



ANNO TRICESIMO SEPTIMO

# ELIZABETHAE II REGINAE

A.D. 1988

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No. 4 of 1988

An Act to amend the Electoral Act, 1985.

[Assented to 10 March 1988]

The Parliament of South Australia enacts as follows:

Short title.

1. (1) This Act may be cited as the "Electoral Act Amendment Act, 1988".

(2) The Electoral Act, 1985, is in this Act referred to as "the principal Act".

Commencement.

2. (1) This Act will come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of  
s. 20—  
Information to be  
contained on the  
roll.

3. Section 20 of the principal Act is amended by inserting in paragraph (c) of subsection (1) "principal" after "the address of the".

Amendment of  
s. 29—  
Entitlement to  
enrolment.

4. Section 29 of the principal Act is amended—

(a) by striking out subsection (1) and substituting the following subsection:

(1) A person is entitled to be enrolled on the roll for a subdivision if the person—

(a) has attained the age of 18 years;

(b) (i) is an Australian citizen;

or

(ii) is a person who by virtue of his or her status as a British subject was, at some time within the period of three months commencing on 26 October, 1983, enrolled under the

repealed Act as an Assembly elector or enrolled on an electoral roll maintained under a law of the Commonwealth or a Territory of the Commonwealth;

(c) has his or her principal place of residence in the subdivision and has lived at that place of residence for a continuous period of at least one month immediately preceding the date of the claim for enrolment;

and

(d) is not of unsound mind.;

(b) by inserting after "imprisoned" in subsection (4) "within the State";

and

(c) by striking out paragraph (b) of subsection (4) and substituting the following paragraph:

(b) if—

(i) the prisoner, or a parent, spouse or child of the prisoner who was residing with the prisoner immediately before the commencement of the imprisonment, acquires during the term of imprisonment some other place of residence in lieu of the place referred to in paragraph (a);

(ii) the prisoner intends to reside at that new place of residence on release from prison;

(iii) the prisoner elects to be enrolled in respect of that place,

that place.;

5. Section 30 of the principal Act is amended by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) must be made to an electoral registrar.;

Amendment of  
s. 30—  
Claims for  
enrolment.

6. Section 32 of the principal Act is amended—

(a) by striking out from subsection (1) "the electoral registrar for the subdivision in which the principal place of residence is currently situated" and substituting "an electoral registrar";

and

(b) by striking out from subsection (2) "the appropriate" and substituting "an".

Amendment of  
s. 32—  
Transfer of  
enrolment.

7. Section 33 of the principal Act is amended by striking out subsections (1) and (2) and substituting the following subsections:

(1) Any elector may object to—

(a) the enrolment of a particular person as an elector;

(b) the enrolment of a particular person on the roll for a particular subdivision;

Amendment of  
s. 33—  
Right of  
objection.

or

(c) the enrolment of a particular person on the roll for a subdivision in respect of a particular address.

(2) An electoral registrar, if of the opinion that a person whose name appears on a roll for a subdivision—

(a) should not be enrolled as an elector;

(b) should not be enrolled on the roll for that subdivision;

or

(c) should be enrolled on the roll for that subdivision but in respect of a different address,

will object to the enrolment.

Amendment of  
s. 35—  
Determination of  
objection.

8. Section 35 of the principal Act is amended by striking out paragraphs (a) and (b) of subsection (1) and substituting the following paragraphs:

(a) reject the objection;

or

(b) uphold the objection and, according to the nature of the case—

(i) remove the name of the person to whom the objection relates from the roll;

(ii) transfer the enrolment of the person to whom the objection relates to the roll for the appropriate subdivision;

or

(iii) change the address in respect of which the person to whom the objection relates is enrolled.

Amendment of  
s. 36—  
Interpretation.

9. Section 36 of the principal Act is amended by striking out paragraph (b) of the definition of “eligible political party” and substituting the following paragraph:

(b) a political party (other than a parliamentary party) whose membership includes at least 150 electors.

Amendment of  
s. 62—  
Printing names of  
political parties in  
ballot papers.

10. Section 62 of the principal Act is amended—

(a) by striking out from subsection (1) “a candidate applies under this section” and substituting “an application is made under this section by or on behalf of a candidate”;

(b) by striking out “his” wherever it occurs in paragraphs (a), (b), (c) and (d) of subsection (1) and substituting, in each case, “the candidate’s”;

(c) by inserting after subsection (1) the following subsection:

(1a) An application under subsection (1) can only be made—

(a) by the candidate to whom the application relates;

or

(b) if the candidate is a member of a registered political party and has given an appropriate written

authorization to the registered officer of that party—by that registered officer.;

(d) by striking out paragraph (b) of subsection (2) and substituting the following paragraphs:

(b) must be signed by the candidate or the registered officer authorized to act on the candidate's behalf;

(ba) in the case of an application signed by a registered officer on behalf of a candidate—must be accompanied by the appropriate written authorization signed by the candidate;;

and

(e) by striking out paragraph (d) of subsection (2) and substituting the following paragraph:

(d) where the name of the candidate is to be included in a group—must be in the form of an application made by or on behalf of all members of the group for the printing of the same name or description adjacent to the name of each member of the group (and, in the case of an application made on behalf of all members of the group, must be accompanied by the appropriate written authorization signed by all of the members of the group);.

11. Section 63 of the principal Act is amended by striking out subsections (1), (2) and (3) and substituting the following subsections:

Amendment of  
s. 63—  
Voting tickets.

(1) One voting ticket, or two separate voting tickets, may be lodged with the Electoral Commissioner or the returning officer in relation to a candidate or a group of candidates (but where a candidate is a member of a group, a voting ticket must relate to the group as a whole and not to an individual member of it).

(2) A voting ticket will not be regarded as validly lodged under subsection (1) unless—

(a) written notice of intention to lodge a voting ticket or voting tickets is given to the Electoral Commissioner or the returning officer at or before the hour of nomination by or on behalf of the candidate or candidates;

and

(b) the voting ticket is lodged within 72 hours after the close of nominations.

(3) A voting ticket may be lodged under this section by—

(a) the candidate or candidates to whom it relates;

or

(b) a person authorized in writing by the candidate or candidates to act on their behalf.

(3a) An authorization under subsection (3) (b) may only be given to—

(a) a registered officer of a registered political party of which the candidate or candidates are members;

or

(b) a member of a group who is, in terms of the authorization, to act on behalf of all members of the group.

Amendment of  
s. 66—  
Display of certain  
electoral material.

12. Section 66 of the principal Act is amended by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) in relation to a Legislative Council election—posters containing the voting tickets registered for the purposes of the election.

Amendment of  
s. 69—  
Entitlement to  
vote.

13. Section 69 of the principal Act is amended by striking out subsection (3).

Amendment of  
s. 71—  
Manner of voting.

14. Section 71 of the principal Act is amended by inserting after paragraph (b) of subsection (2) the following paragraph:

(ba) who—

(i) will be working in his or her employment throughout the hours of polling;

and

(ii) could not reasonably be expected to be absent from work for the purpose of voting;.

Amendment of  
s. 74—  
Issue of  
declaration voting  
papers by post.

15. Section 74 of the principal Act is amended—

(a) by striking out paragraph (b) of subsection (1) and substituting the following paragraph:

(b) to an elector who applies, by letter, for the issue of declaration voting papers and whose application is received by the officer to whom it is addressed before 5 p.m. on the Thursday last preceding polling day;.

(b) by striking out subsection (2) and substituting the following subsection:

(2) An officer who receives an application, by letter, for the issue of declaration voting papers before 5 p.m. on the Thursday last preceding polling day must ensure that a written response to the application is posted to the applicant before 6 p.m. on that Thursday;.

and

(c) by inserting after paragraph (a) of subsection (4) the following paragraph:

(ab) membership of a religious order or religious beliefs;.

Amendment of  
s. 77—  
Times and places  
for polling.

16. Section 77 of the principal Act is amended by striking out subsection (3) and substituting the following subsections:

(3) The Electoral Commissioner must, by notice published in a newspaper circulating generally throughout the State, advise the times and places for polling at a mobile polling booth.

(3a) The times or places for polling at a mobile polling booth may be altered—

(a) (i) by the Electoral Commissioner publishing in a newspaper circulating generally throughout the State no

later than the day before the day previously fixed for polling at a particular place another notice advising electors of the alteration in polling times at that place, or of the alteration of the place for polling;

and

(ii) if it is apparent that the newspaper referred to in subparagraph (i) will not be widely available in the relevant subdivision before the day previously fixed for polling—

— by the Electoral Commissioner publishing a further notice advising electors of the alteration in a local newspaper that will circulate in that subdivision before that day;

or

— if there is no such newspaper—by the Electoral Commissioner taking such steps as are reasonably practicable to notify electors in the particular subdivision of the alteration;

or

(b) in exceptional circumstances that render compliance with paragraph (a) impracticable—by the presiding officer taking such steps as are reasonably practicable to notify electors in the particular subdivision of the alteration.

(3b) Where the times or places for polling at a mobile polling booth in a House of Assembly election are altered, the Electoral Commissioner or presiding officer making the alteration must take reasonable steps to inform candidates standing for election in the particular district of the alteration.

17. Section 82 of the principal Act is amended—

(a) by striking out from subparagraph (ii) of paragraph (d) of subsection (2) “or sent” and substituting “or delivered or sent”;

and

(b) by inserting after subsection (5) the following subsection:

(6) A person who—

(a) makes a declaration vote after the close of poll on polling day;

(b) when acting as an authorized witness to a declaration vote, falsely certifies that the declaration vote was made before the close of poll on polling day;

or

(c) delivers or posts to a returning officer under subsection (2) an envelope containing a declaration vote knowing that the vote was made after the close of poll on polling day,

is guilty of an offence.

Penalty: \$2 000 or imprisonment for 6 months, or both.

Amendment of  
s. 82—  
Declaration vote,  
how made.

Amendment of  
s. 85—  
Compulsory  
voting.

**18. Section 85 of the principal Act is amended—**

- (a) by striking out from subsection (5) “post it so as to reach” and substituting “return it to”;
- (b) by striking out from subsection (6) “and post” twice occurring and substituting, in each case, “and return”;
- (c) by striking out from paragraph (b) of subsection (7) “and post” and substituting “and return”;
- (d) by striking out subsection (9) and substituting the following subsection:

**(9) A prosecution for an offence against this section—**

- (a) cannot be commenced except by the Electoral Commissioner or an officer authorized in writing by the Electoral Commissioner;
- (b) in the case of a prosecution for failing to vote at an election or failing to return a notice to the Electoral Commissioner in accordance with subsection (4)—may be commenced at any time within 12 months of polling day.;

and

- (e) by striking out subsection (10) and substituting the following subsections:

**(10) In proceedings for an offence against this section—**

- (a) a certificate apparently signed by the Electoral Commissioner certifying that an officer named in the certificate was authorized to commence the prosecution will, in the absence of proof to the contrary, be accepted as proof of that authority;
- (b) a certificate apparently signed by an officer certifying that the defendant failed to vote at a particular election will be accepted as proof of that failure to vote in the absence of proof to the contrary;
- (c) a certificate apparently signed by an officer certifying that a notice under subsection (3) was posted to an elector, at the address appearing on the electoral roll or at a postal address provided by the elector, on a date specified in the certificate, will be accepted, in the absence of proof to the contrary, as proof—
  - (i) that the notice was duly sent to the elector on that date;
  - (ii) that the notice complied with the requirements of this Act;

and

(iii) that it was received by the elector on the date on which it would, in the ordinary course of post, have reached the address to which it was posted;

(d) a certificate apparently signed by an officer certifying that the defendant failed to return a form under this section to the Electoral Commissioner within the time allowed under subsection (4) will be accepted, in the absence of proof to the contrary, as proof of the failure to return the form within that time.

19. Section 91 of the principal Act is amended by inserting after subparagraph (i) of paragraph (a) of subsection (1) the following subparagraph:

Amendment of  
s. 91—  
Preliminary  
scrutiny.

(ia) that the address in respect of which the voter claims to be entitled to vote corresponds to the address in respect of which the voter is enrolled;

20. Section 97 of the principal Act is amended by striking out subsection (2) and substituting the following subsections:

Amendment of  
s. 97—  
Re-count.

(2) A district returning officer must before the declaration of the result of a House of Assembly election have a re-count made of the relevant ballot papers.

(2a) In addition to the requirements of subsection (2), at any time before the declaration of the result of a House of Assembly election, the district returning officer may, if the district returning officer thinks fit, and must, if so directed by the Electoral Commissioner, conduct one or more further re-counts of the ballot papers contained in any parcel.

21. Section 121 of the principal Act is amended by inserting after subsection (5) the following subsection:

Amendment of  
s. 121—  
Conduct of  
officers,  
scrutineers, etc.

(6) An officer must not fail, without proper excuse, to carry out his or her official duties in connection with the conduct of an election.

Penalty: \$2 000 or six months imprisonment.

22. Section 124 of the principal Act is amended by inserting after subsection (2) the following subsection:

Amendment of  
s. 124—  
Other offences  
relating to ballot  
papers, etc.

(2a) A person to whom a ballot paper is issued at a polling booth for the purpose of voting at the booth must not remove the ballot paper from the booth.

Penalty: \$200.

23. Section 125 of the principal Act is amended—

Amendment of  
s. 125—  
Prohibition of  
canvassing near  
polling booths.

(a) by striking out from subsection (1) "6 metres" and substituting "6 metres, or such lesser distance as may be fixed in a particular case by the presiding officer,";

and



*(b)* by inserting after subsection (2) the following subsection:

(3) The reference in subsection (1) to a polling booth that is open for polling extends to—

*(a)* a declared institution at which votes are being taken by an electoral visitor;

*(b)* any other place where voting papers are issued.

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

D. B. DUNSTAN, Governor