

# CONSTITUTION AND PARLIAMENTARY ELECTORATES AND ELECTIONS (AMENDMENT) ACT 1990 No. 111

NEW SOUTH WALES



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COMMITTEE ON THE JUDICIAL BRANCH  
U.S. HOUSE OF REPRESENTATIVES

REPORT

ON THE

ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1964

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1965

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1966

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1967

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1968

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1969

AND  
THE  
ACTS OF THE JUDICIAL BRANCH  
IN THE YEAR 1970



**CONSTITUTION AND PARLIAMENTARY ELECTORATES AND  
ELECTIONS (AMENDMENT) ACT 1990 No. 111**

NEW SOUTH WALES



**Act No. 111, 1990**

An Act to amend the Constitution Act 1902 and Parliamentary Electorates and Elections Act 1912 with respect to electoral redistributions, the nomination of candidates, party affiliation on ballot-papers, postal voting and offences, and in other respects; and to make consequential amendments to other Acts. [Assented to 18 December 1990]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1990.

**Commencement**

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

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended by inserting after section 28 the following section:

**Special distribution to maintain equal number of voters in each electoral district**

28A. (1) A distribution of New South Wales into electoral districts shall be made forthwith after more than one-quarter of the number of electoral districts has been malapportioned for a period of more than 2 months.

(2) For the purposes of this section, an electoral district is malapportioned at any particular time if the number of persons then entitled to vote at a general election of Members of the Legislative Assembly in the electoral district differs from the average electoral district enrolment at that time to a greater extent than 5 per cent more or less.

(3) The average electoral district enrolment is the quotient obtained by dividing the number of persons entitled to vote at a general election of Members of the Legislative Assembly in all electoral districts by the number of those districts.

(4) A distribution shall not be made under this section if:

- (a) the distribution would commence within 1 year before the expiry of the Legislative Assembly by the effluxion of time; or
- (b) a distribution has already been made since the last general election of Members of the Legislative Assembly (whether under this section or not); or

(c) a distribution is required to be made apart from this section.

**Explanatory note**

The proposed amendment provides an additional ground on which a distribution of electoral districts for the Legislative Assembly is to be undertaken, namely, the fact that more than a quarter of electoral districts have ceased to have an equal number of voters (within a margin of 5% more or less). The additional ground is similar to that which applies to the redistribution of electoral divisions of the House of Representatives (except that in the case of Commonwealth distributions more than a third of the divisions must be malapportioned within a margin of 10% more or less). At present a distribution is required by section 27 of the Act to be undertaken every second general election and after any change in the number of Members of the Legislative Assembly.

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

4. The Parliamentary Electorates and Elections Act 1912 is amended as set out in Schedule 1.

**Amendment of Constitution Further Amendment (Referendum) Act 1930 No. 2**

5. The Constitution Further Amendment (Referendum) Act 1930 is amended as set out in Schedule 2.

**Amendment of Election Funding Act 1981 No. 78**

6. The Election Funding Act 1981 is amended as set out in Schedule 3.

**Explanatory notes**

7. Matter appearing under the heading "Explanatory note" in this Act does not form part of this Act.



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912**

(Sec. 4)

(1) Section 3 (**Definitions**):

In section 3 (1), insert the following definitions in alphabetical order:

"**Abbreviation**", in relation to the name of a party, includes an alternative name of the party.

"**Endorsed**" means endorsed, selected or otherwise accredited to stand as a representative of a party.

"**Party**" means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Assembly or the Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.

"**Registered officer**" of a registered party means the person shown in the Register of Parties under Part 4A as the registered officer of the party, and (except in Part 4A) includes a person shown in that Register as a deputy registered officer of the party.

"**Registered party**" means a party registered in accordance with Part 4A.

**Explanatory note:** The amendment inserts definitions required by other proposed amendments.

(2) Section 13 (**Redistribution of electoral districts by commissioners etc.**):

After section 13 (5), insert:

(6) The commissioners shall also obtain, and consider, the advice of a recognised demographer before determining the boundaries of electoral districts.

**Explanatory note:** The amendment requires the commissioners who carry out a redistribution of electoral districts to obtain and consider the advice of a recognised demographer.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**(3) Section 35 (Registration of claims):**

(a) Omit section 35 (4), insert instead:

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

**Explanatory note:** The amendment provides for the roll for an election to be closed at 6 p.m. on the date the writ for the election is issued (instead of 3 days after the issue of the writ).

(b) After section 35 (5), insert:

(6) The regulations may make provision for or with respect to the giving of notice by the Electoral Commissioner to an elector of his or her enrolment and the signing of that notice by the elector.

**Explanatory note:** The amendment restores the regulation-making power which was contained in section 35 (1A) but which was repealed in connection with other amendments made to the section in 1987. The enrolment advice card is used by electors as evidence of their enrolment and of their age.

**(4) Section 50:**

Omit the section, insert instead:

**Roll for purposes of election**

50. (1) The Australian Electoral Officer for New South Wales must, after the issue of the writ and before the day of nomination for an election in any district, certify, sign and transmit to the State returning officer for the district a printed copy of the roll for each subdivision in the district as in force at 6 p.m. on the day of the issue of the writ.

(2) A copy of the roll so transmitted to the State returning officer is the electoral roll for the subdivision.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(3) The regulations may make provision for or with respect to the supply and certification of a composite roll for a district made up of all rolls for a subdivision.

(4) A registrar must comply with any direction of the Australian Electoral Officer for New South Wales given to enable that Electoral Officer to comply with this section.

(5) If the Electoral Commissioner is satisfied that the Australian Electoral Officer for New South Wales, or any other person, refuses or has failed to perform any duty under this section, the Electoral Commissioner (or a person authorised by the Electoral Commissioner) may perform that duty and, for that purpose, has all the powers, authorities, duties and functions of the Australian Electoral Officer for New South Wales or any registrar.

**Explanatory note:** The amendment transfers to the Australian Electoral Officer for the State the responsibility for certifying and transmitting a printed roll to the returning officer for the purposes of an election. At present the obligation is imposed on each Commonwealth divisional returning officer in the State but, because of the computerised facilities for keeping the roll, only the Australian Electoral Officer for the State is in a position to transmit a printed copy of the roll. The opportunity has been taken to remove obsolete provisions relating to supplementary rolls.

(5) Section 55 (**Regulations**):

Omit the section.

**Explanatory note:** The amendment repeals a general regulation-making power for the purposes of Part 4 of the Act as a consequence of the consolidation of those powers in section 176.

(6) Part 4A:

After Part 4, insert:

**PART 4A - REGISTRATION OF PARTIES**

**Definitions**

66A. In this Part:



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**"address"** does not include a postal address that consists of a post office box number;

**"eligible party"** means a party:

(a) at least one member of which is a member of Parliament; or

(b) that has at least 200 members,  
being a party established on the basis of a written constitution (however expressed) that sets out the platform or objectives of the party;

**"member"** of a party means a member of the party who is an elector;

**"Parliament"** means the Parliament of New South Wales;

**"secretary"** of a party means the person who holds the office (however expressed) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party.

**Registration of parties**

66B. Subject to this Part, an eligible party may be registered under this Part for the purposes of this Act and the Election Funding Act 1981.

**Register of Parties**

66C. (1) The Electoral Commissioner is required to keep a register, to be called the Register of Parties, containing the names of the parties registered under this Part and other particulars or documents required by this Part.

(2) The Register of Parties is to be kept in such form and manner as the Electoral Commissioner thinks fit.



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**Application for registration**

66D. (1) An application for the registration of a party may be made to the Electoral Commissioner (in the form and manner approved by the Electoral Commissioner) by:

- (a) the secretary of the party; or
  - (b) a member of the party who is a member of Parliament.
- (2) An application for the registration of a party must:
- (a) set out the name of the party; and
  - (b) if the party wishes to be able to use an abbreviation of its name on ballot-papers or electoral material - set out that abbreviation; and
  - (c) set out the name and address of the natural person who is to be the registered officer of the party for the purposes of this Act; and
  - (d) set out the name and address of a natural person (if any) who is to be a deputy registered officer of the party for the purposes of this Act; and
  - (e) set out the address of the party headquarters in New South Wales; and
  - (f) be accompanied by a copy of the constitution of the party; and
  - (g) set out the name and address of a member of Parliament who is a member of the party or, if the party is not represented in Parliament, the names, addresses (as enrolled) and signatures of 200 electors who are members of the party; and
  - (h) state whether or not the party wishes to be registered for the purposes of the Election Funding Act 1981; and
  - (i) set out such other particulars (or be accompanied by such other documents) as are required by the regulations or the approved form of application.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**Registration**

66E. (1) If an application for the registration of an eligible party is duly made, the Electoral Commissioner must (subject to this Part) register the party by the insertion in the Register of Parties of the name of the party.

(2) The particulars or documents with respect to a registered party that were set out in or accompanied the application for the registration of the party are to be included in or form part of the Register of Parties.

**Party not to be registered during election**

66F. (1) A party may not be registered under this Part in the period commencing on the day of the issue of the writ in an election and ending on and including the day fixed for the taking of the poll in the election.

(2) No action is to be taken during that period in relation to an application for registration.

**Refusal to register**

66G. (1) The Electoral Commissioner may refuse to register a party if it is not an eligible party or if its application for registration has not been duly made under this Part.

(2) Without limiting subsection (1), the Electoral Commissioner may refuse to register a party if the Electoral Commissioner believes on reasonable grounds that particulars set out in or documents accompanying the application are incomplete or not correct, but may, if the Electoral Commissioner thinks fit, register the party despite any such defect.

(3) The Electoral Commissioner is to refuse to register a party if, in the opinion of the Electoral Commissioner, the name of the party or the abbreviation of the name (if any) as set out in the application for registration of the party:

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (a) comprises more than 6 words; or
  - (b) is obscene or offensive; or
  - (c) is the name, is an abbreviation or acronym of the name, or is a derivative of the name, of a registered party or a party currently represented in Parliament; or
  - (d) so nearly resembles the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament that it is likely to be confused with or mistaken for that name or that abbreviation or acronym; or
  - (e) comprises the words "Independent Party" or comprises or contains the word "Independent" and:
    - (i) the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament; or
    - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.
- (4) If the Electoral Commissioner refuses to register a party:
- (a) the Electoral Commissioner must forthwith notify the applicant of the refusal and of the reasons for the refusal; and
  - (b) the applicant may, within 30 days after the date of the notification by the Electoral Commissioner, amend the application for registration and the Electoral Commissioner may deal with the amended application.

**Amendment of Register**

66H. (1) An application may be made to the Electoral Commissioner (in the form and manner approved by the



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

Electoral Commissioner) for the amendment of the particulars in the Register of Parties with respect to a registered party.

(2) The application may be made:

- (a) by the registered officer of the party; or
- (b) if the application is to change the registered officer of the party - by the secretary of the party or by a member of the party who is a member of Parliament.

(3) The provisions of this Part relating to an application for the registration of a party apply (subject to the regulations) to an application for the amendment of the Register of Parties. For that purpose, the application is to be regarded as an application for registration setting out particulars as proposed to be amended.

(4) If the application is approved, the Electoral Commissioner is to make the necessary changes in the Register of Parties.

(5) A reference in this section to the amendment of the particulars included in the Register of Parties includes a reference to the replacement of documents forming part of the Register.

**Cancellation of registration**

66I. (1) The Electoral Commissioner may cancel the registration of a party at the written request of the registered officer of the party.

(2) If the Electoral Commissioner is satisfied on reasonable grounds that:

- (a) a registered party has ceased to exist (whether by amalgamation with another party or otherwise); or
- (b) a registered party not represented in Parliament has ceased to have 200 members; or
- (c) the candidates at a general election held after the registration of a party did not include at least one candidate endorsed by the party; or

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (d) the registration of a party was obtained by fraud or misrepresentation,  
the Electoral Commissioner may, subject to and in accordance with the regulations, cancel the registration of the party.
- (3) If the registration of a party is cancelled, the Electoral Commissioner must:
- (a) give notice of the cancellation and the reasons for the cancellation to the person who was the registered officer of the party immediately before the cancellation and cause notice of the cancellation to be published in the Gazette; and
  - (b) remove from the Register of Parties the name and other particulars or documents relating to the party.

**Public access to registers**

66J. (1) The Register of Parties kept under this Part must be available for public inspection during ordinary office hours.

(2) A list of the names and registered officers of the parties entered in the current Register of Parties must be published in the Gazette as soon as practicable after the issue of the writ for any election.

**Statutory declarations**

66K. The Electoral Commissioner may require any information in an application under this Part to be verified by statutory declaration.

**False statements**

66L. A person who, in any application made under this Part, makes a statement that the person knows to be false or misleading is guilty of an offence.

Maximum penalty: 100 penalty units.

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**Evidence**

66M. A certificate signed by the Electoral Commissioner certifying:

- (a) that a specified party was or was not registered under this Part at a specified time or during a specified period; or
- (b) that a specified person was or was not the registered officer or a deputy registered officer of a specified party at a specified time or during a specified period,

is admissible in any proceedings and is *prima facie* evidence of the matters so certified.

**Transitional arrangements**

66N. (1) As soon as practicable after the commencement of this Part, the Electoral Commissioner is required to insert in the Register of Parties under this Part the names and other relevant particulars of all parties registered under the Election Funding Act 1981 immediately before that commencement (including the statement that the party wishes to be registered for the purposes of the Election Funding Act 1981).

(2) Subsection (1) does not prevent the cancellation of the registration of any party whose name is so inserted in the Register of Parties.

(3) The Electoral Commissioner is required to enter in the Register of Parties, as the registered officer of a party whose name is so inserted in the Register, the name of the person who was, immediately before the commencement of this Part, the party agent of the party within the meaning of the Election Funding Act 1981.

**Explanatory note:** The proposed Part 4A transfers from the Election Funding Act 1981 provisions relating to the registration of political parties. Because of the proposal for the insertion of party names on ballot-papers and for the nomination of candidates by the official agents of parties, registration will in future not be limited to



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registration for election funding purposes. As a result of the transfer of the registration provisions:

- (a) the Electoral Commissioner (instead of the Election Funding Authority) will be responsible for registration; and
- (b) registration of new parties will be prohibited after the issue of the writ for an election and before polling day; and
- (c) the registered name of a party to be used on ballot-papers will be limited to 6 words; and
- (d) provision is made for the nomination of the agent of the party (to be known as the registered officer of the party); and
- (e) provision is made for the party to nominate whether it wishes to be registered for the purposes of election funding.

The new registration requirements follow similar requirements applying to Commonwealth elections.

(7) Section 67A (**Application of Part**):

After "3", insert ", 6B".

**Explanatory note:** Consequential amendment on insertion of proposed Division 6B relating to party affiliation on ballot-papers.

(8) Section 79 (**Nomination of Assembly candidates**):

(a) Omit section 79 (2), insert instead:

(2) Before, and in order that, any person may be a candidate at any election for a district, the person must be nominated by:

- (a) the registered officer of a registered party which has endorsed the person for the election; or
- (b) not fewer than 15 persons each of whose names is on the roll for the district.

(b) After section 79 (3), insert:

(3A) A nomination-paper in which the candidate is nominated by the registered officer is to be in the following form, namely:

I, the person whose name appears on this form as the registered officer of the registered party which has endorsed the candidate, do hereby nominate (*here state*



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*name in full, occupation and place of residence as enrolled of the person nominated*) for election as a member of the Legislative Assembly for the electoral district of

Dated this                      day of                      19 .

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Name in full of registered officer	Name of party	Signature of registered officer
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I, the abovenamed                      , hereby consent to such nomination and certify that the place of residence stated above is my place of residence as enrolled.

(Signed)

- (c) From section 79 (4), omit "Such nomination-paper shall be", insert instead "A nomination-paper in which the candidate is nominated by electors is to be".
- (d) In section 79 (4), after "residence" where lastly occurring, insert "as enrolled".
- (e) From section 79 (4), omit "And no person", insert instead "(4A) No person".

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**Explanatory note:** The amendments (paragraphs (a)-(e)) enable candidates for election to the Legislative Assembly to be nominated by at least 15 electors (instead of 30 electors) or to be nominated (as an alternative) by the registered officer of the political party that has endorsed the candidate (being a party or officer registered under proposed Part 4A of the Act).

- (f) From section 79 (7A) (a), omit "\$500", insert instead "\$250".

**Explanatory note:** The amendment reduces from \$500 to \$250 the deposit payable by a candidate nominated for election to the Legislative Assembly. The deposit will be the same as that currently applying in the case of elections to the House of Representatives.

- (g) From section 79 (7A) (c), omit "more than one-fifth of the total number of first preference votes polled by the successful candidate in the election", insert instead "at least 4 per cent of the total number of first preference votes polled in the district".

**Explanatory note:** At present, a candidate's deposit in an Assembly election is returned only if the candidate is elected or if the number of first preference votes of the candidate exceeds one-fifth of the total number of first preference votes of the elected candidate. The amendment provides instead for the deposit to be returned if the candidate is elected or if the number of first preference votes of the candidate exceeds 4% of the total number of first preference votes. The amendment follows the requirement for the return of deposits that currently applies for elections to the House of Representatives.

(9) Section 81B (Nomination of Council candidates):

- (a) Omit section 81B (2), insert instead:

(2) Before, and in order that, any person may be a candidate at any periodic Council election, the person must be nominated by:

- (a) the registered officer of a registered party that has endorsed the person for the election; or  
(b) not fewer than 15 persons each of whose names is on a roll.





SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

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Name in full of registered officer	Name of party	Signature of registered officer
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- (c) From section 81B (4), omit "The nomination-paper shall be", insert instead "A nomination-paper in which the candidate is nominated by electors is to be".

**Explanatory note:** The amendments enable candidates for general elections of the Legislative Council to be nominated (as an alternative to nomination by at least 15 electors) by the registered officer of the party that has endorsed the candidates (being a party or officer registered under proposed Part 4A of the Act).

(10) Section 81F (**Deposit for periodic Council election**):

- (a) From section 81F (1), omit "\$750", insert instead "\$500".

**Explanatory note:** The amendment reduces from \$750 to \$500 the deposit payable by a candidate nominated for election to the Legislative Council. The deposit will be the same as that applying in the case of elections to the Senate.

- (b) Omit section 81F (3), insert instead:

(3) After the election, the deposit shall be returned to the candidate (or some person authorised by the candidate in writing to receive it) if:

- (a) the candidate is elected; or
- (b) at least one of the candidates in the group in which the candidate is included is elected; or
- (c) the total number of votes polled as first preference votes in the candidate's favour or in favour of the members of the group in which the candidate is

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

included is at least 4 per cent of the total number of first preference votes polled in the election.

**Explanatory note:** At present a candidate's deposit in a Council election is returned only if the candidate is elected or if the total first preference votes of the candidate (or the members of a group of candidates) exceeds one-half of the quota for election. The amendment provides instead for the return of the deposit if the total number of first preference votes exceeds 4% of the total first preference votes. In addition the deposit will be returned if any member of the group is elected. The amendment follows the requirement for the return of deposits that applies for elections to the Senate, except for the additional requirement that the deposit will be returned if any member of the group is elected.

(11) Section 83 (**Printing of ballot-papers**):

At the end of section 83 (d), insert:

; and

- (e) if required by Division 6B, the names of registered parties or the word "Independent" shall be printed in accordance with that Division.

**Explanatory note:** The amendment is consequential on the amendment made by item (14) relating to party affiliation on ballot-papers.

(12) Section 83B (**Printing of ballot-papers**):

- (a) From section 83B (5) (f), omit "and".

- (b) At the end of section 83B (5) (g), insert:

; and

- (h) if required by Division 6B, the names of registered parties or the word "Independent" shall be printed in accordance with that Division.

- (c) From section 83B (5A), omit "1 group voting ticket", insert instead "a group voting ticket".

- (d) Omit section 83B (5B).

**Explanatory note:** Paragraphs (a) and (b) are consequential on the amendment made by item (14) relating to party affiliation on ballot-papers and paragraphs (c) and (d) are consequential on the

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

amendments made by items (13) and (38) relating to multiple group voting tickets for Council elections.

(13) Section 83C (**Group voting tickets**):

- (a) From section 83C (1) and (6), omit "or 2 group voting tickets" wherever occurring, insert instead ", 2 group voting tickets or 3 group voting tickets".
- (b) After section 83C (4) (a), insert:
  - (a1) if all the candidates included in the group have been endorsed by the same registered party - by the registered officer of the party;
  - (a2) if the candidates included in the group have been endorsed by different registered parties - by the registered officer of each of those parties;
- (c) Omit section 83C (7).

**Explanatory note:** The amendments (paragraphs (a) and (c)) enable a group of candidates at a Council election to register 3 group voting tickets instead of only 1 or 2. At present if 2 group voting tickets are registered there are 2 voting ticket squares placed on the ballot-paper (one for each ticket). It is proposed instead to provide only 1 voting ticket square on the ballot-paper and to divide the votes cast for the group equally in accordance with the 2 or 3 voting tickets registered (see item (38)). The proposed system is the same as that applying to Senate elections. Paragraph (b) enables an official agent of the party as well as the candidates in a group to lodge a group voting ticket for registration.

(14) Part 5, Division 6B:

After Division 6A of Part 5, insert:

**Division 6B - Party endorsement on ballot-papers**

**Notification of party endorsement**

83D. (1) The registered officer of a registered party may request that either the registered name of that party or the registered abbreviation of the name of that party be printed on the ballot-papers for an election adjacent to the name of a candidate who has been endorsed by that party.



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(2) Any such request is to be in writing signed by the person making the request.

(3) Any such request is to be given before noon on the day of nomination to:

(a) in the case of a periodic Council election - the Electoral Commissioner; or

(b) in the case of an election of a Member of the Assembly for an electoral district - the returning officer for the district or the Electoral Commissioner.

(4) If:

(a) any such request has been made in respect of candidates in a periodic Council election; and

(b) the candidates propose to lodge a group voting ticket for the purposes of the election,

the request may include a further request that the name of the registered party that endorsed the candidates, or a composite name formed from the registered parties that endorsed the candidates, be printed on the ballot-papers adjacent to the candidates' group voting ticket square.

(5) A reference in this section to a registered name or abbreviation is a reference to a name or abbreviation entered in the Register of Parties under Part 4A.

**Notification of independent candidacy**

83E. (1) A candidate in an election may request that the word "Independent" be printed adjacent to the candidate's name on the ballot-papers for the election.

(2) Any such request is to be in writing signed by the person making the request.

(3) Any such request is to be given before noon on the day of nomination to:

(a) in the case of a periodic Council election - the Electoral Commissioner; or

(b) in the case of an election of a Member of the Assembly for an electoral district - the returning



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officer for the district or the Electoral Commissioner.

(4) A candidate may not make both a request under this section and a claim under section 81C to have the candidate's name included in a group on the ballot-paper.

**Verification of party endorsement**

83F. (1) For the purposes of this Act, a person is taken to have been endorsed by a registered party as a candidate in an election if:

- (a) the candidate is nominated by the registered officer of the party; or
- (b) the name of the candidate is included in a statement, signed by the registered officer of the party, setting out the names of the candidates endorsed by the party in the election and given to the Electoral Commissioner before noon on the day of nomination; or
- (c) the Electoral Commissioner is satisfied, after making such inquiries as the Commissioner thinks appropriate of the registered officer or otherwise, that the candidate is so endorsed.

(2) If a person has been endorsed as a candidate in an election by 2 or more registered parties, the person is, for the purposes of this Division, taken to have been endorsed:

- (a) if the person is nominated by the registered officer of one of the parties - by that party; or
- (b) if a request has been made under this Division by the registered officer of one of the parties (and paragraph (a) does not apply) - by that party; or
- (c) if paragraphs (a) and (b) do not apply - by the party specified by the person in a written notice given to the Electoral Commissioner.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**Combination of requests**

83G. A request under this Division:

- (a) may be written on the same paper as the nomination of the candidate to whom the request relates; and
- (b) if 2 or more requests are to be made by the same person - may be combined with the other requests.

**Printing of party name etc. on ballot-papers**

83H. (1) If a person:

- (a) has been endorsed by a registered party as a candidate in an election; and
- (b) a request has been made in respect of the candidate under section 83D,

the name of that party is to be printed adjacent to the name of the candidate on the ballot-papers.

(2) If 2 or more persons have been endorsed by a registered party as candidates in a periodic Council election and a claim has been made to include the names of those candidates in a group in the ballot-papers, the following requirements apply to the printing of the ballot-papers:

- (a) the name of the party by which each candidate was endorsed is to be printed adjacent to the name of that candidate on the ballot-papers;
- (b) if all the candidates were endorsed by the same party and a group voting ticket square is printed on the ballot-papers in relation to the candidates - the name of the party is to be printed on the ballot-papers adjacent to that square;
- (c) if the request under section 83D included a request that a composite name be printed adjacent to the group voting ticket square on the ballot-papers in relation to the candidates - the composite name is to be printed on the ballot-papers adjacent to that square.



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(3) If a candidate in an election has made a request under section 83E, the word "Independent" is to be printed adjacent to the name of the candidate on the ballot-papers.

**Form of party name on ballot-papers**

83L. (1) Where a provision of this Act requires the name of the registered party to be printed on ballot-papers for use in an election:

- (a) the name to be so printed is the name of the party entered in the Register of Parties under Part 4A; or
- (b) if a request has been duly made under this Division for the abbreviation of the name of the party to be so printed - the abbreviation to be so printed is the abbreviation entered in the Register of Parties under Part 4A.

(2) The names of registered parties, or the abbreviations of such names, printed adjacent to the names of candidates on ballot-papers are to be printed in capital letters in type that is uniform in size and style for all those names or abbreviations.

(3) The names of registered parties, or the abbreviations of such names, printed adjacent to group voting squares on ballot-papers are to be printed in capital letters in type that is uniform in size and style for all those names or abbreviations.

**Explanatory note:** The amendment provides for the name of the registered party that has endorsed a candidate to be shown adjacent to the name of the candidate on the ballot-papers if requested by the agent of the party. In the case of independents, the word "Independent" is to be shown adjacent to the name of the candidate if requested by the candidate. In the case of Council elections, the party name is to be shown (if duly requested) adjacent to the group voting square on the top half of the ballot-paper and also on the bottom half of the ballot-paper adjacent to the number of the group and adjacent to the name of each candidate in the group. The provisions are similar to those that apply to Commonwealth elections.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**(15) Section 86 (Booths - arrangement, ballot-boxes etc.):**

Omit "a ballot-box having a lock and key, and ", insert instead "a ballot-box".

**Explanatory note:** The amendment removes the necessity for ballot-boxes to have a lock and key and will enable the use of cardboard ballot-boxes.

**(16) Section 86A (Group voting tickets to be displayed at polling-places):**

(a) Omit section 86A (2) (c), insert instead:

(c) tickets lodged by the same group are displayed in the same column; and

(b) After section 86A (2), insert:

(2A) If a group has more than one group voting ticket, the tickets relating to that group are to be displayed in the order indicated by the candidates in the group when lodging those tickets.

**Explanatory note:** The amendment is consequential on the amendment made by item (13) relating to group voting tickets for Council elections.

**(17) Section 94 (Returning officer to exhibit ballot-box before taking poll):**

(a) Omit "and lock", insert instead "and seal".

(b) Omit ", and he shall keep the key of the said box".

**Explanatory note:** The amendment removes the necessity for a ballot-box to have a lock and key. The ballot-box will be required to be sealed (instead of locked) before polling begins.

**(18) Section 106 (Disputed vote):**

(a) After section 106 (1), insert:

(1A) If a person whose name has been noted (on the certified copy of the roll used at the polling-place for the subdivision in which the elector is enrolled) as that of an elector to whom a postal ballot-paper or pre-poll vote has



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

been issued claims to vote in the election at that polling-place, the returning officer or deputy shall put to the person the prescribed questions. If the person answers the questions satisfactorily, states that he or she has not applied for a postal ballot-paper or pre-poll vote and makes a declaration in the prescribed form, the person may be permitted to vote.

- (b) From section 106 (3), omit "subsection (1) and subsection (2)", insert instead "this section".

**Explanatory note:** The amendments (paragraphs (a) and (b)) transfer to the Act the provisions of Regulation 11 under the Act relating to disputed votes cast by voters who have been recorded as having been issued with a postal or pre-poll vote.

- (c) In section 106 (2) (a) (i), omit "a day that is 3 days after".

**Explanatory note:** The amendment (paragraph (c)) is consequential on the amendment made by item (3) relating to the close of the roll.

- (19) Section 112 (**False answer to questions etc. or double voting**):

From section 112 (1), omit "he shall be guilty of a misdemeanour, and be liable to penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both.", insert instead:

the person is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for double voting, for false statements relating to the entitlement to vote etc. from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

- (20) Section 114AA (**Registration of general postal voters**):

- (a) In the definition of "prescribed elector" in section 114AA (1), after paragraph (a), insert:

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (a1) if the regulations so provide, an elector who will not be within the State during any particular period;
- (b) After section 114AA (6), insert:
  - (6A) A registrar may register an elector to whom subsection (1) (a1) applies as a general postal voter only during the period that the elector has specified as the period during which he or she will not be within the State.
- (c) After section 114AA (11) (a), insert:
  - (a1) in the case of an elector to whom subsection (1) (a1) applies, the period of registration, the fact that the elector is registered under subsection (1) (a1) and the address of the place outside New South Wales to which ballot-papers are to be sent;
- (d) Omit section 114AA (15).
- (e) After section 114AA (17), insert:
  - (18) The regulations may provide that the functions of a registrar under this section in relation to the registration of an elector to whom subsection (1) (a1) applies are to be exercised by the Electoral Commissioner instead of the registrar. For that purpose, the regulations may provide for the Electoral Commissioner to keep a separate register and may make any other necessary modifications to the operation of this section.

**Explanatory note:** The amendments allow electors who will be outside the State to register as general postal voters during the period of their absence. This category of general postal voter is not recognised for Commonwealth elections and will apply in the case of New South Wales elections only. Since registration is effected by Commonwealth Divisional returning officers, the amendment empowers the making of regulations to transfer the registration function to the Electoral Commissioner if necessary.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(21) Section 114AB:

Omit the section, insert instead:

**Dispatch of ballot-papers to registered postal voters**

114AB. 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 is, on that day, a registered general postal voter for a subdivision of the district:

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

**Explanatory note:** The amendment requires a returning officer to dispatch the relevant ballot-papers to registered general postal voters on the issue of a writ instead of dispatching an application for a postal vote. At present only registered general postal voters who cannot sign their name are entitled to a ballot-paper without making an application. In the case of the new category of general postal voters who are absent from the State, ballot-papers will be dispatched to the overseas or interstate address nominated by the voter.

(22) Section 114D (**Issue of certificate and ballot-paper**):

At the end of section 114D (2), insert:

; and

- (c) if required by Division 6B, the names of registered parties or the word "Independent".

**Explanatory note:** Consequential amendment.

(23) Section 114H (**Directions for postal voting**):

From section 114H (2), omit "seven days", insert instead "4 days".

**Explanatory note:** Consequential amendment - item (24).



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**(24) Section 114L (Preliminary scrutiny of postal ballot-papers):**

- (a) Omit "the end of the period of seven days", insert instead "6 p.m. on the fourth day".

**Explanatory note:** The amendment provides that the last day for the receipt of ordinary postal ballot-papers will be 6 p.m. on the fourth day after polling day instead of midnight on the seventh day after polling day.

- (b) From section 114L (c), omit "locked and".

**Explanatory note:** Consequential amendment to authorise the use of cardboard ballot-boxes.

**(25) Section 114O:**

After section 114NA, insert:

**Reference to returning officer includes clerical assistant in certain cases**

114O. Every reference in this Division (except section 114L) to a returning officer shall be deemed to include a reference to a clerical assistant appointed to assist the returning officer in the performance of the returning officer's duties.

**Explanatory note:** The amendment enables clerical assistants to assist a returning officer in connection with postal voting. A similar provision is already made in connection with pre-poll voting (ss. 114Z, 114ZY) and overseas postal voting (s. 114ZK).

**(26) Section 114P (Application for permission to vote before polling day):**

In section 114P (1), after "enrolled", insert "(or, if the elector so wishes, to some other district returning officer)".

**Explanatory note:** The amendment allows pre-poll voting at the office of any returning officer instead of the returning officer for the subdivision in which the elector is enrolled.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (27) Section 114Q (**Procedure for voting before polling day**):
- (a) At the end of section 114Q (4) (a) (ii), insert:
    - ; and
    - (iii) if required by Division 6B, the names of registered parties or the word "Independent"; and
  - (b) Omit section 114Q (5) (b), insert instead:
    - (b) subject to section 114QA, retain the envelope and ballot-paper until the close of the poll.
- Explanatory note:** Consequential amendments.
- (28) Section 114QA:
- After section 114Q, insert:
- Ballot-papers etc. forwarded to district for which elector enrolled**
- 114QA. If a ballot-paper returned to a returning officer for a district under section 114Q contains the vote of an elector enrolled for some other district, the returning officer must deal with the ballot-paper in the same manner as that in which the returning officer is required by section 116 to deal with an absent voter's ballot-paper.
- Explanatory note:** Consequential amendment - item (26).
- (29) Section 114X (**Preliminary scrutiny of ballot-papers of electors under section 114Q**):
- After section 114X (3), insert:
- (4) This section is subject to section 114QA.
- Explanatory note:** Consequential amendment - item (26).
- (30) Section 114Z (**References to returning officer deemed to include clerical assistant in certain cases**):
- After "114Q,", insert "114QA,".
- Explanatory note:** Consequential amendment - item (26).
- (31) Section 114ZA (**Application for a postal vote certificate and postal ballot-paper**):

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

Omit section 114ZA (2) (d), insert instead:

- (d) subject to section 114ZB (3), be made before the close of business on:
  - (i) in the case of an application made to a place within Australia - the day preceding polling day, or
  - (ii) in the case of an application made to a place outside Australia - the second day preceding polling day.

**Explanatory note:** At present applications to vote by post made to interstate or overseas postal voting offices must be made by the close of business on the day preceding polling day. The amendment provides that applications to overseas postal voting offices must be made by the close of business on the Thursday preceding polling day. Section 114ZB (3) precludes the sending out by post of the postal voting papers after the close of business on the Wednesday preceding polling day.

**(32) Section 114ZB (Procedure for voting before polling day):**

At the end of section 114ZB (2), insert:

- ; and
- (c) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

**(33) Section 114ZG (Scrutiny of postal ballot-papers):**

- (a) From section 114ZG (1), omit "the end of the period of 10 days", insert instead "6 p.m. on the fourth day".

**Explanatory note:** The amendment provides that the last day for the receipt of completed postal ballot-papers from interstate and overseas voters will be 6 p.m. on the fourth day after polling day instead of midnight on the tenth day after polling day.

- (b) In section 114ZG (1) (b) (iii), after "polling day", insert "(if delivered to a place within Australia) or the second day preceding polling day (if delivered to a place outside Australia)".



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(c) From section 114ZG (1) (c), omit "locked and".

**Explanatory note:** Consequential amendments.

(34) Section 114ZR (**Procedure for voting at declared institutions**):

At the end of section 114ZR (6) (a) (ii), insert:

; and

(iii) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

(35) Section 114ZW (**Preliminary scrutiny of ballot-papers of certain electors under this Division**):

From section 114ZW (2), omit "locked and".

**Explanatory note:** Consequential amendment.

(36) Section 115 (**Voting outside subdivision**):

At the end of section 115 (2) (a) (ii), insert:

(iia) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

(37) Section 122A (**Ballot-papers not to be informal in certain circumstances**):

(a) Omit section 122A (4), insert instead:

(4) For the purposes of determining the voter's intention under subsection (1), a tick or a cross placed in a square on a ballot-paper is not sufficient by itself to indicate that the voter intends to give a first preference vote to the candidate concerned.

(b) From section 122A (5), omit "or a tick" and "and any such tick were the number "1" ".

**Explanatory note:** The amendment (paragraph (a)) omits the provision which ensures that a voter records a valid first preference

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

vote (in an Assembly election) if the voter (instead of using the numeral "1") places a tick or a cross in one voting square and does not mark any other voting square. A tick or cross is no longer to be sufficient by itself to indicate a first preference vote.

The amendment (paragraph (b)) retains the validity of a ballot-paper on which the numeral "1" (but not a tick) is placed in one voting square and crosses or lines are placed in or through the other voting squares.

(38) Section 129EA:

Omit the section, insert instead:

**Formal votes according to group voting ticket**

129EA. (1) If a voter records a vote on a ballot-paper by placing the number "1" in one of the group voting ticket squares, the ballot-paper is (subject to this section) taken to have recorded on it a vote in accordance with the relevant group voting ticket lodged for the election.

(2) If a group has lodged 2 group voting tickets, one-half of the ballot-papers are taken to have recorded on them votes in accordance with one group voting ticket and the other half in accordance with the other ticket. If there is an odd number of ballot-papers, the additional ballot-paper is taken to have recorded on it a vote in accordance with the group voting ticket determined by lot by the Electoral Commissioner.

(3) If a group has lodged 3 group voting tickets, one-third of the ballot-papers are taken to have recorded on them votes in accordance with one group voting ticket, one-third in accordance with another one of the tickets and the other one-third in accordance with the remaining ticket. If the number of ballot-papers is not divisible by 3, the additional 1 or 2 ballot-papers are taken to have recorded on them votes in accordance with such 1 or 2 of the group voting tickets determined by lot by the Electoral Commissioner.

**Explanatory note:** The amendment is consequential on the amendment made by item (13) which enables a group of candidates at a Council election to register 3 group voting tickets instead of only 1 or 2. At present if 2 group voting tickets are registered there are 2



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

voting ticket squares placed on the ballot-paper (one for each ticket). It is proposed instead to provide only 1 voting ticket square on the ballot-paper. The above amendment makes provision for the division of the votes cast for the group equally in accordance with the 2 or 3 voting tickets registered. The proposed system is the same as that applying to Senate elections.

(39) Section 147 (**Bribery etc.**):

Omit "shall be guilty of a misdemeanour, and be liable to be fined any sum not exceeding \$1,000, or to be imprisoned for any term not exceeding 6 months, or to be both fined and imprisoned within such limits; and shall also be incapable of voting at such election.", insert instead:  
is guilty of an offence and also incapable of voting at the election.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for bribery of electors etc. from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

(40) Section 150 (**Penalty for "treating"**):

Omit "to be fined any sum not exceeding \$1,000, or to be imprisoned for any term not exceeding 6 months or to be both fined and imprisoned within such limits", insert instead "to a fine not exceeding 100 penalty units, or to imprisonment for a term not exceeding 3 years, or to both such fine and imprisonment".

**Explanatory note:** The amendment increases the maximum penalty for a candidate who corruptly provides inducements for electors to vote from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both).



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(41) Section 151 (**Intimidation**):

Omit "shall be guilty of a misdemeanour, and be liable to a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both.", insert instead: is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for intimidating electors from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

(42) Section 151A (**Printing etc. false information**):

From section 151A (1) (c) (i), omit "the Election Funding Act 1981", insert instead "Part 4A".

**Explanatory note:** Consequential amendment.

(43) Section 151G (**Registration of electoral matter**):

(a) After section 151G (2), insert:

(2A) However, an application may be made to the Electoral Commissioner (after the issue of the writ and before the day of nomination) for preliminary advice on whether electoral material may be registered, even though the material is incomplete.

**Explanatory note:** At present, applications for registration of "how-to-vote cards" and other electoral matter may be made only after nomination day and at least 8 days before polling day. The amendment will enable preliminary advice on whether material may be registered pending the inclusion of details as to the names of candidates and the allocation of preferences.

(b) In section 151G (8) (a) (i), omit "the party," insert instead "the party is not registered under Part 4A or the".

(c) In section 151G (8) (b) (i), omit "the party", insert instead "the party is not registered under Part 4A or the".

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(d) From section 151G (8) (a) (iii) and (b) (iii), omit "party agent" wherever occurring, insert instead "registered officer".

(e) From section 151G (13), omit "and "party agent" have the same meanings", insert instead "has the same meaning".

**Explanatory note:** Paragraphs (b)-(e) make consequential amendments.

(44) **Section 154AE (Arrangements for polling in Antarctica):**

In section 154AE (4), after "83B" wherever occurring, insert "and 83H".

**Explanatory note:** Consequential amendment.

(45) **Section 176 (Regulations):**

(a) Omit section 176 (1), insert instead:

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(b) After section 176 (5), insert:

(6) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Explanatory note:** The amendment consolidates the regulation-making powers in the Act. At present the power to impose penalties for breaches of the regulations is limited to regulations made under section 55 for the purposes of Part 4 of the Act.

(46) **Section 176F (Forging or uttering electoral papers):**

Omit "guilty of a misdemeanour", insert instead "guilty of an offence".

**Explanatory note:** The amendment provides that the offence may be dealt with summarily instead of on indictment.

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(47) Section 177 (**Offence of stuffing ballot-box**):

Omit "guilty of a misdemeanour", insert instead "guilty of an offence".

**Explanatory note:** The amendment provides that the offence may be dealt with summarily instead of on indictment.

(48) Section 183:

Omit the section, insert instead:

**Proceedings for offences**

183. Proceedings for an offence against this Act or the regulations are to be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone.

**Explanatory note:** The amendment revises section 183 by way of statute law revision and as a consequence of other amendments made by the Bill.

(49) Schedule 4:

Omit:

BROOKMAN, John

CRANE, Joseph

FRENCH, Charles

KING, William



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

WILSON, Henry

WRIGHT, James

---

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

Insert instead:

FLOYD, Monica \*\*

MAGEE, Michael \*\*

KAZZI, Maha \*\*

HALL, Lara \*\*

PRELL, James \*\*

NGUYEN, Thang \*\*

---

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

\*\* Here insert, if appropriate, the name of a registered party or the word "Independent".

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(50) Schedule 4A:

(a) From the matter relating to Group E, omit the following:

Ticket 1

or

Ticket 2

or

insert instead the following:

Ticket

or

- (b) Insert "\*" immediately beneath "GROUP A", "GROUP B", "GROUP C", "GROUP D", "GROUP E", "GROUP F" and "GROUP G" wherever occurring.
- (c) Insert "\*\*\*" immediately beneath each name (except in the last column).
- (d) Insert "\*\*\*\*" immediately beneath each name in the last column.
- (e) Insert at the end of the Schedule:

- 
- \* Here insert name of registered party or composite name if to be printed.
- \*\* Here insert name of registered party if to be printed.
- \*\*\* Here insert name of registered party or word "Independent" if to be printed.

**SCHEDULE 2 - AMENDMENT OF CONSTITUTION  
FURTHER AMENDMENT (REFERENDUM) ACT 1930**

(Sec. 5)

Section 37 (**Supply of meat, drink, entertainment etc.**); Section 38 (**Bribery**); Section 39 (**Receipt of bribe by elector**); Section 40 (**Undue influence**):

Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding four hundred dollars or imprisonment for one year." wherever occurring, insert instead:

is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendments increase the penalty for the above offences (which apply during a referendum on proposed legislation) in line with the increases proposed for similar offences in connection with the election of members of Parliament.

**SCHEDULE 3 - AMENDMENT OF ELECTION  
FUNDING ACT 1981**

(Sec. 6)

(1) Section 4 (**Definitions**):

(a) From section 4 (1), omit the definitions of "abbreviation" and "electoral matter".

(b) From section 4 (1), omit the definition of "registered", insert instead:

**"registered"** (except in the case of a party) means registered in accordance with this Act;

**"registered party"** means a party registered under Part 4A of the Parliamentary Electorates and Elections Act 1912, being a party which stated in its application for registration that it wished to be registered for the purposes of this Act;

**Explanatory note:** Consequential amendments.



**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued***

**(2) Part 4, Division 1 (Register of Parties):**

Omit the Division.

**Explanatory note:** The amendment repeals provisions for the registration of parties as a consequence of the proposed transfer of those provisions to the Parliamentary Electorates and Elections Act 1912.

**(3) Section 57 (Determination of credits to funds):**

From section 57 (1) and (2), omit "day that is 3 days after the issue of the writs" wherever occurring, insert instead "day of the issue of the writs".

**Explanatory note:** Consequential on amendment made by Schedule 1 (3) relating to the close of the roll for an election.

**(4) Section 59 (General entitlements of parties):**

**(a) Omit section 59 (2) (a) and (a1), insert instead:**

- (a) it is a registered party as at the polling day for the general election;**

**Explanatory note:** Consequential amendment. The amendment confirms that a party is excluded from election funding unless registered on polling day. However, under the amendments proposed by Schedule 1, a party must be registered before the issue of the writ for the election because parties may not be registered for the first time during the election period.

**(b) Omit section 59 (2) (e), insert instead:**

- (e) the total number of first preference votes polled in favour of the members of the group at the periodic Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.**

**Explanatory note:** At present the entitlement of a registered party to election funding for general elections depends on whether the endorsed candidates of the party in the Council election received sufficient votes to secure the return of their deposits, namely, one-half of the election quota. The proposed Act alters the circumstances in which deposits are required to be returned. The amendment ensures

**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued***

that the alteration does not affect the current requirements relating to the eligibility of parties for election funding.

**(5) Section 60 (General entitlements of independent groups in Council elections):**

Omit section 60 (2) (d), insert instead:

- (d) the total number of first preference votes polled in favour of the members of the group at the periodic Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of independent groups at Council elections for election funding.

**(6) Section 61 (General entitlements of independent candidates in Council elections):**

Omit section 61 (2) (c), insert instead:

- (c) he is elected or the total number of first preference votes polled in his favour at the periodic Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of independent candidates at Council elections for election funding.

**(7) Section 65 (General entitlements):**

Omit section 65 (2) (b), insert instead:

- (b) he is elected to the Assembly or the total number of first preference votes polled in his favour at the election is not less than one-fifth of the total number of first preference votes polled by the successful candidate in the election.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of candidates at Assembly elections for election funding.

SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued*

(8) Section 69 (**Entitlements to advance payments**):

From section 69 (5), omit "registered as a party in the Register of Parties for the election", insert instead "a registered party as at the polling day for the election".

(9) Section 73 (**By-election Constituency Fund**):

From section 73 (2) and (3), omit "day that is 3 days after the date of issue of the writ" wherever occurring, insert instead "day of the issue of the writ".

**Explanatory note:** Consequential on amendment made by Schedule 1 (3) relating to the close of the roll.

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[*Minister's second reading speech made in -  
Legislative Assembly on 21 November 1990  
Legislative Council on 29 November 1990 a.m.*]











FIRST PRINT

**CONSTITUTION AND PARLIAMENTARY ELECTORATES AND  
ELECTIONS (AMENDMENT) BILL 1990**

NEW SOUTH WALES



**EXPLANATORY NOTE**

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

The objects of this Bill are:

- (a) to require a redistribution of electoral districts to be carried out if more than one-quarter of those districts are malapportioned, that is, the number of electors enrolled in each of those districts differs from the average district enrolment to a greater extent than 5 per cent more or less;
- (b) to require the commissioners carrying out an electoral redistribution to obtain and consider the advice of a recognised demographer;
- (c) to fix a period within which any legal challenge to a redistribution must be made;
- (d) to provide for the close of the roll in an election on the day of the issue of the writ for the election instead of 3 days after the issue of the writ;
- (e) to enable official agents of registered parties to nominate candidates for election;
- (f) to reduce the deposit required to be paid by candidates for election and to change the provisions governing the entitlement to a refund of the deposit;
- (g) to provide for the printing of ballot-papers showing the party affiliation of the candidates and to enact provisions for the registration of parties and their official agents;
- (h) to enable groups nominated for election to the Legislative Council to lodge 3 group voting tickets (instead of only 1 or 2) and to provide for only 1 group voting ticket square to be shown on the ballot-papers;
- (i) to increase penalties for offences relating to multiple or fraudulent voting;
- (j) to provide that the last day for the receipt of postal votes is the fourth day after polling-day instead of the seventh day for ordinary postal votes and the tenth day for overseas postal votes;

*Constitution and Parliamentary Electorates and Elections (Amendment) 1990*

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- (k) to enable pre-poll voting at the office of any returning officer instead of only at the office of the returning officer for the district in which the elector is enrolled;
- (l) to change the provisions relating to registered postal voters;
- (m) to provide that a ballot-paper in which the voter uses a tick or a cross to indicate his or her vote is informal instead of being formal; and
- (n) to make other miscellaneous changes with respect to Parliamentary elections.

A detailed explanation of each amendment is set out in the Bill after the amendment concerned.

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FIRST PRINT

**CONSTITUTION AND PARLIAMENTARY ELECTORATES AND  
ELECTIONS (AMENDMENT) BILL 1990**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Constitution Act 1902 No. 32
4. Amendment of Parliamentary Electorates and Elections Act 1912 No. 41
5. Amendment of Constitution Further Amendment (Referendum) Act 1930 No. 2
6. Amendment of Election Funding Act 1981 No. 78
7. Explanatory notes

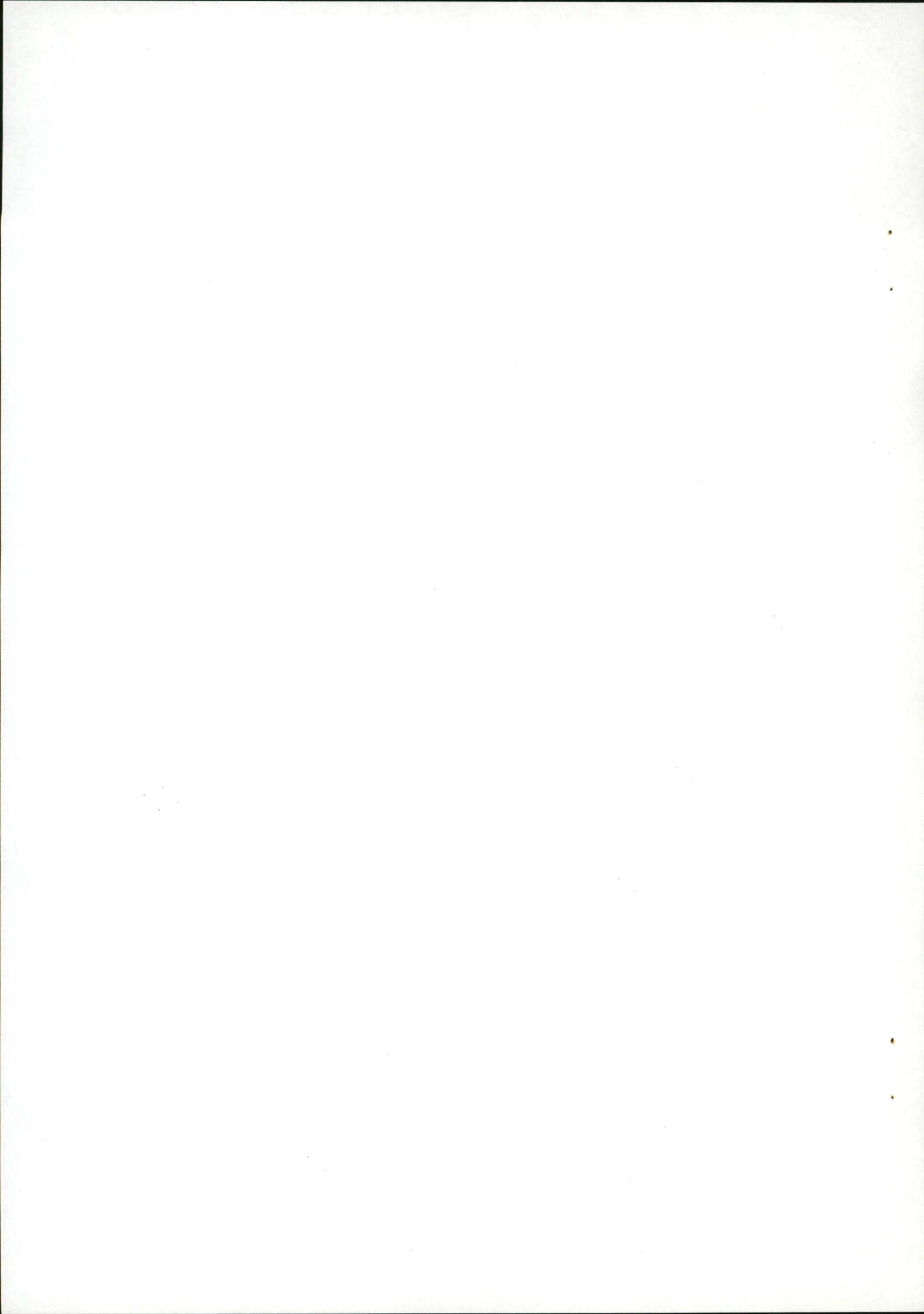
**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES  
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**SCHEDULE 2 - AMENDMENT OF CONSTITUTION FURTHER AMEND-  
MENT (REFERENDUM) ACT 1930**

**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING ACT 1981**

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**CONSTITUTION AND PARLIAMENTARY ELECTORATES AND  
ELECTIONS (AMENDMENT) BILL 1990**

NEW SOUTH WALES



No. , 1990

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**A BILL FOR**

An Act to amend the Constitution Act 1902 and Parliamentary Electorates and Elections Act 1912 with respect to electoral redistributions, the nomination of candidates, party affiliation on ballot-papers, postal voting and offences, and in other respects; and to make consequential amendments to other Acts.

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1990.

**Commencement**

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

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended by inserting after section 28 the following section:

**Special distribution to maintain equal number of voters in each electoral district**

28A. (1) A distribution of New South Wales into electoral districts shall be made forthwith after more than one-quarter of the number of electoral districts has been malapportioned for a period of more than 2 months.

(2) For the purposes of this section, an electoral district is malapportioned at any particular time if the number of persons then entitled to vote at a general election of Members of the Legislative Assembly in the electoral district differs from the average electoral district enrolment at that time to a greater extent than 5 per cent more or less.

(3) The average electoral district enrolment is the quotient obtained by dividing the number of persons entitled to vote at a general election of Members of the Legislative Assembly in all electoral districts by the number of those districts.

(4) A distribution shall not be made under this section if:

- (a) the distribution would commence within 1 year before the expiry of the Legislative Assembly by the effluxion of time; or
- (b) a distribution has already been made since the last general election of Members of the Legislative Assembly (whether under this section or not); or



(c) a distribution is required to be made apart from this section.

**Explanatory note**

The proposed amendment provides an additional ground on which a distribution of electoral districts for the Legislative Assembly is to be undertaken, namely, the fact that more than a quarter of electoral districts have ceased to have an equal number of voters (within a margin of 5% more or less). The additional ground is similar to that which applies to the redistribution of electoral divisions of the House of Representatives (except that in the case of Commonwealth distributions more than a third of the divisions must be malapportioned within a margin of 10% more or less). At present a distribution is required by section 27 of the Act to be undertaken every second general election and after any change in the number of Members of the Legislative Assembly.

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

4. The Parliamentary Electorates and Elections Act 1912 is amended as set out in Schedule 1.

**Amendment of Constitution Further Amendment (Referendum) Act 1930 No. 2**

5. The Constitution Further Amendment (Referendum) Act 1930 is amended as set out in Schedule 2.

**Amendment of Election Funding Act 1981 No. 78**

6. The Election Funding Act 1981 is amended as set out in Schedule 3.

**Explanatory notes**

7. Matter appearing under the heading "Explanatory note" in this Act does not form part of this Act.

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**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912**

(Sec. 4)

(1) Section 3 (**Definitions**):

In section 3 (1), insert the following definitions in alphabetical order:

"**Abbreviation**", in relation to the name of a party, includes an alternative name of the party.

"**Endorsed**" means endorsed, selected or otherwise accredited to stand as a representative of a party.

"**Party**" means a body or organisation, incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Assembly or the Council of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part.

"**Registered officer**" of a registered party means the person shown in the Register of Parties under Part 4A as the registered officer of the party, and (except in Part 4A) includes a person shown in that Register as a deputy registered officer of the party.

"**Registered party**" means a party registered in accordance with Part 4A.

**Explanatory note:** The amendment inserts definitions required by other proposed amendments.

(2) Section 13 (**Redistribution of electoral districts by commissioners etc.**):

After section 13 (5), insert:

(6) The commissioners shall also obtain, and consider, the advice of a recognised demographer before determining the boundaries of electoral districts.

**Explanatory note:** The amendment requires the commissioners who carry out a redistribution of electoral districts to obtain and consider the advice of a recognised demographer.

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(3) Section 16:

After section 15, insert:

**Distribution may not be challenged in court after specified period**

16. (1) A proclamation under section 15 (2) setting out the names and boundaries of the electoral districts of New South Wales or any decision of the commissioners in carrying out (or purporting to carry out) the distribution of New South Wales into those electoral districts:

- (a) may not be challenged, appealed against, reviewed, quashed, set aside or called in question in any court or tribunal on any ground; and
- (b) is not subject to any order in the nature of mandamus, prohibition or certiorari, to any injunction or to any declaratory or other order in any court or tribunal on any ground.

(2) Subsection (1) does not apply to proceedings instituted in a court or tribunal within 30 days after the publication of the proclamation and before the issue of the writs for the next general election of Members of the Legislative Assembly. However, if any such proceedings are pending on the issue of the writs, subsection (1) then applies and the proceedings are to be terminated.

(3) This section does not apply to any contravention (or alleged contravention) of section 27 or 28 of the Constitution Act 1902.

(4) This section has effect despite any other Act or law to the contrary.

(5) A reference in this section to a decision of the commissioners includes a reference to:

- (a) a decision made in the performance of a duty as well as a decision made in the exercise of a discretion; and



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (b) a refusal or failure to make a decision; and
- (c) anything done by the commissioners or others on which a decision is based.

**Explanatory note:** The amendment restricts any right to challenge a redistribution in the courts by imposing a time limit within which any such challenge must be made.

**(4) Section 35 (Registration of claims):**

- (a) Omit section 35 (4), insert instead:

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

**Explanatory note:** The amendment provides for the roll for an election to be closed at 6 p.m. on the date the writ for the election is issued (instead of 3 days after the issue of the writ).

- (b) After section 35 (5), insert:

(6) The regulations may make provision for or with respect to the giving of notice by the Electoral Commissioner to an elector of his or her enrolment and the signing of that notice by the elector.

**Explanatory note:** The amendment restores the regulation-making power which was contained in section 35 (1A) but which was repealed in connection with other amendments made to the section in 1987. The enrolment advice card is used by electors as evidence of their enrolment and of their age.

**(5) Section 50:**

Omit the section, insert instead:

**Roll for purposes of election**

50. (1) The Australian Electoral Officer for New South Wales must, after the issue of the writ and before the day of nomination for an election in any district, certify, sign and transmit to the State returning officer for the district

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

a printed copy of the roll for each subdivision in the district as in force at 6 p.m. on the day of the issue of the writ.

(2) A copy of the roll so transmitted to the State returning officer is the electoral roll for the subdivision.

(3) The regulations may make provision for or with respect to the supply and certification of a composite roll for a district made up of all rolls for a subdivision.

(4) A registrar must comply with any direction of the Australian Electoral Officer for New South Wales given to enable that Electoral Officer to comply with this section.

(5) If the Electoral Commissioner is satisfied that the Australian Electoral Officer for New South Wales, or any other person, refuses or has failed to perform any duty under this section, the Electoral Commissioner (or a person authorised by the Electoral Commissioner) may perform that duty and, for that purpose, has all the powers, authorities, duties and functions of the Australian Electoral Officer for New South Wales or any registrar.

**Explanatory note:** The amendment transfers to the Australian Electoral Officer for the State the responsibility for certifying and transmitting a printed roll to the returning officer for the purposes of an election. At present the obligation is imposed on each Commonwealth divisional returning officer in the State but, because of the computerised facilities for keeping the roll, only the Australian Electoral Officer for the State is in a position to transmit a printed copy of the roll. The opportunity has been taken to remove obsolete provisions relating to supplementary rolls.

**(6) Section 55 (Regulations):**

Omit the section.

**Explanatory note:** The amendment repeals a general regulation-making power for the purposes of Part 4 of the Act as a consequence of the consolidation of those powers in section 176.

**(7) Part 4A:**

After Part 4, insert:



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

**PART 4A - REGISTRATION OF PARTIES**

**Definitions**

66A. In this Part:

"address" does not include a postal address that consists of a post office box number;

"eligible party" means a party:

(a) at least one member of which is a member of Parliament; or

(b) that has at least 200 members,

being a party established on the basis of a written constitution (however expressed) that sets out the platform or objectives of the party;

"member" of a party means a member of the party who is an elector;

"Parliament" means the Parliament of New South Wales;

"secretary" of a party means the person who holds the office (however expressed) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party.

**Registration of parties**

66B. Subject to this Part, an eligible party may be registered under this Part for the purposes of this Act and the Election Funding Act 1981.

**Register of Parties**

66C. (1) The Electoral Commissioner is required to keep a register, to be called the Register of Parties, containing the names of the parties registered under this Part and other particulars or documents required by this Part.

(2) The Register of Parties is to be kept in such form and manner as the Electoral Commissioner thinks fit.



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

**Application for registration**

66D. (1) An application for the registration of a party may be made to the Electoral Commissioner (in the form and manner approved by the Electoral Commissioner) by:

- (a) the secretary of the party; or
  - (b) a member of the party who is a member of Parliament.
- (2) An application for the registration of a party must:
- (a) set out the name of the party; and
  - (b) if the party wishes to be able to use an abbreviation of its name on ballot-papers or electoral material - set out that abbreviation; and
  - (c) set out the name and address of the natural person who is to be the registered officer of the party for the purposes of this Act; and
  - (d) set out the name and address of a natural person (if any) who is to be a deputy registered officer of the party for the purposes of this Act; and
  - (e) set out the address of the party headquarters in New South Wales; and
  - (f) be accompanied by a copy of the constitution of the party; and
  - (g) set out the name and address of a member of Parliament who is a member of the party or, if the party is not represented in Parliament, the names, addresses (as enrolled) and signatures of 200 electors who are members of the party; and
  - (h) state whether or not the party wishes to be registered for the purposes of the Election Funding Act 1981; and
  - (i) set out such other particulars (or be accompanied by such other documents) as are required by the regulations or the approved form of application.

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

**Registration**

66E. (1) If an application for the registration of an eligible party is duly made, the Electoral Commissioner must (subject to this Part) register the party by the insertion in the Register of Parties of the name of the party.

(2) The particulars or documents with respect to a registered party that were set out in or accompanied the application for the registration of the party are to be included in or form part of the Register of Parties.

**Party not to be registered during election**

66F. (1) A party may not be registered under this Part in the period commencing on the day of the issue of the writ in an election and ending on and including the day fixed for the taking of the poll in the election.

(2) No action is to be taken during that period in relation to an application for registration.

**Refusal to register**

66G. (1) The Electoral Commissioner may refuse to register a party if it is not an eligible party or if its application for registration has not been duly made under this Part.

(2) Without limiting subsection (1), the Electoral Commissioner may refuse to register a party if the Electoral Commissioner believes on reasonable grounds that particulars set out in or documents accompanying the application are incomplete or not correct, but may, if the Electoral Commissioner thinks fit, register the party despite any such defect.

(3) The Electoral Commissioner is to refuse to register a party if, in the opinion of the Electoral Commissioner, the name of the party or the abbreviation of the name (if any) as set out in the application for registration of the party:



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

- (a) comprises more than 6 words; or
  - (b) is obscene or offensive; or
  - (c) is the name, is an abbreviation or acronym of the name, or is a derivative of the name, of a registered party or a party currently represented in Parliament; or
  - (d) so nearly resembles the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament that it is likely to be confused with or mistaken for that name or that abbreviation or acronym; or
  - (e) comprises the words "Independent Party" or comprises or contains the word "Independent" and:
    - (i) the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament; or
    - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a registered party or a party currently represented in Parliament that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym.
- (4) If the Electoral Commissioner refuses to register a party:
- (a) the Electoral Commissioner must forthwith notify the applicant of the refusal and of the reasons for the refusal; and
  - (b) the applicant may, within 30 days after the date of the notification by the Electoral Commissioner, amend the application for registration and the Electoral Commissioner may deal with the amended application.

**Amendment of Register**

66H. (1) An application may be made to the Electoral Commissioner (in the form and manner approved by the



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

Electoral Commissioner) for the amendment of the particulars in the Register of Parties with respect to a registered party.

(2) The application may be made:

- (a) by the registered officer of the party; or
- (b) if the application is to change the registered officer of the party - by the secretary of the party or by a member of the party who is a member of Parliament.

(3) The provisions of this Part relating to an application for the registration of a party apply (subject to the regulations) to an application for the amendment of the Register of Parties. For that purpose, the application is to be regarded as an application for registration setting out particulars as proposed to be amended.

(4) If the application is approved, the Electoral Commissioner is to make the necessary changes in the Register of Parties.

(5) A reference in this section to the amendment of the particulars included in the Register of Parties includes a reference to the replacement of documents forming part of the Register.

**Cancellation of registration**

66L. (1) The Electoral Commissioner may cancel the registration of a party at the written request of the registered officer of the party.

(2) If the Electoral Commissioner is satisfied on reasonable grounds that:

- (a) a registered party has ceased to exist (whether by amalgamation with another party or otherwise); or
- (b) a registered party not represented in Parliament has ceased to have 200 members; or
- (c) the candidates at a general election held after the registration of a party did not include at least one candidate endorsed by the party; or

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(d) the registration of a party was obtained by fraud or misrepresentation,  
the Electoral Commissioner may, subject to and in accordance with the regulations, cancel the registration of the party.

(3) If the registration of a party is cancelled, the Electoral Commissioner must:

- (a) give notice of the cancellation and the reasons for the cancellation to the person who was the registered officer of the party immediately before the cancellation and cause notice of the cancellation to be published in the Gazette; and
- (b) remove from the Register of Parties the name and other particulars or documents relating to the party.

**Public access to registers**

66J. (1) The Register of Parties kept under this Part must be available for public inspection during ordinary office hours.

(2) A list of the names and registered officers of the parties entered in the current Register of Parties must be published in the Gazette as soon as practicable after the issue of the writ for any election.

**Statutory declarations**

66K. The Electoral Commissioner may require any information in an application under this Part to be verified by statutory declaration.

**False statements**

66L. A person who, in any application made under this Part, makes a statement that the person knows to be false or misleading is guilty of an offence.

Maximum penalty: 100 penalty units.



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**Evidence**

66M. A certificate signed by the Electoral Commissioner certifying:

- (a) that a specified party was or was not registered under this Part at a specified time or during a specified period; or
- (b) that a specified person was or was not the registered officer or a deputy registered officer of a specified party at a specified time or during a specified period,

is admissible in any proceedings and is prima facie evidence of the matters so certified.

**Transitional arrangements**

66N. (1) As soon as practicable after the commencement of this Part, the Electoral Commissioner is required to insert in the Register of Parties under this Part the names and other relevant particulars of all parties registered under the Election Funding Act 1981 immediately before that commencement (including the statement that the party wishes to be registered for the purposes of the Election Funding Act 1981).

(2) Subsection (1) does not prevent the cancellation of the registration of any party whose name is so inserted in the Register of Parties.

(3) The Electoral Commissioner is required to enter in the Register of Parties, as the registered officer of a party whose name is so inserted in the Register, the name of the person who was, immediately before the commencement of this Part, the party agent of the party within the meaning of the Election Funding Act 1981.

**Explanatory note:** The proposed Part 4A transfers from the Election Funding Act 1981 provisions relating to the registration of political parties. Because of the proposal for the insertion of party names on ballot-papers and for the nomination of candidates by the official agents of parties, registration will in future not be limited to



**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

registration for election funding purposes. As a result of the transfer of the registration provisions:

- (a) the Electoral Commissioner (instead of the Election Funding Authority) will be responsible for registration; and
- (b) registration of new parties will be prohibited after the issue of the writ for an election and before polling day; and
- (c) the registered name of a party to be used on ballot-papers will be limited to 6 words; and
- (d) provision is made for the nomination of the agent of the party (to be known as the registered officer of the party); and
- (e) provision is made for the party to nominate whether it wishes to be registered for the purposes of election funding.

The new registration requirements follow similar requirements applying to Commonwealth elections.

**(8) Section 67A (Application of Part):**

After "3", insert ", 6B".

**Explanatory note:** Consequential amendment on insertion of proposed Division 6B relating to party affiliation on ballot-papers.

**(9) Section 79 (Nomination of Assembly candidates):**

**(a) Omit section 79 (2), insert instead:**

(2) Before, and in order that, any person may be a candidate at any election for a district, the person must be nominated by:

- (a) the registered officer of a registered party which has endorsed the person for the election; or
- (b) not fewer than 15 persons each of whose names is on the roll for the district.

**(b) After section 79 (3), insert:**

(3A) A nomination-paper in which the candidate is nominated by the registered officer is to be in the following form, namely:

I, the person whose name appears on this form as the registered officer of the registered party which has endorsed the candidate, do hereby nominate (*here state*

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

*name in full, occupation and place of residence as enrolled  
of the person nominated*) for election as a member of the  
Legislative Assembly for the electoral district of

Dated this                      day of                      19 .

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Name in full of registered officer	Name of party	Signature of registered officer
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I, the abovenamed                      , hereby  
consent to such nomination and certify that the place of  
residence stated above is my place of residence as enrolled.

(Signed)

- (c) From section 79 (4), omit "Such nomination-paper shall be", insert instead "A nomination-paper in which the candidate is nominated by electors is to be".
- (d) In section 79 (4), after "residence" where lastly occurring, insert "as enrolled".
- (e) From section 79 (4), omit "And no person", insert instead "(4A) No person".

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

**Explanatory note:** The amendments (paragraphs (a)-(e)) enable candidates for election to the Legislative Assembly to be nominated by at least 15 electors (instead of 30 electors) or to be nominated (as an alternative) by the registered officer of the political party that has endorsed the candidate (being a party or officer registered under proposed Part 4A of the Act).

- (f) From section 79 (7A) (a), omit "\$500", insert instead "\$250".

**Explanatory note:** The amendment reduces from \$500 to \$250 the deposit payable by a candidate nominated for election to the Legislative Assembly. The deposit will be the same as that currently applying in the case of elections to the House of Representatives.

- (g) From section 79 (7A) (c), omit "more than one-fifth of the total number of first preference votes polled by the successful candidate in the election", insert instead "at least 4 per cent of the total number of first preference votes polled in the district".

**Explanatory note:** At present, a candidate's deposit in an Assembly election is returned only if the candidate is elected or if the number of first preference votes of the candidate exceeds one-fifth of the total number of first preference votes of the elected candidate. The amendment provides instead for the deposit to be returned if the candidate is elected or if the number of first preference votes of the candidate exceeds 4% of the total number of first preference votes. The amendment follows the requirement for the return of deposits that currently applies for elections to the House of Representatives.

**(10) Section 81B (Nomination of Council candidates):**

- (a) Omit section 81B (2), insert instead:

(2) Before, and in order that, any person may be a candidate at any periodic Council election, the person must be nominated by:

- (a) the registered officer of a registered party that has endorsed the person for the election; or  
(b) not fewer than 15 persons each of whose names is on a roll.



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(b) After section 81B (3), insert:

(3A) A nomination-paper in which the candidate is nominated by the registered officer is to be in the following form, namely:

I, the person whose name appears on this form as the registered officer of a registered party that has endorsed the candidate, do hereby nominate for election to the Legislative Council the following person:

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*Name in full of person nominated	Occupation	Place of residence as enrolled	**Signature of person nominated
-----------------------------------	------------	--------------------------------	---------------------------------

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\* Underline surname.

\*\* The signature of the person nominated must appear opposite 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.

Dated this                      day of                      19 .

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

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Name in full of registered officer	Name of party	Signature of registered officer

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- (c) From section 81B (4), omit "The nomination-paper shall be", insert instead "A nomination-paper in which the candidate is nominated by electors is to be".

**Explanatory note:** The amendments enable candidates for general elections of the Legislative Council to be nominated (as an alternative to nomination by at least 15 electors) by the registered officer of the party that has endorsed the candidates (being a party or officer registered under proposed Part 4A of the Act).

(11) Section 81F (**Deposit for periodic Council election**):

- (a) From section 81F (1), omit "\$750", insert instead "\$500".

**Explanatory note:** The amendment reduces from \$750 to \$500 the deposit payable by a candidate nominated for election to the Legislative Council. The deposit will be the same as that applying in the case of elections to the Senate.

- (b) Omit section 81F (3), insert instead:

(3) After the election, the deposit shall be returned to the candidate (or some person authorised by the candidate in writing to receive it) if:

- (a) the candidate is elected; or
- (b) at least one of the candidates in the group in which the candidate is included is elected; or
- (c) the total number of votes polled as first preference votes in the candidate's favour or in favour of the members of the group in which the candidate is

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included is at least 4 per cent of the total number of first preference votes polled in the election.

**Explanatory note:** At present a candidate's deposit in a Council election is returned only if the candidate is elected or if the total first preference votes of the candidate (or the members of a group of candidates) exceeds one-half of the quota for election. The amendment provides instead for the return of the deposit if the total number of first preference votes exceeds 4% of the total first preference votes. In addition the deposit will be returned if any member of the group is elected. The amendment follows the requirement for the return of deposits that applies for elections to the Senate, except for the additional requirement that the deposit will be returned if any member of the group is elected.

**(12) Section 83 (Printing of ballot-papers):**

At the end of section 83 (d), insert:

; and

- (e) if required by Division 6B, the names of registered parties or the word "Independent" shall be printed in accordance with that Division.

**Explanatory note:** The amendment is consequential on the amendment made by item (15) relating to party affiliation on ballot-papers.

**(13) Section 83B (Printing of ballot-papers):**

- (a) From section 83B (5) (f), omit "and".

- (b) At the end of section 83B (5) (g), insert:

; and

- (h) if required by Division 6B, the names of registered parties or the word "Independent" shall be printed in accordance with that Division.

- (c) From section 83B (5A), omit "1 group voting ticket", insert instead "a group voting ticket".

- (d) Omit section 83B (5B).

**Explanatory note:** Paragraphs (a) and (b) are consequential on the amendment made by item (15) relating to party affiliation on ballot-papers and paragraphs (c) and (d) are consequential on the



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amendments made by items (14) and (39) relating to multiple group voting tickets for Council elections.

(14) Section 83C (**Group voting tickets**):

- (a) From section 83C (1) and (6), omit "or 2 group voting tickets" wherever occurring, insert instead ", 2 group voting tickets or 3 group voting tickets".
- (b) After section 83C (4) (a), insert:
  - (a1) if all the candidates included in the group have been endorsed by the same registered party - by the registered officer of the party;
  - (a2) if the candidates included in the group have been endorsed by different registered parties - by the registered officer of each of those parties;
- (c) Omit section 83C (7).

**Explanatory note:** The amendments (paragraphs (a) and (c)) enable a group of candidates at a Council election to register 3 group voting tickets instead of only 1 or 2. At present if 2 group voting tickets are registered there are 2 voting ticket squares placed on the ballot-paper (one for each ticket). It is proposed instead to provide only 1 voting ticket square on the ballot-paper and to divide the votes cast for the group equally in accordance with the 2 or 3 voting tickets registered (see item (39)). The proposed system is the same as that applying to Senate elections. Paragraph (b) enables an official agent of the party as well as the candidates in a group to lodge a group voting ticket for registration.

(15) Part 5, Division 6B:

After Division 6A of Part 5, insert:

**Division 6B - Party endorsement on ballot-papers**

**Notification of party endorsement**

83D. (1) The registered officer of a registered party may request that either the registered name of that party or the registered abbreviation of the name of that party be printed on the ballot-papers for an election adjacent to the name of a candidate who has been endorsed by that party.

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(2) Any such request is to be in writing signed by the person making the request.

(3) Any such request is to be given before noon on the day of nomination to:

- (a) in the case of a periodic Council election - the Electoral Commissioner; or
- (b) in the case of an election of a Member of the Assembly for an electoral district - the returning officer for the district or the Electoral Commissioner.

(4) If:

- (a) any such request has been made in respect of candidates in a periodic Council election; and
- (b) the candidates propose to lodge a group voting ticket for the purposes of the election,

the request may include a further request that the name of the registered party that endorsed the candidates, or a composite name formed from the registered parties that endorsed the candidates, be printed on the ballot-papers adjacent to the candidates' group voting ticket square.

(5) A reference in this section to a registered name or abbreviation is a reference to a name or abbreviation entered in the Register of Parties under Part 4A.

**Notification of independent candidacy**

83E. (1) A candidate in an election may request that the word "Independent" be printed adjacent to the candidate's name on the ballot-papers for the election.

(2) Any such request is to be in writing signed by the person making the request.

(3) Any such request is to be given before noon on the day of nomination to:

- (a) in the case of a periodic Council election - the Electoral Commissioner; or
- (b) in the case of an election of a Member of the Assembly for an electoral district - the returning



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officer for the district or the Electoral Commissioner.

(4) A candidate may not make both a request under this section and a claim under section 81C to have the candidate's name included in a group on the ballot-paper.

**Verification of party endorsement**

83F. (1) For the purposes of this Act, a person is taken to have been endorsed by a registered party as a candidate in an election if:

- (a) the candidate is nominated by the registered officer of the party; or
- (b) the name of the candidate is included in a statement, signed by the registered officer of the party, setting out the names of the candidates endorsed by the party in the election and given to the Electoral Commissioner before noon on the day of nomination; or
- (c) the Electoral Commissioner is satisfied, after making such inquiries as the Commissioner thinks appropriate of the registered officer or otherwise, that the candidate is so endorsed.

(2) If a person has been endorsed as a candidate in an election by 2 or more registered parties, the person is, for the purposes of this Division, taken to have been endorsed:

- (a) if the person is nominated by the registered officer of one of the parties - by that party; or
- (b) if a request has been made under this Division by the registered officer of one of the parties (and paragraph (a) does not apply) - by that party; or
- (c) if paragraphs (a) and (b) do not apply - by the party specified by the person in a written notice given to the Electoral Commissioner.



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**Combination of requests**

83G. A request under this Division:

- (a) may be written on the same paper as the nomination of the candidate to whom the request relates; and
- (b) if 2 or more requests are to be made by the same person - may be combined with the other requests.

**Printing of party name etc. on ballot-papers**

83H. (1) If a person:

- (a) has been endorsed by a registered party as a candidate in an election; and
- (b) a request has been made in respect of the candidate under section 83D,

the name of that party is to be printed adjacent to the name of the candidate on the ballot-papers.

(2) If 2 or more persons have been endorsed by a registered party as candidates in a periodic Council election and a claim has been made to include the names of those candidates in a group in the ballot-papers, the following requirements apply to the printing of the ballot-papers:

- (a) the name of the party by which each candidate was endorsed is to be printed adjacent to the name of that candidate on the ballot-papers;
- (b) if all the candidates were endorsed by the same party and a group voting ticket square is printed on the ballot-papers in relation to the candidates - the name of the party is to be printed on the ballot-papers adjacent to that square;
- (c) if the request under section 83D included a request that a composite name be printed adjacent to the group voting ticket square on the ballot-papers in relation to the candidates - the composite name is to be printed on the ballot-papers adjacent to that square.

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(3) If a candidate in an election has made a request under section 83E, the word "Independent" is to be printed adjacent to the name of the candidate on the ballot-papers.

**Form of party name on ballot-papers**

83I. (1) Where a provision of this Act requires the name of the registered party to be printed on ballot-papers for use in an election:

- (a) the name to be so printed is the name of the party entered in the Register of Parties under Part 4A; or
- (b) if a request has been duly made under this Division for the abbreviation of the name of the party to be so printed - the abbreviation to be so printed is the abbreviation entered in the Register of Parties under Part 4A.

(2) The names of registered parties, or the abbreviations of such names, printed adjacent to the names of candidates on ballot-papers are to be printed in capital letters in type that is uniform in size and style for all those names or abbreviations.

(3) The names of registered parties, or the abbreviations of such names, printed adjacent to group voting squares on ballot-papers are to be printed in capital letters in type that is uniform in size and style for all those names or abbreviations.

**Explanatory note:** The amendment provides for the name of the registered party that has endorsed a candidate to be shown adjacent to the name of the candidate on the ballot-papers if requested by the agent of the party. In the case of independents, the word "Independent" is to be shown adjacent to the name of the candidate if requested by the candidate. In the case of Council elections, the party name is to be shown (if duly requested) adjacent to the group voting square on the top half of the ballot-paper and also on the bottom half of the ballot-paper adjacent to the number of the group and adjacent to the name of each candidate in the group. The provisions are similar to those that apply to Commonwealth elections.



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**(16) Section 86 (Booths - arrangement, ballot-boxes etc.):**

Omit "a ballot-box having a lock and key, and ", insert instead "a ballot-box".

**Explanatory note:** The amendment removes the necessity for ballot-boxes to have a lock and key and will enable the use of cardboard ballot-boxes.

**(17) Section 86A (Group voting tickets to be displayed at polling-places):**

(a) Omit section 86A (2) (c), insert instead:

(c) tickets lodged by the same group are displayed in the same column; and

(b) After section 86A (2), insert:

(2A) If a group has more than one group voting ticket, the tickets relating to that group are to be displayed in the order indicated by the candidates in the group when lodging those tickets.

**Explanatory note:** The amendment is consequential on the amendment made by item (14) relating to group voting tickets for Council elections.

**(18) Section 94 (Returning officer to exhibit ballot-box before taking poll):**

(a) Omit "and lock", insert instead "and seal".

(b) Omit ", and he shall keep the key of the said box".

**Explanatory note:** The amendment removes the necessity for a ballot-box to have a lock and key. The ballot-box will be required to be sealed (instead of locked) before polling begins.

**(19) Section 106 (Disputed vote):**

(a) After section 106 (1), insert:

(1A) If a person whose name has been noted (on the certified copy of the roll used at the polling-place for the subdivision in which the elector is enrolled) as that of an elector to whom a postal ballot-paper or pre-poll vote has



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been issued claims to vote in the election at that polling-place, the returning officer or deputy shall put to the person the prescribed questions. If the person answers the questions satisfactorily, states that he or she has not applied for a postal ballot-paper or pre-poll vote and makes a declaration in the prescribed form, the person may be permitted to vote.

- (b) From section 106 (3), omit "subsection (1) and subsection (2)", insert instead "this section".

**Explanatory note:** The amendments (paragraphs (a) and (b)) transfer to the Act the provisions of Regulation 11 under the Act relating to disputed votes cast by voters who have been recorded as having been issued with a postal or pre-poll vote.

- (c) In section 106 (2) (a) (i), omit "a day that is 3 days after".

**Explanatory note:** The amendment (paragraph (c)) is consequential on the amendment made by item (4) relating to the close of the roll.

- (20) **Section 112 (False answer to questions etc. or double voting):**

From section 112 (1), omit "he shall be guilty of a misdemeanour, and be liable to penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both.", insert instead:

the person is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for double voting, for false statements relating to the entitlement to vote etc. from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

- (21) **Section 114AA (Registration of general postal voters):**

- (a) In the definition of "prescribed elector" in section 114AA (1), after paragraph (a), insert:

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- (a1) if the regulations so provide, an elector who will not be within the State during any particular period;
- (b) After section 114AA (6), insert:
  - (6A) A registrar may register an elector to whom subsection (1) (a1) applies as a general postal voter only during the period that the elector has specified as the period during which he or she will not be within the State.
- (c) After section 114AA (11) (a), insert:
  - (a1) in the case of an elector to whom subsection (1) (a1) applies, the period of registration, the fact that the elector is registered under subsection (1) (a1) and the address of the place outside New South Wales to which ballot-papers are to be sent;
- (d) Omit section 114AA (15).
- (e) After section 114AA (17), insert:
  - (18) The regulations may provide that the functions of a registrar under this section in relation to the registration of an elector to whom subsection (1) (a1) applies are to be exercised by the Electoral Commissioner instead of the registrar. For that purpose, the regulations may provide for the Electoral Commissioner to keep a separate register and may make any other necessary modifications to the operation of this section.

**Explanatory note:** The amendments allow electors who will be outside the State to register as general postal voters during the period of their absence. This category of general postal voter is not recognised for Commonwealth elections and will apply in the case of New South Wales elections only. Since registration is effected by Commonwealth Divisional returning officers, the amendment empowers the making of regulations to transfer the registration function to the Electoral Commissioner if necessary.



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**(22) Section 114AB:**

Omit the section, insert instead:

**Dispatch of ballot-papers to registered postal voters**

114AB: 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 is, on that day, a registered general postal voter for a subdivision of the district:

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

**Explanatory note:** The amendment requires a returning officer to dispatch the relevant ballot-papers to registered general postal voters on the issue of a writ instead of dispatching an application for a postal vote. At present only registered general postal voters who cannot sign their name are entitled to a ballot-paper without making an application. In the case of the new category of general postal voters who are absent from the State, ballot-papers will be dispatched to the overseas or interstate address nominated by the voter.

**(23) Section 114D (Issue of certificate and ballot-paper):**

At the end of section 114D (2), insert:

; and

- (c) if required by Division 6B, the names of registered parties or the word "Independent".

**Explanatory note:** Consequential amendment.

**(24) Section 114H (Directions for postal voting):**

From section 114H (2), omit "seven days", insert instead "4 days".

**Explanatory note:** Consequential amendment - item (28).



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- (25) Section 114L (**Preliminary scrutiny of postal ballot-papers**):
- (a) Omit "the end of the period of seven days", insert instead "6 p.m. on the fourth day".
- Explanatory note:** The amendment provides that the last day for the receipt of ordinary postal ballot-papers will be 6 p.m. on the fourth day after polling day instead of midnight on the seventh day after polling day.
- (b) From section 114L (c), omit "locked and".
- Explanatory note:** Consequential amendment to authorise the use of cardboard ballot-boxes.
- (26) Section 114O:
- After section 114NA, insert:
- Reference to returning officer includes clerical assistant in certain cases**
- 114O. Every reference in this Division (except section 114L) to a returning officer shall be deemed to include a reference to a clerical assistant appointed to assist the returning officer in the performance of the returning officer's duties.
- Explanatory note:** The amendment enables clerical assistants to assist a returning officer in connection with postal voting. A similar provision is already made in connection with pre-poll voting (ss. 114Z, 114ZY) and overseas postal voting (s. 114ZK).
- (27) Section 114P (**Application for permission to vote before polling day**):
- In section 114P (1), after "enrolled", insert "(or, if the elector so wishes, to some other district returning officer)".
- Explanatory note:** The amendment allows pre-poll voting at the office of any returning officer instead of the returning officer for the subdivision in which the elector is enrolled.

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- (28) **Section 114Q (Procedure for voting before polling day):**
- (a) At the end of section 114Q (4) (a) (ii), insert:
    - ; and
    - (iii) if required by Division 6B, the names of registered parties or the word "Independent"; and
  - (b) Omit section 114Q (5) (b), insert instead:
    - (b) subject to section 114QA, retain the envelope and ballot-paper until the close of the poll.
- Explanatory note:** Consequential amendments.
- (29) **Section 114QA:**
- After section 114Q, insert:
- Ballot-papers etc. forwarded to district for which elector enrolled**
- 114QA. If a ballot-paper returned to a returning officer for a district under section 114Q contains the vote of an elector enrolled for some other district, the returning officer must deal with the ballot-paper in the same manner as that in which the returning officer is required by section 116 to deal with an absent voter's ballot-paper.
- Explanatory note:** Consequential amendment - item (27).
- (30) **Section 114X (Preliminary scrutiny of ballot-papers of electors under section 114Q):**
- After section 114X (3), insert:
- (4) This section is subject to section 114QA.
- Explanatory note:** Consequential amendment - item (27).
- (31) **Section 114Z (References to returning officer deemed to include clerical assistant in certain cases):**
- After "114Q," insert "114QA,".
- Explanatory note:** Consequential amendment - item (27).
- (32) **Section 114ZA (Application for a postal vote certificate and postal ballot-paper):**

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Omit section 114ZA (2) (d), insert instead:

- (d) subject to section 114ZB (3), be made before the close of business on:
  - (i) in the case of an application made to a place within Australia - the day preceding polling day; or
  - (ii) in the case of an application made to a place outside Australia - the second day preceding polling day.

**Explanatory note:** At present applications to vote by post made to interstate or overseas postal voting offices must be made by the close of business on the day preceding polling day. The amendment provides that applications to overseas postal voting offices must be made by the close of business on the Thursday preceding polling day. Section 114ZB (3) precludes the sending out by post of the postal voting papers after the close of business on the Wednesday preceding polling day.

(33) **Section 114ZB (Procedure for voting before polling day):**

At the end of section 114ZB (2), insert:

; and

- (c) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

(34) **Section 114ZG (Scrutiny of postal ballot-papers):**

- (a) From section 114ZG (1), omit "the end of the period of 10 days", insert instead "6 p.m. on the fourth day".

**Explanatory note:** The amendment provides that the last day for the receipt of completed postal ballot-papers from interstate and overseas voters will be 6 p.m. on the fourth day after polling day instead of midnight on the tenth day after polling day.

- (b) In section 114ZG (1) (b) (iii), after "polling day", insert "(if delivered to a place within Australia) or the second day preceding polling day (if delivered to a place outside Australia)".



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(c) From section 114ZG (1) (c), omit "locked and".

**Explanatory note:** Consequential amendments.

(35) **Section 114ZR (Procedure for voting at declared institutions):**

At the end of section 114ZR (6) (a) (ii), insert:

; and

(iii) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

(36) **Section 114ZW (Preliminary scrutiny of ballot-papers of certain electors under this Division):**

From section 114ZW (2), omit "locked and".

**Explanatory note:** Consequential amendment.

(37) **Section 115 (Voting outside subdivision):**

At the end of section 115 (2) (a) (ii), insert:

(iia) if required by Division 6B, the names of registered parties or the word "Independent"; and

**Explanatory note:** Consequential amendment.

(38) **Section 122A (Ballot-papers not to be informal in certain circumstances):**

(a) Omit section 122A (4), insert instead:

(4) For the purposes of determining the voter's intention under subsection (1), a tick or a cross placed in a square on a ballot-paper is not sufficient by itself to indicate that the voter intends to give a first preference vote to the candidate concerned.

(b) From section 122A (5), omit "or a tick" and "and any such tick were the number "1" ".

**Explanatory note:** The amendment (paragraph (a)) omits the provision which ensures that a voter records a valid first preference

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vote (in an Assembly election) if the voter (instead of using the numeral "1") places a tick or a cross in one voting square and does not mark any other voting square. A tick or cross is no longer to be sufficient by itself to indicate a first preference vote.

The amendment (paragraph (b)) retains the validity of a ballot-paper on which the numeral "1" (but not a tick) is placed in one voting square and crosses or lines are placed in or through the other voting squares.

**(39) Section 129EA:**

Omit the section, insert instead:

**Formal votes according to group voting ticket**

129EA (1) If a voter records a vote on a ballot-paper by placing the number "1" in one of the group voting ticket squares, the ballot-paper is (subject to this section) taken to have recorded on it a vote in accordance with the relevant group voting ticket lodged for the election.

(2) If a group has lodged 2 group voting tickets, one-half of the ballot-papers are taken to have recorded on them votes in accordance with one group voting ticket and the other half in accordance with the other ticket. If there is an odd number of ballot-papers, the additional ballot-paper is taken to have recorded on it a vote in accordance with the group voting ticket determined by lot by the Electoral Commissioner.

(3) If a group has lodged 3 group voting tickets, one-third of the ballot-papers are taken to have recorded on them votes in accordance with one group voting ticket, one-third in accordance with another one of the tickets and the other one-third in accordance with the remaining ticket. If the number of ballot-papers is not divisible by 3, the additional 1 or 2 ballot-papers are taken to have recorded on them votes in accordance with such 1 or 2 of the group voting tickets determined by lot by the Electoral Commissioner.

**Explanatory note:** The amendment is consequential on the amendment made by item (14) which enables a group of candidates at a Council election to register 3 group voting tickets instead of only 1 or 2. At present if 2 group voting tickets are registered there are 2



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voting ticket squares placed on the ballot-paper (one for each ticket). It is proposed instead to provide only 1 voting ticket square on the ballot-paper. The above amendment makes provision for the division of the votes cast for the group equally in accordance with the 2 or 3 voting tickets registered. The proposed system is the same as that applying to Senate elections.

**(40) Section 129F (Informal ballot-papers):**

**(a) Omit section 129F (2B), insert instead:**

(2B) For the purposes of determining the voter's intention under subsection (2), a tick or a cross placed in a square on a ballot-paper is not sufficient by itself to indicate that the voter intends to give a first preference vote to the candidate concerned.

**(b) From section 129F (2C), omit "or a tick" and "and any such tick were the numeral "1" ".**

**Explanatory note:** The amendment (paragraph (a)) omits the provision which ensures that a voter records a valid first preference vote (in a Council election) if the voter (instead of using the numeral "1") places a tick or a cross in one voting square and does not mark any other voting square. A tick or cross is no longer to be sufficient by itself to indicate a first preference vote.

The amendment (paragraph (b)) retains the validity of a ballot-paper on which the numeral "1" (but not a tick) is placed in one voting square and crosses or lines are placed in or through the other voting squares.

**(41) Section 147 (Bribery etc.):**

Omit "shall be guilty of a misdemeanour, and be liable to be fined any sum not exceeding \$1,000, or to be imprisoned for any term not exceeding 6 months, or to be both fined and imprisoned within such limits; and shall also be incapable of voting at such election.", insert instead:

is guilty of an offence and also incapable of voting at the election.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for bribery of electors etc. from a fine of \$1,000 or imprisonment for 6



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months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

**(42) Section 150 (Penalty for "treating"):**

Omit "to be fined any sum not exceeding \$1,000, or to be imprisoned for any term not exceeding 6 months or to be both fined and imprisoned within such limits", insert instead "to a fine not exceeding 100 penalty units, or to imprisonment for a term not exceeding 3 years, or to both such fine and imprisonment".

**Explanatory note:** The amendment increases the maximum penalty for a candidate who corruptly provides inducements for electors to vote from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both).

**(43) Section 151 (Intimidation):**

Omit "shall be guilty of a misdemeanour, and be liable to a penalty not exceeding \$1,000 or to imprisonment for a period not exceeding 6 months, or both.", insert instead: is guilty of an offence.

**Maximum penalty:** 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendment increases the maximum penalty for intimidating electors from a fine of \$1,000 or imprisonment for 6 months (or both) to a fine of 100 penalty units (currently equivalent to \$10,000) or imprisonment for 3 years (or both). The offence may be dealt with summarily instead of on indictment.

**(44) Section 151A (Printing etc. false information):**

From section 151A (1) (c) (i), omit "the Election Funding Act 1981", insert instead "Part 4A".

**Explanatory note:** Consequential amendment.

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**(45) Section 151G (Registration of electoral matter):**

**(a) After section 151G (2), insert:**

(2A) However, an application may be made to the Electoral Commissioner (after the issue of the writ and before the day of nomination) for preliminary advice on whether electoral material may be registered, even though the material is incomplete.

**Explanatory note:** At present, applications for registration of "how-to-vote cards" and other electoral matter may be made only after nomination day and at least 8 days before polling day. The amendment will enable preliminary advice on whether material may be registered pending the inclusion of details as to the names of candidates and the allocation of preferences.

**(b) In section 151G (8) (a) (i), omit "the party," insert instead "the party is not registered under Part 4A or the".**

**(c) In section 151G (8) (b) (i), omit "the party", insert instead "the party is not registered under Part 4A or the".**

**(d) From section 151G (8) (a) (iii) and (b) (iii), omit "party agent" wherever occurring, insert instead "registered officer".**

**(e) From section 151G (13), omit "and "party agent" have the same meanings", insert instead "has the same meaning".**

**Explanatory note:** Paragraphs (b)-(e) make consequential amendments.

**(46) Section 154AE (Arrangements for polling in Antarctica):**

In section 154AE (4), after "83B" wherever occurring, insert "and 83H".

**Explanatory note:** Consequential amendment.

**(47) Section 176 (Regulations):**

**(a) Omit section 176 (1), insert instead:**

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued***

or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(b) After section 176 (5), insert:

(6) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Explanatory note:** The amendment consolidates the regulation-making powers in the Act. At present the power to impose penalties for breaches of the regulations is limited to regulations made under section 55 for the purposes of Part 4 of the Act.

(48) Section 176F (**Forging or uttering electoral papers**):

Omit "guilty of a misdemeanour", insert instead "guilty of an offence".

**Explanatory note:** The amendment provides that the offence may be dealt with summarily instead of on indictment.

(49) Section 177 (**Offence of stuffing ballot-box**):

Omit "guilty of a misdemeanour", insert instead "guilty of an offence".

**Explanatory note:** The amendment provides that the offence may be dealt with summarily instead of on indictment.

(50) Section 183:

Omit the section, insert instead:

**Proceedings for offences**

183. Proceedings for an offence against this Act or the regulations are to be dealt with in a summary manner before a Local Court constituted by a Magistrate sitting alone.

**Explanatory note:** The amendment revises section 183 by way of statute law revision and as a consequence of other amendments made by the Bill.



SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued*

(51) Schedule 4:

Omit:

- BROOKMAN, John
- CRANE, Joseph
- FRENCH, Charles
- KING, William
- WILSON, Henry
- WRIGHT, James

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

Insert instead:

- FLOYD, Monica \*\*
- MAGEE, Michael \*\*
- KAZZI, Maha \*\*
- HALL, Lara \*\*

SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY ELECTORATES AND ELECTIONS ACT 1912 - *continued*

PRELL, James \*\*

NGUYEN, Thang \*\*

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

\*\* Here insert, if appropriate, the name of a registered party or the word "Independent".

(52) Schedule 4A:

(a) From the matter relating to Group E, omit the following:

Ticket 1                      Ticket 2  
                      or                                            or

insert instead the following:

Ticket  
                      or

(b) Insert "\*" immediately beneath "GROUP A", "GROUP B", "GROUP C", "GROUP D", "GROUP E", "GROUP F" and "GROUP G" wherever occurring.

(c) Insert "\*\*\*" immediately beneath each name (except in the last column).

(d) Insert "\*\*\*\*" immediately beneath each name in the last column.

**SCHEDULE 1 - AMENDMENT OF PARLIAMENTARY  
ELECTORATES AND ELECTIONS ACT 1912 - *continued***

(e) Insert at the end of the Schedule:

- 
- \* Here insert name of registered party or composite name if to be printed
  - \*\* Here insert name of registered party if to be printed
  - \*\*\* Here insert name of registered party or word "Independent" if to be printed.

**SCHEDULE 2 - AMENDMENT OF CONSTITUTION  
FURTHER AMENDMENT (REFERENDUM) ACT 1930**

(Sec. 5)

Section 37 (Supply of meat, drink, entertainment etc.); Section 38 (Bribery); Section 39 (Receipt of bribe by elector); Section 40 (Undue influence):

Omit "shall be guilty of an offence and shall be liable to a penalty not exceeding four hundred dollars or imprisonment for one year." wherever occurring, insert instead:

is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 3 years, or both.

**Explanatory note:** The amendments increase the penalty for the above offences (which apply during a referendum on proposed legislation) in line with the increases proposed for similar offences in connection with the election of members of Parliament.

**SCHEDULE 3 - AMENDMENT OF ELECTION  
FUNDING ACT 1981**

(Sec. 6)

- (1) Section 4 (Definitions):
- (a) From section 4 (1), omit the definitions of "abbreviation" and "electoral matter".
  - (b) From section 4 (1), omit the definition of "registered", insert instead:



**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued***

**"registered"** (except in the case of a party) means registered in accordance with this Act;

**"registered party"** means a party registered under Part 4A of the Parliamentary Electorates and Elections Act 1912, being a party which stated in its application for registration that it wished to be registered for the purposes of this Act;

**Explanatory note:** Consequential amendments.

**(2) Part 4, Division 1 (Register of Parties):**

Omit the Division.

**Explanatory note:** The amendment repeals provisions for the registration of parties as a consequence of the proposed transfer of those provisions to the Parliamentary Electorates and Elections Act 1912.

**(3) Section 57 (Determination of credits to funds):**

From section 57 (1) and (2), omit "day that is 3 days after the issue of the writs" wherever occurring, insert instead "day of the issue of the writs".

**Explanatory note:** Consequential on amendment made by Schedule 1 (4) relating to the close of the roll for an election.

**(4) Section 59 (General entitlements of parties):**

**(a) Omit section 59 (2) (a) and (a1), insert instead:**

**(a) it is a registered party as at the polling day for the general election;**

**Explanatory note:** Consequential amendment. The amendment confirms that a party is excluded from election funding unless registered on polling day. However, under the amendments proposed by Schedule 1, a party must be registered before the issue of the writ for the election because parties may not be registered for the first time during the election period.

**(b) Omit section 59 (2) (e), insert instead:**

**(e) the total number of first preference votes polled in favour of the members of the group at the periodic**

**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued***

Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.

**Explanatory note:** At present the entitlement of a registered party to election funding for general elections depends on whether the endorsed candidates of the party in the Council election received sufficient votes to secure the return of their deposits, namely, one-half of the election quota. The proposed Act alters the circumstances in which deposits are required to be returned. The amendment ensures that the alteration does not affect the current requirements relating to the eligibility of parties for election funding.

**(5) Section 60 (General entitlements of independent groups in Council elections):**

Omit section 60 (2) (d), insert instead:

- (d) the total number of first preference votes polled in favour of the members of the group at the periodic Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of independent groups at Council elections for election funding.

**(6) Section 61 (General entitlements of independent candidates in Council elections):**

Omit section 61 (2) (c), insert instead:

- (c) he is elected or the total number of first preference votes polled in his favour at the periodic Council election is not less than one-half of the quota referred to in clause 7 of the Sixth Schedule to the Constitution Act 1902.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of independent candidates at Council elections for election funding.

**SCHEDULE 3 - AMENDMENT OF ELECTION FUNDING  
ACT 1981 - *continued***

**(7) Section 65 (General entitlements):**

Omit section 65 (2) (b), insert instead:

- (b) he is elected to the Assembly or the total number of first preference votes polled in his favour at the election is not less than one-fifth of the total number of first preference votes polled by the successful candidate in the election.

**Explanatory note:** The amendment is similar to that made to section 59 (item (4)) but relates to the eligibility of candidates at Assembly elections for election funding.

**(8) Section 69 (Entitlements to advance payments):**

From section 69 (5), omit "registered as a party in the Register of Parties for the election", insert instead "a registered party as at the polling day for the election".

**(9) Section 73 (By-election Constituency Fund):**

From section 73 (2) and (3), omit "day that is 3 days after the date of issue of the writ" wherever occurring, insert instead "day of the issue of the writ".

**Explanatory note:** Consequential on amendment made by Schedule 1 (4) relating to the close of the roll.

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