section 114ZR (4) and (5)	14
Omit “the returning officer or deputy returning officer” wherever occurring.	15
Insert instead “a pre-poll voting officer”.	16
[55] Section 114ZR (5) (a) and (c)	17
Omit “returning officer or deputy” wherever occurring.	18
Insert instead “pre-poll voting officer”.	19
[56] Section 114ZR (6)	20
Omit “the returning officer or deputy returning officer”.	21
Insert instead “a pre-poll voting officer”.	22
[57] Section 114ZR (6) (b)	23
Omit the paragraph. Insert instead:	24
(b) initial the front of the ballot paper.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[58] Section 114ZR (7)	1
Omit “The returning officer or deputy returning officer”.	2
Insert instead “A pre-poll voting officer”.	3
[59] Section 114ZR (8)	4
Omit “returning officer or deputy returning officer” where firstly occurring.	5
Insert instead “pre-poll voting officer”.	6
[60] Section 114ZR (8) (b) (ii)	7
Omit “a deputy returning officer”.	8
Insert instead “another election official”.	9
[61] Section 114ZR (9)	10
Omit “the returning officer or deputy returning officer”.	11
Insert instead “a pre-poll voting officer”.	12
[62] Section 114ZR (10) (a) (i)	13
Omit “deputy returning officers” wherever occurring.	14
Insert instead “polling place managers”.	15
[63] Section 114ZR (11)	16
Omit “deputy returning officer”.	17
Insert instead “polling place manager”.	18
[64] Section 114ZS Assistance to certain electors	19
Omit “the returning officer or deputy returning officer” from section 114ZS (1).	20
Insert instead “a pre-poll voting officer”.	21
[65] Section 114ZS (1)	23
Omit “returning officer or deputy” where secondly, thirdly and fourthly occurring.	24
Insert instead “pre-poll voting officer”.	25
	26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[66] Section 114ZS (2)	1
Omit “returning officer” where firstly occurring.	2
Insert instead “pre-poll voting officer”.	3
[67] Section 114ZS (2)	4
Omit “returning officer or deputy returning officer”.	5
Insert instead “pre-poll voting officer”.	6
[68] Section 114ZS (2)	7
Omit “or, if there are no scrutineers present, in the presence of his or her poll clerk”.	8 9
[69] Section 114ZT Scrutineers	10
Omit “, by writing under his or her hand,” from section 114ZT (1).	11
[70] Section 114ZT (2)	12
Omit “a returning officer or deputy returning officer while he or she is performing his or her”.	13 14
Insert instead “the pre-poll voting officers while they are performing their”.	15
[71] Section 114ZT (3)	16
Omit “the returning officer or deputy returning officer while he or she is performing his or her” wherever occurring.	17 18
Insert instead “the pre-poll voting officers while they are performing their”.	19
[72] Section 114ZT (4) (a)	20
Omit “the returning officer or deputy returning officer”.	21
Insert instead “a pre-poll voting officer”.	22
[73] Section 114ZT (4) (d)	23
Omit “the returning officer or deputy”.	24
Insert instead “a pre-poll voting officer”.	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[74] Section 114ZT (5)–(7)	1
Omit the subsections.	2
[75] Section 114ZT, note	3
Insert at the end of the section:	4
Note. Section 137 contains provisions relating to the appointment of and declarations by scrutineers.	5 6
[76] Section 114ZU Penalty for unlawfully marking ballot paper etc	7
Omit “the returning officer or deputy returning officer” from section 114ZU (b).	8 9
Insert instead “a pre-poll voting officer”.	10
[77] Section 114ZV Duty of persons present when elector votes under this Division	11 12
Omit “returning officer or deputy returning officer”.	13
Insert instead “pre-poll voting officer”.	14
[78] Section 114ZV (a)	15
Omit “returning officer or deputy”.	16
Insert instead “pre-poll voting officer”.	17
[79] Section 114ZX Spoilt ballot papers	18
Omit “the returning officer or deputy returning officer”.	19
Insert instead “a pre-poll voting officer”.	20
[80] Section 114ZX	21
Omit “returning officer or deputy” where secondly occurring.	22
Insert instead “pre-poll voting officer”.	23

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[81] Section 114ZY	1
Omit the section. Insert instead:	2
114ZY Assistance for pre-poll voting officer	3
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.	4 5 6 7 8
[82] Section 115 Voting outside subdivision	9
Omit “occupation therein” from section 115 (1) (a). Insert instead “date of birth”.	10 11
[83] Section 115 (1) (b)	12
Omit “The returning officer or deputy”. Insert instead “An election official”.	13 14
[84] Section 115 (1) (d), (e), (g) and (h), (2) and (2A) (c)	15
Omit “returning officer or deputy” wherever occurring. Insert instead “election official”.	16 17
[85] Section 115 (1) (e)	18
Omit “back”. Insert instead “front”.	19
[86] Section 115 (2)	20
Omit “back”. Insert instead “front”.	21

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[87] Section 116 Forwarding of absent voters' ballot papers	1
Omit the second paragraph of the section. Insert instead:	2
(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.	3 4 5 6 7 8 9
[88] Section 117 Returning officer satisfied to accept ballot paper for further scrutiny	10 11
Omit "officer" where secondly occurring in section 117 (1). Insert instead "election official".	12 13
[89] Section 117 (2)	14
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)".	15 16 17 18 19 20 21
[90] Section 117 (3)	22
Omit "the officer". Insert instead "election official".	23
[91] Section 117 (4)	24
Omit "officer" where secondly occurring. Insert instead "election official".	25
[92] Section 118 Further scrutiny	26
Omit "officer assisting" from section 118 (1). Insert instead "election official assisting".	27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 10–12 of Part 5 of Principal Act

Schedule 10

[93] Section 120

1

Insert after section 119:

2

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

3

4

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.

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Parliamentary Electorates and Elections Amendment Bill 2006

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

Schedule 11 Amendment of Divisions 13 and 13A of Part 5 of Principal Act	1
	2
(Section 3)	3
[1] Section 120B	4
Omit the section. Insert instead:	5
120B Electoral Commissioner to prepare list of electors failing to vote	6
The Electoral Commissioner must after every election prepare	7
a list of the names of the electors who were entitled to vote at	8
the election and did not vote.	9
[2] Section 120C Penalty notices for certain offences	10
Omit “sufficient reason for failing to vote” from section 120C (1).	11
Insert instead “voted”.	12
[3] Section 120C (3)	13
Insert after section 120C (2):	14
(3) The Electoral Commissioner is not required to serve a penalty	15
notice on an elector if it appears to the Commissioner that the	16
elector has a sufficient reason for the failure to vote.	17
[4] Section 120C (6)	18
Omit “, or had voted in the election under an enrolment on a roll for a	19
district other than the one in relation to which the elector’s name appears on	20
a list prepared under section 120B”.	21
[5] Section 120E List to be evidence	22
Insert after section 120E (1):	23
(1A) The list prepared under section 120B containing the name of an	24
elector is evidence that the elector did not vote at the election.	25

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Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 13 and 13A of Part 5 of Principal Act

Schedule 11

[6] Section 120E (2)	1
Omit “Subsection (1) applies”.	2
Insert instead “Subsections (1) and (1A) apply”.	3
[7] Section 120E (2)	4
Omit “and certified”.	5
[8] Section 120G Opening sealed parcels containing rolls and list used at election	6
	7
Omit “returning officer”. Insert instead “Electoral Commissioner”.	8
[9] Section 120I Issue of writs and nomination day for concurrent Assembly and periodic Council elections	9
	10
Omit “section 22A (2) or (3) of the <i>Constitution Act 1902</i> ”.	11
Insert instead “section 22A (3) of the <i>Constitution Act 1902</i> ”.	12

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Parliamentary Electorates and Elections Amendment Bill 2006

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

Schedule 12 Amendment of Divisions 14 and 14A of Part 5 of Principal Act	1
	2
(Section 3)	3
[1] Section 121 How and when number of votes to be ascertained	4
Omit “returning officer and every deputy at the polling-place at which each presides”.	5
	6
Insert instead “polling place manager for each polling place and other election officials assigned by the polling place manager for the purpose”.	7
	8
[2] Section 121	9
Omit “and the poll clerks (if any),”.	10
[3] Section 122 Informal ballot papers	11
Omit section 122 (1) (a). Insert instead:	12
(a) it is not duly initialled by:	13
(i) the polling place manager or an election official authorised by the polling place manager, or	14
(ii) the postal voting officer,	15
as the case may require, or	16
	17
[4] Section 122A Ballot papers not to be informal in certain circumstances	18
Omit “the returning officer or deputy” from section 122A (3).	19
Insert instead “an election official”.	20
[5] Section 122A (5A)	21
Insert after section 122A (5):	22
(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.	23
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Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 14 and 14A of Part 5 of Principal Act

Schedule 12

[6] Section 122A (6)	1
Omit “ballot-paper”.	2
Insert instead “ballot paper or to place a number, tick or cross on a ballot paper outside a square”.	3
	4
[7] Section 122A (7)	5
Omit “ballot-paper”.	6
Insert instead “ballot paper or to place a number, tick or cross on a ballot paper outside a square”.	7
	8
[8] Section 123 Sealing and transmission by polling place managers of separate parcels of ballot papers etc	9
	10
Omit “deputy” where firstly occurring.	11
Insert instead “polling place manager”.	12
[9] Section 123	13
Omit “polling-booth” wherever occurring.	14
Insert instead “polling place”.	15
[10] Section 123 (c)	16
Omit “said deputy”. Insert instead “polling place manager”.	17
[11] Section 124 Account of ballot papers and verification thereof and of list of votes	18
	19
Omit “Each deputy”. Insert instead “Each polling place manager”.	20
[12] Section 124	21
Omit “such deputy”. Insert instead “the polling place manager”.	22
[13] Section 124	23
Omit “said deputy and the poll clerk (if any)”.	24
Insert instead “polling place manager and one or more other election officials”.	25
	26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[14] Section 125 Returning officers' parcels	1
Omit "deputy returning officers" wherever occurring.	2
Insert instead "polling place managers".	3
[15] Section 125	4
Omit "the poll clerk (if any)".	5
Insert instead "one or more other election officials".	6
[16] Section 126 Declaration of poll	7
Omit section 126 (2A). Insert instead:	8
(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.	9 10 11
(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.	12 13 14 15
[17] Section 126 (3)	16
Omit "returning officer". Insert instead "Electoral Commissioner".	17
[18] Section 126A Scrutiny for statistical information	18
Omit "other electoral official" from section 126A (3).	19
Insert instead "an election official".	20
[19] Section 127 Separate parcels to be enclosed in packets, sealed etc	21
Omit "Clerk of the Assembly" where firstly occurring.	22
Insert instead "Electoral Commissioner".	23
[20] Section 127	24
Omit "said clerk" wherever occurring.	25
Insert instead "Electoral Commissioner".	26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 14 and 14A of Part 5 of Principal Act

Schedule 12

[21] Section 127	1
Omit “said election” where firstly occurring. Insert instead “election”.	2
[22] Section 127	3
Omit “his or her deputies”. Insert instead “polling place managers”.	4
[23] Section 127	5
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.”.	6 7 8 9 10 11 12 13
[24] Section 127 (2)	14
Insert at the end of section 127:	15
(2) Packets and parcels transmitted to the Electoral Commissioner under this section must be safely kept by him or her until:	16
(a) the period of 6 months after the day of polling has expired, or	17 18 19
(b) the period during which the validity of the election may be disputed under this Act has expired, or	20 21
(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,	22 23 24 25
whichever is the latest, after which the Electoral Commissioner must cause the packets and parcels and their contents to be destroyed.	26 27 28
[25] Section 128 Ballot papers, copies of rolls and books to be evidence	29
Omit “Clerk of the Assembly”. Insert instead “Electoral Commissioner”.	30

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[26] Section 129B Counting of votes	1
Omit “returning officer for each district and every deputy at the polling-place at which each presides”.	2
Insert instead “polling place manager for each polling place and other election officials assigned by the polling place manager for the purpose”.	3
[27] Section 129B	4
Omit “and the poll clerks (if any),”.	5
[28] Section 129C Sealing and transmission of separate parcels of ballot papers etc	6
Omit “deputy” where firstly occurring in section 129C (1).	7
Insert instead “polling place manager”.	8
[29] Section 129C (1) (h)	9
Omit “the deputy”. Insert instead “a polling place manager”.	10
[30] Section 129C (3)	11
Omit “deputy” where firstly occurring.	12
Insert instead “polling place manager”.	13
[31] Section 129C (3)	14
Omit “the deputy and any poll clerk”.	15
Insert instead “polling place manager and one or more other election officials”.	16
[32] Section 129D District returning officers’ parcels	17
Omit the heading to the section.	18
Insert instead “Returning officers’ parcels”.	19
[33] Section 129E Lists and accounts of ballot papers	20
Omit “his or her deputies” wherever occurring in section 129E (1) (b).	21
Insert instead “polling place managers”.	22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 14 and 14A of Part 5 of Principal Act

Schedule 12

[34] Section 129F Informal ballot papers	1
Insert after section 129F (2D):	2
(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.	3 4 5 6 7 8 9 10
[35] Section 129H Retention and destruction of parcels	11
Omit "and forward that packet to the Clerk of the Council" from section 129H (1).	12 13
[36] Section 129H (1)	14
Omit "and transmit to that Clerk".	15
[37] Section 129H (1)	16
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".	17 18
[38] Section 129H (2)	19
Omit "and forward it to the Clerk of the Council as provided by subsection (1)".	20 21
[39] Section 129H (3)	22
Omit the subsection. Insert instead:	23
(3) Packets and parcels transmitted to the Electoral Commissioner under this section must be safely kept by him or her until:	24
(a) the period of 6 months after the day of polling has expired, or	25 26 27
(b) the period during which the validity of the election may be disputed under this Act has expired, or	28 29

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

(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, 1
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whichever is the latest, after which the Electoral Commissioner must cause the packets and parcels and their contents to be destroyed. 5
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[40] Section 129I Ballot papers, copies of rolls and books to be evidence 8
Omit “Clerk of the Council” from section 129I (1). 9
Insert instead “Electoral Commissioner”. 10

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

Schedule 13 Amendment of Divisions 15–17 of Part 5 of Principal Act	1
	2
(Section 3)	3
[1] Section 130 When polling may be adjourned etc	4
Omit “deputy” wherever occurring.	5
Insert instead “polling place manager”.	6
[2] Section 130 (2)	7
Omit “poll clerk” wherever occurring (except where lastly occurring).	8
Insert instead “election official”.	9
[3] Section 130 (2)	10
Omit “a poll clerk”. Insert instead “an election official”.	11
[4] Section 131 Notice of adjournment to be given	12
Omit “deputy” wherever occurring.	13
Insert instead “polling place manager”.	14
[5] Section 131 (2)	15
Insert “, who may give public notice of the adjournment in such manner as the Commissioner thinks fit” after “Commissioner”.	16
	17
[6] Section 134 Election not to be questioned for omission etc of a formal nature	18
	19
Insert “no election for a district and” before “no periodic Council election”.	20
[7] Section 135 Violation of secrecy by officers	21
Omit “returning officer or the substitute of any returning officer, or any deputy returning officer, poll clerk, clerical assistant”.	22
	23
Insert instead “election official, pre-poll voting officer, postal voting officer, deputy postal voting officer”.	24
	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[8] Section 135	1
Omit “returning officer, substitute, deputy, poll clerk, clerical assistant”.	2
Insert instead “official, officer”.	3
[9] Section 135A Electoral official to vacate office upon becoming a candidate	4
Omit section 135A (1). Insert instead:	5
(1) In this section:	6
<i>electoral official</i> 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.	7
	8
	9
	10
	11
[10] Section 136 Penalty for neglect etc by electoral officials	12
Omit “returning officer, or any person appointed to act as such returning officer, or his or her substitute, or deputy returning officer”.	13
Insert instead “electoral official as defined in section 135A”.	14
	15
[11] Section 137	16
Insert after section 136:	17
137 Appointment of and declaration by scrutineers	18
(1) This section applies to scrutineers appointed under this Act.	19
Note. Sections 90, 114U and 114ZT provide for the appointment of scrutineers.	20
	21
(2) The regulations may prescribe a form for the purposes of this section that provides for both:	22
(a) the appointment of a scrutineer by a candidate, and	23
(b) a declaration to be made and signed by the scrutineer.	24
If there is no prescribed form, the Electoral Commissioner may approve a form for the purposes of this section.	25
	26
	27
(3) The appointment by a candidate of a scrutineer is to be made in the form prescribed or approved under subsection (2).	28
	29

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

(4) A person appointed as a scrutineer is to make and sign a declaration in the form prescribed or approved under subsection (2).	1 2 3
(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.	4 5 6 7 8
(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.	9 10 11 12
(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).	13 14 15 16
(8) Part 4 of the <i>Oaths Act 1900</i> applies to a declaration made under this section as if it were made under that Act.	17 18
(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.	19 20 21 22 23
[12] Section 148 Extended meaning of terms “candidate” and “election”	24
Insert at the end of the section:	25
(2) For the purposes of section 149, <i>candidate at an election</i> , 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.	26 27 28 29
[13] Section 149	30
Omit the section. Insert instead:	31
149 Electoral treating	32
(1) A candidate at an election must not, before or during the election, either directly or indirectly:	33 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

- (a) offer, promise or supply food, drink or entertainment, or 1
- (b) offer or promise to pay for, or pay for, food, drink or 2
entertainment, or 3
- (c) offer or provide transport to or from polling places for 4
the purpose of voting, or 5
- (d) offer, promise or give a gift, donation, voucher or prize 6
to or for any person, club, association or body, 7
- with the intention of corruptly influencing a person's election 8
conduct at an election. 9
- (2) For the purposes of subsection (1): 10
election conduct, in relation to a person, means: 11
 - (a) whether or not the person votes, or 12
 - (b) whether or not the person votes for the candidate. 13
- (3) For the purposes of subsection (1), it is immaterial: 14
 - (a) whether or not an offer is accepted and, if accepted, 15
whether it is accepted before, on or after polling day, 16
and 17
 - (b) whether or not a promise is fulfilled and, if fulfilled, 18
whether it is fulfilled before, on or after polling day. 19
- (4) In proceedings for an offence under subsection (1) (d) it is a 20
defence to show that gifts, donations, vouchers or prizes similar 21
in nature and in amount or value are regularly given to the club, 22
association or body for similar purposes. 23
- (5) An elector who corruptly: 24
 - (a) accepts: 25
 - (i) food, drink or entertainment, or 26
 - (ii) transport, or 27
 - (iii) a gift, donation, voucher or prize, or 28
 - (b) without limiting paragraph (a), accepts or agrees to: 29
 - (i) an offer or promise of food, drink or 30
entertainment, or 31
 - (ii) an offer or promise to pay for food, drink or 32
entertainment, or 33
 - (iii) an offer of transport, or 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

(iv)	an offer, a promise or the giving of a gift, donation, voucher or prize,	1 2
	referred to in subsection (1) during an election is incapable of voting at the election.	3 4
[14]	Section 150 Penalty for electoral treating	5
	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.”.	6 7 8 9 10
	Insert instead “an offence against section 149 before or during an election”.	11
[15]	Section 151B Exhibition of posters	12
	Omit section 151B (1) and (2).	13
[16]	Section 151B (6)	14
	Omit “ <i>Electoral</i> ” from the second definition of <i>Electoral matter</i> . Insert instead “ <i>electoral</i> ”.	15 16
[17]	Section 151B (6)	17
	Omit the definition of <i>the prescribed size</i> .	18
[18]	Section 151D	19
	Omit the section. Insert instead:	20
151D	Removal and confiscation of posters	21
(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:	22 23 24 25
(a)	within a polling place, or	26
(b)	in or on a public place within 6 metres of an entrance to a polling place.	27 28
(2)	Any police officer may remove or cause to be removed any poster exhibited or posted in contravention of this Act.	29 30

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

(3) A police officer may use reasonable force for the purposes of this section.	1 2
(4) A poster removed under this section is to be confiscated and must be destroyed without undue delay, but destruction may be delayed if the poster is or may reasonably be required for evidentiary purposes.	3 4 5 6
[19] Section 151F Distribution of electoral material on polling day	7
Omit “unless the material has been registered under section 151G” from section 151F (1).	8 9
Insert instead “, and on all days to which the polling is adjourned, unless the material has been registered under section 151G for the election and for the district in which the public place is situated”.	10 11 12
[20] Section 151F (2A)	13
Insert after section 151F (2):	14
(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.	15 16 17 18 19 20
[21] Section 151F (3)	21
Omit section 151F (3). Insert instead:	22
(3) In this section:	23
<i>electoral material</i> means a “how to vote” card, handbill, pamphlet or notice containing:	24 25
(a) electoral matter as defined in section 151B, or	26
(b) without limiting paragraph (a), an express or implicit reference to or comment on:	27 28
(i) the election or referendum, or	29
(ii) the Government, the Opposition, a previous Government or a previous Opposition, of the State, or	30 31 32
(iii) the Government, the Opposition, a previous Government or a previous Opposition, of the	33 34

Consultation draft

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Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

	Commonwealth or any other State or a Territory, or	1
	(iv) a member or a former member of Parliament or the Parliament of the Commonwealth, any other State or a Territory, or	2
	(v) a political party, a branch or division of a political party or a candidate in the election, or	3
	(vi) an issue submitted to, or otherwise before, the electors in connection with the election or referendum.	4
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		10
[22]	Section 151G Registration of electoral material	11
	Insert “and for a particular district or districts” after “election” in section 151G (1).	12
		13
[23]	Section 151G (2)	14
	Insert “at 5 pm” after “ending”.	15
[24]	Section 151G (7A)	16
	Insert after section 151G (7):	17
	(7A) The Electoral Commissioner must not register the electoral material if it appears to the Commissioner:	18
		19
	(a) that the material does not include in legible characters:	20
	(i) the name and address of the person on whose instructions the material was printed, and	21
		22
	(ii) the name of the printer and address at which it was printed, or	23
		24
	(b) that the material could result in an elector casting an informal vote, or	25
		26
	(c) that the material contains words that are obscene or offensive.	27
		28
[25]	Section 151G (8)	29
	Omit “The Electoral Commissioner shall not register the electoral material”.	30
	Insert instead “Without affecting the generality of subsection (7A), the Electoral Commissioner must not register electoral material referred to in subsection (8A)”.	31
		32
		33

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

[26] Section 151G (8) (e) (ii)	1
Insert “or” at the end of the subparagraph.	2
[27] Section 151G (8) (f)	3
Omit “or” where lastly occurring.	4
[28] Section 151G (8) (g)	5
Omit the paragraph.	6
[29] Section 151G (8A) and (8B)	7
Insert after section 151G (8):	8
(8A) Subsection (8) applies only to electoral material consisting of a “how to vote” card, handbill, pamphlet or card:	9
(a) containing any representation of a ballot paper or portion of a ballot paper, or	10
(b) containing any representation apparently intended to represent a ballot paper or portion of a ballot paper, or	11
(c) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.	12
(8B) The certificate of registration must specify the election and the district or districts for which the electoral material is registered.	13
[30] Section 151G (10)	14
Omit the subsection. Insert instead:	15
(10) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered:	16
(a) on a specified day or during a specified period, or	17
(b) for a particular election, or	18
(c) for a particular district or particular districts,	19
is admissible in proceedings for an offence under section 151F and is prima facie evidence of the matters certified.	20
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Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

[31] Section 151G (12A)	1
Insert after section 151G (12):	2
(12A) A copy of:	3
(a) electoral material registered under this section for a district, and	4
(b) the relevant certificate of registration,	6
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.	7
	8
	9
	10
	11
[32] Sections 151H and 151I	12
Insert after section 151G:	13
151H Prohibition of canvassing near polling places	14
(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:	15
(a) canvassing for votes, or	16
(b) soliciting the vote of any elector, or	17
(c) inducing any elector not to vote for any particular candidate, or	18
(d) inducing any elector not to vote at the election, or	19
(e) exhibiting any notice or sign (other than an official notice) relating to the election.	20
Maximum penalty: 5 penalty units.	21
(2) A person commits an offence against this subsection if:	22
(a) on polling day, or on a day to which the polling is adjourned, the person engages in any of the following activities:	23
(i) canvassing for votes,	24
(ii) soliciting the vote of an elector,	25
	26
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Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

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

- (iii) inducing an elector not to vote for a particular candidate, 1
 - (iv) inducing an elector not to vote at the election, and 2
 - (b) the person engages in that activity 6 metres or more from an entrance to a polling place, and 3
 - (c) the person uses any of the following to engage in that activity: 4
 - (i) a loud speaker, 5
 - (ii) a public address system, 6
 - (iii) an amplifier (whether fixed or mobile), 7
 - (iv) a broadcasting van, 8
 - (v) a sound system, 9
 - (vi) radio equipment, 10
 - (vii) any other equipment or device for broadcasting, and 11
 - (d) that activity is audible: 12
 - (i) within the polling place, or 13
 - (ii) at an entrance to the polling place, or 14
 - (iii) within 6 metres of an entrance to the polling place. 15
- Maximum penalty: 5 penalty units. 16
- (3) Subsection (2) applies whether the person engages in the activity in a public place or a private place. 17
- (4) Subject to subsection (5), where a building used as a polling place is situated in grounds within an enclosure, the grounds are not, but the building is, taken to be part of the polling place for the purposes of this section. 18
- (5) Where: 19
- (a) a building used as a polling place is situated in grounds within an enclosure, and 20
 - (b) the returning officer 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 part of the polling place for the purposes of this section, 21
- those grounds are, for the purposes of this section, taken to be part of the polling place. 22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Divisions 15–17 of Part 5 of Principal Act

Schedule 13

- (6) 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. 1
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5
- 151I Confiscation of electoral material** 6
- (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: 7
8
9
- (a) within a polling place, or 10
- (b) in or on a public place within 6 metres of an entrance to a polling place, or 11
12
- (c) in or on a public place in the vicinity of, but beyond 6 metres of an entrance to, a polling place, 13
14
- confiscate or cause to be confiscated any electoral material that is apparently available to be distributed in contravention of section 151F. 15
16
17
- (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: 18
19
20
- (a) within a polling place, or 21
- (b) in or on a public place within 6 metres of an entrance to a polling place, 22
23
- confiscate or cause to be confiscated any electoral material that is apparently available for distribution in contravention of section 151H. 24
25
26
- (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. 27
28
29
- (4) This section does not authorise a returning officer, polling place manager or other election official to use force. 30
31
- (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 32
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Parliamentary Electorates and Elections Amendment Bill 2006

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

- electoral material is being offered to, or is available to, persons
intending to vote at the election at that polling place. 1
2
- (6) A police officer may use reasonable force for the purposes of
this section. 3
4
- (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. 5
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Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Division 18 of Part 5 of Principal Act

Schedule 14

Schedule 14 Amendment of Division 18 of Part 5 of Principal Act	1
	2
(Section 3)	3
[1] Section 154AC Application of this Part to polling in Antarctica	4
Omit “the poll clerk” from section 154AC (2) (b).	5
Insert instead “another election official”.	6
[2] Section 154AF Ballot papers to be signed or initialled	7
Omit “the returning officer or deputy”. Insert instead “an election official”.	8
[3] Section 154AO Result of the polling in Antarctica	9
Omit “back” from section 154AO (1) (a). Insert instead “front”.	10
[4] Section 154AO (2)	11
Omit “deputy”. Insert instead “polling place manager”.	12
[5] Section 154AP Preservation of ballot papers etc	13
Insert “, after which the Electoral Commissioner must cause the documents to be destroyed” after “occurs” in section 154AP (2).	14
[6] Section 154AQ	16
Insert after section 154AP:	17
154AQ Appointment of assistants for Antarctic Returning Officer	18
(1) An Antarctic Returning Officer may appoint persons to act as his or her assistants in the exercise of the Officer’s functions.	19
	20
(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.	21
	22
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Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 14 Amendment of Division 18 of Part 5 of Principal Act

- (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. 1
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Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Insertion of Part 6A into Principal Act

Schedule 15

Schedule 15 Insertion of Part 6A into Principal Act	1
(Section 3)	2
Part 6A	3
Insert after Part 6:	4
Part 6A Accredited election service providers	5
175K Accredited election service providers	6
(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.	7 8 9 10 11
(2) Except to the extent that such another Act or statutory rule expressly provides otherwise:	12 13
(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	14 15 16 17
(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	18 19 20 21 22 23
(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.	24 25 26 27
(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.	28 29 30 31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 15 Insertion of Part 6A into Principal Act

- (4) The regulations may make provision for or with respect to: 1
- (a) the accreditation of persons as accredited election service providers and the removal of accreditation, and 2
3
 - (b) the audit of the performance of accredited election service providers in the exercise of their functions under other Acts or statutory rules. 4
5
6
- (5) The Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide. 7
8
9
- (6) The Australian Electoral Commission is taken to be an accredited election service provider except to the extent that the regulations otherwise provide. 10
11
12
- (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. 13
14
15
- 175L Ministerial exercise of power to authorise or appoint accredited election service providers** 16
17
- (1) If: 18
- (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 19
20
21
 - (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, 22
23
24
25
- 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. 26
27
28
- (2) In this section: 29
- relevant Minister*, in relation to an election, poll or other matter under an Act or statutory rule, means: 30
31
- (a) the Minister administering the Act or the Act under which the statutory rule was made or has effect, or 32
33
 - (b) the Minister administering this Act. 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Insertion of Part 6A into Principal Act

Schedule 15

175M	Powers of authorisation or appointment imply additional powers	1
(1)	Without limiting anything in the <i>Interpretation Act 1987</i> , 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 3 4 5 6 7
(2)	Subsection (1) extends to a power exercisable by a Minister under section 175L.	8 9
(3)	This section has effect subject to a contrary intention appearing in the other Act or statutory rule concerned.	10 11
	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.	12 13 14

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 16 Amendment of Part 7 of Principal Act

Schedule 16 Amendment of Part 7 of Principal Act	1
(Section 3)	2
[1] Section 176A	3
Insert after section 176:	4
176A Destructions of ballot papers and other documents	5
Any provision of this Act that provides for the destruction of ballot papers or other documents has effect despite section 21 of the <i>State Records Act 1998</i> .	6 7 8
[2] Section 180 Summary penalties for neglect	9
Omit “salary”. Insert instead “remuneration”.	10
[3] Section 183	11
Omit the section. Insert instead:	12
183 Proceedings for offences	13
(1) Proceedings for an offence against this Act or the regulations may be dealt with:	14 15
(a) summarily before a Local Court, or	16
(b) summarily before the Supreme Court in its summary jurisdiction.	17 18
(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:	19 20 21 22
(a) the maximum monetary penalty provided in respect of the offence apart from this subsection, or	23 24
(b) 200 penalty units.	25
(3) Proceedings for an offence against this Act or the regulations may be instituted by the Electoral Commissioner or any other person.	26 27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of Part 7 of Principal Act

Schedule 16

[4] Section 186A	1
Insert after section 186:	2
186A Savings, transitional and other provisions	3
Schedule 22 has effect.	4

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 17 Insertion and omission of Schedules to Principal Act

Schedule 17 Insertion and omission of Schedules to Principal Act	1
	2
(Section 3)	3
[1] Schedule 4	4
Omit the Schedule. Insert instead:	5
Schedule 4 Ballot paper	6
(Sections 82, 114D, 114Q, 114ZB, 114ZR and 115)	7
Issuing officer's initials <input type="checkbox"/>	8
Ballot paper	9
Legislative Assembly Election	10
Electoral District of (here insert name of district)	11
Place the number "1" in the square opposite the name of the candidate for whom you desire to give your first preference vote.	12
	13
*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.	14
	15
	16
	17
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.	18
	19
Candidates	20
<input type="checkbox"/>	21
<input type="checkbox"/>	22
<input type="checkbox"/>	23

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Insertion and omission of Schedules to Principal Act

Schedule 17

<input type="checkbox"/>	1
<input type="checkbox"/>	2
<input type="checkbox"/>	3

*These words may be excluded where there are only 2 candidates. 4

[2] Schedule 15 5

Omit the Schedule. 6

[3] Schedule 22 7

Insert at the end of the Act: 8

Schedule 22 Savings, transitional and other provisions 9
(Section 186A) 10
11

Part 1 General 12

1 Regulations 13

(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts or provisions of Acts: 14
15
16

Parliamentary Electorates and Elections Amendment Act 2006 17

(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. 18
19
20

(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: 21
22
23

(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 24
25
26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 17 Insertion and omission of Schedules to Principal Act

- (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. 1
2
3

Part 2 Provisions consequent on enactment of Parliamentary Electorates and Elections Amendment Act 2006 4 5 6

2 Definition 7

In this Part: 8

amending Act means the *Parliamentary Electorates and Elections Amendment Act 2006*. 9
10

3 State Electoral Office 11

(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. 12
13
14
15

(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. 16
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18
19
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4 Electoral Commissioner 21

(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. 22
23
24
25
26

(2) The person's previous appointment to that office is taken to have terminated on the person's appointment under subclause (1). 27
28
29

(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 30
31
32

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Insertion and omission of Schedules to Principal Act

Schedule 17

anything to the contrary in section 21AB, including section 21AB (5).	1 2
5 Returning officers	3
(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.	4 5 6
(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.	7 8 9
6 Surveys of electoral districts	10
(1) Section 14A of this Act and section 9C of the <i>Surveying Act 2002</i> 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.	11 12 13 14
(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.	15 16 17 18
7 Alteration of rolls to remove references to occupations	19
(1) Rolls of electors may be altered to remove references to occupations (or other prescribed particulars) of electors.	20 21
(2) References to occupations in entries made in a roll before the omission of references to occupations (and other prescribed particulars) from this Act by the amending Act may be retained until it is convenient to remove the references from the entries.	22 23 24 25
8 Dates of birth on rolls	26
(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:	27 28 29
(a) the elector's enrolment is valid despite the absence of particulars of the elector's date of birth, and	30 31
(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.	32 33 34

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 17 Insertion and omission of Schedules to Principal Act

- (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. 1
2
3
4
- 9 Register of General Postal Voters** 5
- Information in registers under section 114AA immediately before the omission of that section by the amending Act is taken to be information forming part of the Register of General Postal Voters required to be kept by the Electoral Commissioner under the substituted section 114AA. 6
7
8
9
10
- 10 Elections and polls under other Acts or statutory rules** 11
- (1) If: 12
- (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 13
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18
- (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, 19
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21
22
- 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. 23
24
25
- (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. 26
27
28
- (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. 29
30
31

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

General amendment of Principal Act

Schedule 18

Schedule 18 General amendment of Principal Act	1
(Section 3)	2
[1] The whole Act	3
Omit “ballot-box” wherever occurring. Insert instead “ballot box”.	4
[2] The whole Act	5
Omit “ballot-boxes” wherever occurring. Insert instead “ballot boxes”.	6
[3] The whole Act	7
Omit “ballot-paper” and “Ballot-paper” wherever occurring.	8
Insert instead “ballot paper” and “Ballot paper”, respectively.	9
[4] The whole Act	10
Omit “ballot-papers” and “Ballot-papers” wherever occurring.	11
Insert instead “ballot papers” and “Ballot papers”, respectively.	12
[5] The whole Act	13
Omit “nomination-paper” wherever occurring.	14
Insert instead “nomination paper”.	15
[6] The whole Act	16
Omit “nomination-papers” wherever occurring.	17
Insert instead “nomination papers”.	18
[7] The whole Act	19
Omit “polling-day” wherever occurring. Insert instead “polling day”.	20
[8] The whole Act	21
Omit “polling-place” wherever occurring. Insert instead “polling place”.	22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 18 General amendment of Principal Act

[9] The whole Act	1
Omit “polling-places” and “Polling-places” wherever occurring.	2
Insert instead “polling places” and “Polling places”, respectively.	3

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

Schedule 19 Amendment of other legislation	1
(Section 4)	2
19.1 Agricultural Industry Services Act 1998 No 45	3
Section 32J Special provisions for polls relating to extra-territorial committees	4
	5
Omit “The Minister may authorise the Electoral Commissioner or a person appointed by the Electoral Commissioner” from section 32J (1).	6
	7
Insert instead “The Minister may authorise an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>)”.	8
	9
	10
19.2 Agricultural Industry Services (Polls and Elections) Regulation 2005	11
	12
[1] Clause 3 Definitions	13
Omit the definition of <i>returning officer</i> from section 3 (1). Insert instead:	14
<i>returning officer</i> , in relation to a poll or election, means an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the appropriate officer to exercise the functions conferred or imposed on a returning officer by this Regulation.	15
	16
	17
	18
	19
[2] Clause 16 Distribution of ballot-papers	20
Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 16 (a).	21
	22
	23
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	24
	25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

[3] Clause 23 Scrutiny of votes	1
Omit clause 23 (4) (a). Insert instead:	2
(a) it is not initialled by the returning officer (or a person authorised by the returning officer), or	3 4
19.3 Architects Regulation 2004	5
[1] Schedule 2 Election of Board members	6
Omit the definition of <i>returning officer</i> from clause 1 (1). Insert instead:	7
<i>returning officer</i> means an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Board for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.	8 9 10 11 12
[2] Schedule 2, clause 15 Distribution of ballot-papers	13
Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 15 (a).	14 15 16
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	17 18
[3] Schedule 2, clause 21 Scrutiny of votes	19
Omit “nor bears a mark prescribed for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 21 (2) (a).	20 21 22
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	23

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

19.4	Banana Industry Regulation 2003	1
[1]	Clause 5	2
	Omit the clause. Insert instead:	3
	5 Returning officer	4
	The Committee may appoint an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) as the returning officer for the purposes of any election, poll or class of polls.	5 6 7 8
[2]	Clauses 15 (a) and 41 (a) Distribution of ballot-papers	9
	Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” wherever occurring.	10 11 12
	Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	13 14
[3]	Clauses 21 (2) (a) and 48 (2) (a) Scrutiny of votes	15
	Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” wherever occurring.	16 17 18
	Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	19
19.5	Dental Practice Regulation 2004	20
	Clause 12	21
	Omit the clause. Insert instead:	22
	12 Returning Officer	23
	The Board may appoint an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) to be the Returning Officer at an election.	24 25 26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

19.6	Election Funding Act 1981 No 78	1
[1]	Section 4 Definitions	2
	Omit “and includes the Principal Returning Officer under that Act” from the definition of <i>returning officer</i> in section 4 (1).	3 4
[2]	Section 13 Vacation of office	5
	Omit “Section 21A (6)” from section 13 (2).	6
	Insert instead “Section 21AB (3)”.	7
19.7	Electronic Transactions Regulation 2001	8
	Clause 4 Certain laws excluded from section 7 (1) of the Act	9
	Insert “or by an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>)” after “Electoral Commissioner”.	10 11 12
19.8	Fisheries Management (General) Regulation 2002	13
[1]	Clause 374 Definitions	14
	Omit the definition of <i>returning officer</i> . Insert instead:	15
	<i>returning officer</i> means an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) nominated by the Director for the purpose of exercising the functions of a returning officer.	16 17 18 19
[2]	Clause 392 Scrutiny of votes	20
	Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 392 (1) (a).	21 22 23
	Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	24

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

19.9 Grain Marketing Act 1991 No 15	1
[1] Section 28 Provisions as to polls	2
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).	3 4 5
Insert instead “An accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Director-General”.	6 7 8
[2] Section 61 Payment of costs and expenses	9
Omit section 61 (1). Insert instead:	10
(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.	11 12 13 14 15
[3] Section 61 (3)	16
Omit the subsection. Insert instead:	17
(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.	18 19 20
19.10 Industrial Relations Act 1996 No 17	21
Section 172 Power to order secret ballot	22
Omit “the Electoral Commissioner” from section 172 (6) (b).	23
Insert instead “an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>)”.	24 25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

19.11	Institute of Teachers Regulation 2005	1
[1]	Clause 17 Designation of returning officer	2
	Omit “The Electoral Commissioner of New South Wales, or a person or body approved by the Electoral Commissioner of New South Wales”.	3 4
	Insert instead “An accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Institute”.	5 6 7
[2]	Clause 40 Information concerning government school teachers	8
	Omit the clause.	9
19.12	Marketing of Primary Products Act 1983 No 176	10
[1]	Sections 39 (2), 40 (2), 101 (2) and 102 (2)	11
	Omit “The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner,” wherever occurring.	12 13 14
	Insert instead “An accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Director-General”.	15 16 17
[2]	Section 107 Payment of costs and expenses	18
	Omit section 107 (1). Insert instead:	19
	(1) The costs and expenses of any poll or election under this Act taken or held with respect to:	20
	(a) a board or committee, or	21 22
	(b) the primary product in respect of which a board or committee is or may be constituted,	23 24
	are to be paid by the board or committee 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 or election.	25 26 27 28

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

[3] Section 107 (3) and (4)	1
Omit the subsections. Insert instead:	2
(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.	3 4 5
(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.	6 7 8
19.13 Marketing of Primary Products Regulation 2005	9
[1] Clause 3 Definitions	10
Omit the definition of <i>returning officer</i> from clause 3 (1). Insert instead:	11
<i>returning officer</i> means an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Director-General for the purpose of exercising the functions conferred or imposed on a returning officer by this Regulation.	12 13 14 15 16
[2] Clauses 18 Distribution of ballot-papers	17
Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ”.	18 19 20
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	21 22
[3] Clauses 24 (2) (a) and 51 (2) (a) Scrutiny of votes	23
Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” wherever occurring.	24 25 26
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	27

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

[4] Clause 45 Distribution of ballot-papers	1
Omit “or that bears a mark prescribed for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ”.	2 3
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	4 5
19.14 Nurses and Midwives Regulation 2003	6
[1] Clause 3 Definitions	7
Omit the definition of <i>returning officer</i> from clause 3 (1). Insert instead:	8
<i>returning officer</i> means an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by the Board for the purpose of exercising the functions of a returning officer for an election.	9 10 11 12
[2] Clause 20 Distribution of ballot-papers	13
Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 20 (a).	14 15 16
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	17 18
[3] Clause 26 Scrutiny of votes	19
Omit “nor bears a mark prescribed for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 26 (2) (a).	20 21 22
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	23

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

19.15 Pharmacy (Elections) Regulation 1998	1
[1] Clause 4	2
Omit the clause. Insert instead:	3
4 Returning Officer	4
The Pharmacy Board may appoint an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) to be the returning officer for the purposes of this Regulation.	5 6 7 8
[2] Clause 14 Distribution of ballot-papers	9
Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 14 (a).	10 11 12
Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	13 14
[3] Clause 20 Scrutiny of votes	15
Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 20 (2) (a).	16 17 18
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	19
19.16 Physiotherapists Regulation 2002	20
Clause 9	21
Omit the clause. Insert instead:	22
9 Returning Officer	23
The Board may appoint an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) to be the Returning Officer at an election.	24 25 26

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

19.17	Ports Corporatisation and Waterways Management Act 1995 No 13	1 2
	Section 18 Special provision for election of staff director	3
	Omit section 18 (5). Insert instead:	4
	(5) An accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) 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.	5 6 7 8 9 10
19.18	Ports Corporatisation (Staff Director Elections) Regulation 2002	11
	[1] Clause 15 Distribution of ballot-papers	12
	Omit “or that bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 15 (a).	13 14 15
	Insert instead “or that bears a mark authorised by the Electoral Commissioner”.	16 17
	[2] Clause 21 Scrutiny of votes	18
	Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 21 (2) (a).	19 20 21
	Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

19.19 Poultry Meat Industry Regulation 2003	1
[1] Clause 3 Definitions	2
Omit the definition of <i>returning officer</i> from clause 3 (1). Insert instead:	3
<i>returning officer</i> means an accredited election service provider	4
(referred to in Part 6A of the <i>Parliamentary Electorates and</i>	5
<i>Elections Act 1912</i>) appointed by the Poultry Meat Industry	6
Committee for the purpose of exercising the functions of a	7
returning officer for an election.	8
[2] Clause 31 Distribution of ballot-papers	9
Omit “or that bears a mark prescribed for the purposes of section 122A (3)	10
of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 31	11
(a).	12
Insert instead “or that bears a mark authorised by the Electoral	13
Commissioner”.	14
[3] Clause 37 Scrutiny of votes	15
Omit “nor bears a mark prescribed as an official mark for the purposes of	16
section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ”	17
from clause 37 (2) (a).	18
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	19
19.20 Public Finance and Audit Act 1983 No 152	20
Schedule 3 Departments	21
Omit “State Electoral Office” from Column 1.	22
Insert instead “New South Wales Electoral Commission”.	23

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

19.21	Public Sector Employment and Management Act 2002 No 43	1
	Schedule 1 Divisions of the Government Service	2
	Omit "State Electoral Office" from Column 1 of Part 1.	3
	Insert instead "Office of the New South Wales Electoral Commission".	4
19.22	Rural Lands Protection (General) Regulation 2001	5
	Schedule 2 Elections	6
	Insert at the end of the definition of <i>returning officer</i> in clause 1:	7
	Without limiting paragraph (a) or (b), an accredited election	8
	service provider (referred to in Part 6A of the <i>Parliamentary</i>	9
	<i>Electorates and Elections Act 1912</i>) may be appointed or	10
	determined to be the returning officer.	11
19.23	Stock Diseases Regulation 2004	12
	[1] Schedule 2 Nominations and elections for Board of Tick Control	13
	Omit the definition of <i>returning officer</i> from clause 1 (1). Insert instead:	14
	<i>returning officer</i> means an accredited election service provider	15
	(referred to in Part 6A of the <i>Parliamentary Electorates and</i>	16
	<i>Elections Act 1912</i>) appointed by the Board for the purpose of	17
	exercising the functions of a returning officer.	18
	[2] Schedule 2, clause 30 Distribution of ballot-papers	19
	Omit "or that bears a mark prescribed as an official mark for the purposes	20
	of section 122A (3) of the <i>Parliamentary Electorates and Elections Act</i>	21
	<i>1912</i> " from clause 30 (a).	22
	Insert instead "or that bears a mark authorised by the Electoral	23
	Commissioner".	24

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

[3] Schedule 2, clause 36 Scrutiny of votes	1
Omit “nor bears a mark prescribed as an official mark for the purposes of section 122A (3) of the <i>Parliamentary Electorates and Elections Act 1912</i> ” from clause 36 (2) (a).	2 3 4
Insert instead “nor bears a mark authorised by the Electoral Commissioner”.	5
19.24 Surveying Act 2002 No 83	6
Section 9C	7
Insert after section 9B:	8
9C Register of public surveys to include details of electoral districts	9
(1) The register of public surveys is to include details of the boundaries or areas of electoral districts determined under Part 2 of the <i>Parliamentary Electorates and Elections Act 1912</i> if the Surveyor-General is satisfied that the details are available in a format that is compatible with the format of the register.	10 11 12 13 14
(2) The area of each electoral district required to be recorded under section 14A of the <i>Parliamentary Electorates and Elections Act 1912</i> may be recorded in the register.	15 16 17
(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.	18 19 20
(4) Details of electoral districts may but need not be included or retained in the register if they are superseded by later details.	21 22

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Schedule 19 Amendment of other legislation

19.25	Sydney Cricket Ground and Sydney Football Stadium By-law 2004	1 2
	Clause 51 Returning Officer	3
	Omit clause 51 (2). Insert instead:	4
	(2) Without limiting subclause (1), an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) may be appointed under that subclause.	5 6 7 8
19.26	Water Management Act 2000 No 92	9
	Schedule 5 Constitution and procedure of water supply authorities	10
	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).	11 12 13
	Insert instead “An accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) appointed by a water supply authority is to be the returning officer for an election in relation to the water supply authority”.	14 15 16 17
19.27	Water Management (General) Regulation 2004	18
[1]	Clause 56 Returning officer for election of members of a private water trust or directors of a private drainage board	19 20
	Insert after clause 56 (2):	21
	(3) Without limiting subclause (1), an accredited election service provider (referred to in Part 6A of the <i>Parliamentary Electorates and Elections Act 1912</i>) may be appointed as the returning officer for an election.	22 23 24 25

Consultation draft

Parliamentary Electorates and Elections Amendment Bill 2006

Amendment of other legislation

Schedule 19

- [2] Clause 57 Returning officer for election of members of a private irrigation board** 1
2
- Insert after clause 57 (3): 3
- (4) Without limiting subclause (1) or (2), an accredited election 4
service provider (referred to in Part 6A of the *Parliamentary* 5
Electorates and Elections Act 1912) may be appointed as the 6
returning officer for an election referred to in either subclause. 7