



ANNO VICESIMO SECUNDO

ELIZABETHAE II REGINAE

A.D. 1973

No. 49 of 1973

An Act to amend the Electoral Act, 1929, as amended.

[Assented to 15th November, 1973]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Electoral Act Amendment Act, (No. 2) 1973".

(2) The Electoral Act, 1929, as amended by this Act and by all other amendments amending the same prior to the commencement of this Act, may be cited as the "Electoral Act, 1929-1973".

(3) The Electoral Act, 1929, as amended by all other amendments amending the same prior to the commencement of this Act, is hereinafter referred to as "the principal Act".

Commence-
ment.

2. This Act shall come into operation on a day to be fixed by proclamation.

Amendment of
principal Act,
s. 5—
Interpretation.

3. Section 5 of the principal Act is amended—

(a) by inserting after the word "means" in the definition of "officer" the passage "the Electoral Commissioner and"; and

(b) by inserting immediately after the definition of "subdivision" the following definition:—

"the Electoral Commissioner" means the Electoral Commissioner appointed under subsection (1) of section 6 of this Act, for the time being in

office and includes a person appointed under section 6b of this Act, to act as the Electoral Commissioner, while so acting.

4. Section 6 of the principal Act is repealed and the following sections are enacted and inserted in its place:—

Repeal of s. 6 of principal Act and enactment of sections in its place—

6. (1) The Governor may, subject to this Act, by notice published in the *Gazette* appoint a person to be the Electoral Commissioner.

Appointment of Electoral Commissioner.

(2) The Electoral Commissioner—

(a) shall be responsible for the administration of this Act; and

(b) shall have and may exercise such other powers, functions and authorities as are conferred on him by this Act or any other Act.

(3) The terms and conditions of appointment and employment of the Electoral Commissioner (including his salary and allowances) shall be as, from time to time, determined by the Governor and the salary and allowances of the Electoral Commissioner shall not be reduced during his term of office to an amount less than the amount payable to him on his appointment.

(4) This section shall, without further or other appropriation, be sufficient authority for the payment of the salary and allowances of the Electoral Commissioner out of the general revenue of the State which is, to the necessary extent, appropriated accordingly.

6a. The Electoral Commissioner shall not, without the consent of the Minister, engage in any remunerative employment or undertaking outside the duties of his office.

Electoral Commissioner not to engage in any remunerative employment.

6b. (1) If for any reason—

(a) the Electoral Commissioner is temporarily unable to perform the duties of his office;

or

(b) the office of the Electoral Commissioner is temporarily vacant,

Acting Electoral Commissioner.

the Governor may, by notice published in the *Gazette*, appoint a person to act in the office of the Electoral Commissioner and while so acting that person shall have and may exercise

and perform all the powers, functions and duties of the Electoral Commissioner in all respects as if he were the Electoral Commissioner.

(2) Subject to this Act, the terms and conditions of appointment and employment (including the salary and allowances) of the person appointed under subsection (1) of this section shall be as determined, from time to time, by the Governor.

(3) This section shall, without further or other appropriation, be sufficient authority for the payment of the salary and allowances of the person, appointed under subsection (1) of this section, out of the general revenue of the State which is, to the necessary extent, appropriated accordingly.

(4) An act done or purported to have been done by a person appointed under subsection (1) of this section in his capacity as such shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

Delegation.

6c. (1) The Electoral Commissioner may, by instrument in writing, delegate all or any of his powers, functions or duties (except this power of delegation) under this Act to any person and those powers, functions or duties may be exercised or performed by that person accordingly.

(2) The Electoral Commissioner may by instrument in writing revoke or vary any delegation given under subsection (1) of this section.

(3) The exercise or performance of any power, function or duty by a delegate pursuant to subsection (1) of this section shall not affect the exercise or performance of that power, function or duty by the Electoral Commissioner.

**Term of office
of the Electoral
Commissioner,
etc.**

6d. (1) The Electoral Commissioner shall be appointed for a term expiring on the day on which he attains the age of sixty-five years but nothing in this subsection shall be held to prevent the Electoral Commissioner retiring from office before he attains the age of sixty-five years.

(2) The Governor may remove the Electoral Commissioner from office upon the presentation of an address from both Houses of Parliament praying for his removal.

(3) The Governor may at any time suspend the Electoral Commissioner from office on the grounds of his incompetence or misbehaviour and—

(a) upon such suspension a full statement of the reason therefor shall be laid before both Houses of

Parliament within seven days of the suspension if Parliament is then in session or, if not, within seven days of the next succeeding session of Parliament;

and

(b) if within one month of the statement being laid before Parliament, an address to the Governor praying for the removal of the Electoral Commissioner from office has not been presented by both Houses of Parliament, he shall be restored to office but if both Houses of Parliament present such an address, the Governor may remove him from office.

(4) The office of the Electoral Commissioner shall become vacant if—

(a) he dies;

(b) he resigns from office by written notice addressed to the Governor, or his term of office expires;

(c) he is removed from office by the Governor under subsection (2) or (3) of this section;

(d) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;

(e) he is convicted of any indictable offence or is sentenced to imprisonment for any offence;

(f) he becomes a member of Parliament of the State, the Commonwealth or any other State of the Commonwealth;

or

(g) he becomes, in the opinion of the Governor, incapable by reason of mental or physical illness of further exercising or performing his powers, functions or duties under this Act.

(5) Except as is provided by this section, the Electoral Commissioner shall not be removed or suspended from office, nor shall the office of the Electoral Commissioner become vacant.

6e. (1) The Electoral Commissioner shall not hold office under the Public Service Act, 1967-1973.

Office of
Electoral
Commissioner.

(2) If a person appointed as the Electoral Commissioner was, immediately before that appointment, an Officer as defined in the Public Service Act, 1967-1973, he shall for the purposes of determining his existing and accruing rights to recreation leave,

long service leave and leave on account of illness or other pressing necessity be regarded as continuing as such an Officer and the service of that person as the Electoral Commissioner shall for those purposes be regarded as service under that Act.

(3) The Electoral Commissioner shall be an employee as defined in the Superannuation Act, 1969-1973.

References to
Returning
Officer for the
State, etc.

6f. Where in any other Act, or in any document, rule or regulation whether that Act, document, rule or regulation is or was enacted, published or made before or after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, a reference direct or indirect is made to the Returning Officer for the State or to the returning officer for the State that reference shall on and after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, be read as a reference to the Electoral Commissioner.

Principal
returning
officer.

6g. (1) There shall be a principal returning officer who shall be appointed under and be subject to the Public Service Act, 1967-1972.

(2) The occupant, if any, of the office of assistant returning officer for the State immediately before the commencement of the Electoral Act Amendment Act, (No. 2) 1973, shall on that commencement be deemed to have been appointed principal returning officer.

(3) The principal returning officer shall, under the direction of the Electoral Commissioner, perform such duties as the Electoral Commissioner directs and without limiting the generality of the foregoing the principal returning officer may, in case of illness, absence or other temporary incapacity of the Electoral Commissioner, act in the name and on behalf of the Electoral Commissioner and while so acting the principal returning officer shall have and may exercise all the powers, duties and functions of the Electoral Commissioner.

(4) Where in any other Act, or in any document, rule or regulation, whether that Act, document, rule or regulation is or was enacted, published or made before or after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, a reference direct or indirect is made to the assistant returning officer for the State that reference shall, on and after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, be read as a reference to the principal returning officer.

Amendment of
principal Act,
s. 71—
Forfeiture of
deposit.

5. Section 71 of the principal Act is amended by striking out from paragraph (a) of subsection (2) the passage "more than four per centum of the number of first preference votes cast at the

election” and inserting in lieu thereof the passage “the prescribed number of votes determined for that election pursuant to subparagraph (b) of paragraph (9) of section 125 of this Act or more than that number”.

6. Each provision of the principal Act described in the first column of the schedule to this Act is amended in the manner indicated in the second column of that schedule opposite the description of that provision. Amendments to principal Act.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor

THE SCHEDULE

AMENDMENTS TO THE PRINCIPAL ACT

Section

Provision Amended	How Amended
Section 7 (1)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 7 (2)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 8 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 8 (2a)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 8 (3)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 9	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 10	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 14 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 24 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 24 (2)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 25 (1)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 25 (3)	By striking out "Returning Officer for the State", and inserting in lieu thereof "Electoral Commissioner".
Section 26 (1)	By striking out "Returning Officer" and inserting in lieu thereof "Commissioner".
Section 26 (4)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 26 (4)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 32 (1) (a)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 32 (2)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 32 (3)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 32 (4)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 35 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 35 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 36 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 37 (2)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 38 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 38 (1) (f)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 38 (1) (h)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 38 (2)	By striking out "Returning Officer" and inserting in lieu thereof "Commissioner".
Section 38 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 40	By striking out "Returning Officer for the State", three times occurring and inserting in lieu thereof "Electoral Commissioner".
Section 40	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

Provision Amended	How Amended
Section 41	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 42	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 43 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 44 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 44 (3)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
	By striking out "returning officer" and inserting in lieu thereof "Commissioner".
Section 46 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 48 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 48 (3)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 49 (1) (a)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 49 (6)	By striking out "Returning Officer for the State", and inserting in lieu thereof "Electoral Commissioner".
	By striking out "Returning Officer" and inserting in lieu thereof "Commissioner".
Section 54 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 54 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 68	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 73 (2) (d)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Proviso to Section 73 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 75 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Proviso to Section 75 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 88 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 96 (1) (a)	By striking out "returning officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 110a (5)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (4)	By striking out "returning officer" and inserting in lieu thereof "Commissioner".
Section 118a (5)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 118a (6)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (8)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (9)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (10) (b)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (10)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 118a (12)	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 125 (12) (a)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 126	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 127	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".

AMENDMENTS TO THE PRINCIPAL ACT—*continued*

Provision Amended	How Amended
Section 129 (1)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 129 (2)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 129 (3)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 132	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 133II	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 134	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 155c	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".
Section 156	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 172	By striking out "Returning Officer for the State", twice occurring, and inserting in each case in lieu thereof "Electoral Commissioner".
Section 197 (3)	By striking out "Returning Officer for the State" and inserting in lieu thereof "Electoral Commissioner".