

The Constitution Act Amendment (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 explains the purpose of the Bill.

Clause 2 is the commencement provision.

Clause 3 defines **The Constitution Act Amendment Act 1958** as the Principal Act.

PART 2—AMENDMENT OF THE PRINCIPAL ACT

Clause 4 adds a new subsection to section 145, the effect of which is to allow the appointment of a returning officer for one province as well as one or more districts.

Clause 5 amends section 148 (4) of the Principal Act. That provision currently requires the Electoral Commissioner to advertise the location of polling places before the polling day. The amendment alters this requirement so as to allow that advertisement to be made on the polling day.

Clause 6 repeals section 149 (5) of the Principal Act. That provision currently requires the President or Speaker to provide notice to the Minister of the intention to issue a writ for the purpose of an election to fill a casual vacancy and requires the Minister to publish a copy of that notice in the Government Gazette.

Clause 7 amends sections 154 and 154A to:

reduce the period after the date of the writ to the close of the rolls from seven days to three days;

reduce the minimum period after the date of the writ for the date of nomination of candidates from eleven days to ten days; and

reduce the minimum period after the date of nomination for the polling date from 22 days to 15 days.

Clause 8 amends sections 159 (1) (a) and 159A (1) and (2) to allow candidates nominated by the registered officer of a registered political party, to be nominated by lodging nomination forms with the Electoral Commissioner or the appropriate returning officer.

Clause 9 repeals sections 166 (2) and (3), repeals and replaces section 168 (2) (b) and amends sections 168 (1), 175, 207 and 208. These changes will remove the requirement concerning polling places with more than one polling booth, that each booth is to be used by a part of the electorate based on a division of the electorate according the first letter of surnames. The effect of these amendment is to allow all voters within an electorate to be able to record their votes at any one of the ballot boxes at a polling place.

Clause 10 amends section 185A. This amendment will remove the requirement that silent voters (that is, persons whose addresses do not appear on the roll due to an application under 121A of the Principal Act) are required to complete a declaration unless they are absent or postal voters. The amendments also remove the special procedures

contained in section 185A for silent voter voting and allow silent voters to vote according to the normal voting procedures contained in the Act for normal, absent and postal voting.

Clause 11 repeals section 201C (2) and amends section 201D (3) so as to allow voters who are patients in special hospitals which are within their own District, to vote as ordinary, rather than as an absent, voters.

Clause 12 adds a new provision, section 208AA, which will allow a returning officer to conduct an indicative preferred distribution of preferences if the returning officer has completed the count of all ballot papers and is directed to conduct the indicative distribution by the Electoral Commissioner.

Clause 13 amends sections 220, 225, 226, 227, 230, 234 and 238A, the effect of which is to remove the requirement that persons making oral application for postal votes must complete written declarations.

Clause 14 repeals sections 221 (14) and 223 (1) and amends section 223 (2) so as to allow each registered general postal voter to receive ballot material as soon as practicable after the close of nominations.

Clause 15 repeals the definitions of “format how-to-vote card” and “sample how-to-vote card” in section 267H.

Clause 16 repeals sections 267I to 267O and replaces them with new sections 267I to 267N. The effect of these provisions allows the returning officers and the Electoral Commissioner to register or refuse to register how to vote cards. These cards must be received by the Electoral Commissioner by 12 noon on the seventh calendar day before polling day or must be received by the returning officer by 12 noon on the sixth working day before polling day. A decision concerning the registration must be made by the Electoral Commissioner by 12 noon on the following day or by the returning officer by 12 noon on the next working day. The provision also provides review mechanisms for the decisions of the returning officers and the Electoral Commissioner.

Clause 17 makes amendments to sections 267 (2) and (3) and 267R which are consequential upon the amendments made by clause 16.

Clause 18 amends Part II of the Sixteenth Schedule to fix the maximum amount for electoral expenses for candidates in elections to both Houses to be \$5000.

PART 3—AMENDMENT OF OTHER ACTS

Clauses 19 and 20 amend the **Public Sector Management Act 1992** and the **Local Government Act 1989** to replace references to the State Electoral Office with references to the Victorian Electoral Commission.