

FIRST PRINT

**PARLIAMENTARY ELECTORATES AND ELECTIONS
(AMENDMENT) BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Election Funding (Amendment) Bill 1987 is cognate with this Bill.

The object of this Bill is to amend the Parliamentary Electorates and Elections Act 1912—

- (a) to make provisions of that Act relating to qualifications and enrolment of electors and the conduct of elections consistent with corresponding provisions of the Commonwealth Electoral Act 1918;
- (b) to provide for the issue by the Electoral Commissioner of a penalty notice where an elector has failed to vote at an election;
- (c) to provide for the registration of electoral material in the nature of how-to-vote cards;
- (d) to make the penalties for various offences under the Principal Act consistent with the penalties prescribed by the Commonwealth Act for similar offences and to increase the penalties for certain other offences; and
- (e) to make miscellaneous related amendments.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day or days to be appointed by the Governor-in-Council.

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Clause 3 states that the Parliamentary Electorates and Elections Act 1912 is referred to in the proposed Act as the Principal Act.

Clause 4 is a formal provision which gives effect to the Schedules of amendments to the Principal Act.

Clause 5 is a formal provision which gives effect to the Schedule of transitional provisions.

Clause 6 amends the Justices Act 1902 in a manner that applies the follow up and enforcement provisions of that Act to penalty notices served on persons who fail to vote at an election under the Principal Act.

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

Schedule 1 (1) is an amendment by way of statute law revision.

Schedule 1 (2) amends section 3 of the Principal Act—

- (a) to insert definitions of "Antarctic elector", "Commonwealth Act", "Commonwealth subdivision", "Eligible overseas elector", "Hospital", "Itinerant elector", "Real place of living" and "Territory";
- (b) to transfer from section 22 to section 3 of the Principal Act certain definitions; and
- (c) to include as section 3 (3) a referential provision at present contained in section 26 of the Parliamentary Electorates and Elections (Amendment) Act 1928.

Schedule 1 (3) substitutes section 20 (Qualification of electors) of the Principal Act so that the requirements for entitlement to be enrolled as an elector in New South Wales will be the same for New South Wales and Commonwealth elections. In particular, proposed section 20 provides—

- (a) that an elector whose name is on the roll for a subdivision will (subject to sections 20 (3) and (4) and 21) be entitled to vote at any election for the Assembly;
- (b) that a person who is provisionally enrolled under proposed section 33A will not be able to vote unless the person has turned 18 on the day for taking the poll for an election; and
- (c) in the case of categories of electors other than Antarctic electors, eligible overseas electors, and itinerant electors (proposed sections 20A–20C and 154AD), for a new residential requirement of 3 months residence in a subdivision as a real place of living (instead of 6 months continuous residence in Australia and one month in the subdivision).

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Schedule 1 (4) inserts proposed sections 20A–20C into the Principal Act to expand the categories of persons entitled to be enrolled by including certain categories entitled to be enrolled under the Commonwealth Electoral Act 1918:

Proposed section 20A (Enrolled voters leaving Australia) provides that any person enrolled and noted on the Commonwealth electoral roll in New South Wales as an eligible overseas elector will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act. An “eligible overseas elector” is an enrolled elector temporarily living overseas who intends to return to live in Australia within 3 years after departing from Australia.

Proposed section 20B (Eligibility of spouse or child of eligible overseas elector) provides that any spouse or child of an elector enrolled and noted on the electoral roll as an eligible overseas elector who has applied for enrolment on the Commonwealth electoral roll in New South Wales from outside Australia upon turning 18 years of age, and who has been enrolled and noted on the Commonwealth electoral roll as an “eligible overseas elector” will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act.

Proposed section 20C (Itinerant electors) provides that any person who is not qualified to be enrolled as an elector only because he or she does not satisfy the subdivisional residential requirement and who has been enrolled and noted on the Commonwealth electoral roll in New South Wales as an itinerant elector will be automatically enrolled and noted on the roll of electors entitled to vote under the Principal Act.

Schedule 1 (5) amends section 21A of the Principal Act—

- (a) to provide that the Principal Returning Officer and such other staff as are necessary for the administration of the Act shall be appointed under the Public Service Act 1979 instead of by the Governor on the recommendation of the Public Service Board; and
- (b) to authorise the Principal Returning Officer to act in the office of the Electoral Commissioner when that office is vacant.

Schedule 1 (6) repeals section 22 of the Principal Act as a consequence of the insertion of the definitions contained in that section in section 3 of the Principal Act.

Schedule 1 (7) inserts proposed section 23 (4) into the Principal Act to enable the Governor to declare a subdivision to be a remote subdivision. The amendment is ancillary to that inserting proposed section 114AA (Registration of general postal voters).

Schedule 1 (8) amends section 26 of the Principal Act so that the roll will not show the residence of the new categories of eligible overseas electors and itinerant electors.

Schedule 1 (9) contains an amendment to section 27 (3) of the Principal Act consequential on the amendments relating to eligible overseas electors and itinerant electors. The amendment is necessary because these electors will not be subject to compulsory enrolment and transfer provisions.

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Schedule 1 (10) amends section 29 (Printing of rolls) of the Principal Act so that rolls will in future be printed by district not subdivision. The amendment is consequential to the proposed amendment to section 115 (1). Consequential amendments for this purpose are also made to sections 30, 50, 79, 81B, 89, 97, 100, 106, 114F and 114ZR (Schedule 1 (11), (25), (29), (30), (34), (36), (38), (40), (44) and (55)). The proposed amendment to section 50 will enable regulations to be made to facilitate the supply and certification of such rolls.

Schedule 1 (11) amends section 30 of the Principal Act to provide for the Electoral Commissioner to determine the fee to be paid for purchase of a copy of the roll instead of the fee being prescribed by the regulations.

Schedule 1 (12) amends section 32 (Addition of names to rolls) of the Principal Act—

- (a) to enable the names of 17 year olds claiming provisional enrolment to be added to the roll;
- (b) to prescribe who may witness a claim for enrolment; and
- (c) to provide for enrolment by persons so physically incapacitated as to be unable to sign a claim for enrolment.

Schedule 1 (13) amends section 33 of the Principal Act so the new categories of eligible overseas elector, itinerant elector and Antarctic elector will not be subject to the provisions of that section.

Schedule 1 (14) inserts proposed section 33A (Claims for provisional enrolment) into the Principal Act. The section will enable the provisional enrolment of 17 year olds who are otherwise qualified.

Schedule 1 (15) substitutes section 34 of the Principal Act. Proposed section 34 (Compulsory enrolment and transfer) includes provisions—

- (a) exempting from compulsory enrolment the persons to whom proposed sections 20A–20C and 33A relate;
- (b) specifying the action to be taken by a registrar in relation to a claim for enrolment received by him or her which relates to a subdivision for which he or she has not been appointed as a registrar;
- (c) providing that the requirement that an elector notify changes of address within subdivisions within 21 days applies also to persons to whom proposed section 38B applies;
- (d) increasing the maximum penalty for failure by an elector to notify changes of address within subdivisions within 21 days from \$4 to \$50 and omitting a continuing offence provision; and
- (e) providing that proceedings against a person for non enrolment shall not be instituted against that person after the necessary claim to be enrolled has been sent or delivered.

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Schedule 1 (16) repeals sections 35–37 of the Principal Act and substitutes proposed section 35 (Registration of claims) to ensure consistency with section 102 of the Commonwealth Electoral Act 1918. The proposed section includes provisions—

- (a) requiring a registrar, on receiving an enrolment or transfer claim, to take necessary action such as enrolling and notifying the claimant, effecting deletions in the rolls for the subdivision for which he or she is registrar, giving notice of transfer to other claimants, notifying claimants that they are already correctly enrolled and notifying claimants that their claims have been rejected;
- (b) requiring a registrar, on receiving notice from another registrar of a transfer of enrolment, to delete the name of the elector involved from the relevant roll;
- (c) requiring a person whose claim is rejected to be informed of the reasons for his or her rejection and right to appeal to a Local Court;
- (d) providing that a claim under section 34 received between 6 p.m. on the day that is 3 days after the issue of the writ and the close of polling at an election will not be considered until after the close of polling; and
- (e) providing for the removal of a name from the roll at any time pursuant to a notification of transfer from a registrar.

Schedule 1 (17) inserts proposed section 38A (Request for residence not to be shown on roll) into the Principal Act. Persons who consider the publication of their residential addresses on the roll would endanger the personal safety of themselves or their families, may have granted a request made to the registrar that their residential address not appear on, or be deleted from, the roll. Such a request would have to be accompanied by particulars of the relevant risk and be verified by statutory declaration by the person making the request, or some other person.

Schedule 1 (18) contains an amendment to section 41 of the Principal Act consequential to the amendments relating to provisional enrolment of 17 year olds.

Schedule 1 (19) inserts proposed section 41A (Computer records relating to roll) into the Principal Act. The amendment enables the functions of the registrar in maintaining the rolls to be carried out by use of a computerised system approved by the Electoral Commissioner.

Schedule 1 (20) amends section 42 of the Principal Act—

- (a) to increase from 50 cents to \$2 the deposit to be lodged by a person other than an officer objecting to an enrolment; and
- (b) to change the ground for forfeiture of the deposit from the objection being frivolous to the objection being made without a reasonable belief by the objector that grounds for the objection existed.

Schedule 1 (21) amends section 45 of the Principal Act—

- (a) to provide that a notice of objection may be sent to the elector's postal address, place of living known to the registrar or place of residence shown on the roll; and
- (b) to enable a frivolous or vexatious objection to be dismissed without giving notice of objection to the person objected to.

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Schedule 1 (22) substitutes section 47 (2) and (3) of the Principal Act and so repeals the requirement that a sum of \$10 be paid to a person objected to if the objection is held to be frivolous. Provision is made instead for notice of the determination of an objection to be given to the objector and person objected to.

Schedule 1 (23) inserts proposed section 47A (Assistant divisional returning officers) into the Principal Act. The provision is consequent on the appointment by the Commonwealth of assistant divisional returning officers.

Schedule 1 (24), (26) and (27) contain consequential amendments relating to proposed section 33A (Claims for provisional enrolment).

Schedule 1 (28) amends section 75 of the Principal Act to provide for the appointment and termination of appointment of returning officers to be made on the recommendation of the Electoral Commissioner instead of the Public Service Board.

Schedule 1 (29) amends section 79 (Nominations of candidates) of the Principal Act—

- (a) to make it clear that a candidate must be enrolled as an elector;
- (b) to increase from 6 to 30 the number of nominators required to sign a candidate's nomination for election to the Legislative Assembly;
- (c) to replace section 79 (5A) of the Principal Act to make it clear that if at the close of nominations for an election for a district a person is nominated for any other district or for both that election and a periodic Council election all the nominations are void;
- (d) to require candidates to certify that the place of residence shown on their nomination is correct;
- (e) to extend by one day the hour of nomination in the event of the death of a candidate nominated before nominations close;
- (f) to increase from \$100 to \$500 the deposit required to accompany a nomination of a candidate for the Legislative Assembly; and
- (g) to provide that a member of the Assembly wishing to contest a vacancy in the Commonwealth Parliament (and wishing to recontest his or her seat if he or she fails at the Federal election) must resign only prior to the hour of nomination instead of 21 days prior to the issue of the Commonwealth writ.

Schedule 1 (30) amends section 81B (Nomination of Council candidates) of the Principal Act—

- (a) to make it clear that a candidate must be enrolled as an elector;
- (b) to increase from 6 to 15 the number of nominators required to sign a candidate's nomination for election to the Legislative Council;
- (c) to require candidates to certify that the place of residence shown on their nomination is correct; and
- (d) to extend by one day the hour of nomination in the event of the death of a candidate nominated before nominations close.

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Schedule 1 (31) replaces section 81D (Dual nominations) of the Principal Act to make it clear that if at the close of nominations for a periodic Council election a person is nominated for that election more than once or for that election and an election for the district all the nominations are void.

Schedule 1 (32) amends section 81F of the Principal Act to increase from \$200 to \$750 the deposit required to accompany a nomination of a candidate for the Legislative Council.

Schedule 1 (33) amends section 86 of the Principal Act to make it clear that writing implements other than pencils may be used to mark ballot-papers.

Schedule 1 (34) amends section 89 of the Principal Act consequentially to proposed amendments to section 115 and proposed section 33A.

Schedule 1 (35) amends section 90 (How scrutineers to be appointed) of the Principal Act—

- (a) to make it clear that the prohibition in section 90 (2) against interfering with or attempting to influence any elector within a polling-booth does not prevent a scrutineer entitled to be present at the polling-booth from wearing or displaying any badge or emblem of a candidate or political party (proposed section 90 (6)); and
- (b) to enable a returning officer or deputy to have a scrutineer who misconducts himself or herself removed from the polling-booth by a police officer (proposed section 90 (7)).

Schedule 1 (37) repeals section 99 of the Principal Act and substitutes proposed sections 99 (Questions to be put to voter) and 99A (Person whose residence is not on the roll) which simplify the existing provisions and provide for questions to be put to an elector whose residential address is not on the roll as a consequence of proposed section 38A. The new form of section 99 takes into account the amendments proposed to be made to the Principal Act relating to absent voters, eligible overseas electors and itinerant electors.

Schedule 1 (39) inserts proposed section 103A (Vote of person whose residence is not shown on the roll) of the Principal Act to make special provision in respect of voting by a person whose residence does not appear on the roll and for the scrutiny of any such votes.

Schedule 1 (40) (c) and (d) amend section 106 of the Principal Act as a consequence of the proposed amendment to section 35 (4).

Schedule 1 (41) amends section 114A (Application for postal vote certificate and postal ballot-paper) of the Principal Act to enable an elector—

- (a) who by reason of caring for a person who is seriously ill or infirm or approaching maternity at a place other than a hospital is unable to attend a polling-booth (proposed section 114A (1) (d1)) or who will be at work on polling day (proposed section 114A (1) (g)) to be able to vote by post; and
- (b) to enable an elector to sign an application for a postal vote certificate and ballot-paper with his or her mark.

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Schedule 1 (42) inserts proposed sections 114AA (Registration of general postal voters) and 114AB (Dispatch of electoral materials to registered postal voters) into the Principal Act. Proposed section 114AA provides for the registration of prescribed electors as general postal voters on a Register of General Postal Voters established for each subdivision. A prescribed elector is a person who is—

- (a) an elector who lives more than 20 kilometres, by the nearest practicable route, from a polling-place;
- (b) an elector who is a patient in a hospital which is not a polling-place or declared institution under section 114ZN;
- (c) an elector who though not a hospital patient is, because of serious illness or infirmity, unable to travel from his or her residence;
- (d) an elector being kept in prison (within the meaning of the Prisons Act 1952);
- (e) an elector enrolled pursuant to a claim under proposed section 32 (3); or
- (f) an elector certified by a doctor to be so physically incapacitated as to be unable to sign his or her name.

Proposed section 114AB requires the returning officer for a district, as soon as practicable after the issue of a writ for an election to be held in the district, to deliver or post to each elector registered as a general postal voter by virtue of a claim under section 32 (3) or who, when applying for registration, qualified as a prescribed elector under section 114AA (1) (e) or (f), a postal vote certificate printed on an envelope addressed to the returning officer and the appropriate postal ballot-paper.

Schedule 1 (43) amends section 114C (Duty of witnesses) of the Principal Act to make it an offence, with a penalty of \$1,000, to visit any elector for the purpose of witnessing a postal vote application (proposed section 114C (3)). An exception is made in the case of a witness, previously requested to do so, visiting an incapacitated or seriously ill elector, or an elector approaching maternity, for the purpose of witnessing the elector's application (proposed section 114C (4)). Schedule 1 (43) also contains an amendment to section 114C (1) that is consequential to the amendment to section 114A (2) (b).

Schedule 1 (44) amends section 114F of the Principal Act to provide that a returning officer need only number applications for postal vote certificates and postal ballot-papers received by the returning officer in consecutive order by district not subdivision.

Schedule 1 (45) inserts proposed section 114GA (Person claiming to vote, whose name is noted under section 114G) into the Principal Act to provide that a person who has been noted as being a person to whom a postal vote certificate or postal ballot-paper has been issued and who claims not to have received, or to have lost, the certificate or ballot-paper may nevertheless vote. The ballot-paper of such a voter will be dealt with as if the vote were a disputed vote under section 106 of the Principal Act.

Schedule 1 (46) amends section 114H (Directions for postal voting) of the Principal Act—

- (a) as a consequence of amendments relating to the General Register of Postal Voters and the proposed amendment to section 114H (1) (f);

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- (b) to enable an elector to sign a postal vote certificate (in the presence of an authorised witness) with his or her mark; and
- (c) to extend the existing provision for electors who require assistance to mark their postal ballot-papers because they are blind to include electors who are otherwise so physically incapacitated or so illiterate that they require assistance to mark their papers. (Such an elector may indicate how he or she wishes the ballot-paper to be marked by presenting to the authorised witness a statement in writing, which may be or include a how-to-vote card, specifying the manner in which the ballot-paper is to be marked.)

Schedule 1 (47) and (48) amend sections 114j and 114k of the Principal Act as a consequence of the proposed amendment to section 114H (1) (g).

Schedule 1 (49) amends section 114P (Application for permission to vote before polling-day) of the Principal Act to enable an elector—

- (a) who, by reason of caring for a person who is seriously ill or infirm or approaching maternity at a place other than a hospital, is unable to attend a polling booth, or who will be at work on polling-day, to apply to make an application to vote before polling-day;
- (b) to sign an application to vote before polling-day with his or her mark;
- (c) to omit the requirement that such an application be witnessed by an authorised witness (section 176C of the Principal Act will still require the application to be witnessed by some person);
- (d) to extend the period in which such an application may be made by one day; and
- (e) to enable any such applications to be made at places and hours appointed by the Electoral Commissioner instead of at the office of the returning officer during the ordinary business hours of that officer.

Schedule 1 (50) provides that an elector may sign a declaration under section 114Q of the Principal Act in respect of pre-poll voting by making his or her mark instead of with his or her personal signature.

Schedule 1 (51) amends section 114r of the Principal Act to extend the existing provision for an elector who requires assistance to mark his or her ballot-paper under section 114Q (Procedure for voting before polling day) because he or she is blind to include electors who are otherwise so physically incapacitated or so illiterate that they require such assistance.

Schedule 1 (52) contains an amendment to section 114x of the Principal Act consequential to the repeal of the requirement that an application for a pre-poll vote be witnessed by an authorised witness.

Schedule 1 (53) amends section 114ZA (Application for a postal vote certificate and postal ballot-paper) of the Principal Act to provide that an application for a postal vote certificate and postal ballot-paper may be signed by making a mark instead of with a personal signature.

Schedule 1 (54) amends section 114ZD as a consequence of the proposed amendments to section 114H of the Principal Act.

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Schedule 1 (55) (a) provides that an elector may sign a declaration under section 114ZR (4) of the Principal Act in respect of pre-poll voting at declared institutions by making his or her mark.

Schedule 1 (56) amends section 115 (Voting outside district) of the Principal Act—

- (a) so that electors absent from the district which includes the subdivision for which they are enrolled may vote as absent voters at a polling-place in any other district (persons absent from the subdivision of the district for which they are enrolled but voting within another subdivision of the same district will, because of the proposed new arrangements for the printing of the rolls by district (section 29), no longer need to vote as absent voters); and
- (b) to provide for the making of a declaration by such a voter in a form prescribed instead of in the form of Schedule 11.

Schedule 1 (57) substitutes section 117 (Returning officer satisfied to accept ballot-paper for further scrutiny) of the Principal Act so that—

- (a) if an absent voter's ballot-papers are sent to a district other than that for which the voter is enrolled (because when filling out a declaration to vote outside the district a mistake was made in describing the district), ballot-papers for the Assembly election will be rejected but those for the Council accepted for further scrutiny; and
- (b) if an absent voter's declaration is not attested the accompanying ballot-papers may, in specified circumstances, still be accepted for further scrutiny.

Schedule 1 (58) and (59) contain amendments consequential to the proposed substitution of sections 120C–120F of the Principal Act.

Schedule 1 (60) substitutes sections 120C–120F of the Principal Act to provide for the service of a penalty notice by the Electoral Commissioner on an elector who fails to vote at an election. The penalty notice would enable the elector to avoid further proceedings (fine \$50) by giving sufficient reason for the failure to vote or by paying to the Electoral Commissioner a penalty not exceeding \$50.

Schedule 1 (61) and (62) contain amendments consequential to the proposed substitution of sections 120C–120F of the Principal Act.

Schedule 1 (63) amends section 129C to facilitate the transmission of ballot-papers by enabling all papers used at a polling-place to be parcelled together instead of requiring all ballot-papers to be parcelled together by polling-booth at the polling-place.

Schedule 1 (64) amends section 151A of the Principal Act to make it an offence to print, publish or distribute electoral matter—

- (a) that is intended or likely to mislead an elector because of the way in which it uses the name or a form of the name of a party included in the Register of Parties kept under the Election Funding Act 1981; or
- (b) using the word “Independent” in conjunction with such a name or form of name in a way that suggests or indicates an affiliation with the party.

Schedule 1 (65) provides that it is not an offence under section 151B of the Principal Act to post up or exhibit a poster on or at the electoral office of any member.

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Schedule 1 (66) inserts proposed sections 151F (Distribution of electoral matter on polling-day) and 151G (Registration of electoral matter) into the Principal Act. Proposed section 151F makes it an offence to distribute any electoral material in the nature of a "how-to-vote" card unless the material is registered by the Electoral Commissioner in accordance with proposed section 151G.

Proposed section 151G establishes a system for the registration of electoral material by the Electoral Commissioner. The Electoral Commissioner will not register electoral material—

- (a) that contains directions or suggestions as to how to vote in accordance with the ticket of a political party, group of candidates or candidate if the party, group or candidate is not registered under the Election Funding Act 1981 or the application is not made by its or their official representatives;
- (b) that contains any representation or indication that a candidate is a member of a particular political party or group of candidates if the party or group is not registered under the Election Funding Act 1981 or the candidate's affiliation is not included in the Register of Candidates under that Act;
- (c) if the material is intended or likely to mislead or improperly interfere with the casting of votes because of the use of matter indicating any party or group affiliation; or
- (d) if the material contains words that are obscene or offensive.

Schedule 1 (67) inserts Division 18 (Special provisions relating to the polling in Antarctica) into Part V of the Principal Act. An elector who is or expects to be working in Antarctica is to be able to give notice to the registrar requesting that the elector be treated as an antarctic elector while the elector is in Antarctica. The Division provides for the appointment of officers to conduct elections at Antarctic stations and provides procedures for the conduct of the poll by those officers at the stations. Provision is also made in respect of the procedures to be followed at the close of the poll (at 6 p.m. by standard time in New South Wales on the day of the polling). Particulars of electors who have voted and of the marking of each ballot-paper are to be transmitted to the Electoral Commissioner who will transcribe the particulars onto a postal ballot-paper to be sent to the appropriate returning officer and to then be treated as a postal vote.

Schedule 1 (68) amends section 163 (Inquiries by Court of Disputed Returns) of the Principal Act to provide for certain statements made by the Electoral Commissioner in relation to the marking of ballot-papers to be conclusive evidence of the particulars stated.

Schedule 1 (69) repeals Schedules 11 and 20 of the Principal Act as a consequence of the amendment of section 115 (1) (c) and the proposed repeal of section 120H, respectively.

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES

Schedule 2 (1) increases the maximum fine for an offence against section 38 (Penalty on officer neglecting to enrol claimants) of the Principal Act from \$50 to \$1,000.

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Schedule 2 (2) and (3) increase the maximum fine for an offence against section 51 (Witness to application must be satisfied of truth of statements) and section 52 (Failure to transmit claim), respectively, from \$200 to \$1,000.

Schedule 2 (4) increases the maximum fine for an offence against the regulations made under the Principal Act from \$50 to \$500.

Schedule 2 (5) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 90 (4) (offences by scrutineers) of the Principal Act. At present a maximum fine of \$25 may be imposed for such an offence.

Schedule 2 (6) increases the maximum fine for an offence against section 93 (Who may be present at polling-booth) of the Principal Act from \$50 to \$500.

Schedule 2 (7) provides for imposition of a maximum fine of \$1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 106 (Disputed vote) of the Principal Act. At present a period of imprisonment not exceeding 3 months may be imposed for such an offence.

Schedule 2 (8) provides for imposition of a maximum fine of \$1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 111 (Ballot-papers not to be removed from polling-booth etc.) of the Principal Act. At present a maximum fine of \$50 may be imposed for such an offence.

Schedule 2 (9) provides for imposition of a maximum fine of \$1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 112 (False answer to questions etc. or double voting a misdemeanour) of the Principal Act. At present a maximum period of imprisonment of 6 months may be imposed for such an offence.

Schedule 2 (10) provides for imposition of a maximum fine of \$1,000 or imprisonment for a maximum period of 6 months, or both, for an offence against section 114A (Application for a postal vote certificate and postal ballot-paper). At present a maximum fine of \$100 or imprisonment for a period of one month may be imposed for offences under section 114A (2B) or (3).

Schedule 2 (11) provides for imposition of a maximum fine of \$500 for an offence against section 114C (1) (Duty of witnesses to application) of the Principal Act. At present a maximum fine not exceeding \$100 or imprisonment for a period not exceeding one month may be imposed for such an offence.

Schedule 2 (12) provides for the imposition of a maximum fine of \$1,000 for an offence against section 114I (Duty of authorised witness) of the Principal Act. At present a maximum fine not exceeding \$250 or imprisonment for a period of 3 months may be imposed for such an offence.

Schedule 2 (13) provides for the imposition of a maximum fine of \$1,000 for offences against section 114J (Penalty for unlawfully marking etc. a ballot-paper) of the Principal Act. At present a maximum fine of \$500 may be imposed for an offence against subsection (2) (Opening of postal ballot-paper by person other than returning officer) and a maximum fine of \$100 or imprisonment for a period not exceeding one month may be imposed for an offence against subsection (3) (Failure to post or deliver application for postal vote certificate and postal ballot-papers).

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Schedule 2 (14) provides for imposition of a maximum fine of \$1,000 for an offence against section 114k (Duty of persons present when an elector votes by post) of the Principal Act. At present a maximum fine of \$250 or imprisonment for 3 months may be imposed for such an offence.

Schedule 2 (15) increases the penalties for offences against section 114P (Application for permission to vote before polling-day) of the Principal Act from a maximum fine of \$100 or imprisonment for a period of one month to a maximum fine of \$1,000 or imprisonment for 6 months, or both.

Schedule 2 (16) increases the penalties for offences against section 114Q (Procedure for voting before polling-day) of the Principal Act from a maximum fine of \$250 or imprisonment for a period of 3 months to a maximum fine of \$1,000 or imprisonment for 6 months, or both.

Schedule 2 (17) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period of 6 months, or both, for an offence against section 114U (4) (offences by scrutineers) of the Principal Act. At present a maximum fine of \$25 may be imposed for such an offence.

Schedule 2 (18) provides for the imposition of a maximum fine of \$1,000 for an offence against section 114v (Penalty for unlawfully marking ballot-paper) of the Principal Act. At present a maximum fine of \$500 or imprisonment for 6 months may be imposed for such an offence.

Schedule 2 (19) provides for the imposition of a maximum fine of \$1,000 for an offence against section 114w (Duty of persons present when elector votes under section 114Q) of the Principal Act. At present a maximum fine of \$250 or imprisonment for 3 months may be imposed for such an offence.

Schedule 2 (20) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period of 6 months, or both, for an offence against section 114ZA (Application for a postal vote certificate and postal ballot-paper) of the Principal Act. At present a maximum fine of \$100 or imprisonment for one month may be imposed for such an offence.

Schedule 2 (21) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 114ZT (4) (offence by scrutineer) of the Principal Act. At present a maximum fine of \$25 may be imposed for such an offence.

Schedule 2 (22) provides for the imposition of a maximum fine of \$1,000 for an offence against section 114ZU (Penalty for unlawfully marking ballot-paper etc.) of the Principal Act. At present a maximum fine of \$500 or imprisonment for 6 months may be imposed for such an offence.

Schedule 2 (23) provides for the imposition of a maximum fine of \$1,000 for an offence against section 114Zv (Duty of persons present when elector votes pre-poll in declared institution) of the Principal Act. At present a maximum fine of \$250 or imprisonment for 3 months may be imposed for such an offence.

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Schedule 2 (24) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period not exceeding 6 months, or both, for an offence against section 115 (3) (knowingly making an untrue declaration to vote outside district) of the Principal Act. At present imprisonment for a period not exceeding 3 months may be imposed for such an offence.

Schedule 2 (25) and (26) increase the maximum fine for an offence against sections 129 and 129j (penalties for breaking seal of or opening packet or parcel) of the Principal Act from \$500 to \$1,000.

Schedule 2 (27) increases the maximum fine for an offence against section 147 (Who guilty of the misdemeanour of bribery etc.) of the Principal Act from \$500 to \$1,000.

Schedule 2 (28) increases the maximum fine for an offence against section 150 (Penalty for "treating") of the Principal Act from \$500 to \$1,000.

Schedule 2 (29) increases the maximum fine for an offence against section 151 (Intimidation) of the Principal Act from \$500 to \$1,000.

Schedule 2 (30) provides for the imposition of a maximum fine of \$5,000 (in the case of a corporation) or \$1,000 (in any other case) or imprisonment for a period not exceeding 6 months for an offence against section 151A (Printing etc. false information) of the Principal Act. At present a maximum fine not exceeding \$500 or imprisonment for a period not exceeding 6 months may be imposed for such an offence.

Schedule 2 (31) provides for the imposition of a maximum fine of \$500 for an offence against section 176B (Disorderly conduct at public political meetings) of the Principal Act. At present a maximum fine not exceeding \$50 or imprisonment for a period not exceeding one month may be imposed for such an offence.

Schedule 2 (32) increases the maximum fine for an offence against section 176C (Signature to electoral paper) of the Principal Act from \$250 to \$1,000.

Schedule 2 (33) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period of 6 months, or both, for an offence against section 176D (Untrue statements in forms) of the Principal Act. At present a maximum fine of \$100 may be imposed for such an offence.

Schedule 2 (34) increases the maximum fine for an offence against section 176E (Witnessing electoral papers) of the Principal Act from \$250 to \$1,000.

Schedule 2 (35) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period of 6 months, or both, for an offence against section 176F (Forging or uttering electoral papers) of the Principal Act. At present a maximum period of imprisonment of 2 years may be imposed.

Schedule 2 (36) provides for the imposition of a maximum fine of \$1,000 or imprisonment for a period not exceeding six months, or both, for an offence against section 177 (Offence of stuffing ballot-box) of the Principal Act. At present a maximum period of imprisonment of one year may be imposed for such an offence.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

Clauses 1–5 require the Electoral Commissioner to enrol those persons who were, before the commencement of the relevant provision of this Bill, enrolled on the Commonwealth electoral roll in New South Wales as “eligible overseas electors”, “itinerant electors” or “Antarctic electors” or who were enrolled without their residence being shown on the roll.

Clause 6 permits regulations to be made under the Principal Act containing further transitional provisions and savings relating to the effect of the proposed Act.

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Parliamentary Electorates and Elections Act 1912 with respect to the qualification and enrolment of electors and the conduct of elections; to amend the Justices Act 1902 in relation to certain penalty notices; and for related purposes.

See also Election Funding (Amendment) Bill 1987.

Parliamentary Electorates and Elections (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Parliamentary Electorates and Elections (Amendment) Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

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

Principal Act

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

Amendment of Act No. 41, 1912

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

20 Savings and transitional provisions

5. Schedule 3 has effect.

Amendment of Act No. 27, 1902, s. 100i (Interpretation)

6. The Justices Act 1902 is amended by inserting (in appropriate
25 alphabetical order) in paragraph (a) of the definition of "penalty notice" in section 100i the following matter:

Parliamentary Electorates and Elections Act 1912, section 120c;

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Repeal**)—

5 Section 2 (2), (3)—

Omit the subsections.

(2) Section 3 (**Interpretation**)—

(a) Section 3 (1), definition of “Antarctic elector”—

Before the definition of “Assembly”, insert:

10 “Antarctic elector” means an elector who is entitled under
Division 18 of Part V to be treated as an Antarctic elector.(b) Section 3 (1), definitions of “Commonwealth Act”,
“Commonwealth subdivision”—

After the definition of “By-election”, insert:

15 “Commonwealth Act” means the Commonwealth Electoral Act
1918 of the Commonwealth.“Commonwealth subdivision” means a subdivision of an
electoral division for the election of a member of the House
of Representatives pursuant to the Commonwealth Act.

20 (c) Section 3 (1), definition of “Divisional returning officer”—

After the definition of “Council”, insert:

“Divisional returning officer” means the Commonwealth
divisional returning officer for the Commonwealth electoral
division in which the particular State subdivision is situate.

25 (d) Section 3 (1), definition of “Eligible overseas elector”—

After the definition of “Electoral district” or “district”, insert:

“Eligible overseas elector” means an elector who is enrolled or
remains enrolled under section 20A or 20B and treated as an
eligible overseas elector.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (e) Section 3 (1), definitions of “Hospital”, “Itinerant elector”—

After the definition of “Group”, insert:

“Hospital” includes a convalescent home and an institution similar to a hospital or convalescent home.

- 5 “Itinerant elector” means an elector who is enrolled under section 20c and treated as an itinerant elector.

- (f) Section 3 (1), definition of “Officer”—

After the definition of “Member”, insert:

- 10 “Officer” includes any person discharging the duties of any office under Part IV.

- (g) Section 3 (1), definition of “Real place of living”—

After the definition of “Proclamation”, insert:

- 15 “Real place of living” includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place.

- (h) Section 3 (1), definition of “Regulations”—

After the definition of “Registrar”, insert:

“Regulations” means regulations made under this Act.

- 20 (i) Section 3 (1), definitions of “Subdivision”, “Territory”—

After the definition of “Speaker”, insert:

“Subdivision” means subdivision of a district and includes also any unsubdivided district.

- 25 “Territory” means the Australian Capital Territory or the Northern Territory.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(j) Section 3 (3)—

After section 3 (2), insert:

(3) A reference (however expressed) to “residence” or “reside”—

- 5 (a) in any provision of this Act relating to the preparation, alteration or revision of rolls; or
- (b) in any regulation, form or electoral paper relating to or used in connection with the preparation, alteration or revision of rolls,
- 10 shall be read as a reference to place of living or live, as the case may be.

(3) Section 20—

Omit the section, insert instead:

Qualification of electors

- 15 20. (1) Subject to sections 21 and 32–41, all persons—
- (a) who have attained 18 years of age; and
- (b) who are—
 - (i) Australian citizens; or
 - 20 (ii) persons (other than Australian citizens) who would, if the relevant Commonwealth law had continued in force, be persons who have the status of a British subject and who were, immediately before 26 January 1984, enrolled as electors for the Assembly or enrolled in any other State or Territory of the Commonwealth
 - 25 as electors for the House of Representatives,
- shall be entitled to enrolment.

(2) Subject to subsections (3) and (4) and section 21, an elector whose name is on the roll for a subdivision is entitled to vote at any election for the Assembly for the district.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An elector—

(a) whose name has been placed on a roll in pursuance of a claim made under section 33A; and

5 (b) who has not attained 18 years of age on the date appointed for the taking of the poll for an election,

is not entitled to vote at that election.

10 (4) Notwithstanding section 33A or any enrolment in pursuance of a claim made under that section, for the purposes of this Act in its application in relation to an election, a person who has not attained 18 years of age on the date appointed for the taking of the poll for that election shall not be taken to be—

(a) entitled to be enrolled on a roll; or

(b) enrolled on a roll.

15 (5) A person is not entitled to vote more than once at any Assembly general election, by-election or periodic Council election, or at more than one election for the Assembly or Council held on the same day.

20 (6) An elector, other than a relevant elector, is not entitled to vote at an election as an elector of the subdivision of the district in respect of which the elector is enrolled unless the real place of living of the elector was, at some time within the 3 months immediately preceding polling day for that election, within that subdivision.

(7) Notwithstanding anything in this Act—

25 (a) an elector who has changed his or her place of living to another place within the same subdivision, or to another subdivision of the same district, shall not be deemed by reason only of that change to be dispossessed of the qualification in respect of which the elector is enrolled; and

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (b) an elector who, within 3 months before any election has changed his or her place of living to another district, may vote at that election for the district for which the elector's name appears on the roll as provided by this Act for the purposes of that election.

(8) In this section—

10 “relevant Commonwealth law” means the Australian Citizenship Act 1948 of the Commonwealth as amended and in force immediately before 1 May 1987 and the regulations in force immediately before that day under that Act as so amended and in force;

“relevant elector” means—

- 15 (a) an Antarctic elector;
(b) an eligible overseas elector; or
(c) an itinerant elector.

(4) Sections 20A–20C—

After section 20, insert:

Enrolled voters leaving Australia

20A. An elector—

- 20 (a) whose name is on the roll for a subdivision;
(b) who intends to cease to reside in Australia and then, not later than 3 years after the day on which the elector ceases to reside there, to resume residing in Australia, whether in that subdivision or elsewhere; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name appears on the electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 94 of the Commonwealth Act,

is, while the elector's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the elector's name retained on the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with an annotation to indicate that the elector is an eligible overseas elector; and

- (e) to vote as an elector of the subdivision.

Eligibility of spouse or child of eligible overseas elector

20B. (1) A person—

- (a) who is the spouse or child of a person who is an eligible overseas elector in relation to a subdivision by virtue of section 20A;
- (b) who is living at a place outside Australia so as to be with or near the eligible overseas elector;
- (c) who had not attained 18 years of age when last ceasing to reside in Australia;
- (d) whose name is not, and has not been, on a roll;
- (e) who is not qualified for enrolment under section 20 but would be so qualified if the person resided in a subdivision;
- (f) who intends to resume residing in Australia not later than 3 years after the day on which the person attains 18 years of age; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (g) whose name has been added to an electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 95 of the Commonwealth Act,

10 shall be enrolled for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (g) for which the eligible overseas elector is enrolled with an annotation to indicate that the person is an eligible overseas elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (g), entitled—

(h) to have the person's name retained on the roll for the subdivision; and

(i) to vote as an elector of the subdivision.

- 15 (2) For the purposes of this section, where a child is adopted by a person, that child shall be taken to be the child of that person.

(3) In this section—

“child” includes an exnuptial child;

20 “spouse”, in relation to a person (in this subsection referred to as the “relevant person”) includes a person who, although not legally married to the relevant person, lives with the relevant person as the spouse of the relevant person on a permanent and bona fide domestic basis.

Itinerant electors

25 20C. A person—

- (a) who is in Australia but does not reside in any subdivision;
- (b) who is not entitled to have his or her name placed on or retained on the roll for any subdivision only because the person does not reside in any subdivision; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name has been added to an electoral roll maintained under the Commonwealth Act for the Commonwealth subdivision with which the person has established a connection under section 96 of that Act and the roll maintained under that Act is annotated to indicate that the elector is an itinerant elector under section 96 of that Act,

shall have the person's name added to the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with which the person has the connection with an annotation to indicate that the elector is an itinerant elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the person's name retained on the roll for the subdivision; and

- (e) to vote as an elector of the subdivision.

(5) Section 21A (**Appointment of Electoral Commissioner**)—

- (a) Section 21A (10)—

Omit the subsection, insert instead:

(10) A Principal Returning Officer and such staff as may be necessary to enable the Electoral Commissioner to exercise the Electoral Commissioner's functions in relation to the administration of this Act shall be employed under the Public Service Act 1979.

- (b) Section 21A (13), (14)—

After section 21A (12), insert:

(13) The Principal Returning Officer may act in the place of the Electoral Commissioner during the illness or absence of the Electoral Commissioner and the Principal Returning Officer, while so acting, shall have and may exercise the functions of the Electoral Commissioner and shall be deemed to be the Electoral Commissioner.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) For the purposes of subsection (13), a vacancy in the office of the Electoral Commissioner shall be deemed to be an absence from office of the Electoral Commissioner.

(6) Section 22 (**Interpretation**)—

5 Omit the section.

(7) Section 23 (**Power of Governor as to subdivision of districts**)—

Section 23 (4)—

After section 23 (3), insert:

10 (4) The Governor may, by order published in the Gazette, declare a subdivision to be a remote subdivision for the purposes of this Act.

(8) Section 26 (**Rolls for districts and subdivisions**)—

Section 26 (5)—

After section 26 (4), insert:

15 (5) Where the elector is an eligible overseas elector or an itinerant elector, the roll shall not set out the residence of the elector.

(9) Section 27 (**New rolls**)—

Section 27 (3)—

20 After “roll” where firstly occurring, insert “, other than an eligible overseas elector or an itinerant elector,”.

(10) Section 29 (**Printing of rolls**)—

Section 29 (1)—

Omit “or subdivision”.

25 (11) Section 30 (**Inspection of rolls**)—

(a) Section 30—

Omit “subdivision” wherever occurring, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 30 (b)—

Omit “the prescribed price”, insert instead “such amounts as the Electoral Commissioner determines to be appropriate in relation to prints of rolls of that kind”.

5 (12) Section 32 (**Addition of names to rolls**)—

(a) Section 32 (1)—

After “enrolment” where secondly occurring, insert “or claims for provisional enrolment”.

(b) Section 32 (2)–(5)—

10 Omit section 32 (2), insert instead:

(2) A claim shall—

(a) be in the prescribed form;

(b) subject to subsection (3), be signed by the claimant; and

15 (c) be attested by an elector or a person entitled to have the person's name placed on a roll, who shall sign the claim as witness in the witness's own handwriting.

20 (3) If a person wishes to make a claim for enrolment, for transfer of enrolment or for provisional enrolment and a registered medical practitioner has certified, in writing, that the person is so physically incapacitated that the person cannot sign the claim, another person may, on behalf of the person, fill out and sign the claim in accordance with the directions of the first-mentioned person.

25 (4) A claim shall be completed in accordance with the directions prescribed in the form.

(5) A certificate referred to in subsection (3) shall be lodged with the claim to which it relates.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(13) Section 33 (**Claims for enrolment or transfer of enrolment**)—

Section 33 (3)—

Omit “No”, insert instead “Subject to sections 20A–20C and Division 18 of Part V, no”.

5 (14) Section 33A—

After section 33, insert:

Claims for provisional enrolment

10 33A. (1) Any person who is 17 years of age and who, if the person were 18 years of age, would be entitled to have the person's name placed on a roll for a subdivision may send or deliver a claim to have the person's name placed on the roll for the subdivision to any registrar of a subdivision.

15 (2) A claim made under subsection (1) shall be treated as a claim for enrolment for the subdivision to which the claim relates and the provisions of sections 35, 38 and 38A apply in relation to the claim as if the person making the claim were 18 years of age and the claim were made pursuant to section 34.

(15) Section 34—

Omit the section, insert instead:

20 **Compulsory enrolment and transfer**

25 34. (1) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll, shall forthwith fill in and sign a claim in the prescribed form and send or deliver the claim to the registrar for the subdivision.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (2) Where a person sends or delivers a claim for enrolment, or for transfer of enrolment, to the registrar for a subdivision other than the subdivision (in this subsection referred to as the "proper subdivision") on the roll for a subdivision of which the person is entitled to be enrolled, the registrar shall note on the claim the date of its receipt by the registrar and forthwith send the claim and any documents sent or delivered by the person with the claim to the registrar for the proper subdivision.

10 (3) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll upon the expiration of 21 days from the date upon which becoming so entitled, or at
15 any subsequent date while continuing to be so entitled, shall be guilty of an offence unless the person proves that the non-enrolment is not because of the person's failure to send or deliver to the registrar a claim, duly filled in and signed in accordance with the directions printed on it.

20 (4) If a person (including a person whose residence, in pursuance of a request made under section 38A, is not entered on a roll) changes residence from one address in the subdivision for which the person is enrolled to another address in that subdivision, the person shall, within 21 days after the date of making the change, give notice in writing of the new address to
25 the registrar for the subdivision.

(5) A person who is guilty of an offence against subsection (1) or (3) is liable to a penalty not exceeding \$50.

30 (6) When a person sends or delivers a claim for enrolment, or for transfer of enrolment, to a registrar, proceedings shall not be instituted against that person for any offence against subsection (1) or (3) committed before the person sent or delivered that claim.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(16) Sections 35–37—

Omit the sections, insert instead:

Registration of claims

- 5 35. (1) Subject to subsection (4), when, pursuant to section 34, a registrar receives a claim for enrolment or transfer of enrolment for a subdivision, the registrar shall—
- (a) note on the claim the date of its receipt by the registrar;
- 10 (b) if the claim is in order and the registrar is satisfied that the claimant is entitled to be enrolled for the subdivision, forthwith—
- (i) enter on the roll for the subdivision the name of the claimant and particulars relating to the claimant;
- (ii) notify the claimant in writing that he or she has been enrolled for that subdivision;
- 15 (iii) in the case of a claim for a transfer of an enrolment from the roll for another subdivision in the same district—delete the name of the claimant from the roll for the last-mentioned subdivision;
- 20 (iv) in the case of a claim for transfer of enrolment from a subdivision not included in the same district—give notice of the transfer to the registrar for that last-mentioned subdivision; and
- 25 (v) in a case where the name of the claimant is entered on the roll for the subdivision for which the claimant is entitled to be enrolled—notify the claimant in writing that, in the registrar's opinion, the claimant's existing enrolment is correct; and
- 30 (c) if the claim is not in order or the registrar is not satisfied that the claimant is entitled to be enrolled in a subdivision of that district—forthwith notify the claimant in writing that his or her claim has been rejected.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where a registrar receives notice, pursuant to subsection (1) (b) (iv), of the transfer of a person's enrolment from a subdivision, the registrar shall delete the name of, and particulars relating to, the person from the roll for the subdivision.

5 (3) Notice of a decision given to a claimant by a registrar under subsection (1) (b) (v) or (1) (c) shall include—

(a) a statement of the reasons for the decision; and

10 (b) a statement advising the claimant that the claimant is entitled at any time within one month after the receipt of the notice to appeal to a Local Court for an order directing that the claimant's name be enrolled.

15 (4) A claim under section 34 by a person to have the person's name placed on the roll for a subdivision received during the period commencing at 6 p.m. on the day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election shall not be considered until after the expiration of that period.

(5) A name may, at any time, be removed from a roll pursuant to a notice of transfer of enrolment.

20 (17) Section 38A—

After section 38, insert:

Request for residence not to be shown on roll

25 38A. (1) If a person considers that having the person's residence shown on the roll for the subdivision for which the person is claiming enrolment would place the personal safety of the person or of members of the person's family at risk, the person may lodge with the claim for enrolment or transfer of enrolment a request, in the prescribed form, that the person's residence not be entered on the roll for the subdivision for which the person is claiming enrolment.

30

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where—

(a) the residence of a person is included in the particulars relating to the person that are entered on the roll for a subdivision; and

5 (b) the person considers that having the residence so shown places the personal safety of the person or of members of the person's family at risk,

10 the person may lodge with the registrar for the subdivision a request, in the prescribed form, that the person's residence be deleted from the particulars relating to the person that are entered on that roll.

(3) A request under subsection (1) or (2) shall give particulars of the relevant risk and shall be verified by statutory declaration by the person making the request or some other person.

15 (4) If—

(a) a request has been made under subsection (1) or (2); and

20 (b) the registrar is satisfied that having the residence of the person making the request entered on the roll for the subdivision would place or places the personal safety of the person or of members of the person's family at risk,

the registrar—

25 (c) in a case where the request was lodged under subsection (1)—shall not include the residence of the person in the particulars relating to the person that are entered on the roll for the subdivision; and

(d) in a case where the request is lodged under subsection (2)—shall delete the residence of the person from the particulars relating to the person that are entered on the roll for the subdivision.

30 (5) When a registrar grants or refuses a request made by a person under subsection (1) or (2), the registrar shall notify the person in writing of the decision.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(6) Notwithstanding anything contained in section 40, where an address is deleted from a roll in pursuance of subsection (4), the address so deleted shall be obliterated.

5 (7) A registrar, when directed to do so by the Electoral Commissioner, shall—

(a) conduct a review of the roll for the subdivision in relation to electors whose residences are not shown on the roll by virtue of this section; and

10 (b) on completion of the review, make such alterations to the roll as the registrar thinks necessary to ensure that the only electors whose residences are not shown on the roll by virtue of this section are electors the personal safety of whom or of whose family, the registrar is satisfied, would be at risk if their residence were shown on the roll.

15 (18) Section 41 (**Information as to deaths and convictions**)—

Omit “eighteen” wherever occurring, insert instead “17”.

(19) Section 41A—

After section 41, insert:

Computer records relating to roll

20 41A. (1) If but for this subsection a registrar is required or permitted under this Act or the regulations to record particulars (including make an annotation) in a written form on a roll, the registrar may do so by recording or storing those particulars, or causing those particulars to be recorded or stored, on a
25 mechanical, electrical or other device approved by the Electoral Commissioner.

30 (2) If a registrar is required or permitted under this Act or the regulations to vary or remove particulars which, but for this section, would be on a roll but which have been recorded or stored in accordance with this section, the registrar shall do so by varying or removing the particulars so recorded or stored, or causing the particulars so recorded or stored to be varied or removed, as the case may be.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (3) If particulars are recorded or stored by virtue of this section, the registrar responsible for the roll on which, but for this section, those particulars would be recorded shall ensure that means are provided by which those particulars are available, without fee, for public inspection in a written form at the registrar's office during ordinary office hours.

10 (4) If a registrar who is required under this Act or the regulations to enter particulars on, vary particulars on, or remove particulars from, a roll complies with the requirement by taking action in accordance with this section, the registrar shall, for the purposes of this Act, including any provisions imposing obligations on the registrar, be taken to have entered those particulars on the roll, varied those particulars or removed those particulars, as the case may be.

15 (5) Section 40 does not apply to alterations of a roll made in pursuance of this section.

(20) Section 42 (**Name on roll may be objected to**)—

(a) Omit “fifty cents”, insert instead “\$2”.

(b) Omit “His Majesty”, insert instead “the Crown”.

20 (c) Omit “to be frivolous”, insert instead “to have been made without a reasonable belief by the person that grounds for the objection existed”.

(21) Section 45 (**Notice of objection**)—

(a) Section 45 (1)—

25 Omit “When”, insert instead “Subject to subsection (3), if”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 45 (2), (3)—

Omit the subsections, insert instead:

(2) Notice under subsection (1) shall be in the prescribed form, and may be given to the person objected to by being posted to—

5 (a) in a case where the person objected to has notified, in writing, the divisional returning officer for the division in which the subdivision for which the person is enrolled is situate of an address to which notices may be given to the person—the address so notified;

10 (b) in a case where paragraph (a) does not apply to the person objected to and the place of living of the person objected to is known to the person giving the notice—the place of living of the person objected to; or

15 (c) in any other case—the place of living of the person objected to as appearing on the roll.

(3) Where the divisional returning officer is satisfied that an objection is frivolous or vexatious, he or she may dismiss the objection without giving notice of objection to the person objected to.

20 (22) Section 47 (**Determination of objection**)—

Section 47 (2), (3)—

Omit the subsections, insert instead:

25 (2) The divisional returning officer shall give notice in the prescribed form of his or her determination of an objection under subsection (1) to the objector and to the person objected to.

(3) Notice under subsection (2) may be given to the person objected to by being posted to an address or place to which a notice of objection could be posted to the person objected to under section 45 (2).

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(23) Section 47A—

After section 47, insert:

Assistant divisional returning officers

- 5 47A. Sections 42–45 and 47 apply in relation to a State subdivision corresponding to a Commonwealth subdivision for which an assistant divisional returning officer has been appointed as if references in those sections, in relation to a subdivision, to a divisional returning officer were references to an assistant divisional returning officer.

10 (24) Section 48 (**Appeal to Local Court**)—

Section 48 (1) (a)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(25) Section 50 (**Rolls for purposes of elections for Assembly**)—

Section 50 (6)—

15 After section 50 (5), insert:

(6) Without limiting the generality of section 176, regulations may be made for or with respect to the supply and certification of a composite roll for a district made up of all rolls for subdivisions of that district.

20 (26) Section 51 (**Witness to application must be satisfied of truth of statements**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(27) Section 52 (**Failure to transmit claim**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

25 (28) Section 75 (**Returning officers for districts**)—

Omit “Public Service Board” wherever occurring, insert instead “Electoral Commissioner”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(29) Section 79 (**Nominations of candidates**)—

(a) Section 79 (1)—

Omit “qualified to vote at any election for”, insert instead “enrolled as an elector for”.

5 (b) Section 79 (2)—

Omit “six”, insert instead “30”.

(c) Section 79 (4)—

Omit “Subdivision”, insert instead “District”.

(d) Section 79 (4)—

10 After “to such nomination”, insert “and certify that the place of residence stated above is my place of residence”.

(e) Section 79 (5A)—

Omit the subsection, insert instead:

15 (5A) If at the close of nominations for a district a person is nominated for an election for any other district or for a periodic Council election each of those nominations is void.

(f) Section 79 (6)—

Before section 79 (7), insert:

20 (6) Where a candidate for an election for a district dies, after being nominated and before noon on the day of nomination for the election, the day named as the day of nomination for the election shall be taken to be the day next succeeding the day so named.

(g) Section 79 (7A) (a)—

25 Omit “\$100”, insert instead “\$500”.

(h) Section 79 (8)—

Omit “within twenty-one days”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(30) Section 81B (Nomination of Council candidates)—

(a) Section 81B (1)—

Omit “qualified to vote at a periodic Council election”, insert instead “enrolled as an elector for a district”.

5 (b) Section 81B (1)—

Omit “at that election”, insert instead “for a periodic Council election”.

(c) Section 81B (2)—

Omit “six”, insert instead “15”.

10 (d) Section 81B (4)—

Omit “*his name to signify his consent to his nomination.*”, insert instead “*the person’s name to signify the person’s consent to nomination and to certify that the place of residence stated opposite the person’s name is the person’s place of residence as enrolled.*”

15 (e) Section 81B (4)—

Omit “6”, insert instead “15”.

(f) Section 81B (4)—

From the form, omit “Subdivision.”.

(g) Section 81B (7)—

20 After section 81B (6), insert:

(7) Where a candidate at a periodic Council election dies, after being nominated and before noon on the day of nomination for the election, the day named as the day of nomination for the election shall be taken to be the day next succeeding the day so named.

25

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(31) Section 81D (**Dual nominations**)—

Omit the section, insert instead:

Dual nominations

- 5 81D. If at the close of nominations for a periodic Council election a person is nominated for that election more than once or for that election and for any election for a district each of those nominations is void.

(32) Section 81F (**Deposit**)—

Section 81F (1)—

- 10 Omit "\$200", insert instead "\$750".

(33) Section 86 (**Booths, how arranged etc.**)—

After "pencils", insert "or other writing implements".

(34) Section 89 (**Deputy returning officers to be furnished with copies of rolls and ballot-papers**)—

- 15 (a) Section 89 (1)—

Omit the subsection, insert instead:

(1) Before the day of polling the returning officer shall—

- 20 (a) provide for use at each polling-place sufficient copies certified under his or her hand of the printed rolls in force for the district in which the poll is to be taken; and
- 25 (b) deliver to each deputy, and retain, such numbers, respectively, of the ballot-papers as are sufficient for the use of the electors entitled to vote at each booth at which the returning officer and deputies, respectively, are to take the poll,

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

- (b) Section 89 (3)—

After section 89 (2), insert:

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (3) A certified copy of the roll referred to in subsection (1) shall be a copy of the roll of the electors (including persons whose names have been placed on the roll in pursuance of a claim made under section 33A and who will have attained the age of 18 years on polling-day) on the roll in force for the district for which the polling-place has been declared to be a polling-place.

(35) Section 90 (**How scrutineers to be appointed**)—

Section 90 (6), (7)—

At the end of section 90, insert:

- 10 (6) A scrutineer does not breach subsection (2) (a) only because the scrutineer wears or displays any badge or emblem of a candidate or political party.

(7) Without limiting the generality of section 114, a scrutineer who, within a polling booth—

- 15 (a) commits any breach of this section;
 (b) misconducts himself or herself; or
 (c) fails to obey the lawful directions of the returning officer or deputy,

- 20 may, on the request of the returning officer or deputy at the polling booth, be removed from the polling booth by a member of the police force.

(36) Section 97 (**Where electors may vote**)—

Section 97 (1)—

Omit “subdivision”, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(37) Sections 99, 99A—

Omit section 99, insert instead:

Questions to be put to voter

5 99. (1) The returning officer or deputy shall put the following questions to each person attending before him or her and claiming to vote in an election or elections:

(a) What is your full name?

(b) Where do you reside?

10 (c) Have you voted before in this election? *or* Have you voted before in these elections? (as the case requires)

(2) In addition to the questions put under subsection (1), the returning officer or deputy shall ask each person claiming to vote as an absent voter in an election to identify the electoral district for which the person is enrolled.

15 (3) Where, in answer to the question specified in subsection (1) (b) put to the person by a returning officer or deputy, a person (other than an absent voter, an eligible overseas elector or an itinerant elector) gives a place of residence other than—

(a) the person's residence shown on the roll; or

20 (b) another residence in the electoral district in respect of which the person claims to vote,

the returning officer or deputy shall ask the following question: At what other place or places have you lived during the last 3 months?

25 (4) If the answers to the questions specified in subsection (1) (a) and (b) that are given by a person claiming to vote are not sufficient to distinguish that person from another person on the roll, the returning officer or deputy may, for the purpose of distinguishing the 2 persons, ask the person claiming to vote
30 another question or other questions relating to matters shown on the roll in relation to those persons.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(5) Subject to section 99A, if a person claiming to vote to whom questions are put under this section—

- (a) refuses to answer fully any question so put to the person;
- 5 (b) so answers the question specified in subsection (1) (b) and the question specified in subsection (3) as to indicate that the person is not entitled to vote by virtue of section 20 (6); or
- (c) answers a question specified in subsection (1) (c) in the affirmative,
- 10 the person's claim to vote shall be rejected.

Person whose residence is not on the roll

99A. Where an elector for an electoral district whose name appears, but whose residence does not appear, on the roll for a subdivision claims to vote at an election and to be an elector to whom section 38A applies, the elector may, subject to this Act and the regulations, be permitted to vote if the elector makes a declaration of residence in the prescribed form on an envelope, or, if the elector is an absent voter, on the envelope bearing the declaration made by the voter under section 115 (1), before the returning officer or deputy at the polling place.

(38) Section 100 (**Questions to be put if voter challenged**)—

Section 100 (a)—

Omit “subdivision”, insert instead “district”.

(39) Section 103A—

25 After section 103, insert:

Vote of person whose residence is not shown on the roll

103A. (1) Notwithstanding section 103 (1), if an elector votes under the provisions of section 99A, the elector shall mark and fold the elector's ballot-papers in the manner prescribed in this Act and return it so folded to the returning officer or deputy.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (2) The returning officer or deputy shall thereupon, in the presence of the elector and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the returning officer for the district for which the elector is enrolled and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

10 (3) The returning officer or the deputy shall, without opening the envelope, forthwith transmit it to the returning officer for the district for which the elector is enrolled.

15 (4) The returning officer or the deputy, on receipt of the envelope containing the ballot-paper, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the elector, and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the elector (as affected by any change of residence annotated on the request) shall deal with the ballot-paper in the manner prescribed in connection with the scrutiny of absent voters' ballot-papers.

20 (5) Subsections (1), (2), (3) and (4) do not apply in relation to a ballot-paper marked by an absent voter who makes a declaration of residence under section 99A, but, where a returning officer for a district receives an envelope bearing such a declaration in relation to the district, he or she shall examine the declaration and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the absent voter (as affected by any change of residence annotated on the request), shall deal with the ballot-paper in the scrutiny of absent votes.

30 (40) Section 106 (**Disputed vote**)—

(a) Section 106 (2)—

Omit "a subdivision" wherever occurring, insert instead "a district".

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 106 (2)—

Omit “that subdivision” wherever occurring, insert instead “a subdivision of that district”.

(c) Section 106 (2) (a) (i)—

- 5 Omit “six o’clock in the afternoon of the day of the issue of the writ for the election” wherever occurring, insert instead “the period commencing at 6 p.m. on a day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election”.

10 (d) Section 106 (2) (a) (ii)—

Omit “six o’clock in the afternoon of the day of the issue of the writ”, insert instead “the period referred to in subparagraph (i)”.

(e) Section 106 (2) (b) (i)—

Omit “subdivision”, insert instead “district”.

15 (f) Section 106 (2) (b) (ii)—

Omit “the subdivision”, insert instead “a subdivision of the district”.

(41) Section 114A (**Application for postal vote certificate and postal ballot-paper**)—

20 (a) After section 114A (1) (d), insert:

(d1) is, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote;

25 (b) Section 114A (1) (e) (ii)—

Omit “or” where lastly occurring.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 114A (1) (f), (g)—

At the end of section 114A (1) (f), insert:

; or

5 (g) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

(d) Section 114A (2) (b)—

Omit “in his own handwriting”.

(42) Sections 114AA, 114AB—

10 After section 114, insert:

Registration of general postal voters

114AA. (1) In this section—

“prescribed elector” means—

(a) an elector—

15 (i) who is enrolled for a subdivision that is declared to be a remote subdivision by an order under section 23; and

20 (ii) whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place;

(b) an elector who—

(i) is a patient in a hospital (not being a hospital that is a polling place or a declared institution under section 114ZN); and

25 (ii) by reason of being seriously ill or infirm, is unable to travel from the hospital;

(c) an elector who—

(i) is not a patient in a hospital; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (ii) by reason of being seriously ill or infirm, is unable to travel from the place where he or she resides;
 - (d) an elector who is being kept in a prison (within the meaning of the Prisons Act 1952);
 - 5 (e) an elector who is enrolled pursuant to a claim made under section 32 (3); or
 - (f) an elector whom a registered medical practitioner has certified, in writing, to be so physically incapacitated that the elector cannot sign the elector's name;
- 10 "register" means Register of General Postal Voters for a subdivision kept in accordance with subsection (11).
- (2) A prescribed elector may make application to the registrar for the subdivision of the district for which the elector is enrolled to be registered as a general postal voter for the subdivision.
 - 15 (3) An application under subsection (2) in relation to an elector to whom subsection (1) (e) or (f) applies may be made by another person acting on behalf of the elector.
 - (4) The certificate referred to in subsection (1) (f) shall be lodged with the application under subsection (2) to which it relates.
 - 20 (5) An application under subsection (2) shall be in the prescribed form.
 - (6) If a registrar is satisfied that an elector making an application under subsection (2) is—
 - 25 (a) enrolled in the subdivision for which he or she is a registrar; and
 - (b) a prescribed elector,
- the registrar shall register the elector as a general postal voter for the subdivision by entering the name of the elector in the register referred to in subsection (11).
- 30

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (7) If a claim for enrolment or transfer of enrolment is made in respect of a person pursuant to section 32 (3) and the claim indicates that the person wishes to be a registered general postal voter, the registrar for the subdivision for which the person is claiming enrolment shall, forthwith upon enrolment, register the person as a general postal voter by entering the name of the person in the register.

10 (8) If a registrar for a subdivision registers an elector as a general postal voter for the subdivision, the registrar shall advise the elector, in writing, of the registration.

(9) If a registrar for a subdivision is not satisfied that an elector making an application under subsection (2) is enrolled for the subdivision, the registrar shall advise the elector, in writing, to that effect.

15 (10) If a registrar for a subdivision is not satisfied that an elector who is enrolled for the subdivision and who makes an application under subsection (2) is a prescribed elector, the registrar shall advise the elector, in writing, to that effect.

20 (11) A registrar for a subdivision shall cause a Register of General Postal Voters for the subdivision to be kept and shall cause to be entered in the register in relation to an elector who is registered as a general postal voter for the subdivision—

(a) the name of the elector;

25 (b) the residence shown on the roll for the subdivision for which the elector is enrolled as the real place of living of the elector; and

(c) such other particulars as the Electoral Commissioner determines.

30 (12) A register shall be open for public inspection, without fee, during ordinary office hours at the office of the registrar.

(13) A registrar for a subdivision may cancel the registration of an elector as a general postal voter for the subdivision in such circumstances as are prescribed.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) A person shall not make, and a person shall not induce another person to make, any false statement in, or in connection with, an application under subsection (2) or in any declaration contained in, or made in connection with, such application.

5 Penalty: \$1,000 or imprisonment for 6 months, or both.

(15) Registration under this section of an elector (other than an elector to whom subsection (1) (e) or (f) applies) shall not be taken to be prima facie evidence that the elector is entitled, upon application under section 114A, to a postal vote certificate and postal ballot-paper under that section.

10

(16) Where an elector who is a registered general postal voter for a subdivision (in this subsection referred to as the “original subdivision”) makes a claim under Part IV for transfer of enrolment to another subdivision (in this subsection referred to as the “new subdivision”)—

15

(a) the registrar for the original subdivision shall, upon receipt under section 35 (1) (b) (iv) of notice of the transfer of enrolment, give notice in writing to the registrar for the new subdivision that the elector was a registered general postal voter for the original subdivision and cancel the registration of the elector as a general postal voter for the original subdivision; and

20

(b) the registrar for the new subdivision shall, upon receipt of notice under paragraph (a), register the elector as a general postal voter for the new subdivision unless the registrar is satisfied that the elector would not be entitled to be so registered if the elector made an application under subsection (2).

25

(17) A registrar for a subdivision shall, when directed to do so by the Electoral Commissioner, conduct a review of the register for the subdivision and, upon completion of the review, shall make such alterations to the register as he or she thinks necessary to ensure that—

30

(a) only electors entitled to be registered general postal voters for the subdivision are so registered; and

35

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) the details entered in the register in relation to registered general postal voters are accurate.

Dispatch of electoral materials to registered postal voters

114AB. (1) A returning officer for the district for which the elector is enrolled shall, as soon as practicable after the issue of the writ for an election to be held in that district, send an application form for a postal vote certificate and postal ballot-paper under section 114A to each elector who is, on that day, a registered general postal voter (other than a registered general postal voter to whom subsection (2) applies) in the district, together with an envelope addressed to the returning officer.

(2) A returning officer for a district shall, as soon as practicable after the issue of the writ for an election to be held in the district, deliver or post to each elector who—

- (a) is, on that day, a registered general postal voter for a subdivision of the district; and
- (b) became a registered general postal voter in pursuance of a claim made under section 32 (3) or in pursuance of an application made in pursuance of section 114AA (1) (e) or (f),

a postal vote certificate printed on an envelope addressed to the returning officer and 1 postal ballot-paper for a periodic Council election, or 1 postal ballot-paper for an Assembly general election or by-election, or both, as the case requires.

25 (43) Section 114C (**Duty of witnesses**)—

- (a) Section 114C (1) (b)—

Omit “in his the applicant’s own handwriting”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114C (3), (4)—

After section 114C (2), insert:

5 (3) Subject to subsection (4), a person shall not visit any elector for the purpose of witnessing the signature of the elector to an application for a postal vote certificate and postal ballot-paper.

Penalty: \$1,000.

10 (4) If an elector who has received an application form for a postal vote certificate and postal ballot-paper is, by reason of being incapacitated or seriously ill or by reason of approaching maternity, unable to appear before a witness, the person, if previously requested to do so by the elector, may visit the elector for the purpose of witnessing the signature of the elector to the application.

(44) Section 114F (**Numbering of applications and certificates**)—

15 (a) Section 114F (1) (a)—

Omit “subdivision of an electoral district (whether or not it is a subdivision of the electoral district for which he is the returning officer)”, insert instead “electoral district”.

(b) Section 114F (1) (b)—

20 Omit “and subdivision thereof”.

(45) Section 114GA—

After section 114G, insert:

Person claiming to vote, whose name is noted under section 114G

25 114GA. (1) Notwithstanding anything contained in section 114G, if a person whose name has been noted on a certified copy of the roll as an elector to whom a postal vote certificate and postal ballot-paper have been issued—

(a) claims to vote in an election at a polling booth; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) states, when requested to deliver to the returning officer or deputy for cancellation of the person's postal certificate and postal ballot-paper, that the person has not received, or has lost, a postal vote certificate or a postal ballot-paper,

5 the person may, subject to sections 20 and 99 and the regulations, be permitted to vote, if the person makes a declaration in the prescribed form before the returning officer or deputy at the polling-booth.

10 (2) The ballot-paper of a voter voting under this section shall be dealt with in accordance with the provisions of section 106 (3).

(46) Section 114H (**Directions for postal voting**)—

(a) Section 114H (1) (b)—

15 After "elector", insert "if he or she is not a registered general postal voter who became so registered in pursuance of a claim made under section 32 (3) or in pursuance of an application made under section 114AA (1) (e) or (f)".

(b) Section 114H (1) (b)—

Omit "in his own handwriting".

(c) Section 114H (1) (f)—

20 After "so impaired", insert " , or the elector is otherwise so physically incapacitated or so illiterate,".

(d) Section 114H (1) (g)—

25 Omit "unless the elector's sight is so impaired that he cannot vote without assistance and no person is appointed by the elector to make his vote for him", insert instead "otherwise than pursuant to a request made by the elector in accordance with paragraph (f)".

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(e) Section 114H (1A)—

After section 114H (1), insert:

- 5 (1A) Without limiting the generality of the proviso to subsection (1) (f), an elector to whom the proviso applies may indicate to the authorised witness the manner in which the elector wishes the authorised witness to mark the elector's ballot-paper for the elector by presenting to the authorised witness a statement in writing (which may be, or include, a how-to-vote card) that specifies the manner in which the ballot-paper is to be marked.

10 (47) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

Section 114J (1) (b)—

After “impaired”, insert “, or who is otherwise so physically incapacitated or so illiterate,”.

(48) Section 114K (**Duty of persons present when an elector votes by post**)—

15 Section 114K (b)—

Omit “in the case of persons whose sight is impaired”.

(49) Section 114P (**Application for permission to vote before polling day**)—

(a) Section 114P (1) (c)—

Omit “or”.

20 (b) Section 114P (1) (e), (f)—

After section 114P (1) (d) (ii), insert:

- 25 (e) will be, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote; or

(f) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

(c) Section 114P (2) (b)—

30 Omit “in his own handwriting;”, insert instead “; and”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(d) Section 114P (2) (c)—

Omit the paragraph.

(e) Section 114P (2) (d)—

Omit the paragraph, insert instead:

5 (d) be made between noon on the day of nomination and 6 p.m. on the day preceding polling day—

(i) to a returning officer during the ordinary business hours of that office; or

10 (ii) to a deputy returning officer at an appointed place on a day that is, and during hours that are, declared by the Electoral Commissioner, by notice published in the Gazette, to be an appointed day and appointed hours for the purposes of this section.

(f) Section 114P (6), (7)—

15 Omit the subsections, insert instead:

(6) The Electoral Commissioner may, by notice published in the Gazette, declare a place to be an appointed place for the purposes of this section.

(50) Section 114Q (**Procedure for voting before polling day**)—

20 Section 114Q (2)—

Omit “in his own handwriting”.

(51) Section 114T (**Assistance to certain electors**)—

Section 114T (1)—

25 Omit “that his sight is so impaired that he”, insert instead “that the elector’s sight is so impaired or that the elector is otherwise so physically incapacitated or so illiterate that the elector”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (52) Section 114X (**Preliminary scrutiny of ballot-papers of electors under section 114Q**)—
- Section 114X (2) (a)—
- Omit “by an authorised witness”.
- 5 (53) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—
- (a) Section 114ZA (2) (b)—
- Omit “in his own handwriting”.
- (b) Section 114ZA (6) (b)—
- 10 Omit “in the elector’s own handwriting”.
- (54) Section 114ZD (**Directions for postal voting**)—
- (a) Section 114ZD (b)—
- Omit “in his own handwriting”.
- (b) Section 114ZD (f)—
- 15 After “impaired”, insert “, or the elector is otherwise so physically incapacitated or so illiterate,”.
- (55) Section 114ZR (**Procedure for voting at declared institutions**)—
- (a) Section 114ZR (4)—
- Omit “in his own handwriting”.
- 20 (b) Section 114ZR (10) (a)—
- Omit “a subdivision of the”.
- (c) Section 114ZR (10) (a) (i)—
- Omit “subdivision”, insert instead “district”.
- (d) Section 114ZR (10) (b)—
- 25 Omit “a subdivision of a”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(56) Section 115 (**Voting outside district**)—

(a) Section 115 (1)—

Omit “subdivision” wherever occurring, insert instead “electoral district”.

5 (b) Section 115 (1) (c)—

Omit “in the form of Schedule 11”, insert instead “in the prescribed form”.

(57) Section 117—

Omit the section, insert instead:

10 **Returning officer satisfied to accept ballot-paper for further scrutiny**

117. (1) The returning officer for the district for which the voter declares that the voter is enrolled or the officer assisting the returning officer shall, in the presence of the scrutineers, examine the declaration on the envelope containing the absent voter's ballot-paper, and if it appears to the returning officer—

15 (a) that a person of the same name and description as the person whose name is signed to the declaration is enrolled for the district and that the declaration is duly attested, shall accept the ballot-paper for further scrutiny; or

20 (b) that the person whose name is signed to the declaration is enrolled for some other district than that for which the person declared he or she is enrolled, shall arrange for the envelope to be promptly delivered to the returning officer for the district for which the person is enrolled to be dealt with in the manner set out in subsection (4),

25 but otherwise shall reject the ballot-paper without opening the envelope.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (2) Notwithstanding subsections (1) and (4), an absent voter's ballot-paper shall not be rejected for further scrutiny only because the voter's declaration is not attested if, before the declaration of the poll, the returning officer for the district in which the declaration was made certifies that the returning officer or deputy has forwarded an envelope containing the absent voter's ballot-paper in accordance with section 116.

10 (3) If the returning officer or the officer assisting him or her accepts the ballot-paper for further scrutiny, he or she shall open the envelope without destroying the declaration and extract the ballot-paper, and without unfolding it, place the ballot-paper in the ballot-box.

15 (4) The returning officer for a district to whom an envelope is forwarded under subsection (1) (b) or officer assisting the returning officer shall, if the person whose name is signed to the declaration on the envelope is enrolled for the district and the declaration is duly attested, open the envelope and withdraw any ballot-paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot-paper or allowing any other
20 person to do so—

(a) in the case of any ballot-paper for a periodic Council election, shall accept the ballot-paper for further scrutiny and place it in the ballot-box; and

25 (b) in the case of any ballot-paper for an Assembly election, shall disallow the ballot-paper,

but otherwise shall reject the ballot-paper without opening the envelope.

(58) Section 120A—

Before section 120B, insert:

30 **Interpretation**

120A. In this Division—

“marked roll” means the copy of the roll for an electoral district marked in accordance with section 120B.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(59) Section 120B (**Returning officer to send marked roll to Electoral Commissioner**)—

(a) Section 120B (a)—

Omit “(which copy is hereinafter referred to as the ‘marked roll’)”.

5 (b) Section 120B (a)—

After “that election”, insert “and who appear not to have had sufficient reason for the failure”.

(60) Sections 120C–120F—

Omit the sections, insert instead:

10 **Penalty notice to be issued for failure to vote**

120C. (1) If an elector is indicated on a marked roll as not having sufficient reason for failing to vote at an election, the Electoral Commissioner shall, within 3 months after the close of the poll, serve a penalty notice on the elector by leaving it at, or
15 sending it by post to, the residence of the elector set out on the roll.

(2) A penalty notice is a notice in the prescribed form to the effect that, if the elector does not desire to have the failure to vote dealt with by a court, he or she may, within the prescribed time—

20 (a) give the Electoral Commissioner a sufficient reason for the failure; or

(b) pay to the Electoral Commissioner a penalty, specified in the notice, not exceeding \$25.

(3) An elector served with a penalty notice may decline to be dealt with under this section and shall be presumed to have done so if, within the prescribed time for a response to the notice, the elector, or a person on behalf of the elector, does not—

25 (a) give the Electoral Commissioner a reason for the failure to vote; or

30 (b) pay to the Electoral Commissioner the penalty specified in the notice.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(4) If, in response to a penalty notice and within the time prescribed for the response—

(a) the Electoral Commissioner is given a sufficient reason for the failure to vote; or

5 (b) the penalty specified in the notice is paid to the Electoral Commissioner,

proceedings against any person for the failure to vote are prohibited.

10 (5) If, in response to a penalty notice, the Electoral Commissioner is given a reason for the failure to vote but the reason is not a sufficient reason, the Electoral Commissioner shall include a statement to that effect in any courtesy letter served under section 100J of the Justices Act 1902.

15 (6) For the purposes of this section, it is a sufficient reason for the failure of an elector to vote at an election if the Electoral Commissioner is satisfied that he or she—

(a) is dead;

(b) was absent from New South Wales on polling-day;

(c) was ineligible to vote at the election;

20 (d) had an honest belief that abstention from voting was part of his or her religious duty; or

(e) was unable for any reason acceptable to the Electoral Commissioner to vote at the election,

25 or had voted in the election under an enrolment on a roll other than the marked roll indicating the failure.

(7) In this section, a reference to the prescribed time for a response to a penalty notice is a reference to—

(a) the time for response specified in the notice; or

30 (b) if the Electoral Commissioner extends that time (whether before or after its expiration)—the extended time.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Notation on marked roll of response to penalty notice**

120D. The Electoral Commissioner shall note on the marked roll in relation to each elector on whom a penalty notice is served—

- (a) whether or not there has been a response to the notice; and
- (b) if there has been a response—whether or not a sufficient reason has been given or the penalty paid.

Evidence in marked roll

120E. (1) A notation on the marked roll to the effect—

- (a) that an elector was served with a penalty notice—is evidence of service of the notice;
- (b) that there was no response to a penalty notice served on an elector—is evidence that there was no such response within the prescribed time under section 120C; or
- (c) that a reason for an elector's failure to vote was given in response to a penalty notice but was insufficient—is evidence that the reason given was not a sufficient reason under section 120C.

(2) Subsection (1) applies in relation to a copy of, or an extract from, the marked roll certified by the Electoral Commissioner to be such a copy or extract in the same way as it applies in relation to the marked roll.

Offences relating to failure to vote

120F. (1) An elector who fails to record his or her vote at an election when required to do so is guilty of an offence and liable to a penalty not exceeding \$50.

(2) A person (whether or not an elector) who, in response to a penalty notice, gives a false reason for the failure of an elector to vote is guilty of an offence and liable to a penalty not exceeding \$50.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) In this section, “elector” does not include—

- (a) an Antarctic elector;
- (b) an eligible overseas elector; or
- (c) an itinerant elector.

5 (61) Section 120H (**Procedure**)—

Omit the section.

(62) Section 120J (**Additional provisions applicable where polling-day for Assembly and periodic Council elections is same day**)—

(a) Section 120J (n)—

10 Omit “or Schedule 20”.

(b) Section 120J (n)—

After “one”, insert “penalty”.

(63) Section 129C (**Sealing and transmission of separate parcels or ballot-papers etc.**)—

15 Section 129C (1) (a), (f)—

Omit “polling-booth” wherever occurring, insert instead “polling place”.

(64) Section 151A (**Printing etc. false information**)—

(a) Section 151A (1) (a)—

20 Omit “or” where lastly occurring.

(b) Section 151A (1) (b)—

Omit “vote—”, insert instead “vote; or”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 151A (1) (c)—

After section 151A (1) (b), insert:

(c) prints, publishes or distributes any “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card using—

(i) the name, an abbreviation or acronym of the name or a derivative of the name of a party respectively included in the Register of Parties kept under the Election Funding Act 1981 (or a name or abbreviation resembling such a name, abbreviation, acronym or derivative) in a way that is intended or likely to mislead any elector; or

(ii) the word “Independent” and the name or an abbreviation or acronym of the name or a derivative of the name or a party respectively included in that Register in a way that suggests or indicates an affiliation with that party,

(d) Section 151A (3)—

After section 151A (2), insert:

(3) Subsection (1) (c) (ii) does not apply in a case where the word “Independent” is included in the name of the party as registered in the Register of Parties.

(65) Section 151B (**Exhibition of posters**)—

(a) Section 151B (3) (b)—

Omit “or” where lastly occurring.

(b) Section 151B (3) (c), (d)—

At the end of section 151B (3) (c), insert:

; or

(d) the posting up or exhibition of any poster on or at the electoral office of any member.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(66) Sections 151F, 151G—

After section 151E, insert:

Distribution of electoral matter on polling-day

5 151F. (1) A person shall not, in a public place, distribute any electoral material on the polling-day for an election unless the material has been registered under section 151G.

Penalty: \$1,000 or imprisonment for 6 months.

10 (2) For the purposes of this section and without limiting its operation, material shall be taken to be distributed if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place.

15 (3) In this section, “electoral material” means any “how to vote” card, handbill, pamphlet or card—

(a) containing any representation of a ballot-paper or any representation apparently intended to represent a ballot-paper; and

(b) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.

20 **Registration of electoral matter**

151G. (1) For the purposes of section 151F, an application may be made, in accordance with the regulations, to the Electoral Commissioner for the registration of electoral material for a particular election.

25 (2) An application must be made during the period commencing on the day of nomination for the election and ending on the day that is 8 days before polling day for the election, or during such other period as is fixed by the writ for the election.

30 (3) An application must contain a draft or sample of the electoral material.

(4) The Electoral Commissioner may allow the draft or sample to be altered or replaced before agreeing to registration.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(5) Registration of the electoral material is effected by the issue of a certificate of registration (in a form approved by the Electoral Commissioner) in respect of a draft or sample of the electoral material.

5 (6) The Electoral Commissioner shall register the electoral material if satisfied that registration is not prohibited by this section.

10 (7) The Electoral Commissioner may however refuse to register the electoral material if the application for registration was not made in accordance with this section.

(8) The Electoral Commissioner shall not register the electoral material if it appears to the Commissioner—

15 (a) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party, group of candidates or candidate, that—

(i) the party, group or candidate is not registered under the Election Funding Act 1981; or

20 (ii) the application was not made by the party agent, by the candidates in the group or their official agent or by the candidate or the candidate's official agent (respectively);

25 (b) in the case of material that contains any representation or indication (whether express or implied) that any candidate is a member of a particular political party or group of candidates, that—

(i) the party or group is not registered under the Election Funding Act 1981;

30 (ii) the candidate's affiliation with the party or group is not included in the Register of Candidates under that Act; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(iii) the application was not endorsed in writing by the party agent or by the other candidates in the group or their official agent;

5 (c) that the material is intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his or her vote, because of the use, in the material, of any matter suggesting or indicating party or group affiliation (whether or not that matter is the same as or similar to matter included in a register under the
10 Election Funding Act 1981); or

(d) that the material contains words that are obscene or offensive.

(9) Registration may be unconditional or subject to conditions specified in the certificate of registration.

15 (10) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered on a specified day or during a specified period is admissible in proceedings for an offence under section 151F and is *prima facie* evidence of the matters certified.

20 (11) Electoral material shall be taken to be registered in accordance with this section even though the material contains some differences from the draft or sample in respect of which the certificate of registration was issued, so long as the material is substantially the same as the draft or sample.

25 (12) Registration of electoral material is not a defence to a prosecution for an offence under section 151A.

(13) In this section—

“electoral material” has the same meaning as in section 151F;

30 “official agent” and “party agent” have the same meanings as in the Election Funding Act 1981.

(67) Part V, Division 18—

After Division 17, insert:

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*DIVISION 18—*Special provisions relating to the polling in Antarctica***Interpretation**

154AA. In this Division—

- 5 “Antarctic elector” means an elector who—
- (a) is, in the course of his or her employment, in Antarctica on the polling day for an election; and
 - (b) has made a request under section 154AD that he or she be treated, while he or she is in Antarctica, as an Antarctic elector;
- 10

 “Antarctica” means the Australian Antarctic Territory and includes—

- (a) the Territory of Heard Island and McDonald Islands; and
- 15 (b) Macquarie Island;

 “station” means a research station in Antarctica that is operated by the Commonwealth;

 “transmit” includes transmit by radio-telephone or telex.

Antarctic Returning Officers and Assistant Returning Officers

- 20 154AB. (1) There shall be an Antarctic Returning Officer, and an Assistant Antarctic Returning Officer, for each station.

 (2) Antarctic Returning Officers and Assistant Antarctic Returning Officers shall be appointed by the Electoral Commissioner by instrument in writing.

- 25 (3) The person in charge of a station shall not be appointed to be the Antarctic Returning Officer, or Assistant Antarctic Returning Officer, for that station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (4) The person in charge of a station may, by instrument in writing, appoint a person (including the Assistant Antarctic Returning Officer) to act as the Antarctic Returning Officer for the station during any period, or during all periods, when the Antarctic Returning Officer for the station is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

10 (5) The person in charge of a station may, by instrument in writing, appoint a person to act as the Assistant Antarctic Returning Officer for the station during any period, or during all periods, when the Assistant Antarctic Returning Officer for the station is acting as Antarctic Returning Officer for the station, is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

15 (6) While a person is acting as the Antarctic Returning Officer, or as the Assistant Antarctic Returning Officer, for a station, he or she has and may exercise all the powers, and shall perform all the functions, of the Antarctic Returning Officer, or the Assistant Antarctic Returning Officer, for the station, as the case requires.

Application of this Part to polling in Antarctica

25 154AC. (1) Except as provided by this Division, the provisions of Divisions 2, 3, 7, 8 (other than sections 103 (2) and (3), 108, 109 and 110) and 10–12 do not apply to the taking of a poll in Antarctica.

(2) In the application, by virtue of this Division, of a provision of this Part to the taking of a poll in Antarctica—

- 30 (a) a reference in that provision to the returning officer in relation to a polling place shall be read as a reference to the Antarctic Returning Officer in relation to a station; and
- (b) a reference in that provision to the poll clerk in relation to a polling place shall be read as a reference to the Assistant Antarctic Returning Officer in relation to a station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Antarctic electors**

5 154AD. (1) An elector who is, or expects to be, in the course of the elector's employment, in Antarctica may, by notice given to the registrar for the subdivision of the district for which the elector is enrolled, request to be treated, while the elector is in Antarctica, as an Antarctic elector in relation to any election the polling day of which occurs while the elector is in Antarctica.

(2) A notice shall be given to the registrar by lodging it with or sending it by post to the registrar.

10 (3) A notice is not effective, in relation to an election, unless it is received by a registrar before noon on the day of nomination for the election.

(4) Upon the receipt of a request to be treated as an Antarctic elector made by an elector, the registrar shall—

15 (a) annotate the roll for the subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector; and

(b) notify the Electoral Commissioner that the roll has been so annotated.

20 (5) Notwithstanding anything in section 33 (1) or (2), while a person is entitled to be treated as an Antarctic elector by virtue of an annotation to the roll for a subdivision, the person is entitled to—

25 (a) have his or her name retained on the roll for the subdivision; and

(b) vote as an elector of the subdivision.

30 (6) A registrar shall delete an annotation made under subsection (4) in relation to an elector immediately after becoming aware that the elector has ceased to be in Antarctica and shall notify the Electoral Commissioner accordingly.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Arrangements for the polling in Antarctica**

154AE. (1) If, in the case of a periodic election for the Council, the proceedings stand adjourned to polling day, the Electoral Commissioner shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- (b) the name of the elector and the particulars relating to the elector that are entered on the roll.

(2) If, in the case of an election for the Assembly, the proceedings on the day of nomination stand adjourned to polling day, a returning officer on the roll for whose subdivision there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- (b) the name of the elector and the particulars relating to the elector that are entered on the roll for the subdivision.

(3) If information is transmitted by the Electoral Commissioner or a returning officer to an Antarctic Returning Officer in pursuance of this section, both the Electoral Commissioner or the returning officer, as the case may be, and the Antarctic Returning Officer shall, immediately after the transmission, cause a statement in writing of the information transmitted to be prepared.

(4) Sections 82–83B apply in relation to ballot-papers prepared under this section as if a reference in sections 83 and 83B to the printing of ballot-papers were a reference to such preparation.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Ballot-papers to be signed or initialled**

154AF. Section 102 applies to the polling at a station in Antarctica as if the reference in that section to the returning officer or deputy were a reference to the Antarctic Returning Officer for that station.

Candidates not to take part in polling

154AG. A candidate shall not take part in any way in the conduct of the polling in Antarctica.

The polling in Antarctica

154AH. (1) The polling at a station in Antarctica shall be conducted as follows:

- (a) before any vote is taken, the Antarctic Returning Officer for the station shall exhibit the ballot-box empty, and shall then securely fasten its cover;
- (b) the poll shall be open during such hours on such days as the Antarctic Returning Officer, subject to subsection (2), directs; and
- (c) the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall, at all times at which the poll is open, be present in that part of the station at which the polling is taking place.

(2) The polling at a station in relation to an election shall not continue beyond 6 p.m. by standard time in New South Wales (other than in the County of Yancowinna and Lord Howe Island) on the day of polling in the election.

Entitlement of Antarctic electors to vote

154AI. An Antarctic elector whose name has been transmitted to the Antarctic Returning Officer for a station in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, is entitled to vote at the station during the period when the poll is open at that station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Questions to be put to voter**

154AJ. (1) The Antarctic Returning Officer for a station shall put the following questions to each person claiming to vote at the station in an election or elections:

- 5 (a) What is your full name?
- (b) Have you voted before in this election? *or* Have you voted in these elections? (as the case requires)
- (2) If a person who claims to vote at a station and to whom questions are put under this section—
- 10 (a) refuses to answer fully any question so put to the person; or
- (b) does not answer the question referred to in subsection (1) (b) absolutely in the negative, when put to the person,

the person's claim to vote at the station shall be rejected.

15 **Right of Antarctic elector to receive ballot-paper**

154AK. The Antarctic Returning Officer or the Assistant Antarctic Returning Officer for a station shall, at the polling, give to each person claiming to vote at the station a ballot-paper for the district for which the person is enrolled, duly initialled by the Antarctic Returning Officer, if the name under which the person claims to vote has been transmitted to the Antarctic Returning Officer in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, and the person's claim to vote is not rejected.

20

List of Antarctic electors to be marked

25 154AL. Immediately upon giving a ballot-paper to a person claiming to vote, the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall record on the statement prepared by him or her under section 154AE (3) the fact that the ballot-paper has been given to that person.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Application of sections 103 (1) and 108**

154AM. Sections 103 (1) and 108 (1) apply to the polling at a station as if—

- (a) each reference in those subsections to an unoccupied compartment of the booth were a reference to an unoccupied part of the station; and
- (b) section 103 (1) (c) were omitted.

Proceedings by Antarctic Returning Officer upon close of poll

154AN. At the close of the poll, the Antarctic Returning Officer shall, in the presence of the Assistant Antarctic Returning Officer—

- (a) open the ballot-box;
- (b) transmit, or cause to be transmitted, to the Electoral Commissioner—
 - (i) particulars of each elector who has voted;
 - (ii) unless subparagraph (iii) applies—particulars of the marking of each ballot-paper; and
 - (iii) if the Antarctic Returning Officer is unable clearly to read or understand the particulars referred to in subparagraph (ii)—a statement to that effect together with such information relating to those particulars as the Antarctic Returning Officer thinks sufficient to explain that inability; and
- (c) cause a statement in writing of the information transmitted to be prepared.

Result of the polling in Antarctica

154AO. (1) Upon receipt of the particulars referred to in section 154AN (b) (ii), the Electoral Commissioner shall forthwith—

- (a) initial the back of a postal ballot-paper appropriate for the district for which the vote was cast;

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) cause those particulars to be transcribed onto the postal ballot-paper;
 - (c) seal the postal ballot-paper in an envelope;
 - (d) indorse the envelope with his or her signature; and
 - 5 (e) cause to be sent to the returning officer for the district to which the ballot-paper relates the envelope containing the postal ballot-paper.
- 10 (2) A returning officer or deputy shall not mark a postal ballot-paper referred to in this section in a manner that is likely to enable the ballot-paper to be identified as representing the vote of an Antarctic elector.
- (3) Upon receipt of information under subsection (1), the Electoral Commissioner shall forthwith—
 - 15 (a) cause a statement in writing of that information to be prepared; and
 - (b) cause to be sent to each returning officer for the district to which a ballot-paper referred to in paragraph (1) (b) relates particulars of the Antarctic electors who have voted in the election in relation to the district.
- 20 (4) A reference in this Part to scrutiny—
 - (a) includes a reference to scrutiny of any act or thing done in pursuance of subsection (1) (a) to (d); and
 - (b) does not include a reference to scrutiny of—
 - (i) any act or thing done in Antarctica; or
 - 25 (ii) the transmission of any information to or from Antarctica.
- (5) For the purposes of section 114L, a ballot-paper marked in accordance with subsection (1) (b) shall be deemed to have been used for voting in pursuance of this Part.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Preservation of ballot-papers etc.**

5 154AP. (1) As soon as practicable after the close of the poll for an election, the Antarctic Returning Officer for each station shall forward to the Electoral Commissioner a copy of the statements prepared by him or her under sections 154AE (3) and 154AN (c) and the ballot-papers prepared by him or her and used for voting in Antarctica.

10 (2) The documents to which this subsection applies that are used at or in connection with an election shall be preserved in accordance with directions of the Electoral Commissioner for the purposes of this subsection until—

- (a) the election can no longer be questioned; or
- (b) the expiration of the period of 6 months commencing on the date of the declaration of the poll,

15 whichever later occurs.

(3) Subsection (2) applies to the following documents:

- (a) the statements referred to in sections 154AE (3), 154AN (c) and 154AO (3) (a);
- (b) the postal ballot-papers referred to in section 154AO (1) (b);
- 20 (c) the ballot-papers prepared by an Antarctic Returning Officer and used for voting in Antarctica.

(68) Section 163 (Inquiries by Court)—

Section 163 (2)—

At the end of section 163, insert:

25 (2) Where the court makes inquiries in relation to ballot-papers marked in Antarctica pursuant to the provisions of Division 18 of Part V, a statement of the particulars of the marking of the ballot-papers prepared by the Electoral Commissioner under section 154AO is, unless the court otherwise orders, conclusive
30 evidence of the particulars stated.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(69) Schedules 11, 20—

Omit the Schedules.

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES

5

(1) Section 38 (**Penalty on officer neglecting to enrol claimants**)—

Omit “fifty dollars”, insert instead “\$1,000”.

(2) Section 51 (**Witness to application must be satisfied of truth of statements**)—

10

Omit “two hundred dollars”, insert instead “\$1,000”.

(3) Section 52 (**Failure to transmit claim**)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(4) Section 55 (**Regulations**)—

Section 55 (2)—

15

Omit “fifty dollars”, insert instead “\$500”.

(5) Section 90 (**How scrutineers to be appointed**)—

Section 90 (4)—

Omit “\$25”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

20

(6) Section 93 (**Who may be present at polling-booth**)—

Section 93 (2)—

Omit “fifty dollars”, insert instead “\$500”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(7) Section 106 (**Disputed vote**)—

Section 106 (3) (b)—

Omit “imprisonment for a term not exceeding three months”,
insert instead “a penalty not exceeding \$1,000 or to imprisonment
for a period not exceeding 6 months, or both”.

(8) Section 111 (**Ballot-papers not to be removed from polling-booth etc.**)—

Omit “\$50”, insert instead “\$1,000 or imprisonment for 6
months, or both”.

(9) Section 112 (**False answer to questions etc. or double voting a
misdemeanour**)—

Section 112 (1)—

Omit “imprisonment not exceeding six months”, insert instead “a
penalty not exceeding \$1,000 or to imprisonment for a period not
exceeding 6 months, or both”.

(10) Section 114A (**Application for postal vote certificate and postal ballot-
paper**)—

Section 114A (2B), (3)—

Omit “Any person contravening any provision of this subsection
shall be liable to a penalty not exceeding one hundred dollars or
to be imprisoned for a term not exceeding one month.” wherever
occurring, insert instead:

Penalty: \$1,000 or imprisonment for 6 months, or both.

(11) Section 114C (**Duty of witnesses to application**)—

Section 114C (1)—

Omit “Any person contravening any provision of this subsection
shall be liable to a penalty not exceeding one hundred dollars or
to be imprisoned for a term not exceeding one month.”, insert
instead “Penalty: \$500.”.

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SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*

(12) Section 114I (**Duty of authorised witness**)—

Omit “two hundred and fifty dollars, or to imprisonment for three months”, insert instead “\$1,000”.

(13) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

5 (a) Section 114J (2)—

Omit “Any person contravening any of the provisions of this subsection shall be liable to a penalty not exceeding two hundred and fifty dollars.”, insert instead “Penalty: \$500.”.

(b) Section 114J (3)—

10 Omit “and shall be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding one month”.

(c) Section 114J (3)—

At the end of the subsection, insert:

Penalty: \$1,000.

15 (14) Section 114K (**Duty of persons present when an elector votes by post**)—

Omit “Any person contravening any of the provisions of this section shall be liable to a penalty not exceeding two hundred and fifty dollars, or to imprisonment for three months.”, insert instead:

Penalty: \$1,000.

20 (15) Section 114P (**Application for permission to vote before polling day**)—

Section 114P (3)–(5)—

Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(16) Section 114Q (**Procedure for voting before polling day**)—

25 Omit “\$250 or imprisonment for three months”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(17) Section 114U (**Appointment of scrutineers**)—

Section 114U (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

5 (18) Section 114V (**Penalty for unlawfully marking ballot-paper**)—

Omit “\$500 or imprisonment for six months”, insert instead “\$1,000”.

(19) Section 114W (**Duty of persons present when elector votes under section 114Q**)—

10 Omit “\$250 or imprisonment for three months”, insert instead “\$1,000”.

(20) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—

15 Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(21) Section 114ZT (**Appointment of scrutineers**)—

Section 114ZT (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

20 (22) Section 114ZU (**Penalty for unlawfully marking ballot-paper etc.**)—

Omit “\$500 or imprisonment for 6 months”, insert instead “\$1,000”.

(23) Section 114ZV (**Duty of persons present when elector votes under this Division**)—

25 Omit “\$250 or imprisonment for 3 months”, insert instead “\$1,000”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(24) Section 115 (**Voting outside district**)—

Section 115 (3)—

5 Omit “imprisonment for a term not exceeding three months”,
insert instead “a penalty not exceeding \$1,000 or to imprisonment
for a period not exceeding 6 months, or both”.

(25) Section 129 (**Penalty for breaking seal of or opening packet or parcel**)—

10 Omit “, shall be guilty of a misdemeanour, and be liable to be
fined any sum not exceeding five hundred dollars, or to be
imprisoned for any term not exceeding six months, or to be both
fined and imprisoned within the aforesaid limits.”, insert instead:
is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(26) Section 129J (**Penalty for breaking seal of or opening packet or
parcel**)—

15 Omit “, shall be guilty of a misdemeanour, and be liable to a
penalty not exceeding \$500, or to imprisonment for a term not
exceeding six months, or to both such penalty and
imprisonment.”, insert instead:

is guilty of an offence.

20 Penalty: \$1,000 or imprisonment for 6 months, or both.

(27) Section 147 (**Who guilty of the misdemeanour of bribery etc.**)—

(a) Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Omit “six”, insert instead “6”.

(28) Section 150 (**Penalty for “treating”**)—

25 (a) Section 150—

Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Section 150—

Omit “six”, insert instead “6”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(29) Section 151 (**Intimidation**)—

Omit “the respective punishments provided by section 150”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

5 (30) Section 151A (**Printing etc. false information**)—

Section 151A (1)—

Omit “shall be liable to a penalty not exceeding five hundred dollars, or in the discretion of the court to imprisonment for a term not exceeding six months”, insert instead “shall be liable—

10 (a) if the person is a corporation—to a penalty not exceeding \$5,000; or

(b) in any other case—to a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

15 (31) Section 176B (**Disorderly conduct at public political meetings**)—

(a) Section 176B (1)—

Omit “, and liable to a penalty not exceeding fifty dollars or to imprisonment for a term not exceeding one month”.

(b) Section 176B—

20 At the end of the section, insert:

Penalty: \$500.

(32) Section 176C (**Signature to electoral paper**)—

Section 176 (5)—

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

25 (33) Section 176D (**Untrue statements in forms**)—

Section 176D (1)—

Omit “one hundred dollars”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

*Parliamentary Electorates and Elections (Amendment) 1987***SCHEDULE 2—continued****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—continued****(34) Section 176E (Witnessing electoral papers)—**

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

(35) Section 176F (Forging or uttering electoral papers)—

5 Omit “imprisonment for any term not exceeding two years”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(36) Section 177 (Offence of stuffing ballot-box)—

10 Omit “be imprisoned for any term not exceeding one year”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS**15 Interpretation****1. In this Schedule—**

“Commonwealth Act” means the Commonwealth Electoral Act 1918 of the Commonwealth;

20 “elector” means a person whose name appears on the roll of electors entitled to vote at elections under the Principal Act.

Eligible overseas electors and itinerant electors**2. If a person—**

25 (a) was, immediately before the commencement of Schedule 1 (4), enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an eligible overseas elector or itinerant elector under that Act; and

(b) is, after that commencement, entitled to be enrolled as an elector, or continue to be enrolled as an elector, pursuant to section 20A, 20B or 20C of the Principal Act,

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- the Electoral Commissioner shall cause the person to be enrolled or continue to be enrolled as an elector under the Principal Act and to annotate the roll to indicate that the elector is an eligible overseas elector or an itinerant elector and the elector shall be deemed to be an eligible overseas elector or an itinerant elector (as the case may be) for the purposes of the Principal Act.

Provisional enrolments

3. If, immediately before the commencement of Schedule 1 (14) a person—
- (a) was enrolled on the roll maintained under the Commonwealth Act pursuant to a claim for provisional enrolment under that Act; and
 - (b) is, after that commencement, entitled to be provisionally enrolled pursuant to section 33A of the Principal Act,

- the Electoral Commissioner shall cause the person to be enrolled on the roll maintained under the Principal Act and the elector so enrolled shall be treated as if the enrolment were in pursuance of a claim for provisional enrolment under section 33A and shall be deemed to be a person to whom section 33A applies.

Silent enrolments

4. If, immediately before the commencement of Schedule 1 (17), the name of an elector appears on a roll maintained under the Commonwealth Act but the residence of the elector does not appear on the roll and the Electoral Commissioner is satisfied that the residence has been deleted in pursuance of a request under section 104 of the Commonwealth Act, the residence of that elector shall, without any application under the Principal Act, be deleted from the roll maintained under the Principal Act and the elector shall be deemed to be a person to whom section 38A of the Principal Act applies.

Antarctic electors

5. If, immediately before the commencement of Schedule 1 (67), an elector was enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an Antarctic elector for the purposes of that Act, the Electoral Commissioner shall cause the roll maintained under the Principal Act to be annotated to indicate the elector is an Antarctic elector for the purposes of the Principal Act and the elector shall be deemed to be a person to whom Division 18 of Part V of the Principal Act applies.

Regulations

- (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 5 (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 therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- 10 (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Principal Act
4. Amendment of Act No. 41, 1912
5. Savings and transitional provisions
6. Amendment of Act No. 27, 1902, s. 101i (Interpretation)

SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

**SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES**

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, , 1987*

NEW SOUTH WALES



Act No. , 1987

An Act to amend the Parliamentary Electorates and Elections Act 1912 with respect to the qualification and enrolment of electors and the conduct of elections; to amend the Justices Act 1902 in relation to certain penalty notices; and for related purposes.

See also Election Funding (Amendment) Bill 1987.

Parliamentary Electorates and Elections (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Parliamentary Electorates and Elections (Amendment) Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

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

Principal Act

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

Amendment of Act No. 41, 1912

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

20 Savings and transitional provisions

5. Schedule 3 has effect.

Amendment of Act No. 27, 1902, s. 100i (Interpretation)

6. The Justices Act 1902 is amended by inserting (in appropriate alphabetical order) in paragraph (a) of the definition of "penalty notice" in
25 section 100i the following matter:

Parliamentary Electorates and Elections Act 1912, section 120c;

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Repeal**)—

5 Section 2 (2), (3)—

Omit the subsections.

(2) Section 3 (**Interpretation**)—

(a) Section 3 (1), definition of “Antarctic elector”—

Before the definition of “Assembly”, insert:

10 “Antarctic elector” means an elector who is entitled under
Division 18 of Part V to be treated as an Antarctic elector.(b) Section 3 (1), definitions of “Commonwealth Act”,
“Commonwealth subdivision”—

After the definition of “By-election”, insert:

15 “Commonwealth Act” means the Commonwealth Electoral Act
1918 of the Commonwealth.“Commonwealth subdivision” means a subdivision of an
electoral division for the election of a member of the House
of Representatives pursuant to the Commonwealth Act.

20 (c) Section 3 (1), definition of “Divisional returning officer”—

After the definition of “Council”, insert:

“Divisional returning officer” means the Commonwealth
divisional returning officer for the Commonwealth electoral
division in which the particular State subdivision is situate.

25 (d) Section 3 (1), definition of “Eligible overseas elector”—

After the definition of “Electoral district” or “district”, insert:

“Eligible overseas elector” means an elector who is enrolled or
remains enrolled under section 20A or 20B and treated as an
eligible overseas elector.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (e) Section 3 (1), definitions of “Hospital”, “Itinerant elector”—

After the definition of “Group”, insert:

“Hospital” includes a convalescent home and an institution similar to a hospital or convalescent home.

- 5 “Itinerant elector” means an elector who is enrolled under section 20c and treated as an itinerant elector.

- (f) Section 3 (1), definition of “Officer”—

After the definition of “Member”, insert:

- 10 “Officer” includes any person discharging the duties of any office under Part IV.

- (g) Section 3 (1), definition of “Real place of living”—

After the definition of “Proclamation”, insert:

- 15 “Real place of living” includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place.

- (h) Section 3 (1), definition of “Regulations”—

After the definition of “Registrar”, insert:

“Regulations” means regulations made under this Act.

- 20 (i) Section 3 (1), definitions of “Subdivision”, “Territory”—

After the definition of “Speaker”, insert:

“Subdivision” means subdivision of a district and includes also any unsubdivided district.

- 25 “Territory” means the Australian Capital Territory or the Northern Territory.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(j) Section 3 (3)—

After section 3 (2), insert:

(3) A reference (however expressed) to “residence” or “reside”—

- 5 (a) in any provision of this Act relating to the preparation, alteration or revision of rolls; or
- (b) in any regulation, form or electoral paper relating to or used in connection with the preparation, alteration or revision of rolls,

10 shall be read as a reference to place of living or live, as the case may be.

(3) Section 20—

Omit the section, insert instead:

Qualification of electors

- 15 20. (1) Subject to sections 21 and 32–41, all persons—
- (a) who have attained 18 years of age; and
- (b) who are—
- (i) Australian citizens; or
- 20 (ii) persons (other than Australian citizens) who would, if the relevant Commonwealth law had continued in force, be persons who have the status of a British subject and who were, immediately before 26 January 1984, enrolled as electors for the Assembly or enrolled in any other State or Territory of the Commonwealth
- 25 as electors for the House of Representatives,

shall be entitled to enrolment.

(2) Subject to subsections (3) and (4) and section 21, an elector whose name is on the roll for a subdivision is entitled to vote at any election for the Assembly for the district.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An elector—

(a) whose name has been placed on a roll in pursuance of a claim made under section 33A; and

5 (b) who has not attained 18 years of age on the date appointed for the taking of the poll for an election,

is not entitled to vote at that election.

10 (4) Notwithstanding section 33A or any enrolment in pursuance of a claim made under that section, for the purposes of this Act in its application in relation to an election, a person who has not attained 18 years of age on the date appointed for the taking of the poll for that election shall not be taken to be—

(a) entitled to be enrolled on a roll; or

(b) enrolled on a roll.

15 (5) A person is not entitled to vote more than once at any Assembly general election, by-election or periodic Council election, or at more than one election for the Assembly or Council held on the same day.

20 (6) An elector, other than a relevant elector, is not entitled to vote at an election as an elector of the subdivision of the district in respect of which the elector is enrolled unless the real place of living of the elector was, at some time within the 3 months immediately preceding polling day for that election, within that subdivision.

(7) Notwithstanding anything in this Act—

25 (a) an elector who has changed his or her place of living to another place within the same subdivision, or to another subdivision of the same district, shall not be deemed by reason only of that change to be dispossessed of the qualification in respect of which the elector is enrolled; and

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (b) an elector who, within 3 months before any election has changed his or her place of living to another district, may vote at that election for the district for which the elector's name appears on the roll as provided by this Act for the purposes of that election.

(8) In this section—

10 “relevant Commonwealth law” means the Australian Citizenship Act 1948 of the Commonwealth as amended and in force immediately before 1 May 1987 and the regulations in force immediately before that day under that Act as so amended and in force;

“relevant elector” means—

- (a) an Antarctic elector;
- (b) an eligible overseas elector; or
- 15 (c) an itinerant elector.

(4) Sections 20A–20C—

After section 20, insert:

Enrolled voters leaving Australia

20A. An elector—

- 20 (a) whose name is on the roll for a subdivision;
- (b) who intends to cease to reside in Australia and then, not later than 3 years after the day on which the elector ceases to reside there, to resume residing in Australia, whether in that subdivision or elsewhere; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name appears on the electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 94 of the Commonwealth Act,

is, while the elector's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the elector's name retained on the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with an annotation to indicate that the elector is an eligible overseas elector; and

- (e) to vote as an elector of the subdivision.

Eligibility of spouse or child of eligible overseas elector

20B. (1) A person—

- (a) who is the spouse or child of a person who is an eligible overseas elector in relation to a subdivision by virtue of section 20A;
- (b) who is living at a place outside Australia so as to be with or near the eligible overseas elector;
- (c) who had not attained 18 years of age when last ceasing to reside in Australia;
- (d) whose name is not, and has not been, on a roll;
- (e) who is not qualified for enrolment under section 20 but would be so qualified if the person resided in a subdivision;
- (f) who intends to resume residing in Australia not later than 3 years after the day on which the person attains 18 years of age; and

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (g) whose name has been added to an electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 95 of the Commonwealth Act,

10 shall be enrolled for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (g) for which the eligible overseas elector is enrolled with an annotation to indicate that the person is an eligible overseas elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (g), entitled—

(h) to have the person's name retained on the roll for the subdivision; and

(i) to vote as an elector of the subdivision.

- 15 (2) For the purposes of this section, where a child is adopted by a person, that child shall be taken to be the child of that person.

(3) In this section—

“child” includes an exnuptial child;

20 “spouse”, in relation to a person (in this subsection referred to as the “relevant person”) includes a person who, although not legally married to the relevant person, lives with the relevant person as the spouse of the relevant person on a permanent and bona fide domestic basis.

Itinerant electors

25 20c. A person—

- (a) who is in Australia but does not reside in any subdivision;
- (b) who is not entitled to have his or her name placed on or retained on the roll for any subdivision only because the person does not reside in any subdivision; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name has been added to an electoral roll maintained under the Commonwealth Act for the Commonwealth subdivision with which the person has established a connection under section 96 of that Act and the roll maintained under that Act is annotated to indicate that the elector is an itinerant elector under section 96 of that Act,

shall have the person's name added to the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with which the person has the connection with an annotation to indicate that the elector is an itinerant elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the person's name retained on the roll for the subdivision; and

- (e) to vote as an elector of the subdivision.

(5) Section 21A (**Appointment of Electoral Commissioner**)—

- (a) Section 21A (10)—

Omit the subsection, insert instead:

(10) A Principal Returning Officer and such staff as may be necessary to enable the Electoral Commissioner to exercise the Electoral Commissioner's functions in relation to the administration of this Act shall be employed under the Public Service Act 1979.

- (b) Section 21A (13), (14)—

After section 21A (12), insert:

(13) The Principal Returning Officer may act in the place of the Electoral Commissioner during the illness or absence of the Electoral Commissioner and the Principal Returning Officer, while so acting, shall have and may exercise the functions of the Electoral Commissioner and shall be deemed to be the Electoral Commissioner.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) For the purposes of subsection (13), a vacancy in the office of the Electoral Commissioner shall be deemed to be an absence from office of the Electoral Commissioner.

(6) Section 22 (**Interpretation**)—

5 Omit the section.

(7) Section 23 (**Power of Governor as to subdivision of districts**)—

Section 23 (4)—

After section 23 (3), insert:

10 (4) The Governor may, by order published in the Gazette, declare a subdivision to be a remote subdivision for the purposes of this Act.

(8) Section 26 (**Rolls for districts and subdivisions**)—

Section 26 (5)—

After section 26 (4), insert:

15 (5) Where the elector is an eligible overseas elector or an itinerant elector, the roll shall not set out the residence of the elector.

(9) Section 27 (**New rolls**)—

Section 27 (3)—

20 After “roll” where firstly occurring, insert “, other than an eligible overseas elector or an itinerant elector,”.

(10) Section 29 (**Printing of rolls**)—

Section 29 (1)—

Omit “or subdivision”.

25 (11) Section 30 (**Inspection of rolls**)—

(a) Section 30—

Omit “subdivision” wherever occurring, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 30 (b)—

Omit “the prescribed price”, insert instead “such amounts as the Electoral Commissioner determines to be appropriate in relation to prints of rolls of that kind”.

5 (12) Section 32 (Addition of names to rolls)—

(a) Section 32 (1)—

After “enrolment” where secondly occurring, insert “or claims for provisional enrolment”.

(b) Section 32 (2)–(5)—

10 Omit section 32 (2), insert instead:

(2) A claim shall—

(a) be in the prescribed form;

(b) subject to subsection (3), be signed by the claimant; and

15 (c) be attested by an elector or a person entitled to have the person’s name placed on a roll, who shall sign the claim as witness in the witness’s own handwriting.

20 (3) If a person wishes to make a claim for enrolment, for transfer of enrolment or for provisional enrolment and a registered medical practitioner has certified, in writing, that the person is so physically incapacitated that the person cannot sign the claim, another person may, on behalf of the person, fill out and sign the claim in accordance with the directions of the first-mentioned person.

25 (4) A claim shall be completed in accordance with the directions prescribed in the form.

(5) A certificate referred to in subsection (3) shall be lodged with the claim to which it relates.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(13) Section 33 (**Claims for enrolment or transfer of enrolment**)—

Section 33 (3)—

Omit “No”, insert instead “Subject to sections 20A–20C and Division 18 of Part V, no”.

5 (14) Section 33A—

After section 33, insert:

Claims for provisional enrolment

10 33A. (1) Any person who is 17 years of age and who, if the person were 18 years of age, would be entitled to have the person's name placed on a roll for a subdivision may send or deliver a claim to have the person's name placed on the roll for the subdivision to any registrar of a subdivision.

15 (2) A claim made under subsection (1) shall be treated as a claim for enrolment for the subdivision to which the claim relates and the provisions of sections 35, 38 and 38A apply in relation to the claim as if the person making the claim were 18 years of age and the claim were made pursuant to section 34.

(15) Section 34—

Omit the section, insert instead:

20 **Compulsory enrolment and transfer**

25 34. (1) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll, shall forthwith fill in and sign a claim in the prescribed form and send or deliver the claim to the registrar for the subdivision.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (2) Where a person sends or delivers a claim for enrolment, or for transfer of enrolment, to the registrar for a subdivision other than the subdivision (in this subsection referred to as the “proper subdivision”) on the roll for a subdivision of which the person is entitled to be enrolled, the registrar shall note on the claim the date of its receipt by the registrar and forthwith send the claim and any documents sent or delivered by the person with the claim to the registrar for the proper subdivision.

10 (3) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll upon the expiration of 21 days from the date upon which becoming so entitled, or at
15 any subsequent date while continuing to be so entitled, shall be guilty of an offence unless the person proves that the non-enrolment is not because of the person’s failure to send or deliver to the registrar a claim, duly filled in and signed in accordance with the directions printed on it.

20 (4) If a person (including a person whose residence, in pursuance of a request made under section 38A, is not entered on a roll) changes residence from one address in the subdivision for which the person is enrolled to another address in that subdivision, the person shall, within 21 days after the date of
25 making the change, give notice in writing of the new address to the registrar for the subdivision.

 (5) A person who is guilty of an offence against subsection (1) or (3) is liable to a penalty not exceeding \$50.

30 (6) When a person sends or delivers a claim for enrolment, or for transfer of enrolment, to a registrar, proceedings shall not be instituted against that person for any offence against subsection (1) or (3) committed before the person sent or delivered that claim.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(16) Sections 35–37—

Omit the sections, insert instead:

Registration of claims

5 35. (1) Subject to subsection (4), when, pursuant to section 34, a registrar receives a claim for enrolment or transfer of enrolment for a subdivision, the registrar shall—

- (a) note on the claim the date of its receipt by the registrar;
- 10 (b) if the claim is in order and the registrar is satisfied that the claimant is entitled to be enrolled for the subdivision, forthwith—
 - (i) enter on the roll for the subdivision the name of the claimant and particulars relating to the claimant;
 - (ii) notify the claimant in writing that he or she has been enrolled for that subdivision;
 - 15 (iii) in the case of a claim for a transfer of an enrolment from the roll for another subdivision in the same district—delete the name of the claimant from the roll for the last-mentioned subdivision;
 - 20 (iv) in the case of a claim for transfer of enrolment from a subdivision not included in the same district—give notice of the transfer to the registrar for that last-mentioned subdivision; and
 - 25 (v) in a case where the name of the claimant is entered on the roll for the subdivision for which the claimant is entitled to be enrolled—notify the claimant in writing that, in the registrar's opinion, the claimant's existing enrolment is correct; and
 - 30 (c) if the claim is not in order or the registrar is not satisfied that the claimant is entitled to be enrolled in a subdivision of that district—forthwith notify the claimant in writing that his or her claim has been rejected.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where a registrar receives notice, pursuant to subsection (1) (b) (iv), of the transfer of a person's enrolment from a subdivision, the registrar shall delete the name of, and particulars relating to, the person from the roll for the subdivision.

5 (3) Notice of a decision given to a claimant by a registrar under subsection (1) (b) (v) or (1) (c) shall include—

(a) a statement of the reasons for the decision; and

10 (b) a statement advising the claimant that the claimant is entitled at any time within one month after the receipt of the notice to appeal to a Local Court for an order directing that the claimant's name be enrolled.

15 (4) A claim under section 34 by a person to have the person's name placed on the roll for a subdivision received during the period commencing at 6 p.m. on the day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election shall not be considered until after the expiration of that period.

(5) A name may, at any time, be removed from a roll pursuant to a notice of transfer of enrolment.

20 (17) Section 38A—

After section 38, insert:

Request for residence not to be shown on roll

25 38A. (1) If a person considers that having the person's residence shown on the roll for the subdivision for which the person is claiming enrolment would place the personal safety of the person or of members of the person's family at risk, the person may lodge with the claim for enrolment or transfer of enrolment a request, in the prescribed form, that the person's residence not be entered on the roll for the subdivision for which the person is claiming enrolment.

30

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where—

(a) the residence of a person is included in the particulars relating to the person that are entered on the roll for a subdivision; and

5 (b) the person considers that having the residence so shown places the personal safety of the person or of members of the person's family at risk,

10 the person may lodge with the registrar for the subdivision a request, in the prescribed form, that the person's residence be deleted from the particulars relating to the person that are entered on that roll.

(3) A request under subsection (1) or (2) shall give particulars of the relevant risk and shall be verified by statutory declaration by the person making the request or some other person.

15 (4) If—

(a) a request has been made under subsection (1) or (2); and

20 (b) the registrar is satisfied that having the residence of the person making the request entered on the roll for the subdivision would place or places the personal safety of the person or of members of the person's family at risk,

the registrar—

25 (c) in a case where the request was lodged under subsection (1)—shall not include the residence of the person in the particulars relating to the person that are entered on the roll for the subdivision; and

(d) in a case where the request is lodged under subsection (2)—shall delete the residence of the person from the particulars relating to the person that are entered on the roll for the subdivision.

30 (5) When a registrar grants or refuses a request made by a person under subsection (1) or (2), the registrar shall notify the person in writing of the decision.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(6) Notwithstanding anything contained in section 40, where an address is deleted from a roll in pursuance of subsection (4), the address so deleted shall be obliterated.

5 (7) A registrar, when directed to do so by the Electoral Commissioner, shall—

(a) conduct a review of the roll for the subdivision in relation to electors whose residences are not shown on the roll by virtue of this section; and

10 (b) on completion of the review, make such alterations to the roll as the registrar thinks necessary to ensure that the only electors whose residences are not shown on the roll by virtue of this section are electors the personal safety of whom or of whose family, the registrar is satisfied, would be at risk if their residence were shown on the roll.

15 (18) Section 41 (**Information as to deaths and convictions**)—

Omit “eighteen” wherever occurring, insert instead “17”.

(19) Section 41A—

After section 41, insert:

Computer records relating to roll

20 41A. (1) If but for this subsection a registrar is required or permitted under this Act or the regulations to record particulars (including make an annotation) in a written form on a roll, the registrar may do so by recording or storing those particulars, or
25 causing those particulars to be recorded or stored, on a mechanical, electrical or other device approved by the Electoral Commissioner.

30 (2) If a registrar is required or permitted under this Act or the regulations to vary or remove particulars which, but for this section, would be on a roll but which have been recorded or stored in accordance with this section, the registrar shall do so by varying or removing the particulars so recorded or stored, or causing the particulars so recorded or stored to be varied or removed, as the case may be.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (3) If particulars are recorded or stored by virtue of this section, the registrar responsible for the roll on which, but for this section, those particulars would be recorded shall ensure that means are provided by which those particulars are available, without fee, for public inspection in a written form at the registrar's office during ordinary office hours.

10 (4) If a registrar who is required under this Act or the regulations to enter particulars on, vary particulars on, or remove particulars from, a roll complies with the requirement by taking action in accordance with this section, the registrar shall, for the purposes of this Act, including any provisions imposing obligations on the registrar, be taken to have entered those particulars on the roll, varied those particulars or removed those particulars, as the case may be.

15 (5) Section 40 does not apply to alterations of a roll made in pursuance of this section.

(20) Section 42 (**Name on roll may be objected to**)—

- (a) Omit "fifty cents", insert instead "\$2".
- (b) Omit "His Majesty", insert instead "the Crown".
- 20 (c) Omit "to be frivolous", insert instead "to have been made without a reasonable belief by the person that grounds for the objection existed".

(21) Section 45 (**Notice of objection**)—

- (a) Section 45 (1)—
- 25 Omit "When", insert instead "Subject to subsection (3), if".

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 45 (2), (3)—

Omit the subsections, insert instead:

(2) Notice under subsection (1) shall be in the prescribed form, and may be given to the person objected to by being posted to—

5 (a) in a case where the person objected to has notified, in writing, the divisional returning officer for the division in which the subdivision for which the person is enrolled is situate of an address to which notices may be given to the person—the address so notified;

10 (b) in a case where paragraph (a) does not apply to the person objected to and the place of living of the person objected to is known to the person giving the notice—the place of living of the person objected to; or

15 (c) in any other case—the place of living of the person objected to as appearing on the roll.

(3) Where the divisional returning officer is satisfied that an objection is frivolous or vexatious, he or she may dismiss the objection without giving notice of objection to the person objected to.

20 (22) Section 47 (**Determination of objection**)—

Section 47 (2), (3)—

Omit the subsections, insert instead:

25 (2) The divisional returning officer shall give notice in the prescribed form of his or her determination of an objection under subsection (1) to the objector and to the person objected to.

(3) Notice under subsection (2) may be given to the person objected to by being posted to an address or place to which a notice of objection could be posted to the person objected to under section 45 (2).

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(23) Section 47A—

After section 47, insert:

Assistant divisional returning officers

- 5 47A. Sections 42–45 and 47 apply in relation to a State subdivision corresponding to a Commonwealth subdivision for which an assistant divisional returning officer has been appointed as if references in those sections, in relation to a subdivision, to a divisional returning officer were references to an assistant divisional returning officer.

10 (24) Section 48 (**Appeal to Local Court**)—

Section 48 (1) (a)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(25) Section 50 (**Rolls for purposes of elections for Assembly**)—

Section 50 (6)—

- 15 After section 50 (5), insert:

(6) Without limiting the generality of section 176, regulations may be made for or with respect to the supply and certification of a composite roll for a district made up of all rolls for subdivisions of that district.

20 (26) Section 51 (**Witness to application must be satisfied of truth of statements**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(27) Section 52 (**Failure to transmit claim**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

25 (28) Section 75 (**Returning officers for districts**)—

Omit “Public Service Board” wherever occurring, insert instead “Electoral Commissioner”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(29) Section 79 (Nominations of candidates)—

(a) Section 79 (1)—

Omit “qualified to vote at any election for”, insert instead
“enrolled as an elector for”.

5 (b) Section 79 (2)—

Omit “six”, insert instead “30”.

(c) Section 79 (4)—

Omit “Subdivision”, insert instead “District”.

(d) Section 79 (4)—

10 After “to such nomination”, insert “and certify that the place of
residence stated above is my place of residence”.

(e) Section 79 (5A)—

Omit the subsection, insert instead:

15 (5A) If at the close of nominations for a district a person is
nominated for an election for any other district or for a periodic
Council election each of those nominations is void.

(f) Section 79 (6)—

Before section 79 (7), insert:

20 (6) Where a candidate for an election for a district dies, after
being nominated and before noon on the day of nomination for
the election, the day named as the day of nomination for the
election shall be taken to be the day next succeeding the day so
named.

(g) Section 79 (7A) (a)—

25 Omit “\$100”, insert instead “\$500”.

(h) Section 79 (8)—

Omit “within twenty-one days”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(30) Section 81B (Nomination of Council candidates)—

(a) Section 81B (1)—

Omit “qualified to vote at a periodic Council election”, insert instead “enrolled as an elector for a district”.

5 (b) Section 81B (1)—

Omit “at that election”, insert instead “for a periodic Council election”.

(c) Section 81B (2)—

Omit “six”, insert instead “15”.

10 (d) Section 81B (4)—

Omit “*his name to signify his consent to his nomination.*”, insert instead “*the person’s name to signify the person’s consent to nomination and to certify that the place of residence stated opposite the person’s name is the person’s place of residence as enrolled.*”

15 (e) Section 81B (4)—

Omit “6”, insert instead “15”.

(f) Section 81B (4)—

From the form, omit “Subdivision.”.

(g) Section 81B (7)—

20 After section 81B (6), insert:

(7) Where a candidate at a periodic Council election dies, after being nominated and before noon on the day of nomination for the election, the day named as the day of nomination for the election shall be taken to be the day next succeeding the day so

25

named.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(31) Section 81D (**Dual nominations**)—

Omit the section, insert instead:

Dual nominations

5 81D. If at the close of nominations for a periodic Council election a person is nominated for that election more than once or for that election and for any election for a district each of those nominations is void.

(32) Section 81F (**Deposit**)—

Section 81F (1)—

10 Omit “\$200”, insert instead “\$750”.

(33) Section 86 (**Booths, how arranged etc.**)—

After “pencils”, insert “or other writing implements”.

(34) Section 89 (**Deputy returning officers to be furnished with copies of rolls and ballot-papers**)—

15 (a) Section 89 (1)—

Omit the subsection, insert instead:

(1) Before the day of polling the returning officer shall—

20 (a) provide for use at each polling-place sufficient copies certified under his or her hand of the printed rolls in force for the district in which the poll is to be taken; and

25 (b) deliver to each deputy, and retain, such numbers, respectively, of the ballot-papers as are sufficient for the use of the electors entitled to vote at each booth at which the returning officer and deputies, respectively, are to take the poll,

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

(b) Section 89 (3)—

After section 89 (2), insert:

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (3) A certified copy of the roll referred to in subsection (1) shall be a copy of the roll of the electors (including persons whose names have been placed on the roll in pursuance of a claim made under section 33A and who will have attained the age of 18 years on polling-day) on the roll in force for the district for which the polling-place has been declared to be a polling-place.

(35) Section 90 (**How scrutineers to be appointed**)—

Section 90 (6), (7)—

At the end of section 90, insert:

- 10 (6) A scrutineer does not breach subsection (2) (a) only because the scrutineer wears or displays any badge or emblem of a candidate or political party.

(7) Without limiting the generality of section 114, a scrutineer who, within a polling booth—

- 15 (a) commits any breach of this section;
- (b) misconducts himself or herself; or
- (c) fails to obey the lawful directions of the returning officer or deputy,

- 20 may, on the request of the returning officer or deputy at the polling booth, be removed from the polling booth by a member of the police force.

(36) Section 97 (**Where electors may vote**)—

Section 97 (1)—

Omit “subdivision”, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(37) Sections 99, 99A—

Omit section 99, insert instead:

Questions to be put to voter

5 99. (1) The returning officer or deputy shall put the following questions to each person attending before him or her and claiming to vote in an election or elections:

(a) What is your full name?

(b) Where do you reside?

10 (c) Have you voted before in this election? *or* Have you voted before in these elections? (as the case requires)

(2) In addition to the questions put under subsection (1), the returning officer or deputy shall ask each person claiming to vote as an absent voter in an election to identify the electoral district for which the person is enrolled.

15 (3) Where, in answer to the question specified in subsection (1) (b) put to the person by a returning officer or deputy, a person (other than an absent voter, an eligible overseas elector or an itinerant elector) gives a place of residence other than—

(a) the person's residence shown on the roll; or

20 (b) another residence in the electoral district in respect of which the person claims to vote,

the returning officer or deputy shall ask the following question: At what other place or places have you lived during the last 3 months?

25 (4) If the answers to the questions specified in subsection (1) (a) and (b) that are given by a person claiming to vote are not sufficient to distinguish that person from another person on the roll, the returning officer or deputy may, for the purpose of distinguishing the 2 persons, ask the person claiming to vote
30 another question or other questions relating to matters shown on the roll in relation to those persons.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(5) Subject to section 99A, if a person claiming to vote to whom questions are put under this section—

(a) refuses to answer fully any question so put to the person;

5 (b) so answers the question specified in subsection (1) (b) and the question specified in subsection (3) as to indicate that the person is not entitled to vote by virtue of section 20 (6); or

(c) answers a question specified in subsection (1) (c) in the affirmative,

10 the person's claim to vote shall be rejected.

Person whose residence is not on the roll

99A. Where an elector for an electoral district whose name appears, but whose residence does not appear, on the roll for a subdivision claims to vote at an election and to be an elector to whom section 38A applies, the elector may, subject to this Act and the regulations, be permitted to vote if the elector makes a declaration of residence in the prescribed form on an envelope, or, if the elector is an absent voter, on the envelope bearing the declaration made by the voter under section 115 (1), before the returning officer or deputy at the polling place.

15
20

(38) Section 100 (**Questions to be put if voter challenged**)—

Section 100 (a)—

Omit "subdivision", insert instead "district".

(39) Section 103A—

25 After section 103, insert:

Vote of person whose residence is not shown on the roll

103A. (1) Notwithstanding section 103 (1), if an elector votes under the provisions of section 99A, the elector shall mark and fold the elector's ballot-papers in the manner prescribed in this Act and return it so folded to the returning officer or deputy.

30

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) The returning officer or deputy shall thereupon, in the presence of the elector and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the returning officer for the district for which the elector is enrolled and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

(3) The returning officer or the deputy shall, without opening the envelope, forthwith transmit it to the returning officer for the district for which the elector is enrolled.

(4) The returning officer or the deputy, on receipt of the envelope containing the ballot-paper, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the elector, and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the elector (as affected by any change of residence annotated on the request) shall deal with the ballot-paper in the manner prescribed in connection with the scrutiny of absent voters' ballot-papers.

(5) Subsections (1), (2), (3) and (4) do not apply in relation to a ballot-paper marked by an absent voter who makes a declaration of residence under section 99A, but, where a returning officer for a district receives an envelope bearing such a declaration in relation to the district, he or she shall examine the declaration and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the absent voter (as affected by any change of residence annotated on the request), shall deal with the ballot-paper in the scrutiny of absent votes.

(40) Section 106 (**Disputed vote**)—

(a) Section 106 (2)—

Omit "a subdivision" wherever occurring, insert instead "a district".

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 106 (2)—

Omit “that subdivision” wherever occurring, insert instead “a subdivision of that district”.

(c) Section 106 (2) (a) (i)—

- 5 Omit “six o’clock in the afternoon of the day of the issue of the writ for the election” wherever occurring, insert instead “the period commencing at 6 p.m. on a day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election”.

10 (d) Section 106 (2) (a) (ii)—

Omit “six o’clock in the afternoon of the day of the issue of the writ”, insert instead “the period referred to in subparagraph (i)”.

(e) Section 106 (2) (b) (i)—

Omit “subdivision”, insert instead “district”.

15 (f) Section 106 (2) (b) (ii)—

Omit “the subdivision”, insert instead “a subdivision of the district”.

(41) Section 114A (**Application for postal vote certificate and postal ballot-paper**)—

20 (a) After section 114A (1) (d), insert:

- (d1) is, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote;

25 (b) Section 114A (1) (e) (ii)—

Omit “or” where lastly occurring.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 114A (1) (f), (g)—

At the end of section 114A (1) (f), insert:

; or

5 (g) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

(d) Section 114A (2) (b)—

Omit “in his own handwriting”.

(42) Sections 114AA, 114AB—

10 After section 114, insert:

Registration of general postal voters

114AA. (1) In this section—

“prescribed elector” means—

(a) an elector—

15 (i) who is enrolled for a subdivision that is declared to be a remote subdivision by an order under section 23; and

20 (ii) whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place;

(b) an elector who—

(i) is a patient in a hospital (not being a hospital that is a polling place or a declared institution under section 114ZN); and

25 (ii) by reason of being seriously ill or infirm, is unable to travel from the hospital;

(c) an elector who—

(i) is not a patient in a hospital; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (ii) by reason of being seriously ill or infirm, is unable to travel from the place where he or she resides;
- (d) an elector who is being kept in a prison (within the meaning of the Prisons Act 1952);
- 5 (e) an elector who is enrolled pursuant to a claim made under section 32 (3); or
- (f) an elector whom a registered medical practitioner has certified, in writing, to be so physically incapacitated that the elector cannot sign the elector's name;
- 10 “register” means Register of General Postal Voters for a subdivision kept in accordance with subsection (11).
- (2) A prescribed elector may make application to the registrar for the subdivision of the district for which the elector is enrolled to be registered as a general postal voter for the subdivision.
- 15 (3) An application under subsection (2) in relation to an elector to whom subsection (1) (e) or (f) applies may be made by another person acting on behalf of the elector.
- (4) The certificate referred to in subsection (1) (f) shall be lodged with the application under subsection (2) to which it relates.
- 20 (5) An application under subsection (2) shall be in the prescribed form.
- (6) If a registrar is satisfied that an elector making an application under subsection (2) is—
- 25 (a) enrolled in the subdivision for which he or she is a registrar; and
- (b) a prescribed elector,
- the registrar shall register the elector as a general postal voter for the subdivision by entering the name of the elector in the register referred to in subsection (11).
- 30

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (7) If a claim for enrolment or transfer of enrolment is made in respect of a person pursuant to section 32 (3) and the claim indicates that the person wishes to be a registered general postal voter, the registrar for the subdivision for which the person is claiming enrolment shall, forthwith upon enrolment, register the person as a general postal voter by entering the name of the person in the register.

10 (8) If a registrar for a subdivision registers an elector as a general postal voter for the subdivision, the registrar shall advise the elector, in writing, of the registration.

(9) If a registrar for a subdivision is not satisfied that an elector making an application under subsection (2) is enrolled for the subdivision, the registrar shall advise the elector, in writing, to that effect.

15 (10) If a registrar for a subdivision is not satisfied that an elector who is enrolled for the subdivision and who makes an application under subsection (2) is a prescribed elector, the registrar shall advise the elector, in writing, to that effect.

20 (11) A registrar for a subdivision shall cause a Register of General Postal Voters for the subdivision to be kept and shall cause to be entered in the register in relation to an elector who is registered as a general postal voter for the subdivision—

(a) the name of the elector;

25 (b) the residence shown on the roll for the subdivision for which the elector is enrolled as the real place of living of the elector; and

(c) such other particulars as the Electoral Commissioner determines.

30 (12) A register shall be open for public inspection, without fee, during ordinary office hours at the office of the registrar.

(13) A registrar for a subdivision may cancel the registration of an elector as a general postal voter for the subdivision in such circumstances as are prescribed.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) A person shall not make, and a person shall not induce another person to make, any false statement in, or in connection with, an application under subsection (2) or in any declaration contained in, or made in connection with, such application.

5 Penalty: \$1,000 or imprisonment for 6 months, or both.

(15) Registration under this section of an elector (other than an elector to whom subsection (1) (e) or (f) applies) shall not be taken to be prima facie evidence that the elector is entitled, upon application under section 114A, to a postal vote certificate and
10 postal ballot-paper under that section.

(16) Where an elector who is a registered general postal voter for a subdivision (in this subsection referred to as the “original subdivision”) makes a claim under Part IV for transfer of enrolment to another subdivision (in this subsection referred to
15 as the “new subdivision”)—

(a) the registrar for the original subdivision shall, upon receipt under section 35 (1) (b) (iv) of notice of the transfer of enrolment, give notice in writing to the registrar for the new subdivision that the elector was a registered general
20 postal voter for the original subdivision and cancel the registration of the elector as a general postal voter for the original subdivision; and

(b) the registrar for the new subdivision shall, upon receipt of notice under paragraph (a), register the elector as a general
25 postal voter for the new subdivision unless the registrar is satisfied that the elector would not be entitled to be so registered if the elector made an application under subsection (2).

(17) A registrar for a subdivision shall, when directed to do so by the Electoral Commissioner, conduct a review of the register for the subdivision and, upon completion of the review, shall make such alterations to the register as he or she thinks necessary to ensure that—
30

(a) only electors entitled to be registered general postal voters for the subdivision are so registered; and
35

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) the details entered in the register in relation to registered general postal voters are accurate.

Dispatch of electoral materials to registered postal voters

114AB. (1) A returning officer for the district for which the elector is enrolled shall, as soon as practicable after the issue of the writ for an election to be held in that district, send an application form for a postal vote certificate and postal ballot-paper under section 114A to each elector who is, on that day, a registered general postal voter (other than a registered general postal voter to whom subsection (2) applies) in the district, together with an envelope addressed to the returning officer.

(2) A returning officer for a district shall, as soon as practicable after the issue of the writ for an election to be held in the district, deliver or post to each elector who—

- (a) is, on that day, a registered general postal voter for a subdivision of the district; and

- (b) became a registered general postal voter in pursuance of a claim made under section 32 (3) or in pursuance of an application made in pursuance of section 114AA (1) (e) or (f),

a postal vote certificate printed on an envelope addressed to the returning officer and 1 postal ballot-paper for a periodic Council election, or 1 postal ballot-paper for an Assembly general election or by-election, or both, as the case requires.

(43) Section 114C (**Duty of witnesses**)—

- (a) Section 114C (1) (b)—

Omit “in his the applicant’s own handwriting”.

(44) Section 114F (**Numbering of applications and certificates**)—

- (a) Section 114F (1) (a)—

Omit “subdivision of an electoral district (whether or not it is a subdivision of the electoral district for which he is the returning officer)”, insert instead “electoral district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114F (1) (b)—

Omit “and subdivision thereof”.

(45) Section 114GA—

After section 114G, insert:

5 **Person claiming to vote, whose name is noted under section 114G**

114GA. (1) Notwithstanding anything contained in section 114G, if a person whose name has been noted on a certified copy of the roll as an elector to whom a postal vote certificate and postal ballot-paper have been issued—

10 (a) claims to vote in an election at a polling booth; and

(b) states, when requested to deliver to the returning officer or deputy for cancellation of the person’s postal certificate and postal ballot-paper, that the person has not received, or has lost, a postal vote certificate or a postal ballot-paper,

15 the person may, subject to sections 20 and 99 and the regulations, be permitted to vote, if the person makes a declaration in the prescribed form before the returning officer or deputy at the polling-booth.

20 (2) The ballot-paper of a voter voting under this section shall be dealt with in accordance with the provisions of section 106 (3).

(46) Section 114H (**Directions for postal voting**)—

(a) Section 114H (1) (b)—

25 After “elector”, insert “if he or she is not a registered general postal voter who became so registered in pursuance of a claim made under section 32 (3) or in pursuance of an application made under section 114AA (1) (e) or (f)”.

(b) Section 114H (1) (b)—

Omit “in his own handwriting”.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 114H (1) (f)—

After “so impaired”, insert “, or the elector is otherwise so physically incapacitated or so illiterate,”.

(d) Section 114H (1) (g)—

- 5 Omit “unless the elector’s sight is so impaired that he cannot vote without assistance and no person is appointed by the elector to make his vote for him”, insert instead “otherwise than pursuant to a request made by the elector in accordance with paragraph (f)”.

(e) Section 114H (1A)—

- 10 After section 114H (1), insert:

(1A) Without limiting the generality of the proviso to subsection (1) (f), an elector to whom the proviso applies may indicate to the authorised witness the manner in which the elector wishes the authorised witness to mark the elector’s ballot-paper for the elector by presenting to the authorised witness a statement in writing (which may be, or include, a how-to-vote card) that specifies the manner in which the ballot-paper is to be marked.

(47) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

Section 114J (1) (b)—

- 20 After “impaired”, insert “, or who is otherwise so physically incapacitated or so illiterate,”.

(48) Section 114K (**Duty of persons present when an elector votes by post**)—

Section 114K (b)—

Omit “in the case of persons whose sight is impaired”.

25 (49) Section 114P (**Application for permission to vote before polling day**)—

(a) Section 114P (1) (c)—

Omit “or”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114P (1) (e), (f)—

After section 114P (1) (d) (ii), insert:

5 (e) will be, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote; or

(f) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

10 (c) Section 114P (2) (b)—

Omit “in his own handwriting;”, insert instead “; and”.

(d) Section 114P (2) (c)—

Omit the paragraph.

(e) Section 114P (2) (d)—

15 Omit the paragraph, insert instead:

(d) be made between noon on the day of nomination and 6 p.m. on the day preceding polling day—

(i) to a returning officer during the ordinary business hours of that office; or

20 (ii) to a deputy returning officer at an appointed place on a day that is, and during hours that are, declared by the Electoral Commissioner, by notice published in the Gazette, to be an appointed day and appointed hours for the purposes of this section.

25 (f) Section 114P (6), (7)—

Omit the subsections, insert instead:

(6) The Electoral Commissioner may, by notice published in the Gazette, declare a place to be an appointed place for the purposes of this section.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(50) Section 114Q (**Procedure for voting before polling day**)—

Section 114Q (2)—

Omit “in his own handwriting”.

(51) Section 114T (**Assistance to certain electors**)—

5 Section 114T (1)—

Omit “that his sight is so impaired that he”, insert instead “that the elector’s sight is so impaired or that the elector is otherwise so physically incapacitated or so illiterate that the elector”.

10 (52) Section 114X (**Preliminary scrutiny of ballot-papers of electors under section 114Q**)—

Section 114X (2) (a)—

Omit “by an authorised witness”.

(53) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—

15 (a) Section 114ZA (2) (b)—

Omit “in his own handwriting”.

(b) Section 114ZA (6) (b)—

Omit “in the elector’s own handwriting”.

(54) Section 114ZD (**Directions for postal voting**)—

20 (a) Section 114ZD (b)—

Omit “in his own handwriting”.

(b) Section 114ZD (f)—

After “impaired”, insert “, or the elector is otherwise so physically incapacitated or so illiterate,”.

25 (55) Section 114ZR (**Procedure for voting at declared institutions**)—

(a) Section 114ZR (4)—

Omit “in his own handwriting”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114ZR (10) (a)—

Omit “a subdivision of the”.

(c) Section 114ZR (10) (a) (i)—

Omit “subdivision”, insert instead “district”.

5 (d) Section 114ZR (10) (b)—

Omit “a subdivision of a”.

(56) Section 115 (**Voting outside district**)—

(a) Section 115 (1)—

10 Omit “subdivision” wherever occurring, insert instead “electoral district”.

(b) Section 115 (1) (c)—

Omit “in the form of Schedule 11”, insert instead “in the prescribed form”.

(57) Section 117—

15 Omit the section, insert instead:

Returning officer satisfied to accept ballot-paper for further scrutiny

20 117. (1) The returning officer for the district for which the voter declares that the voter is enrolled or the officer assisting the returning officer shall, in the presence of the scrutineers, examine the declaration on the envelope containing the absent voter's ballot-paper, and if it appears to the returning officer—

25 (a) that a person of the same name and description as the person whose name is signed to the declaration is enrolled for the district and that the declaration is duly attested, shall accept the ballot-paper for further scrutiny; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (b) that the person whose name is signed to the declaration is enrolled for some other district than that for which the person declared he or she is enrolled, shall arrange for the envelope to be promptly delivered to the returning officer for the district for which the person is enrolled to be dealt with in the manner set out in subsection (4),

but otherwise shall reject the ballot-paper without opening the envelope.

- 10 (2) Notwithstanding subsections (1) and (4), an absent voter's ballot-paper shall not be rejected for further scrutiny only because the voter's declaration is not attested if, before the declaration of the poll, the returning officer for the district in which the declaration was made certifies that the returning officer or deputy
15 has forwarded an envelope containing the absent voter's ballot-paper in accordance with section 116.

- (3) If the returning officer or the officer assisting him or her accepts the ballot-paper for further scrutiny, he or she shall open the envelope without destroying the declaration and extract the ballot-paper, and without unfolding it, place the ballot-paper in
20 the ballot-box.

- (4) The returning officer for a district to whom an envelope is forwarded under subsection (1) (b) or officer assisting the returning officer shall, if the person whose name is signed to the declaration on the envelope is enrolled for the district and the declaration is
25 duly attested, open the envelope and withdraw any ballot-paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot-paper or allowing any other person to do so—

- 30 (a) in the case of any ballot-paper for a periodic Council election, shall accept the ballot-paper for further scrutiny and place it in the ballot-box; and

- (b) in the case of any ballot-paper for an Assembly election, shall disallow the ballot-paper,

- 35 but otherwise shall reject the ballot-paper without opening the envelope.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(58) Section 120A—

Before section 120B, insert:

Interpretation

120A. In this Division—

- 5 “marked roll” means the copy of the roll for an electoral district marked in accordance with section 120B.

(59) Section 120B (**Returning officer to send marked roll to Electoral Commissioner**)—

(a) Section 120B (a)—

- 10 Omit “(which copy is hereinafter referred to as the ‘marked roll’)”.

(b) Section 120B (a)—

After “that election”, insert “and who appear not to have had sufficient reason for the failure”.

(60) Sections 120C–120F—

- 15 Omit the sections, insert instead:

Penalty notice to be issued for failure to vote

- 20 120C. (1) If an elector is indicated on a marked roll as not having sufficient reason for failing to vote at an election, the Electoral Commissioner shall, within 3 months after the close of the poll, serve a penalty notice on the elector by leaving it at, or sending it by post to, the residence of the elector set out on the roll.

- 25 (2) A penalty notice is a notice in the prescribed form to the effect that, if the elector does not desire to have the failure to vote dealt with by a court, he or she may, within the prescribed time—

(a) give the Electoral Commissioner a sufficient reason for the failure; or

(b) pay to the Electoral Commissioner a penalty, specified in the notice, not exceeding \$25.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An elector served with a penalty notice may decline to be dealt with under this section and shall be presumed to have done so if, within the prescribed time for a response to the notice, the elector, or a person on behalf of the elector, does not—

- 5 (a) give the Electoral Commissioner a reason for the failure to vote; or
- (b) pay to the Electoral Commissioner the penalty specified in the notice.

10 (4) If, in response to a penalty notice and within the time prescribed for the response—

- (a) the Electoral Commissioner is given a sufficient reason for the failure to vote; or
- (b) the penalty specified in the notice is paid to the Electoral Commissioner,

15 proceedings against any person for the failure to vote are prohibited.

20 (5) If, in response to a penalty notice, the Electoral Commissioner is given a reason for the failure to vote but the reason is not a sufficient reason, the Electoral Commissioner shall include a statement to that effect in any courtesy letter served under section 100j of the Justices Act 1902.

(6) For the purposes of this section, it is a sufficient reason for the failure of an elector to vote at an election if the Electoral Commissioner is satisfied that he or she—

- 25 (a) is dead;
- (b) was absent from New South Wales on polling-day;
- (c) was ineligible to vote at the election;
- (d) had an honest belief that abstention from voting was part of his or her religious duty; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(e) was unable for any reason acceptable to the Electoral Commissioner to vote at the election,

or had voted in the election under an enrolment on a roll other than the marked roll indicating the failure.

5 (7) In this section, a reference to the prescribed time for a response to a penalty notice is a reference to—

(a) the time for response specified in the notice; or

(b) if the Electoral Commissioner extends that time (whether before or after its expiration)—the extended time.

10 **Notation on marked roll of response to penalty notice**

120D. The Electoral Commissioner shall note on the marked roll in relation to each elector on whom a penalty notice is served—

(a) whether or not there has been a response to the notice; and

15 (b) if there has been a response—whether or not a sufficient reason has been given or the penalty paid.

Evidence in marked roll

120E. (1) A notation on the marked roll to the effect—

20 (a) that an elector was served with a penalty notice—is evidence of service of the notice;

(b) that there was no response to a penalty notice served on an elector—is evidence that there was no such response within the prescribed time under section 120C; or

25 (c) that a reason for an elector's failure to vote was given in response to a penalty notice but was insufficient—is evidence that the reason given was not a sufficient reason under section 120C.

30 (2) Subsection (1) applies in relation to a copy of, or an extract from, the marked roll certified by the Electoral Commissioner to be such a copy or extract in the same way as it applies in relation to the marked roll.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Offences relating to failure to vote**

120F. (1) An elector who fails to record his or her vote at an election when required to do so is guilty of an offence and liable to a penalty not exceeding \$50.

5 (2) A person (whether or not an elector) who, in response to a penalty notice, gives a false reason for the failure of an elector to vote is guilty of an offence and liable to a penalty not exceeding \$50.

(3) In this section, “elector” does not include—

- 10 (a) an Antarctic elector;
 (b) an eligible overseas elector; or
 (c) an itinerant elector.

(61) Section 120H (**Procedure**)—

Omit the section.

15 (62) Section 120J (**Additional provisions applicable where polling-day for Assembly and periodic Council elections is same day**)—

(a) Section 120J (n)—

Omit “or Schedule 20”.

(b) Section 120J (n)—

20 After “one”, insert “penalty”.

(63) Section 129C (**Sealing and transmission of separate parcels or ballot-papers etc.**)—

Section 129C (1) (a), (f)—

25 Omit “polling-booth” wherever occurring, insert instead “polling place”.

(64) Section 151A (**Printing etc. false information**)—

(a) Section 151A (1) (a)—

Omit “or” where lastly occurring.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 151A (1) (b)—

Omit “vote—”, insert instead “vote; or”.

(c) Section 151A (1) (c)—

After section 151A (1) (b), insert:

5 (c) prints, publishes or distributes any “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card using—

10 (i) the name, an abbreviation or acronym of the name or a derivative of the name of a party respectively included in the Register of Parties kept under the Election Funding Act 1981 (or a name or abbreviation resembling such a name, abbreviation, acronym or derivative) in a way that is intended or likely to mislead any elector; or

15 (ii) the word “Independent” and the name or an abbreviation or acronym of the name or a derivative of the name or a party respectively included in that Register in a way that suggests or indicates an affiliation with that party,

20 (d) Section 151A (3)—

After section 151A (2), insert:

(3) Subsection (1) (c) (ii) does not apply in a case where the word “Independent” is included in the name of the party as registered in the Register of Parties.

25 (65) Section 151B (**Exhibition of posters**)—

(a) Section 151B (3) (b)—

Omit “or” where lastly occurring.

(b) Section 151B (3) (c), (d)—

At the end of section 151B (3) (c), insert:

30 ; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (d) the posting up or exhibition of any poster on or at the electoral office of any member.

(66) Sections 151F, 151G—

After section 151E, insert:

5 **Distribution of electoral matter on polling-day**

151F. (1) A person shall not, in a public place, distribute any electoral material on the polling-day for an election unless the material has been registered under section 151G.

Penalty: \$1,000 or imprisonment for 6 months.

- 10 (2) For the purposes of this section and without limiting its operation, material shall be taken to be distributed if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place.

- 15 (3) In this section, “electoral material” means any “how to vote” card, handbill, pamphlet or card—

- (a) containing any representation of a ballot-paper or portion of a ballot-paper;
- 20 (b) containing any representation apparently intended to represent a ballot-paper or portion of a ballot-paper; or
- (c) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.

Registration of electoral matter

- 25 151G. (1) For the purposes of section 151F, an application may be made, in accordance with the regulations, to the Electoral Commissioner for the registration of electoral material for a particular election.

- 30 (2) An application must be made during the period commencing on the day of nomination for the election and ending on the day that is 8 days before polling day for the election, or during such other period as is fixed by the writ for the election.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An application must contain a draft or sample of the electoral material.

(4) The Electoral Commissioner may allow the draft or sample to be altered or replaced before agreeing to registration.

5 (5) Registration of the electoral material is effected by the issue of a certificate of registration (in a form approved by the Electoral Commissioner) in respect of a draft or sample of the electoral material.

10 (6) The Electoral Commissioner shall register the electoral material if satisfied that registration is not prohibited by this section.

(7) The Electoral Commissioner may however refuse to register the electoral material if the application for registration was not made in accordance with this section.

15 (8) The Electoral Commissioner shall not register the electoral material if it appears to the Commissioner—

20 (a) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party, group of candidates or candidate, that—

(i) the party, group or candidate is not registered under the Election Funding Act 1981; or

25 (ii) the application was not made by the party agent, by the candidates in the group or their official agent or by the candidate or the candidate's official agent (respectively);

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- 5 (b) in the case of material that contains any representation or indication (whether express or implied) that any candidate is a member of, or pursues or supports any or all of the objects or platform (whether with or without modification) of, a particular political party or group of candidates, that—
- (i) the party or group is not registered under the Election Funding Act 1981;
- 10 (ii) the candidate's affiliation with the party or group is not included in the Register of Candidates under that Act; or
- (iii) the application was not endorsed in writing by the party agent or by the other candidates in the group or their official agent;
- 15 (c) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party or group of candidates in respect of an electoral district, that—
- (i) the party or group has not endorsed a candidate for the district; or
- 20 (ii) the material directs or suggests that a candidate not endorsed by it should be given the first preference vote;
- 25 (d) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party or group of candidates in respect of a periodic Council election, that—
- (i) the party or group has not endorsed a candidate for the election; or
- 30 (ii) the material directs or suggests that a candidate or candidates not endorsed by it should be given the first or highest preference or preferences;

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (e) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a candidate in respect of an electoral district or periodic Council election, that—
- 5 (i) the candidate is not a candidate for that district; or
- (ii) the candidate is not a candidate in that election;
- (f) that the material is intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his or her vote, because of the use, in the
- 10 material, of any matter suggesting or indicating party or group affiliation (whether or not that matter is the same as or similar to matter included in a register under the Election Funding Act 1981); or
- (g) that the material contains words that are obscene or
- 15 offensive.
- (9) Registration may be unconditional or subject to conditions specified in the certificate of registration.
- (10) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered on a
- 20 specified day or during a specified period is admissible in proceedings for an offence under section 151F and is *prima facie* evidence of the matters certified.
- (11) Electoral material shall be taken to be registered in accordance with this section even though the material contains
- 25 some differences from the draft or sample in respect of which the certificate of registration was issued, so long as the material is substantially the same as the draft or sample.
- (12) Registration of electoral material is not a defence to a prosecution for an offence under section 151A.
- 30 (13) In this section—
- “electoral material” has the same meaning as in section 151F;
- “official agent” and “party agent” have the same meanings as in the Election Funding Act 1981.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(67) Part V, Division 18—

After Division 17, insert:

DIVISION 18—*Special provisions relating to the polling in
Antarctica*

5 **Interpretation**

154AA. In this Division—

“Antarctic elector” means an elector who—

- (a) is, in the course of his or her employment, in Antarctica on the polling day for an election; and
- 10 (b) has made a request under section 154AD that he or she be treated, while he or she is in Antarctica, as an Antarctic elector;

“Antarctica” means the Australian Antarctic Territory and includes—

- 15 (a) the Territory of Heard Island and McDonald Islands; and
- (b) Macquarie Island;

“station” means a research station in Antarctica that is operated by the Commonwealth;

20 “transmit” includes transmit by radio-telephone or telex.

Antarctic Returning Officers and Assistant Returning Officers

154AB. (1) There shall be an Antarctic Returning Officer, and an Assistant Antarctic Returning Officer, for each station.

25 (2) Antarctic Returning Officers and Assistant Antarctic Returning Officers shall be appointed by the Electoral Commissioner by instrument in writing.

(3) The person in charge of a station shall not be appointed to be the Antarctic Returning Officer, or Assistant Antarctic Returning Officer, for that station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

5 (4) The person in charge of a station may, by instrument in writing, appoint a person (including the Assistant Antarctic Returning Officer) to act as the Antarctic Returning Officer for the station during any period, or during all periods, when the Antarctic Returning Officer for the station is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

10 (5) The person in charge of a station may, by instrument in writing, appoint a person to act as the Assistant Antarctic Returning Officer for the station during any period, or during all periods, when the Assistant Antarctic Returning Officer for the station is acting as Antarctic Returning Officer for the station, is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

15 (6) While a person is acting as the Antarctic Returning Officer, or as the Assistant Antarctic Returning Officer, for a station, he or she has and may exercise all the powers, and shall perform all the functions, of the Antarctic Returning Officer, or the Assistant Antarctic Returning Officer, for the station, as the case requires.

Application of this Part to polling in Antarctica

25 154AC. (1) Except as provided by this Division, the provisions of Divisions 2, 3, 7, 8 (other than sections 103 (2) and (3), 108, 109 and 110) and 10–12 do not apply to the taking of a poll in Antarctica.

(2) In the application, by virtue of this Division, of a provision of this Part to the taking of a poll in Antarctica—

- 30 (a) a reference in that provision to the returning officer in relation to a polling place shall be read as a reference to the Antarctic Returning Officer in relation to a station; and
- (b) a reference in that provision to the poll clerk in relation to a polling place shall be read as a reference to the Assistant Antarctic Returning Officer in relation to a station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Antarctic electors**

5 154AD. (1) An elector who is, or expects to be, in the course of the elector's employment, in Antarctica may, by notice given to the registrar for the subdivision of the district for which the elector is enrolled, request to be treated, while the elector is in Antarctica, as an Antarctic elector in relation to any election the polling day of which occurs while the elector is in Antarctica.

(2) A notice shall be given to the registrar by lodging it with or sending it by post to the registrar.

10 (3) A notice is not effective, in relation to an election, unless it is received by a registrar before noon on the day of nomination for the election.

(4) Upon the receipt of a request to be treated as an Antarctic elector made by an elector, the registrar shall—

15 (a) annotate the roll for the subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector; and

(b) notify the Electoral Commissioner that the roll has been so annotated.

20 (5) Notwithstanding anything in section 33 (1) or (2), while a person is entitled to be treated as an Antarctic elector by virtue of an annotation to the roll for a subdivision, the person is entitled to—

25 (a) have his or her name retained on the roll for the subdivision; and

(b) vote as an elector of the subdivision.

30 (6) A registrar shall delete an annotation made under subsection (4) in relation to an elector immediately after becoming aware that the elector has ceased to be in Antarctica and shall notify the Electoral Commissioner accordingly.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Arrangements for the polling in Antarctica**

5 154AE. (1) If, in the case of a periodic election for the Council, the proceedings stand adjourned to polling day, the Electoral Commissioner shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- 10 (b) the name of the elector and the particulars relating to the elector that are entered on the roll.

15 (2) If, in the case of an election for the Assembly, the proceedings on the day of nomination stand adjourned to polling day, a returning officer on the roll for whose subdivision there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- 20 (b) the name of the elector and the particulars relating to the elector that are entered on the roll for the subdivision.

25 (3) If information is transmitted by the Electoral Commissioner or a returning officer to an Antarctic Returning Officer in pursuance of this section, both the Electoral Commissioner or the returning officer, as the case may be, and the Antarctic Returning Officer shall, immediately after the transmission, cause a statement in writing of the information transmitted to be prepared.

30 (4) Sections 82–83B apply in relation to ballot-papers prepared under this section as if a reference in sections 83 and 83B to the printing of ballot-papers were a reference to such preparation.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****Ballot-papers to be signed or initialled**

5 154AF. Section 102 applies to the polling at a station in Antarctica as if the reference in that section to the returning officer or deputy were a reference to the Antarctic Returning Officer for that station.

Candidates not to take part in polling

154AG. A candidate shall not take part in any way in the conduct of the polling in Antarctica.

The polling in Antarctica

10 154AH. (1) The polling at a station in Antarctica shall be conducted as follows:

(a) before any vote is taken, the Antarctic Returning Officer for the station shall exhibit the ballot-box empty, and shall then securely fasten its cover;

15 (b) the poll shall be open during such hours on such days as the Antarctic Returning Officer, subject to subsection (2), directs; and

20 (c) the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall, at all times at which the poll is open, be present in that part of the station at which the polling is taking place.

(2) The polling at a station in relation to an election shall not continue beyond 6 p.m. by standard time in New South Wales (other than in the County of Yancowinna and Lord Howe Island) on the day of polling in the election.

Entitlement of Antarctic electors to vote

30 154AI. An Antarctic elector whose name has been transmitted to the Antarctic Returning Officer for a station in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, is entitled to vote at the station during the period when the poll is open at that station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Questions to be put to voter**

154AJ. (1) The Antarctic Returning Officer for a station shall put the following questions to each person claiming to vote at the station in an election or elections:

- 5 (a) What is your full name?
- (b) Have you voted before in this election? *or* Have you voted in these elections? (as the case requires)
- (2) If a person who claims to vote at a station and to whom questions are put under this section—
- 10 (a) refuses to answer fully any question so put to the person; or
- (b) does not answer the question referred to in subsection (1) (b) absolutely in the negative, when put to the person,

the person's claim to vote at the station shall be rejected.

15 **Right of Antarctic elector to receive ballot-paper**

- 154AK. The Antarctic Returning Officer or the Assistant Antarctic Returning Officer for a station shall, at the polling, give to each person claiming to vote at the station a ballot-paper for the district for which the person is enrolled, duly initialled by the Antarctic Returning Officer, if the name under which the person claims to vote has been transmitted to the Antarctic Returning Officer in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, and the person's claim to vote is not rejected.
- 20

List of Antarctic electors to be marked

- 25 154AL. Immediately upon giving a ballot-paper to a person claiming to vote, the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall record on the statement prepared by him or her under section 154AE (3) the fact that the ballot-paper has been given to that person.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****Application of sections 103 (1) and 108**

154AM. Sections 103 (1) and 108 (1) apply to the polling at a station as if—

- (a) each reference in those subsections to an unoccupied compartment of the booth were a reference to an unoccupied part of the station; and
- (b) section 103 (1) (c) were omitted.

Proceedings by Antarctic Returning Officer upon close of poll

154AN. At the close of the poll, the Antarctic Returning Officer shall, in the presence of the Assistant Antarctic Returning Officer—

- (a) open the ballot-box;
- (b) transmit, or cause to be transmitted, to the Electoral Commissioner—
 - (i) particulars of each elector who has voted;
 - (ii) unless subparagraph (iii) applies—particulars of the marking of each ballot-paper; and
 - (iii) if the Antarctic Returning Officer is unable clearly to read or understand the particulars referred to in subparagraph (ii)—a statement to that effect together with such information relating to those particulars as the Antarctic Returning Officer thinks sufficient to explain that inability; and
- (c) cause a statement in writing of the information transmitted to be prepared.

Result of the polling in Antarctica

154AO. (1) Upon receipt of the particulars referred to in section 154AN (b) (ii), the Electoral Commissioner shall forthwith—

- (a) initial the back of a postal ballot-paper appropriate for the district for which the vote was cast;

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) cause those particulars to be transcribed onto the postal ballot-paper;
 - (c) seal the postal ballot-paper in an envelope;
 - (d) indorse the envelope with his or her signature; and
 - 5 (e) cause to be sent to the returning officer for the district to which the ballot-paper relates the envelope containing the postal ballot-paper.
- 10 (2) A returning officer or deputy shall not mark a postal ballot-paper referred to in this section in a manner that is likely to enable the ballot-paper to be identified as representing the vote of an Antarctic elector.
- (3) Upon receipt of information under subsection (1), the Electoral Commissioner shall forthwith—
 - 15 (a) cause a statement in writing of that information to be prepared; and
 - (b) cause to be sent to each returning officer for the district to which a ballot-paper referred to in paragraph (1) (b) relates particulars of the Antarctic electors who have voted in the election in relation to the district.
- 20 (4) A reference in this Part to scrutiny—
 - (a) includes a reference to scrutiny of any act or thing done in pursuance of subsection (1) (a) to (d); and
 - (b) does not include a reference to scrutiny of—
 - (i) any act or thing done in Antarctica; or
 - 25 (ii) the transmission of any information to or from Antarctica.
- (5) For the purposes of section 114L, a ballot-paper marked in accordance with subsection (1) (b) shall be deemed to have been used for voting in pursuance of this Part.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Preservation of ballot-papers etc.**

5 154AP. (1) As soon as practicable after the close of the poll for an election, the Antarctic Returning Officer for each station shall forward to the Electoral Commissioner a copy of the statements prepared by him or her under sections 154AE (3) and 154AN (c) and the ballot-papers prepared by him or her and used for voting in Antarctica.

10 (2) The documents to which this subsection applies that are used at or in connection with an election shall be preserved in accordance with directions of the Electoral Commissioner for the purposes of this subsection until—

(a) the election can no longer be questioned; or

(b) the expiration of the period of 6 months commencing on the date of the declaration of the poll,

15 whichever later occurs.

(3) Subsection (2) applies to the following documents:

(a) the statements referred to in sections 154AE (3), 154AN (c) and 154AO (3) (a);

(b) the postal ballot-papers referred to in section 154AO (1) (b);

20 (c) the ballot-papers prepared by an Antarctic Returning Officer and used for voting in Antarctica.

(68) Section 163 (**Inquiries by Court**)—

Section 163 (2)—

At the end of section 163, insert:

25 (2) Where the court makes inquiries in relation to ballot-papers marked in Antarctica pursuant to the provisions of Division 18 of Part V, a statement of the particulars of the marking of the ballot-papers prepared by the Electoral Commissioner under section 154AO is, unless the court otherwise orders, conclusive evidence of the particulars stated.

30

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(69) Schedules 11, 20—

Omit the Schedules.

SCHEDULE 2

(Sec. 4)

5 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES(1) Section 38 (**Penalty on officer neglecting to enrol claimants**)—

Omit “fifty dollars”, insert instead “\$1,000”.

10 (2) Section 51 (**Witness to application must be satisfied of truth of statements**)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(3) Section 52 (**Failure to transmit claim**)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(4) Section 55 (**Regulations**)—

15 Section 55 (2)—

Omit “fifty dollars”, insert instead “\$500”.

(5) Section 90 (**How scrutineers to be appointed**)—

Section 90 (4)—

20 Omit “\$25”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(6) Section 93 (**Who may be present at polling-booth**)—

Section 93 (2)—

Omit “fifty dollars”, insert instead “\$500”.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(7) Section 106 (**Disputed vote**)—

Section 106 (3) (b)—

Omit “imprisonment for a term not exceeding three months”,
insert instead “a penalty not exceeding \$1,000 or to imprisonment
for a period not exceeding 6 months, or both”.

(8) Section 111 (**Ballot-papers not to be removed from polling-booth etc.**)—

Omit “\$50”, insert instead “\$1,000 or imprisonment for 6
months, or both”.

(9) Section 112 (**False answer to questions etc. or double voting a
misdemeanour**)—

Section 112 (1)—

Omit “imprisonment not exceeding six months”, insert instead “a
penalty not exceeding \$1,000 or to imprisonment for a period not
exceeding 6 months, or both”.

(10) Section 114A (**Application for postal vote certificate and postal ballot-
paper**)—

Section 114A (2B), (3)—

Omit “Any person contravening any provision of this subsection
shall be liable to a penalty not exceeding one hundred dollars or
to be imprisoned for a term not exceeding one month.” wherever
occurring, insert instead:

Penalty: \$1,000 or imprisonment for 6 months, or both.

(11) Section 114C (**Duty of witnesses to application**)—

Section 114C (1)—

Omit “Any person contravening any provision of this subsection
shall be liable to a penalty not exceeding one hundred dollars or
to be imprisoned for a term not exceeding one month.”, insert
instead “Penalty: \$500.”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(12) Section 114I (**Duty of authorised witness**)—

Omit “two hundred and fifty dollars, or to imprisonment for three months”, insert instead “\$1,000”.

(13) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

5 (a) Section 114J (2)—

Omit “Any person contravening any of the provisions of this subsection shall be liable to a penalty not exceeding two hundred and fifty dollars.”, insert instead “Penalty: \$500.”.

(b) Section 114J (3)—

10 Omit “and shall be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding one month”.

(c) Section 114J (3)—

At the end of the subsection, insert:

Penalty: \$1,000.

15 (14) Section 114K (**Duty of persons present when an elector votes by post**)—

Omit “Any person contravening any of the provisions of this section shall be liable to a penalty not exceeding two hundred and fifty dollars, or to imprisonment for three months.”, insert instead:

Penalty: \$1,000.

20 (15) Section 114P (**Application for permission to vote before polling day**)—

Section 114P (3)–(5)—

Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(16) Section 114Q (**Procedure for voting before polling day**)—

25 Omit “\$250 or imprisonment for three months”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*

(17) Section 114U (**Appointment of scrutineers**)—

Section 114U (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

5 (18) Section 114v (**Penalty for unlawfully marking ballot-paper**)—

Omit “\$500 or imprisonment for six months”, insert instead “\$1,000”.

(19) Section 114w (**Duty of persons present when elector votes under section 114Q**)—

10 Omit “\$250 or imprisonment for three months”, insert instead “\$1,000”.

(20) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—

15 Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(21) Section 114ZT (**Appointment of scrutineers**)—

Section 114ZT (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

20 (22) Section 114ZU (**Penalty for unlawfully marking ballot-paper etc.**)—

Omit “\$500 or imprisonment for 6 months”, insert instead “\$1,000”.

(23) Section 114ZV (**Duty of persons present when elector votes under this Division**)—

25 Omit “\$250 or imprisonment for 3 months”, insert instead “\$1,000”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(24) Section 115 (**Voting outside district**)—

Section 115 (3)—

Omit “imprisonment for a term not exceeding three months”,
 5 insert instead “a penalty not exceeding \$1,000 or to imprisonment
 for a period not exceeding 6 months, or both”.

(25) Section 129 (**Penalty for breaking seal of or opening packet or parcel**)—

Omit “, shall be guilty of a misdemeanour, and be liable to be
 fined any sum not exceeding five hundred dollars, or to be
 10 imprisoned for any term not exceeding six months, or to be both
 fined and imprisoned within the aforesaid limits.”; insert instead:
 is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(26) Section 129J (**Penalty for breaking seal of or opening packet or
parcel**)—

15 Omit “, shall be guilty of a misdemeanour, and be liable to a
 penalty not exceeding \$500, or to imprisonment for a term not
 exceeding six months, or to both such penalty and
 imprisonment.”; insert instead:

is guilty of an offence.

20 Penalty: \$1,000 or imprisonment for 6 months, or both.

(27) Section 147 (**Who guilty of the misdemeanour of bribery etc.**)—

(a) Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Omit “six”, insert instead “6”.

(28) Section 150 (**Penalty for “treating”**)—

25 (a) Section 150—

Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Section 150—

Omit “six”, insert instead “6”.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*

(29) Section 151 (**Intimidation**)—

Omit “the respective punishments provided by section 150”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

5 (30) Section 151A (**Printing etc. false information**)—

Section 151A (1)—

Omit “shall be liable to a penalty not exceeding five hundred dollars, or in the discretion of the court to imprisonment for a term not exceeding six months”, insert instead “shall be liable—

- 10 (a) if the person is a corporation—to a penalty not exceeding \$5,000; or
- (b) in any other case—to a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

15 (31) Section 176B (**Disorderly conduct at public political meetings**)—

(a) Section 176B (1)—

Omit “, and liable to a penalty not exceeding fifty dollars or to imprisonment for a term not exceeding one month”.

(b) Section 176B—

20 At the end of the section, insert:

Penalty: \$500.

(32) Section 176C (**Signature to electoral paper**)—

Section 176 (5)—

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

25 (33) Section 176D (**Untrue statements in forms**)—

Section 176D (1)—

Omit “one hundred dollars”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(34) Section 176E (**Witnessing electoral papers**)—

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

(35) Section 176F (**Forging or uttering electoral papers**)—

5 Omit “imprisonment for any term not exceeding two years”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(36) Section 177 (**Offence of stuffing ballot-box**)—

10 Omit “be imprisoned for any term not exceeding one year”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

15 **Interpretation**

1. In this Schedule—

“Commonwealth Act” means the Commonwealth Electoral Act 1918 of the Commonwealth;

20 “elector” means a person whose name appears on the roll of electors entitled to vote at elections under the Principal Act.

Eligible overseas electors and itinerant electors

2. If a person—

25 (a) was, immediately before the commencement of Schedule 1 (4), enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an eligible overseas elector or itinerant elector under that Act; and

(b) is, after that commencement, entitled to be enrolled as an elector, or continue to be enrolled as an elector, pursuant to section 20A, 20B or 20C of the Principal Act,

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- the Electoral Commissioner shall cause the person to be enrolled or continue to be enrolled as an elector under the Principal Act and to annotate the roll to indicate that the elector is an eligible overseas elector or an itinerant elector and the elector shall be deemed to be an eligible overseas elector or an itinerant elector (as the case may be) for the purposes of the Principal Act.

Provisional enrolments

3. If, immediately before the commencement of Schedule 1 (14) a person—
- (a) was enrolled on the roll maintained under the Commonwealth Act pursuant to a claim for provisional enrolment under that Act; and
 - (b) is, after that commencement, entitled to be provisionally enrolled pursuant to section 33A of the Principal Act,

- the Electoral Commissioner shall cause the person to be enrolled on the roll maintained under the Principal Act and the elector so enrolled shall be treated as if the enrolment were in pursuance of a claim for provisional enrolment under section 33A and shall be deemed to be a person to whom section 33A applies.

Silent enrolments

4. If, immediately before the commencement of Schedule 1 (17), the name of an elector appears on a roll maintained under the Commonwealth Act but the residence of the elector does not appear on the roll and the Electoral Commissioner is satisfied that the residence has been deleted in pursuance of a request under section 104 of the Commonwealth Act, the residence of that elector shall, without any application under the Principal Act, be deleted from the roll maintained under the Principal Act and the elector shall be deemed to be a person to whom section 38A of the Principal Act applies.

Antarctic electors

5. If, immediately before the commencement of Schedule 1 (67), an elector was enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an Antarctic elector for the purposes of that Act, the Electoral Commissioner shall cause the roll maintained under the Principal Act to be annotated to indicate the elector is an Antarctic elector for the purposes of the Principal Act and the elector shall be deemed to be a person to whom Division 18 of Part V of the Principal Act applies.

Regulations

6. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- 5 (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 therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- 10 (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) ACT 1987 No. 132

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
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SCHEDULE 1—AMENDMENTS TO THE PRINCIPAL ACT

SCHEDULE 2—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES

SCHEDULE 3—SAVINGS AND TRANSITIONAL PROVISIONS

**PARLIAMENTARY ELECTORATES AND ELECTIONS
(AMENDMENT) ACT 1987 No. 132**

NEW SOUTH WALES



Act No. 132, 1987

An Act to amend the Parliamentary Electorates and Elections Act 1912 with respect to the qualification and enrolment of electors and the conduct of elections; to amend the Justices Act 1902 in relation to certain penalty notices; and for related purposes. [Assented to 16 June 1987]

See also Election Funding (Amendment) Act 1987.

Parliamentary Electorates and Elections (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Parliamentary Electorates and Elections (Amendment) Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

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

Principal Act

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

Amendment of Act No. 41, 1912

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Savings and transitional provisions

5. Schedule 3 has effect.

Amendment of Act No. 27, 1902, s. 100i (Interpretation)

6. The Justices Act 1902 is amended by inserting (in appropriate alphabetical order) in paragraph (a) of the definition of "penalty notice" in section 100i the following matter:

Parliamentary Electorates and Elections Act 1912, section 120c;

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 2 (**Repeal**)—

Section 2 (2), (3)—

Omit the subsections.

(2) Section 3 (**Interpretation**)—

(a) Section 3 (1), definition of “Antarctic elector”—

Before the definition of “Assembly”, insert:

“Antarctic elector” means an elector who is entitled under Division 18 of Part V to be treated as an Antarctic elector.

(b) Section 3 (1), definitions of “Commonwealth Act”, “Commonwealth subdivision”—

After the definition of “By-election”, insert:

“Commonwealth Act” means the Commonwealth Electoral Act 1918 of the Commonwealth.

“Commonwealth subdivision” means a subdivision of an electoral division for the election of a member of the House of Representatives pursuant to the Commonwealth Act.

(c) Section 3 (1), definition of “Divisional returning officer”—

After the definition of “Council”, insert:

“Divisional returning officer” means the Commonwealth divisional returning officer for the Commonwealth electoral division in which the particular State subdivision is situate.

(d) Section 3 (1), definition of “Eligible overseas elector”—

After the definition of “Electoral district” or “district”, insert:

“Eligible overseas elector” means an elector who is enrolled or remains enrolled under section 20A or 20B and treated as an eligible overseas elector.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (e) Section 3 (1), definitions of “Hospital”, “Itinerant elector”—

After the definition of “Group”, insert:

“Hospital” includes a convalescent home and an institution similar to a hospital or convalescent home.

“Itinerant elector” means an elector who is enrolled under section 20c and treated as an itinerant elector.

- (f) Section 3 (1), definition of “Officer”—

After the definition of “Member”, insert:

“Officer” includes any person discharging the duties of any office under Part IV.

- (g) Section 3 (1), definition of “Real place of living”—

After the definition of “Proclamation”, insert:

“Real place of living” includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place.

- (h) Section 3 (1), definition of “Regulations”—

After the definition of “Registrar”, insert:

“Regulations” means regulations made under this Act.

- (i) Section 3 (1), definitions of “Subdivision”, “Territory”—

After the definition of “Speaker”, insert:

“Subdivision” means subdivision of a district and includes also any unsubdivided district.

“Territory” means the Australian Capital Territory or the Northern Territory.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(j) Section 3 (3)—

After section 3 (2), insert:

(3) A reference (however expressed) to “residence” or “reside”—

- (a) in any provision of this Act relating to the preparation, alteration or revision of rolls; or
- (b) in any regulation, form or electoral paper relating to or used in connection with the preparation, alteration or revision of rolls,

shall be read as a reference to place of living or live, as the case may be.

(3) Section 20—

Omit the section, insert instead:

Qualification of electors

20. (1) Subject to sections 21 and 32–41, all persons—

- (a) who have attained 18 years of age; and
- (b) who are—

(i) Australian citizens; or

(ii) persons (other than Australian citizens) who would, if the relevant Commonwealth law had continued in force, be persons who have the status of a British subject and who were, immediately before 26 January 1984, enrolled as electors for the Assembly or enrolled in any other State or Territory of the Commonwealth as electors for the House of Representatives,

shall be entitled to enrolment.

(2) Subject to subsections (3) and (4) and section 21, an elector whose name is on the roll for a subdivision is entitled to vote at any election for the Assembly for the district.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An elector—

- (a) whose name has been placed on a roll in pursuance of a claim made under section 33A; and
- (b) who has not attained 18 years of age on the date appointed for the taking of the poll for an election,

is not entitled to vote at that election.

(4) Notwithstanding section 33A or any enrolment in pursuance of a claim made under that section, for the purposes of this Act in its application in relation to an election, a person who has not attained 18 years of age on the date appointed for the taking of the poll for that election shall not be taken to be—

- (a) entitled to be enrolled on a roll; or
- (b) enrolled on a roll.

(5) A person is not entitled to vote more than once at any Assembly general election, by-election or periodic Council election, or at more than one election for the Assembly or Council held on the same day.

(6) An elector, other than a relevant elector, is not entitled to vote at an election as an elector of the subdivision of the district in respect of which the elector is enrolled unless the real place of living of the elector was, at some time within the 3 months immediately preceding polling day for that election, within that subdivision.

(7) Notwithstanding anything in this Act—

- (a) an elector who has changed his or her place of living to another place within the same subdivision, or to another subdivision of the same district, shall not be deemed by reason only of that change to be dispossessed of the qualification in respect of which the elector is enrolled; and

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) an elector who, within 3 months before any election has changed his or her place of living to another district, may vote at that election for the district for which the elector's name appears on the roll as provided by this Act for the purposes of that election.

- (8) In this section—

“relevant Commonwealth law” means the Australian Citizenship Act 1948 of the Commonwealth as amended and in force immediately before 1 May 1987 and the regulations in force immediately before that day under that Act as so amended and in force;

“relevant elector” means—

- (a) an Antarctic elector;
- (b) an eligible overseas elector; or
- (c) an itinerant elector.

- (4) Sections 20A–20C—

After section 20, insert:

Enrolled voters leaving Australia

20A. An elector—

- (a) whose name is on the roll for a subdivision;
- (b) who intends to cease to reside in Australia and then, not later than 3 years after the day on which the elector ceases to reside there, to resume residing in Australia, whether in that subdivision or elsewhere; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name appears on the electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 94 of the Commonwealth Act,

is, while the elector's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the elector's name retained on the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with an annotation to indicate that the elector is an eligible overseas elector; and

- (e) to vote as an elector of the subdivision.

Eligibility of spouse or child of eligible overseas elector

20B. (1) A person—

- (a) who is the spouse or child of a person who is an eligible overseas elector in relation to a subdivision by virtue of section 20A;
- (b) who is living at a place outside Australia so as to be with or near the eligible overseas elector;
- (c) who had not attained 18 years of age when last ceasing to reside in Australia;
- (d) whose name is not, and has not been, on a roll;
- (e) who is not qualified for enrolment under section 20 but would be so qualified if the person resided in a subdivision;
- (f) who intends to resume residing in Australia not later than 3 years after the day on which the person attains 18 years of age; and

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (g) whose name has been added to an electoral roll maintained under the Commonwealth Act for a Commonwealth subdivision and that roll is annotated to indicate that the elector is an eligible overseas elector under section 95 of the Commonwealth Act,

shall be enrolled for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (g) for which the eligible overseas elector is enrolled with an annotation to indicate that the person is an eligible overseas elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (g), entitled—

- (h) to have the person's name retained on the roll for the subdivision; and

- (i) to vote as an elector of the subdivision.

(2) For the purposes of this section, where a child is adopted by a person, that child shall be taken to be the child of that person.

(3) In this section—

“child” includes an exnuptial child;

“spouse”, in relation to a person (in this subsection referred to as the “relevant person”) includes a person who, although not legally married to the relevant person, lives with the relevant person as the spouse of the relevant person on a permanent and bona fide domestic basis.

Itinerant electors

20c. A person—

- (a) who is in Australia but does not reside in any subdivision;
- (b) who is not entitled to have his or her name placed on or retained on the roll for any subdivision only because the person does not reside in any subdivision; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (c) whose name has been added to an electoral roll maintained under the Commonwealth Act for the Commonwealth subdivision with which the person has established a connection under section 96 of that Act and the roll maintained under that Act is annotated to indicate that the elector is an itinerant elector under section 96 of that Act,

shall have the person's name added to the roll for the subdivision corresponding with the Commonwealth subdivision referred to in paragraph (c) with which the person has the connection with an annotation to indicate that the elector is an itinerant elector and is, while the person's name continues to be included and annotated on the Commonwealth roll referred to in paragraph (c), entitled—

- (d) to have the person's name retained on the roll for the subdivision; and

- (e) to vote as an elector of the subdivision.

(5) Section 21A (**Appointment of Electoral Commissioner**)—

(a) Section 21A (10)—

Omit the subsection, insert instead:

(10) A Principal Returning Officer and such staff as may be necessary to enable the Electoral Commissioner to exercise the Electoral Commissioner's functions in relation to the administration of this Act shall be employed under the Public Service Act 1979.

(b) Section 21A (13), (14)—

After section 21A (12), insert:

(13) The Principal Returning Officer may act in the place of the Electoral Commissioner during the illness or absence of the Electoral Commissioner and the Principal Returning Officer, while so acting, shall have and may exercise the functions of the Electoral Commissioner and shall be deemed to be the Electoral Commissioner.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) For the purposes of subsection (13), a vacancy in the office of the Electoral Commissioner shall be deemed to be an absence from office of the Electoral Commissioner.

(6) Section 22 (**Interpretation**)—

Omit the section.

(7) Section 23 (**Power of Governor as to subdivision of districts**)—

Section 23 (4)—

After section 23 (3), insert:

(4) The Governor may, by order published in the Gazette, declare a subdivision to be a remote subdivision for the purposes of this Act.

(8) Section 26 (**Rolls for districts and subdivisions**)—

Section 26 (5)—

After section 26 (4), insert:

(5) Where the elector is an eligible overseas elector or an itinerant elector, the roll shall not set out the residence of the elector.

(9) Section 27 (**New rolls**)—

Section 27 (3)—

After “roll” where firstly occurring, insert “, other than an eligible overseas elector or an itinerant elector,”.

(10) Section 29 (**Printing of rolls**)—

Section 29 (1)—

Omit “or subdivision”.

(11) Section 30 (**Inspection of rolls**)—

(a) Section 30—

Omit “subdivision” wherever occurring, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 30 (b)—

Omit “the prescribed price”, insert instead “such amounts as the Electoral Commissioner determines to be appropriate in relation to prints of rolls of that kind”.

(12) Section 32 (**Addition of names to rolls**)—

(a) Section 32 (1)—

After “enrolment” where secondly occurring, insert “or claims for provisional enrolment”.

(b) Section 32 (2)–(5)—

Omit section 32 (2), insert instead:

(2) A claim shall—

(a) be in the prescribed form;

(b) subject to subsection (3), be signed by the claimant; and

(c) be attested by an elector or a person entitled to have the person's name placed on a roll, who shall sign the claim as witness in the witness's own handwriting.

(3) If a person wishes to make a claim for enrolment, for transfer of enrolment or for provisional enrolment and a registered medical practitioner has certified, in writing, that the person is so physically incapacitated that the person cannot sign the claim, another person may, on behalf of the person, fill out and sign the claim in accordance with the directions of the first-mentioned person.

(4) A claim shall be completed in accordance with the directions prescribed in the form.

(5) A certificate referred to in subsection (3) shall be lodged with the claim to which it relates.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****(13) Section 33 (Claims for enrolment or transfer of enrolment)—****Section 33 (3)—**

Omit “No”, insert instead “Subject to sections 20A–20C and Division 18 of Part V, no”.

(14) Section 33A—

After section 33, insert:

Claims for provisional enrolment

33A. (1) Any person who is 17 years of age and who, if the person were 18 years of age, would be entitled to have the person's name placed on a roll for a subdivision may send or deliver a claim to have the person's name placed on the roll for the subdivision to any registrar of a subdivision.

(2) A claim made under subsection (1) shall be treated as a claim for enrolment for the subdivision to which the claim relates and the provisions of sections 35, 38 and 38A apply in relation to the claim as if the person making the claim were 18 years of age and the claim were made pursuant to section 34.

(15) Section 34—

Omit the section, insert instead:

Compulsory enrolment and transfer

34. (1) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll, shall forthwith fill in and sign a claim in the prescribed form and send or deliver the claim to the registrar for the subdivision.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where a person sends or delivers a claim for enrolment, or for transfer of enrolment, to the registrar for a subdivision other than the subdivision (in this subsection referred to as the "proper subdivision") on the roll for a subdivision of which the person is entitled to be enrolled, the registrar shall note on the claim the date of its receipt by the registrar and forthwith send the claim and any documents sent or delivered by the person with the claim to the registrar for the proper subdivision.

(3) Every person who is entitled to have his or her name placed on the roll for any subdivision otherwise than by virtue of section 20A, 20B, 20C or 33A (whether by way of enrolment or transfer of enrolment) and whose name is not on the roll upon the expiration of 21 days from the date upon which becoming so entitled, or at any subsequent date while continuing to be so entitled, shall be guilty of an offence unless the person proves that the non-enrolment is not because of the person's failure to send or deliver to the registrar a claim, duly filled in and signed in accordance with the directions printed on it.

(4) If a person (including a person whose residence, in pursuance of a request made under section 38A, is not entered on a roll) changes residence from one address in the subdivision for which the person is enrolled to another address in that subdivision, the person shall, within 21 days after the date of making the change, give notice in writing of the new address to the registrar for the subdivision.

(5) A person who is guilty of an offence against subsection (1) or (3) is liable to a penalty not exceeding \$50.

(6) When a person sends or delivers a claim for enrolment, or for transfer of enrolment, to a registrar, proceedings shall not be instituted against that person for any offence against subsection (1) or (3) committed before the person sent or delivered that claim.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(16) Sections 35–37—

Omit the sections, insert instead:

Registration of claims

35. (1) Subject to subsection (4), when, pursuant to section 34, a registrar receives a claim for enrolment or transfer of enrolment for a subdivision, the registrar shall—

- (a) note on the claim the date of its receipt by the registrar;
- (b) if the claim is in order and the registrar is satisfied that the claimant is entitled to be enrolled for the subdivision, forthwith—
 - (i) enter on the roll for the subdivision the name of the claimant and particulars relating to the claimant;
 - (ii) notify the claimant in writing that he or she has been enrolled for that subdivision;
 - (iii) in the case of a claim for a transfer of an enrolment from the roll for another subdivision in the same district—delete the name of the claimant from the roll for the last-mentioned subdivision;
 - (iv) in the case of a claim for transfer of enrolment from a subdivision not included in the same district—give notice of the transfer to the registrar for that last-mentioned subdivision; and
 - (v) in a case where the name of the claimant is entered on the roll for the subdivision for which the claimant is entitled to be enrolled—notify the claimant in writing that, in the registrar's opinion, the claimant's existing enrolment is correct; and
- (c) if the claim is not in order or the registrar is not satisfied that the claimant is entitled to be enrolled in a subdivision of that district—forthwith notify the claimant in writing that his or her claim has been rejected.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where a registrar receives notice, pursuant to subsection (1) (b) (iv), of the transfer of a person's enrolment from a subdivision, the registrar shall delete the name of, and particulars relating to, the person from the roll for the subdivision.

(3) Notice of a decision given to a claimant by a registrar under subsection (1) (b) (v) or (1) (c) shall include—

(a) a statement of the reasons for the decision; and

(b) a statement advising the claimant that the claimant is entitled at any time within one month after the receipt of the notice to appeal to a Local Court for an order directing that the claimant's name be enrolled.

(4) A claim under section 34 by a person to have the person's name placed on the roll for a subdivision received during the period commencing at 6 p.m. on the day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election shall not be considered until after the expiration of that period.

(5) A name may, at any time, be removed from a roll pursuant to a notice of transfer of enrolment.

(17) Section 38A—

After section 38, insert:

Request for residence not to be shown on roll

38A. (1) If a person considers that having the person's residence shown on the roll for the subdivision for which the person is claiming enrolment would place the personal safety of the person or of members of the person's family at risk, the person may lodge with the claim for enrolment or transfer of enrolment a request, in the prescribed form, that the person's residence not be entered on the roll for the subdivision for which the person is claiming enrolment.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) Where—

- (a) the residence of a person is included in the particulars relating to the person that are entered on the roll for a subdivision; and
- (b) the person considers that having the residence so shown places the personal safety of the person or of members of the person's family at risk,

the person may lodge with the registrar for the subdivision a request, in the prescribed form, that the person's residence be deleted from the particulars relating to the person that are entered on that roll.

(3) A request under subsection (1) or (2) shall give particulars of the relevant risk and shall be verified by statutory declaration by the person making the request or some other person.

(4) If—

- (a) a request has been made under subsection (1) or (2); and
- (b) the registrar is satisfied that having the residence of the person making the request entered on the roll for the subdivision would place or places the personal safety of the person or of members of the person's family at risk,

the registrar—

- (c) in a case where the request was lodged under subsection (1)—shall not include the residence of the person in the particulars relating to the person that are entered on the roll for the subdivision; and
- (d) in a case where the request is lodged under subsection (2)—shall delete the residence of the person from the particulars relating to the person that are entered on the roll for the subdivision.

(5) When a registrar grants or refuses a request made by a person under subsection (1) or (2), the registrar shall notify the person in writing of the decision.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(6) Notwithstanding anything contained in section 40, where an address is deleted from a roll in pursuance of subsection (4), the address so deleted shall be obliterated.

(7) A registrar, when directed to do so by the Electoral Commissioner, shall—

(a) conduct a review of the roll for the subdivision in relation to electors whose residences are not shown on the roll by virtue of this section; and

(b) on completion of the review, make such alterations to the roll as the registrar thinks necessary to ensure that the only electors whose residences are not shown on the roll by virtue of this section are electors the personal safety of whom or of whose family, the registrar is satisfied, would be at risk if their residence were shown on the roll.

(18) Section 41 (**Information as to deaths and convictions**)—

Omit “eighteen” wherever occurring, insert instead “17”.

(19) Section 41A—

After section 41, insert:

Computer records relating to roll

41A. (1) If but for this subsection a registrar is required or permitted under this Act or the regulations to record particulars (including make an annotation) in a written form on a roll, the registrar may do so by recording or storing those particulars, or causing those particulars to be recorded or stored, on a mechanical, electrical or other device approved by the Electoral Commissioner.

(2) If a registrar is required or permitted under this Act or the regulations to vary or remove particulars which, but for this section, would be on a roll but which have been recorded or stored in accordance with this section, the registrar shall do so by varying or removing the particulars so recorded or stored, or causing the particulars so recorded or stored to be varied or removed, as the case may be.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) If particulars are recorded or stored by virtue of this section, the registrar responsible for the roll on which, but for this section, those particulars would be recorded shall ensure that means are provided by which those particulars are available, without fee, for public inspection in a written form at the registrar's office during ordinary office hours.

(4) If a registrar who is required under this Act or the regulations to enter particulars on, vary particulars on, or remove particulars from, a roll complies with the requirement by taking action in accordance with this section, the registrar shall, for the purposes of this Act, including any provisions imposing obligations on the registrar, be taken to have entered those particulars on the roll, varied those particulars or removed those particulars, as the case may be.

(5) Section 40 does not apply to alterations of a roll made in pursuance of this section.

(20) Section 42 (**Name on roll may be objected to**)—

- (a) Omit “fifty cents”, insert instead “\$2”.
- (b) Omit “His Majesty”, insert instead “the Crown”.
- (c) Omit “to be frivolous”, insert instead “to have been made without a reasonable belief by the person that grounds for the objection existed”.

(21) Section 45 (**Notice of objection**)—

(a) Section 45 (1)—

Omit “When”, insert instead “Subject to subsection (3), if”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 45 (2), (3)—

Omit the subsections, insert instead:

(2) Notice under subsection (1) shall be in the prescribed form, and may be given to the person objected to by being posted to—

(a) in a case where the person objected to has notified, in writing, the divisional returning officer for the division in which the subdivision for which the person is enrolled is situate of an address to which notices may be given to the person—the address so notified;

(b) in a case where paragraph (a) does not apply to the person objected to and the place of living of the person objected to is known to the person giving the notice—the place of living of the person objected to; or

(c) in any other case—the place of living of the person objected to as appearing on the roll.

(3) Where the divisional returning officer is satisfied that an objection is frivolous or vexatious, he or she may dismiss the objection without giving notice of objection to the person objected to.

(22) Section 47 (**Determination of objection**)—

Section 47 (2), (3)—

Omit the subsections, insert instead:

(2) The divisional returning officer shall give notice in the prescribed form of his or her determination of an objection under subsection (1) to the objector and to the person objected to.

(3) Notice under subsection (2) may be given to the person objected to by being posted to an address or place to which a notice of objection could be posted to the person objected to under section 45 (2).

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(23) Section 47A—

After section 47, insert:

Assistant divisional returning officers

47A. Sections 42–45 and 47 apply in relation to a State subdivision corresponding to a Commonwealth subdivision for which an assistant divisional returning officer has been appointed as if references in those sections, in relation to a subdivision, to a divisional returning officer were references to an assistant divisional returning officer.

(24) Section 48 (**Appeal to Local Court**)—

Section 48 (1) (a)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(25) Section 50 (**Rolls for purposes of elections for Assembly**)—

Section 50 (6)—

After section 50 (5), insert:

(6) Without limiting the generality of section 176, regulations may be made for or with respect to the supply and certification of a composite roll for a district made up of all rolls for subdivisions of that district.

(26) Section 51 (**Witness to application must be satisfied of truth of statements**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(27) Section 52 (**Failure to transmit claim**)—

After “of enrolment”, insert “or provisional claim for enrolment”.

(28) Section 75 (**Returning officers for districts**)—

Omit “Public Service Board” wherever occurring, insert instead “Electoral Commissioner”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(29) Section 79 (Nominations of candidates)—

(a) Section 79 (1)—

Omit “qualified to vote at any election for”, insert instead “enrolled as an elector for”.

(b) Section 79 (2)—

Omit “six”, insert instead “30”.

(c) Section 79 (4)—

Omit “Subdivision”, insert instead “District”.

(d) Section 79 (4)—

After “to such nomination”, insert “and certify that the place of residence stated above is my place of residence”.

(e) Section 79 (5A)—

Omit the subsection, insert instead:

(5A) If at the close of nominations for a district a person is nominated for an election for any other district or for a periodic Council election each of those nominations is void.

(f) Section 79 (6)—

Before section 79 (7), insert:

(6) Where a candidate for an election for a district dies, after being nominated and before noon on the day of nomination for the election, the day named as the day of nomination for the election shall be taken to be the day next succeeding the day so named.

(g) Section 79 (7A) (a)—

Omit “\$100”, insert instead “\$500”.

(h) Section 79 (8)—

Omit “within twenty-one days”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(30) Section 81B (Nomination of Council candidates)—

(a) Section 81B (1)—

Omit “qualified to vote at a periodic Council election”, insert instead “enrolled as an elector for a district”.

(b) Section 81B (1)—

Omit “at that election”, insert instead “for a periodic Council election”.

(c) Section 81B (2)—

Omit “six”, insert instead “15”.

(d) Section 81B (4)—

Omit “*his name to signify his consent to his nomination.*”, insert instead “*the person’s name to signify the person’s consent to nomination and to certify that the place of residence stated opposite the person’s name is the person’s place of residence as enrolled.*”

(e) Section 81B (4)—

Omit “6”, insert instead “15”.

(f) Section 81B (4)—

From the form, omit “Subdivision.”.

(g) Section 81B (7)—

After section 81B (6), insert:

(7) Where a candidate at a periodic Council election dies, after being nominated and before noon on the day of nomination for the election, the day named as the day of nomination for the election shall be taken to be the day next succeeding the day so named.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*(31) Section 81D (**Dual nominations**)—

Omit the section, insert instead:

Dual nominations

81D. If at the close of nominations for a periodic Council election a person is nominated for that election more than once or for that election and for any election for a district each of those nominations is void.

(32) Section 81F (**Deposit**)—

Section 81F (1)—

Omit “\$200”, insert instead “\$750”.

(33) Section 86 (**Booths, how arranged etc.**)—

After “pencils”, insert “or other writing implements”.

(34) Section 89 (**Deputy returning officers to be furnished with copies of rolls and ballot-papers**)—

(a) Section 89 (1)—

Omit the subsection, insert instead:

(1) Before the day of polling the returning officer shall—

- (a) provide for use at each polling-place sufficient copies certified under his or her hand of the printed rolls in force for the district in which the poll is to be taken; and
- (b) deliver to each deputy, and retain, such numbers, respectively, of the ballot-papers as are sufficient for the use of the electors entitled to vote at each booth at which the returning officer and deputies, respectively, are to take the poll,

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

(b) Section 89 (3)—

After section 89 (2), insert:

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) A certified copy of the roll referred to in subsection (1) shall be a copy of the roll of the electors (including persons whose names have been placed on the roll in pursuance of a claim made under section 33A and who will have attained the age of 18 years on polling-day) on the roll in force for the district for which the polling-place has been declared to be a polling-place.

(35) Section 90 (**How scrutineers to be appointed**)—

Section 90 (6), (7)—

At the end of section 90, insert:

(6) A scrutineer does not breach subsection (2) (a) only because the scrutineer wears or displays any badge or emblem of a candidate or political party.

(7) Without limiting the generality of section 114, a scrutineer who, within a polling booth—

- (a) commits any breach of this section;
- (b) misconducts himself or herself; or
- (c) fails to obey the lawful directions of the returning officer or deputy,

may, on the request of the returning officer or deputy at the polling booth, be removed from the polling booth by a member of the police force.

(36) Section 97 (**Where electors may vote**)—

Section 97 (1)—

Omit “subdivision”, insert instead “district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(37) Sections 99, 99A—

Omit section 99, insert instead:

Questions to be put to voter

99. (1) The returning officer or deputy shall put the following questions to each person attending before him or her and claiming to vote in an election or elections:

- (a) What is your full name?
- (b) Where do you reside?
- (c) Have you voted before in this election? *or* Have you voted before in these elections? (as the case requires)

(2) In addition to the questions put under subsection (1), the returning officer or deputy shall ask each person claiming to vote as an absent voter in an election to identify the electoral district for which the person is enrolled.

(3) Where, in answer to the question specified in subsection (1) (b) put to the person by a returning officer or deputy, a person (other than an absent voter, an eligible overseas elector or an itinerant elector) gives a place of residence other than—

- (a) the person's residence shown on the roll; or
- (b) another residence in the electoral district in respect of which the person claims to vote,

the returning officer or deputy shall ask the following question: At what other place or places have you lived during the last 3 months?

(4) If the answers to the questions specified in subsection (1) (a) and (b) that are given by a person claiming to vote are not sufficient to distinguish that person from another person on the roll, the returning officer or deputy may, for the purpose of distinguishing the 2 persons, ask the person claiming to vote another question or other questions relating to matters shown on the roll in relation to those persons.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(5) Subject to section 99A, if a person claiming to vote to whom questions are put under this section—

- (a) refuses to answer fully any question so put to the person;
- (b) so answers the question specified in subsection (1) (b) and the question specified in subsection (3) as to indicate that the person is not entitled to vote by virtue of section 20 (6); or
- (c) answers a question specified in subsection (1) (c) in the affirmative,

the person's claim to vote shall be rejected.

Person whose residence is not on the roll

99A. Where an elector for an electoral district whose name appears, but whose residence does not appear, on the roll for a subdivision claims to vote at an election and to be an elector to whom section 38A applies, the elector may, subject to this Act and the regulations, be permitted to vote if the elector makes a declaration of residence in the prescribed form on an envelope, or, if the elector is an absent voter, on the envelope bearing the declaration made by the voter under section 115 (1), before the returning officer or deputy at the polling place.

(38) Section 100 (**Questions to be put if voter challenged**)—

Section 100 (a)—

Omit “subdivision”, insert instead “district”.

(39) Section 103A—

After section 103, insert:

Vote of person whose residence is not shown on the roll

103A. (1) Notwithstanding section 103 (1), if an elector votes under the provisions of section 99A, the elector shall mark and fold the elector's ballot-papers in the manner prescribed in this Act and return it so folded to the returning officer or deputy.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(2) The returning officer or deputy shall thereupon, in the presence of the elector and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the returning officer for the district for which the elector is enrolled and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

(3) The returning officer or the deputy shall, without opening the envelope, forthwith transmit it to the returning officer for the district for which the elector is enrolled.

(4) The returning officer or the deputy, on receipt of the envelope containing the ballot-paper, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the elector, and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the elector (as affected by any change of residence annotated on the request) shall deal with the ballot-paper in the manner prescribed in connection with the scrutiny of absent voters' ballot-papers.

(5) Subsections (1), (2), (3) and (4) do not apply in relation to a ballot-paper marked by an absent voter who makes a declaration of residence under section 99A, but, where a returning officer for a district receives an envelope bearing such a declaration in relation to the district, he or she shall examine the declaration and, if it is in order and he or she is satisfied that the residence specified in the declaration is the residence specified in a request under section 38A by the absent voter (as affected by any change of residence annotated on the request), shall deal with the ballot-paper in the scrutiny of absent votes.

(40) Section 106 (**Disputed vote**)—

(a) Section 106 (2)—

Omit "a subdivision" wherever occurring, insert instead "a district".

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 106 (2)—

Omit “that subdivision” wherever occurring, insert instead “a subdivision of that district”.

(c) Section 106 (2) (a) (i)—

Omit “six o’clock in the afternoon of the day of the issue of the writ for the election” wherever occurring, insert instead “the period commencing at 6 p.m. on a day that is 3 days after the date of issue of the writ for the election and ending on the close of polling at the election”.

(d) Section 106 (2) (a) (ii)—

Omit “six o’clock in the afternoon of the day of the issue of the writ”, insert instead “the period referred to in subparagraph (i)”.

(e) Section 106 (2) (b) (i)—

Omit “subdivision”, insert instead “district”.

(f) Section 106 (2) (b) (ii)—

Omit “the subdivision”, insert instead “a subdivision of the district”.

(41) Section 114A (**Application for postal vote certificate and postal ballot-paper**)—

(a) After section 114A (1) (d), insert:

(d1) is, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote;

(b) Section 114A (1) (e) (ii)—

Omit “or” where lastly occurring.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 114A (1) (f), (g)—

At the end of section 114A (1) (f), insert:

; or

- (g) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

(d) Section 114A (2) (b)—

Omit “in his own handwriting”.

(42) Sections 114AA, 114AB—

After section 114, insert:

Registration of general postal voters

114AA. (1) In this section—

“prescribed elector” means—

(a) an elector—

- (i) who is enrolled for a subdivision that is declared to be a remote subdivision by an order under section 23; and

- (ii) whose real place of living is not within 20 kilometres, by the nearest practicable route, of a polling place;

(b) an elector who—

- (i) is a patient in a hospital (not being a hospital that is a polling place or a declared institution under section 114ZN); and

- (ii) by reason of being seriously ill or infirm, is unable to travel from the hospital;

(c) an elector who—

- (i) is not a patient in a hospital; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (ii) by reason of being seriously ill or infirm, is unable to travel from the place where he or she resides;
- (d) an elector who is being kept in a prison (within the meaning of the Prisons Act 1952);
- (e) an elector who is enrolled pursuant to a claim made under section 32 (3); or
- (f) an elector whom a registered medical practitioner has certified, in writing, to be so physically incapacitated that the elector cannot sign the elector's name;

“register” means Register of General Postal Voters for a subdivision kept in accordance with subsection (11).

(2) A prescribed elector may make application to the registrar for the subdivision of the district for which the elector is enrolled to be registered as a general postal voter for the subdivision.

(3) An application under subsection (2) in relation to an elector to whom subsection (1) (e) or (f) applies may be made by another person acting on behalf of the elector.

(4) The certificate referred to in subsection (1) (f) shall be lodged with the application under subsection (2) to which it relates.

(5) An application under subsection (2) shall be in the prescribed form.

(6) If a registrar is satisfied that an elector making an application under subsection (2) is—

- (a) enrolled in the subdivision for which he or she is a registrar; and
- (b) a prescribed elector,

the registrar shall register the elector as a general postal voter for the subdivision by entering the name of the elector in the register referred to in subsection (11).

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(7) If a claim for enrolment or transfer of enrolment is made in respect of a person pursuant to section 32 (3) and the claim indicates that the person wishes to be a registered general postal voter, the registrar for the subdivision for which the person is claiming enrolment shall, forthwith upon enrolment, register the person as a general postal voter by entering the name of the person in the register.

(8) If a registrar for a subdivision registers an elector as a general postal voter for the subdivision, the registrar shall advise the elector, in writing, of the registration.

(9) If a registrar for a subdivision is not satisfied that an elector making an application under subsection (2) is enrolled for the subdivision, the registrar shall advise the elector, in writing, to that effect.

(10) If a registrar for a subdivision is not satisfied that an elector who is enrolled for the subdivision and who makes an application under subsection (2) is a prescribed elector, the registrar shall advise the elector, in writing, to that effect.

(11) A registrar for a subdivision shall cause a Register of General Postal Voters for the subdivision to be kept and shall cause to be entered in the register in relation to an elector who is registered as a general postal voter for the subdivision—

- (a) the name of the elector;
- (b) the residence shown on the roll for the subdivision for which the elector is enrolled as the real place of living of the elector; and
- (c) such other particulars as the Electoral Commissioner determines.

(12) A register shall be open for public inspection, without fee, during ordinary office hours at the office of the registrar.

(13) A registrar for a subdivision may cancel the registration of an elector as a general postal voter for the subdivision in such circumstances as are prescribed.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(14) A person shall not make, and a person shall not induce another person to make, any false statement in, or in connection with, an application under subsection (2) or in any declaration contained in, or made in connection with, such application.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(15) Registration under this section of an elector (other than an elector to whom subsection (1) (e) or (f) applies) shall not be taken to be prima facie evidence that the elector is entitled, upon application under section 114A, to a postal vote certificate and postal ballot-paper under that section.

(16) Where an elector who is a registered general postal voter for a subdivision (in this subsection referred to as the “original subdivision”) makes a claim under Part IV for transfer of enrolment to another subdivision (in this subsection referred to as the “new subdivision”)—

(a) the registrar for the original subdivision shall, upon receipt under section 35 (1) (b) (iv) of notice of the transfer of enrolment, give notice in writing to the registrar for the new subdivision that the elector was a registered general postal voter for the original subdivision and cancel the registration of the elector as a general postal voter for the original subdivision; and

(b) the registrar for the new subdivision shall, upon receipt of notice under paragraph (a), register the elector as a general postal voter for the new subdivision unless the registrar is satisfied that the elector would not be entitled to be so registered if the elector made an application under subsection (2).

(17) A registrar for a subdivision shall, when directed to do so by the Electoral Commissioner, conduct a review of the register for the subdivision and, upon completion of the review, shall make such alterations to the register as he or she thinks necessary to ensure that—

(a) only electors entitled to be registered general postal voters for the subdivision are so registered; and

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) the details entered in the register in relation to registered general postal voters are accurate.

Dispatch of electoral materials to registered postal voters

114AB. (1) A returning officer for the district for which the elector is enrolled shall, as soon as practicable after the issue of the writ for an election to be held in that district, send an application form for a postal vote certificate and postal ballot-paper under section 114A to each elector who is, on that day, a registered general postal voter (other than a registered general postal voter to whom subsection (2) applies) in the district, together with an envelope addressed to the returning officer.

(2) A returning officer for a district shall, as soon as practicable after the issue of the writ for an election to be held in the district, deliver or post to each elector who—

- (a) is, on that day, a registered general postal voter for a subdivision of the district; and
- (b) became a registered general postal voter in pursuance of a claim made under section 32 (3) or in pursuance of an application made in pursuance of section 114AA (1) (e) or (f),

a postal vote certificate printed on an envelope addressed to the returning officer and 1 postal ballot-paper for a periodic Council election, or 1 postal ballot-paper for an Assembly general election or by-election, or both, as the case requires.

(43) Section 114C (Duty of witnesses)—

- (a) Section 114C (1) (b)—

Omit “in his the applicant’s own handwriting”.

(44) Section 114F (Numbering of applications and certificates)—

- (a) Section 114F (1) (a)—

Omit “subdivision of an electoral district (whether or not it is a subdivision of the electoral district for which he is the returning officer)”, insert instead “electoral district”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114F (1) (b)—

Omit “and subdivision thereof”.

(45) Section 114GA—

After section 114G, insert:

Person claiming to vote, whose name is noted under section 114G

114GA. (1) Notwithstanding anything contained in section 114G, if a person whose name has been noted on a certified copy of the roll as an elector to whom a postal vote certificate and postal ballot-paper have been issued—

- (a) claims to vote in an election at a polling booth; and
- (b) states, when requested to deliver to the returning officer or deputy for cancellation of the person's postal certificate and postal ballot-paper, that the person has not received, or has lost, a postal vote certificate or a postal ballot-paper,

the person may, subject to sections 20 and 99 and the regulations, be permitted to vote, if the person makes a declaration in the prescribed form before the returning officer or deputy at the polling-booth.

(2) The ballot-paper of a voter voting under this section shall be dealt with in accordance with the provisions of section 106 (3).

(46) Section 114H (**Directions for postal voting**)—

(a) Section 114H (1) (b)—

After “elector”, insert “if he or she is not a registered general postal voter who became so registered in pursuance of a claim made under section 32 (3) or in pursuance of an application made under section 114AA (1) (e) or (f)”.

(b) Section 114H (1) (b)—

Omit “in his own handwriting”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(c) Section 114H (1) (f)—

After “so impaired”, insert “, or the elector is otherwise so physically incapacitated or so illiterate,”.

(d) Section 114H (1) (g)—

Omit “unless the elector’s sight is so impaired that he cannot vote without assistance and no person is appointed by the elector to make his vote for him”, insert instead “otherwise than pursuant to a request made by the elector in accordance with paragraph (f)”.

(e) Section 114H (1A)—

After section 114H (1), insert:

(1A) Without limiting the generality of the proviso to subsection (1) (f), an elector to whom the proviso applies may indicate to the authorised witness the manner in which the elector wishes the authorised witness to mark the elector’s ballot-paper for the elector by presenting to the authorised witness a statement in writing (which may be, or include, a how-to-vote card) that specifies the manner in which the ballot-paper is to be marked.

(47) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

Section 114J (1) (b)—

After “impaired”, insert “, or who is otherwise so physically incapacitated or so illiterate,”.

(48) Section 114K (**Duty of persons present when an elector votes by post**)—

Section 114K (b)—

Omit “in the case of persons whose sight is impaired”.

(49) Section 114P (**Application for permission to vote before polling day**)—

(a) Section 114P (1) (c)—

Omit “or”.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114P (1) (e), (f)—

After section 114P (1) (d) (ii), insert:

- (e) will be, at a place other than a hospital, caring for a person who is seriously ill or infirm or approaching maternity and by reason of caring for the person will be precluded from attending at any polling booth to vote; or
- (f) will, by reason of being engaged for fee, gain or reward in any work throughout the hours of polling on polling day, be precluded from attending at any polling booth to vote,

(c) Section 114P (2) (b)—

Omit “in his own handwriting;”, insert instead “; and”.

(d) Section 114P (2) (c)—

Omit the paragraph.

(e) Section 114P (2) (d)—

Omit the paragraph, insert instead:

- (d) be made between noon on the day of nomination and 6 p.m. on the day preceding polling day—
 - (i) to a returning officer during the ordinary business hours of that office; or
 - (ii) to a deputy returning officer at an appointed place on a day that is, and during hours that are, declared by the Electoral Commissioner, by notice published in the Gazette, to be an appointed day and appointed hours for the purposes of this section.

(f) Section 114P (6), (7)—

Omit the subsections, insert instead:

- (6) The Electoral Commissioner may, by notice published in the Gazette, declare a place to be an appointed place for the purposes of this section.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (50) Section 114Q (**Procedure for voting before polling day**)—
Section 114Q (2)—
Omit “in his own handwriting”.
- (51) Section 114T (**Assistance to certain electors**)—
Section 114T (1)—
Omit “that his sight is so impaired that he”, insert instead “that the elector’s sight is so impaired or that the elector is otherwise so physically incapacitated or so illiterate that the elector”.
- (52) Section 114X (**Preliminary scrutiny of ballot-papers of electors under section 114Q**)—
Section 114X (2) (a)—
Omit “by an authorised witness”.
- (53) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—
(a) Section 114ZA (2) (b)—
Omit “in his own handwriting”.
(b) Section 114ZA (6) (b)—
Omit “in the elector’s own handwriting”.
- (54) Section 114ZD (**Directions for postal voting**)—
(a) Section 114ZD (b)—
Omit “in his own handwriting”.
(b) Section 114ZD (f)—
After “impaired”, insert “, or the elector is otherwise so physically incapacitated or so illiterate,”.
- (55) Section 114ZR (**Procedure for voting at declared institutions**)—
(a) Section 114ZR (4)—
Omit “in his own handwriting”.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 114ZR (10) (a)—

Omit “a subdivision of the”.

(c) Section 114ZR (10) (a) (i)—

Omit “subdivision”, insert instead “district”.

(d) Section 114ZR (10) (b)—

Omit “a subdivision of a”.

(56) Section 115 (**Voting outside district**)—

(a) Section 115 (1)—

Omit “subdivision” wherever occurring, insert instead “electoral district”.

(b) Section 115 (1) (c)—

Omit “in the form of Schedule 11”, insert instead “in the prescribed form”.

(57) Section 117—

Omit the section, insert instead:

Returning officer satisfied to accept ballot-paper for further scrutiny

117. (1) The returning officer for the district for which the voter declares that the voter is enrolled or the officer assisting the returning officer shall, in the presence of the scrutineers, examine the declaration on the envelope containing the absent voter's ballot-paper, and if it appears to the returning officer—

- (a) that a person of the same name and description as the person whose name is signed to the declaration is enrolled for the district and that the declaration is duly attested, shall accept the ballot-paper for further scrutiny; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) that the person whose name is signed to the declaration is enrolled for some other district than that for which the person declared he or she is enrolled, shall arrange for the envelope to be promptly delivered to the returning officer for the district for which the person is enrolled to be dealt with in the manner set out in subsection (4),

but otherwise shall reject the ballot-paper without opening the envelope.

(2) Notwithstanding subsections (1) and (4), an absent voter's ballot-paper shall not be rejected for further scrutiny only because the voter's declaration is not attested if, before the declaration of the poll, the returning officer for the district in which the declaration was made certifies that the returning officer or deputy has forwarded an envelope containing the absent voter's ballot-paper in accordance with section 116.

(3) If the returning officer or the officer assisting him or her accepts the ballot-paper for further scrutiny, he or she shall open the envelope without destroying the declaration and extract the ballot-paper, and without unfolding it, place the ballot-paper in the ballot-box.

(4) The returning officer for a district to whom an envelope is forwarded under subsection (1) (b) or officer assisting the returning officer shall, if the person whose name is signed to the declaration on the envelope is enrolled for the district and the declaration is duly attested, open the envelope and withdraw any ballot-paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot-paper or allowing any other person to do so—

- (a) in the case of any ballot-paper for a periodic Council election, shall accept the ballot-paper for further scrutiny and place it in the ballot-box; and
- (b) in the case of any ballot-paper for an Assembly election, shall disallow the ballot-paper,

but otherwise shall reject the ballot-paper without opening the envelope.

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(58) Section 120A—

Before section 120B, insert:

Interpretation

120A. In this Division—

“marked roll” means the copy of the roll for an electoral district marked in accordance with section 120B.

(59) Section 120B (**Returning officer to send marked roll to Electoral Commissioner**)—

(a) Section 120B (a)—

Omit “(which copy is hereinafter referred to as the ‘marked roll’)”.

(b) Section 120B (a)—

After “that election”, insert “and who appear not to have had sufficient reason for the failure”.

(60) Sections 120C–120F—

Omit the sections, insert instead:

Penalty notice to be issued for failure to vote

120C. (1) If an elector is indicated on a marked roll as not having sufficient reason for failing to vote at an election, the Electoral Commissioner shall, within 3 months after the close of the poll, serve a penalty notice on the elector by leaving it at, or sending it by post to, the residence of the elector set out on the roll.

(2) A penalty notice is a notice in the prescribed form to the effect that, if the elector does not desire to have the failure to vote dealt with by a court, he or she may, within the prescribed time—

(a) give the Electoral Commissioner a sufficient reason for the failure; or

(b) pay to the Electoral Commissioner a penalty, specified in the notice, not exceeding \$25.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An elector served with a penalty notice may decline to be dealt with under this section and shall be presumed to have done so if, within the prescribed time for a response to the notice, the elector, or a person on behalf of the elector, does not—

- (a) give the Electoral Commissioner a reason for the failure to vote; or
- (b) pay to the Electoral Commissioner the penalty specified in the notice.

(4) If, in response to a penalty notice and within the time prescribed for the response—

- (a) the Electoral Commissioner is given a sufficient reason for the failure to vote; or
- (b) the penalty specified in the notice is paid to the Electoral Commissioner,

proceedings against any person for the failure to vote are prohibited.

(5) If, in response to a penalty notice, the Electoral Commissioner is given a reason for the failure to vote but the reason is not a sufficient reason, the Electoral Commissioner shall include a statement to that effect in any courtesy letter served under section 100J of the Justices Act 1902.

(6) For the purposes of this section, it is a sufficient reason for the failure of an elector to vote at an election if the Electoral Commissioner is satisfied that he or she—

- (a) is dead;
- (b) was absent from New South Wales on polling-day;
- (c) was ineligible to vote at the election;
- (d) had an honest belief that abstention from voting was part of his or her religious duty; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(e) was unable for any reason acceptable to the Electoral Commissioner to vote at the election,
or had voted in the election under an enrolment on a roll other than the marked roll indicating the failure.

(7) In this section, a reference to the prescribed time for a response to a penalty notice is a reference to—

- (a) the time for response specified in the notice; or
- (b) if the Electoral Commissioner extends that time (whether before or after its expiration)—the extended time.

Notation on marked roll of response to penalty notice

120D. The Electoral Commissioner shall note on the marked roll in relation to each elector on whom a penalty notice is served—

- (a) whether or not there has been a response to the notice; and
- (b) if there has been a response—whether or not a sufficient reason has been given or the penalty paid.

Evidence in marked roll

120E. (1) A notation on the marked roll to the effect—

- (a) that an elector was served with a penalty notice—is evidence of service of the notice;
- (b) that there was no response to a penalty notice served on an elector—is evidence that there was no such response within the prescribed time under section 120C; or
- (c) that a reason for an elector's failure to vote was given in response to a penalty notice but was insufficient—is evidence that the reason given was not a sufficient reason under section 120C.

(2) Subsection (1) applies in relation to a copy of, or an extract from, the marked roll certified by the Electoral Commissioner to be such a copy or extract in the same way as it applies in relation to the marked roll.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Offences relating to failure to vote**

120F. (1) An elector who fails to record his or her vote at an election when required to do so is guilty of an offence and liable to a penalty not exceeding \$50.

(2) A person (whether or not an elector) who, in response to a penalty notice, gives a false reason for the failure of an elector to vote is guilty of an offence and liable to a penalty not exceeding \$50.

(3) In this section, “elector” does not include—

- (a) an Antarctic elector;
- (b) an eligible overseas elector; or
- (c) an itinerant elector.

(61) Section 120H (**Procedure**)—

Omit the section.

(62) Section 120J (**Additional provisions applicable where polling-day for Assembly and periodic Council elections is same day**)—

(a) Section 120J (n)—

Omit “or Schedule 20”.

(b) Section 120J (n)—

After “one”, insert “penalty”.

(63) Section 129C (**Sealing and transmission of separate parcels or ballot-papers etc.**)—

Section 129C (1) (a), (f)—

Omit “polling-booth” wherever occurring, insert instead “polling place”.

(64) Section 151A (**Printing etc. false information**)—

(a) Section 151A (1) (a)—

Omit “or” where lastly occurring.

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SCHEDULE 1—*continued*

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(b) Section 151A (1) (b)—

Omit “vote—”, insert instead “vote; or”.

(c) Section 151A (1) (c)—

After section 151A (1) (b), insert:

(c) prints, publishes or distributes any “how to vote” card, electoral advertisement, notice, handbill, pamphlet or card using—

(i) the name, an abbreviation or acronym of the name or a derivative of the name of a party respectively included in the Register of Parties kept under the Election Funding Act 1981 (or a name or abbreviation resembling such a name, abbreviation, acronym or derivative) in a way that is intended or likely to mislead any elector; or

(ii) the word “Independent” and the name or an abbreviation or acronym of the name or a derivative of the name or a party respectively included in that Register in a way that suggests or indicates an affiliation with that party,

(d) Section 151A (3)—

After section 151A (2), insert:

(3) Subsection (1) (c) (ii) does not apply in a case where the word “Independent” is included in the name of the party as registered in the Register of Parties.

(65) Section 151B (**Exhibition of posters**)—

(a) Section 151B (3) (b)—

Omit “or” where lastly occurring.

(b) Section 151B (3) (c), (d)—

At the end of section 151B (3) (c), insert:

; or

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (d) the posting up or exhibition of any poster on or at the electoral office of any member.

(66) Sections 151F, 151G—

After section 151E, insert:

Distribution of electoral matter on polling-day

151F. (1) A person shall not, in a public place, distribute any electoral material on the polling-day for an election unless the material has been registered under section 151G.

Penalty: \$1,000 or imprisonment for 6 months.

(2) For the purposes of this section and without limiting its operation, material shall be taken to be distributed if it is left in such a position and in such circumstances as to indicate that it is intended to be available for collection by members of the public who are in a public place.

(3) In this section, “electoral material” means any “how to vote” card, handbill, pamphlet or card—

- (a) containing any representation of a ballot-paper or portion of a ballot-paper;
- (b) containing any representation apparently intended to represent a ballot-paper or portion of a ballot-paper; or
- (c) having on it any directions or suggestions (whether express or implied) in relation to the casting of votes.

Registration of electoral matter

151G. (1) For the purposes of section 151F, an application may be made, in accordance with the regulations, to the Electoral Commissioner for the registration of electoral material for a particular election.

(2) An application must be made during the period commencing on the day of nomination for the election and ending on the day that is 8 days before polling day for the election, or during such other period as is fixed by the writ for the election.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) An application must contain a draft or sample of the electoral material.

(4) The Electoral Commissioner may allow the draft or sample to be altered or replaced before agreeing to registration.

(5) Registration of the electoral material is effected by the issue of a certificate of registration (in a form approved by the Electoral Commissioner) in respect of a draft or sample of the electoral material.

(6) The Electoral Commissioner shall register the electoral material if satisfied that registration is not prohibited by this section.

(7) The Electoral Commissioner may however refuse to register the electoral material if the application for registration was not made in accordance with this section.

(8) The Electoral Commissioner shall not register the electoral material if it appears to the Commissioner—

(a) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party, group of candidates or candidate, that—

(i) the party, group or candidate is not registered under the Election Funding Act 1981; or

(ii) the application was not made by the party agent, by the candidates in the group or their official agent or by the candidate or the candidate's official agent (respectively);

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) in the case of material that contains any representation or indication (whether express or implied) that any candidate is a member of, or pursues or supports any or all of the objects or platform (whether with or without modification) of, a particular political party or group of candidates, that—
 - (i) the party or group is not registered under the Election Funding Act 1981;
 - (ii) the candidate's affiliation with the party or group is not included in the Register of Candidates under that Act; or
 - (iii) the application was not endorsed in writing by the party agent or by the other candidates in the group or their official agent;
- (c) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party or group of candidates in respect of an electoral district, that—
 - (i) the party or group has not endorsed a candidate for the district; or
 - (ii) the material directs or suggests that a candidate not endorsed by it should be given the first preference vote;
- (d) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a political party or group of candidates in respect of a periodic Council election, that—
 - (i) the party or group has not endorsed a candidate for the election; or
 - (ii) the material directs or suggests that a candidate or candidates not endorsed by it should be given the first or highest preference or preferences;

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (e) in the case of material that contains directions or suggestions (whether express or implied) as to how to vote in accordance with the ticket of a candidate in respect of an electoral district or periodic Council election, that—
 - (i) the candidate is not a candidate for that district; or
 - (ii) the candidate is not a candidate in that election;
 - (f) that the material is intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of his or her vote, because of the use, in the material, of any matter suggesting or indicating party or group affiliation (whether or not that matter is the same as or similar to matter included in a register under the Election Funding Act 1981); or
 - (g) that the material contains words that are obscene or offensive.
- (9) Registration may be unconditional or subject to conditions specified in the certificate of registration.
- (10) A certificate signed by the Electoral Commissioner and certifying that specified material was or was not registered on a specified day or during a specified period is admissible in proceedings for an offence under section 151F and is *prima facie* evidence of the matters certified.
- (11) Electoral material shall be taken to be registered in accordance with this section even though the material contains some differences from the draft or sample in respect of which the certificate of registration was issued, so long as the material is substantially the same as the draft or sample.
- (12) Registration of electoral material is not a defence to a prosecution for an offence under section 151A.
- (13) In this section—
- “electoral material” has the same meaning as in section 151F;
 - “official agent” and “party agent” have the same meanings as in the Election Funding Act 1981.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(67) Part V, Division 18—

After Division 17, insert:

DIVISION 18—*Special provisions relating to the polling in Antarctica*

Interpretation

154AA. In this Division—

“Antarctic elector” means an elector who—

- (a) is, in the course of his or her employment, in Antarctica on the polling day for an election; and
- (b) has made a request under section 154AD that he or she be treated, while he or she is in Antarctica, as an Antarctic elector;

“Antarctica” means the Australian Antarctic Territory and includes—

- (a) the Territory of Heard Island and McDonald Islands; and
- (b) Macquarie Island;

“station” means a research station in Antarctica that is operated by the Commonwealth;

“transmit” includes transmit by radio-telephone or telex.

Antarctic Returning Officers and Assistant Returning Officers

154AB. (1) There shall be an Antarctic Returning Officer, and an Assistant Antarctic Returning Officer, for each station.

(2) Antarctic Returning Officers and Assistant Antarctic Returning Officers shall be appointed by the Electoral Commissioner by instrument in writing.

(3) The person in charge of a station shall not be appointed to be the Antarctic Returning Officer, or Assistant Antarctic Returning Officer, for that station.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued**

(4) The person in charge of a station may, by instrument in writing, appoint a person (including the Assistant Antarctic Returning Officer) to act as the Antarctic Returning Officer for the station during any period, or during all periods, when the Antarctic Returning Officer for the station is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

(5) The person in charge of a station may, by instrument in writing, appoint a person to act as the Assistant Antarctic Returning Officer for the station during any period, or during all periods, when the Assistant Antarctic Returning Officer for the station is acting as Antarctic Returning Officer for the station, is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of his or her office.

(6) While a person is acting as the Antarctic Returning Officer, or as the Assistant Antarctic Returning Officer, for a station, he or she has and may exercise all the powers, and shall perform all the functions, of the Antarctic Returning Officer, or the Assistant Antarctic Returning Officer, for the station, as the case requires.

Application of this Part to polling in Antarctica

154AC. (1) Except as provided by this Division, the provisions of Divisions 2, 3, 7, 8 (other than sections 103 (2) and (3), 108, 109 and 110) and 10–12 do not apply to the taking of a poll in Antarctica.

(2) In the application, by virtue of this Division, of a provision of this Part to the taking of a poll in Antarctica—

- (a) a reference in that provision to the returning officer in relation to a polling place shall be read as a reference to the Antarctic Returning Officer in relation to a station; and
- (b) a reference in that provision to the poll clerk in relation to a polling place shall be read as a reference to the Assistant Antarctic Returning Officer in relation to a station.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Antarctic electors**

154AD. (1) An elector who is, or expects to be, in the course of the elector's employment, in Antarctica may, by notice given to the registrar for the subdivision of the district for which the elector is enrolled, request to be treated, while the elector is in Antarctica, as an Antarctic elector in relation to any election the polling day of which occurs while the elector is in Antarctica.

(2) A notice shall be given to the registrar by lodging it with or sending it by post to the registrar.

(3) A notice is not effective, in relation to an election, unless it is received by a registrar before noon on the day of nomination for the election.

(4) Upon the receipt of a request to be treated as an Antarctic elector made by an elector, the registrar shall—

(a) annotate the roll for the subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector; and

(b) notify the Electoral Commissioner that the roll has been so annotated.

(5) Notwithstanding anything in section 33 (1) or (2), while a person is entitled to be treated as an Antarctic elector by virtue of an annotation to the roll for a subdivision, the person is entitled to—

(a) have his or her name retained on the roll for the subdivision; and

(b) vote as an elector of the subdivision.

(6) A registrar shall delete an annotation made under subsection (4) in relation to an elector immediately after becoming aware that the elector has ceased to be in Antarctica and shall notify the Electoral Commissioner accordingly.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Arrangements for the polling in Antarctica**

154AE. (1) If, in the case of a periodic election for the Council, the proceedings stand adjourned to polling day, the Electoral Commissioner shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- (b) the name of the elector and the particulars relating to the elector that are entered on the roll.

(2) If, in the case of an election for the Assembly, the proceedings on the day of nomination stand adjourned to polling day, a returning officer on the roll for whose subdivision there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based—

- (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election; and
- (b) the name of the elector and the particulars relating to the elector that are entered on the roll for the subdivision.

(3) If information is transmitted by the Electoral Commissioner or a returning officer to an Antarctic Returning Officer in pursuance of this section, both the Electoral Commissioner or the returning officer, as the case may be, and the Antarctic Returning Officer shall, immediately after the transmission, cause a statement in writing of the information transmitted to be prepared.

(4) Sections 82–83B apply in relation to ballot-papers prepared under this section as if a reference in sections 83 and 83B to the printing of ballot-papers were a reference to such preparation.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****Ballot-papers to be signed or initialled**

154AF. Section 102 applies to the polling at a station in Antarctica as if the reference in that section to the returning officer or deputy were a reference to the Antarctic Returning Officer for that station.

Candidates not to take part in polling

154AG. A candidate shall not take part in any way in the conduct of the polling in Antarctica.

The polling in Antarctica

154AH. (1) The polling at a station in Antarctica shall be conducted as follows:

- (a) before any vote is taken, the Antarctic Returning Officer for the station shall exhibit the ballot-box empty, and shall then securely fasten its cover;
- (b) the poll shall be open during such hours on such days as the Antarctic Returning Officer, subject to subsection (2), directs; and
- (c) the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall, at all times at which the poll is open, be present in that part of the station at which the polling is taking place.

(2) The polling at a station in relation to an election shall not continue beyond 6 p.m. by standard time in New South Wales (other than in the County of Yancowinna and Lord Howe Island) on the day of polling in the election.

Entitlement of Antarctic electors to vote

154AI. An Antarctic elector whose name has been transmitted to the Antarctic Returning Officer for a station in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, is entitled to vote at the station during the period when the poll is open at that station.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****Questions to be put to voter**

154AJ. (1) The Antarctic Returning Officer for a station shall put the following questions to each person claiming to vote at the station in an election or elections:

- (a) What is your full name?
- (b) Have you voted before in this election? *or* Have you voted in these elections? (as the case requires)

(2) If a person who claims to vote at a station and to whom questions are put under this section—

- (a) refuses to answer fully any question so put to the person;
or
- (b) does not answer the question referred to in subsection (1)
(b) absolutely in the negative, when put to the person,

the person's claim to vote at the station shall be rejected.

Right of Antarctic elector to receive ballot-paper

154AK. The Antarctic Returning Officer or the Assistant Antarctic Returning Officer for a station shall, at the polling, give to each person claiming to vote at the station a ballot-paper for the district for which the person is enrolled, duly initialled by the Antarctic Returning Officer, if the name under which the person claims to vote has been transmitted to the Antarctic Returning Officer in pursuance of section 154AE (1) (b) or (2) (b), as the case may be, and the person's claim to vote is not rejected.

List of Antarctic electors to be marked

154AL. Immediately upon giving a ballot-paper to a person claiming to vote, the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall record on the statement prepared by him or her under section 154AE (3) the fact that the ballot-paper has been given to that person.

SCHEDULE 1—continued**AMENDMENTS TO THE PRINCIPAL ACT—continued****Application of sections 103 (1) and 108**

154AM. Sections 103 (1) and 108 (1) apply to the polling at a station as if—

- (a) each reference in those subsections to an unoccupied compartment of the booth were a reference to an unoccupied part of the station; and
- (b) section 103 (1) (c) were omitted.

Proceedings by Antarctic Returning Officer upon close of poll

154AN. At the close of the poll, the Antarctic Returning Officer shall, in the presence of the Assistant Antarctic Returning Officer—

- (a) open the ballot-box;
- (b) transmit, or cause to be transmitted, to the Electoral Commissioner—
 - (i) particulars of each elector who has voted;
 - (ii) unless subparagraph (iii) applies—particulars of the marking of each ballot-paper; and
 - (iii) if the Antarctic Returning Officer is unable clearly to read or understand the particulars referred to in subparagraph (ii)—a statement to that effect together with such information relating to those particulars as the Antarctic Returning Officer thinks sufficient to explain that inability; and
- (c) cause a statement in writing of the information transmitted to be prepared.

Result of the polling in Antarctica

154AO. (1) Upon receipt of the particulars referred to in section 154AN (b) (ii), the Electoral Commissioner shall forthwith—

- (a) initial the back of a postal ballot-paper appropriate for the district for which the vote was cast;

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

- (b) cause those particulars to be transcribed onto the postal ballot-paper;
- (c) seal the postal ballot-paper in an envelope;
- (d) indorse the envelope with his or her signature; and
- (e) cause to be sent to the returning officer for the district to which the ballot-paper relates the envelope containing the postal ballot-paper.

(2) A returning officer or deputy shall not mark a postal ballot-paper referred to in this section in a manner that is likely to enable the ballot-paper to be identified as representing the vote of an Antarctic elector.

(3) Upon receipt of information under subsection (1), the Electoral Commissioner shall forthwith—

- (a) cause a statement in writing of that information to be prepared; and
- (b) cause to be sent to each returning officer for the district to which a ballot-paper referred to in paragraph (1) (b) relates particulars of the Antarctic electors who have voted in the election in relation to the district.

(4) A reference in this Part to scrutiny—

- (a) includes a reference to scrutiny of any act or thing done in pursuance of subsection (1) (a) to (d); and
- (b) does not include a reference to scrutiny of—
 - (i) any act or thing done in Antarctica; or
 - (ii) the transmission of any information to or from Antarctica.

(5) For the purposes of section 114L, a ballot-paper marked in accordance with subsection (1) (b) shall be deemed to have been used for voting in pursuance of this Part.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued***Preservation of ballot-papers etc.**

154AP. (1) As soon as practicable after the close of the poll for an election, the Antarctic Returning Officer for each station shall forward to the Electoral Commissioner a copy of the statements prepared by him or her under sections 154AE (3) and 154AN (c) and the ballot-papers prepared by him or her and used for voting in Antarctica.

(2) The documents to which this subsection applies that are used at or in connection with an election shall be preserved in accordance with directions of the Electoral Commissioner for the purposes of this subsection until—

- (a) the election can no longer be questioned; or
- (b) the expiration of the period of 6 months commencing on the date of the declaration of the poll,

whichever later occurs.

(3) Subsection (2) applies to the following documents:

- (a) the statements referred to in sections 154AE (3), 154AN (c) and 154AO (3) (a);
- (b) the postal ballot-papers referred to in section 154AO (1) (b);
- (c) the ballot-papers prepared by an Antarctic Returning Officer and used for voting in Antarctica.

(68) Section 163 (Inquiries by Court)—

Section 163 (2)—

At the end of section 163, insert:

(2) Where the court makes inquiries in relation to ballot-papers marked in Antarctica pursuant to the provisions of Division 18 of Part V, a statement of the particulars of the marking of the ballot-papers prepared by the Electoral Commissioner under section 154AO is, unless the court otherwise orders, conclusive evidence of the particulars stated.

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(69) Schedules 11, 20—

Omit the Schedules.

SCHEDULE 2

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES(1) Section 38 (**Penalty on officer neglecting to enrol claimants**)—

Omit “fifty dollars”, insert instead “\$1,000”.

(2) Section 51 (**Witness to application must be satisfied of truth of statements**)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(3) Section 52 (**Failure to transmit claim**)—

Omit “two hundred dollars”, insert instead “\$1,000”.

(4) Section 55 (**Regulations**)—

Section 55 (2)—

Omit “fifty dollars”, insert instead “\$500”.

(5) Section 90 (**How scrutineers to be appointed**)—

Section 90 (4)—

Omit “\$25”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(6) Section 93 (**Who may be present at polling-booth**)—

Section 93 (2)—

Omit “fifty dollars”, insert instead “\$500”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(7) Section 106 (**Disputed vote**)—

Section 106 (3) (b)—

Omit “imprisonment for a term not exceeding three months”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(8) Section 111 (**Ballot-papers not to be removed from polling-booth etc.**)—

Omit “\$50”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(9) Section 112 (**False answer to questions etc. or double voting a misdemeanour**)—

Section 112 (1)—

Omit “imprisonment not exceeding six months”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(10) Section 114A (**Application for postal vote certificate and postal ballot-paper**)—

Section 114A (2B), (3)—

Omit “Any person contravening any provision of this subsection shall be liable to a penalty not exceeding one hundred dollars or to be imprisoned for a term not exceeding one month.” wherever occurring, insert instead:

Penalty: \$1,000 or imprisonment for 6 months, or both.

(11) Section 114C (**Duty of witnesses to application**)—

Section 114C (1)—

Omit “Any person contravening any provision of this subsection shall be liable to a penalty not exceeding one hundred dollars or to be imprisoned for a term not exceeding one month.”, insert instead “Penalty: \$500.”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(12) Section 114I (**Duty of authorised witness**)—

Omit “two hundred and fifty dollars, or to imprisonment for three months”, insert instead “\$1,000”.

(13) Section 114J (**Penalty for unlawfully marking etc. ballot-paper**)—

(a) Section 114J (2)—

Omit “Any person contravening any of the provisions of this subsection shall be liable to a penalty not exceeding two hundred and fifty dollars.”, insert instead “Penalty: \$500.”.

(b) Section 114J (3)—

Omit “and shall be liable to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding one month”.

(c) Section 114J (3)—

At the end of the subsection, insert:

Penalty: \$1,000.

(14) Section 114K (**Duty of persons present when an elector votes by post**)—

Omit “Any person contravening any of the provisions of this section shall be liable to a penalty not exceeding two hundred and fifty dollars, or to imprisonment for three months.”, insert instead:

Penalty: \$1,000.

(15) Section 114P (**Application for permission to vote before polling day**)—

Section 114P (3)–(5)—

Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(16) Section 114Q (**Procedure for voting before polling day**)—

Omit “\$250 or imprisonment for three months”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

SCHEDULE 2—*continued*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*(17) Section 114U (**Appointment of scrutineers**)—

Section 114U (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(18) Section 114v (**Penalty for unlawfully marking ballot-paper**)—

Omit “\$500 or imprisonment for six months”, insert instead “\$1,000”.

(19) Section 114w (**Duty of persons present when elector votes under section 114Q**)—

Omit “\$250 or imprisonment for three months”, insert instead “\$1,000”.

(20) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**)—

Omit “\$100 or imprisonment for one month” wherever occurring, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(21) Section 114zT (**Appointment of scrutineers**)—

Section 114zT (4)—

Omit “\$25”, insert instead “\$1,000 or imprisonment for 6 months, or both”.

(22) Section 114zU (**Penalty for unlawfully marking ballot-paper etc.**)—

Omit “\$500 or imprisonment for 6 months”, insert instead “\$1,000”.

(23) Section 114zV (**Duty of persons present when elector votes under this Division**)—

Omit “\$250 or imprisonment for 3 months”, insert instead “\$1,000”.

SCHEDULE 2—continued**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—continued****(24) Section 115 (Voting outside district)—****Section 115 (3)—**

Omit “imprisonment for a term not exceeding three months”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(25) Section 129 (Penalty for breaking seal of or opening packet or parcel)—

Omit “, shall be guilty of a misdemeanour, and be liable to be fined any sum not exceeding five hundred dollars, or to be imprisoned for any term not exceeding six months, or to be both fined and imprisoned within the aforesaid limits.”, insert instead:
is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(26) Section 129J (Penalty for breaking seal of or opening packet or parcel)—

Omit “, shall be guilty of a misdemeanour, and be liable to a penalty not exceeding \$500, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.”, insert instead:

is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(27) Section 147 (Who guilty of the misdemeanour of bribery etc.)—

(a) Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Omit “six”, insert instead “6”.

(28) Section 150 (Penalty for “treating”)—**(a) Section 150—**

Omit “five hundred dollars”, insert instead “\$1,000”.

(b) Section 150—

Omit “six”, insert instead “6”.

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SCHEDULE 2—*continued*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued*

(29) Section 151 (**Intimidation**)—

Omit “the respective punishments provided by section 150”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(30) Section 151A (**Printing etc. false information**)—

Section 151A (1)—

Omit “shall be liable to a penalty not exceeding five hundred dollars, or in the discretion of the court to imprisonment for a term not exceeding six months”, insert instead “shall be liable—

- (a) if the person is a corporation—to a penalty not exceeding \$5,000; or
- (b) in any other case—to a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(31) Section 176B (**Disorderly conduct at public political meetings**)—

(a) Section 176B (1)—

Omit “, and liable to a penalty not exceeding fifty dollars or to imprisonment for a term not exceeding one month”.

(b) Section 176B—

At the end of the section, insert:

Penalty: \$500.

(32) Section 176C (**Signature to electoral paper**)—

Section 176 (5)—

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

(33) Section 176D (**Untrue statements in forms**)—

Section 176D (1)—

Omit “one hundred dollars”, insert instead “\$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

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SCHEDULE 2—*continued*

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
PENALTIES—*continued***

(34) Section 176E (Witnessing electoral papers)—

Omit “two hundred and fifty dollars”, insert instead “\$1,000”.

(35) Section 176F (Forging or uttering electoral papers)—

Omit “imprisonment for any term not exceeding two years”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

(36) Section 177 (Offence of stuffing ballot-box)—

Omit “be imprisoned for any term not exceeding one year”, insert instead “a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both”.

SCHEDULE 3

(Sec. 5)

SAVINGS AND TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“Commonwealth Act” means the Commonwealth Electoral Act 1918 of the Commonwealth;

“elector” means a person whose name appears on the roll of electors entitled to vote at elections under the Principal Act.

Eligible overseas electors and itinerant electors

2. If a person—

- (a) was, immediately before the commencement of Schedule 1 (4), enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an eligible overseas elector or itinerant elector under that Act; and
- (b) is, after that commencement, entitled to be enrolled as an elector, or continue to be enrolled as an elector, pursuant to section 20A, 20B or 20C of the Principal Act,

*Parliamentary Electorates and Elections (Amendment) 1987*SCHEDULE 3—*continued*SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

the Electoral Commissioner shall cause the person to be enrolled or continue to be enrolled as an elector under the Principal Act and to annotate the roll to indicate that the elector is an eligible overseas elector or an itinerant elector and the elector shall be deemed to be an eligible overseas elector or an itinerant elector (as the case may be) for the purposes of the Principal Act.

Provisional enrolments

3. If, immediately before the commencement of Schedule 1 (14) a person—

- (a) was enrolled on the roll maintained under the Commonwealth Act pursuant to a claim for provisional enrolment under that Act; and
- (b) is, after that commencement, entitled to be provisionally enrolled pursuant to section 33A of the Principal Act,

the Electoral Commissioner shall cause the person to be enrolled on the roll maintained under the Principal Act and the elector so enrolled shall be treated as if the enrolment were in pursuance of a claim for provisional enrolment under section 33A and shall be deemed to be a person to whom section 33A applies.

Silent enrolments

4. If, immediately before the commencement of Schedule 1 (17), the name of an elector appears on a roll maintained under the Commonwealth Act but the residence of the elector does not appear on the roll and the Electoral Commissioner is satisfied that the residence has been deleted in pursuance of a request under section 104 of the Commonwealth Act, the residence of that elector shall, without any application under the Principal Act, be deleted from the roll maintained under the Principal Act and the elector shall be deemed to be a person to whom section 38A of the Principal Act applies.

Antarctic electors

5. If, immediately before the commencement of Schedule 1 (67), an elector was enrolled on the roll maintained under the Commonwealth Act and the roll is annotated to indicate the person is an Antarctic elector for the purposes of that Act, the Electoral Commissioner shall cause the roll maintained under the Principal Act to be annotated to indicate the elector is an Antarctic elector for the purposes of the Principal Act and the elector shall be deemed to be a person to whom Division 18 of Part V of the Principal Act applies.

Regulations

6. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later date.

Parliamentary Electorates and Elections (Amendment) 1987

SCHEDULE 3—*continued*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued*

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

