



**ELECTORAL (COMPUTER VOTE COUNTING) AMENDMENT ACT  
1997**

**No. 41 of 1997**

**SUMMARY OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of s. 95—Scrutiny of votes in Legislative Council election
4. Insertion of Part 10 Division 3A  
**DIVISION 3A—COMPUTER VOTE COUNTING IN  
LEGISLATIVE COUNCIL ELECTIONS**
  - 96A. Application of Division
  - 96B. Approval of computer program
  - 96C. Protection of approved computer program from interference
  - 96D. Use of approved computer program in election
  - 96E. Manual counting of votes not prevented
5. Amendment of s. 139—Regulations



ANNO QUADRAGESIMO SEXTO

**ELIZABETHAE II REGINAE**

A.D. 1997

\*\*\*\*\*

**No. 41 of 1997**

**An Act to amend the Electoral Act 1985.**

*[Assented to 17 July 1997]*

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Electoral (Computer Vote Counting) Amendment Act 1997*.
- (2) The *Electoral Act 1985* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation at a time to be fixed by proclamation.

**Amendment of s. 95—Scrutiny of votes in Legislative Council election**

3. Section 95 of the principal Act is amended—

(a) by striking out from subsection (13) "(15)" and substituting "(16)";

(b) by striking out subsections (15) and (16) and substituting the following subsections:

(15) In respect of the last vacancy, the continuing candidate who has the most votes will be elected despite the fact that the number may be below the quota.

(16) However, if, in respect of the last vacancy, the continuing candidates have an equal number of votes, the matter must be referred, on the application of the Electoral Commissioner, to the Court of Disputed Returns for the Court to determine the validity of any disputed ballot papers and—

- (a) if the deadlock is resolved—the Court must declare the appropriate candidate elected; but
- (b) if the deadlock is not resolved—the Court must order a fresh election to be held in accordance with any directions of the Court with the continuing candidates as the sole candidates in that election.

(16a) Subsection (16) does not limit the jurisdiction of the Court of Disputed Returns under Division 2 of Part 12 in relation to an election.

**Insertion of Part 10 Division 3A**

4. The following Division is inserted after section 96 of the principal Act:

**DIVISION 3A—COMPUTER VOTE COUNTING IN  
LEGISLATIVE COUNCIL ELECTIONS**

**Application of Division**

**96A.** This Division applies only in relation to a Legislative Council election.

**Approval of computer program**

**96B.** (1) The Electoral Commissioner may approve a computer program to carry out steps involved in the scrutiny of votes in an election.

(2) The Electoral Commissioner may revoke an approval of a computer program.

(3) The Electoral Commissioner may only approve a computer program—

- (a) after providing a demonstration of the use of the program for representatives of the registered political parties; and
- (b) if the proper use of the program would produce the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance.

(4) The Electoral Commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.

**Protection of approved computer program from interference**

**96C.** The Electoral Commissioner must take steps to ensure that an approved computer program is kept secure from interference at all times.

**Use of approved computer program in election**

**96D.** (1) An approved computer program may, if the Electoral Commissioner so determines, be used in the scrutiny of votes in an election.

(2) If an approved computer program is used in the scrutiny of votes in an election, the provisions of section 95 apply to the conduct of the scrutiny and the filling of vacancies as follows:

- (a) subsections (2) and (3) apply according to their terms;
- (b) the processes described in subsections (4)(a) and (4)(b) are to be carried out in conjunction with the entry into the computer of the necessary data from the ballot papers and the operation of the computer to identify remaining informal ballot papers;
- (c) the computer must continue to be operated so as to carry out processes corresponding to those that would be required to be carried out according to subsections (4)(c) to (15) (inclusive), (17) and (20) to (28) (inclusive);

**Electoral (Computer Vote Counting)  
Amendment Act 1997**

No. 41 of 1997

---

- (d) however, if, in carrying out processes corresponding to those referred to in subsection (21) or (23), there has not been a count or transfer at which the candidates had a different number of votes, the computer processes must pause while the returning officer makes a determination in accordance with that subsection and causes the result of the determination to be entered into the computer;
- (e) continuing candidates who at any stage of the scrutiny have received a number of votes equal to or greater than the quota will be elected;
- (f) subsections (16), (16a), (18) and (19) apply according to their terms.

**Manual counting of votes not prevented**

**96E.** The making of a determination by the Electoral Commissioner to use an approved computer program in an election, or the use of an approved computer program in an election, does not prevent counting or re-counting of votes in the election without computer assistance.

**Amendment of s. 139—Regulations**

**5.** Section 139 of the principal Act is amended by striking out subsection (2) and substituting the following subsection:

(2) Without limiting the generality of subsection (1), the regulations may fix fines not exceeding \$750 for contravention of a regulation.

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

E. J. NEAL Governor