

Legislative Council—No 44

As introduced and read a first time, 29 October 2014

South Australia

Electoral (Electronically Assisted Voting and Other Matters) Amendment Bill 2014

A BILL FOR

An Act to amend the *Electoral Act 1985*; and to make related amendments to the *City of Adelaide Act 1998*, the *Juries Act 1927*, the *Local Government Act 1999* and the *Local Government (Elections) Act 1999*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Electoral (Electronically Assisted Voting and Other Matters) Amendment Act 2014*.

2—Commencement

- (1) Subject to subsection (2), this Act will come into operation on the day of assent.
- (2) Section 14 will come into operation 6 months after the day of assent.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Electoral Act 1985*

4—Amendment of section 4—Interpretation

Section 4(1), definition of *elector*—delete "18 years" and substitute:

16 years

5—Amendment of section 12—Staff

Section 12—after subsection (2) insert:

- (3) The Electoral Commissioner must ensure that an officer is assigned duties related to the provision of assistance, education and information with respect to electoral matters to persons with a disability.

6—Amendment of section 29—Entitlement to enrolment

- (1) Section 29(1)(a)(i)—delete "18 years" and substitute:

16 years

- (2) Section 29(2)(a)(i)—delete "16 years" and substitute:

15 years

- (3) Section 29(2)(a)(ii)—delete "18 years" and substitute:

16 years

7—Amendment of section 32—Making of claim for enrolment or transfer of enrolment

Section 32(2)—delete "is entitled to be enrolled in accordance with section 29(2) or 31A" and substitute:

is under 18 years of age or who is entitled to be enrolled in accordance with section 31A

8—Amendment of section 52—Qualifications of candidate

Section 52(1)—after "elector" insert:
and is of or above 18 years of age

9—Amendment of section 69—Entitlement to vote

5 Section 69(2)(b)—delete "18 years" and substitute:
16 years

10—Amendment of section 71—Manner of voting

- (1) Section 71(2)(b)(iii)—delete ", infirmity or disability" and substitute:
or infirmity
- 10 (2) Section 71(2)—after paragraph (b) insert:
(baa) who has a disability such that it would not be reasonably practicable
for the elector to vote at a polling booth; or

11—Amendment of section 74—Issue of declaration voting papers by post or other means

- 15 (1) Section 74(3)(b)(i)—delete subparagraph (i)
- (2) Section 74(3)—after paragraph (b) insert:
(ba) because of a disability, it is not reasonably practicable for the elector
to attend at a polling booth to vote; or

12—Amendment of section 80A—Voting near polling booth in certain circumstances

20 Section 80A(1)—delete " the voter is unable (because of illness, disability, advanced
pregnancy or other condition) to enter the polling booth to vote, the presiding officer
may allow the voter to vote at or near the polling place outside of the polling booth."
and substitute:

- 25 —
- (a) because of illness, advanced pregnancy or other condition, the voter
is unable to enter the polling booth to vote; or
- (b) because of a disability, it is not reasonably practicable for the voter
to enter the polling booth to vote,
- 30 the presiding officer may allow the voter to vote at or near the polling place
outside of the polling booth.

13—Insertion of section 80B

After section 80A insert:

80B—Polling booths to be accessible to persons with disability

35 The Electoral Commissioner must ensure that each polling booth is
accessible on polling day to persons with a disability.

14—Insertion of Part 9 Division 5A

After Part 9 Division 5 insert:

Division 5A—Electronically assisted voting for sight-impaired electors

84B—Electronically assisted voting for sight-impaired electors

- (1) The Electoral Commissioner must, in accordance with the regulations, ensure that sight-impaired electors may vote by an electronically assisted voting method at an election held under this Act.
- (2) In connection with subsection (1), the regulations may provide for—
 - (a) matters related to—
 - (i) the establishment of the electronically assisted voting method; and
 - (ii) procedures for voting using the electronically assisted voting method, including the provision of assistance to electors using the method, requirements to be followed after an elector has used the method and matters of privacy and secrecy; and
 - (iii) the number of places where the electronically assisted voting method is to be available, the location of those places and the days and hours at which the method is to be available; and
 - (b) the keeping of records in relation to each vote made using the electronically assisted voting method, including the production of a record of each such vote that does not identify the elector; and
 - (c) the appointment by the Electoral Commissioner of officers in relation to the conduct of the electronically assisted voting method; and
 - (d) the period (before polling day and on polling day) during which the electronically assisted voting method is to be used in relation to an election; and
 - (e) the modification of the application of this Act, or provisions of this Act, in relation to votes cast using the electronically assisted voting method; and
 - (f) other matters related to the use of the electronically assisted voting method.

- (3) The electronically assisted voting method must be such that an elector using the method in relation to an election—
- (a) receives the same information (in the same order), and has the same voting options, as would appear in the ballot paper for the election that the elector would be given if he or she were instead voting at a polling booth under this Part; and
 - (b) is able to indicate his or her vote in a way that, if he or she were instead marking a ballot paper, would satisfy the requirements of section 76.
- (4) Subject to this Division, if an elector votes using the electronically assisted voting method (an *electronically assisted vote*)—
- (a) this Act applies (subject to any modifications prescribed under subsection (2)(e)) in relation to an electronically assisted vote as if it were an ordinary vote made before polling day; and
 - (b) the record of the electronically assisted vote produced in accordance with the regulations is to be taken to be a ballot paper for the purposes of this Act; and
 - (c) the requirements of this Act in relation to the elector's right to receive a ballot paper are to be taken to have been satisfied.
- (5) To avoid doubt, nothing in this Division (or in regulations made for the purposes of this Division) authorises any elector to vote more than once at an election.
- (6) In this section—

sight-impaired elector means an elector whose sight is impaired such that he or she is unable to vote without assistance.

15—Amendment of section 85—Compulsory voting

- (1) Section 85(1)—after "elector" (first occurring) insert:
who is of or above 18 years of age
- (2) Section 85(3)—after "elector" (first occurring) insert:
who is of or above 18 years of age and
- (3) Section 85(7)—after "elector" insert:
who is of or above 18 years of age

16—Amendment of section 115—Limitations on display of electoral advertisements

- (1) Section 115—after subsection (2) insert:
 - (2a) A person must not exhibit an electoral advertisement on a public road or in any other public place.
Maximum penalty: \$5 000.

(2) Section 115—after subsection (3) insert:

(4) In this section—

public place has the same meaning as in the *Local Government Act 1999*;

5 *public road* has the same meaning as in the *Local Government Act 1999*.

17—Insertion of section 138A

After section 138 insert:

138A—Disability Promotion Fund

- 10 (1) The *Disability Promotion Fund* is established.
- (2) The Fund is to be kept by the Electoral Commissioner.
- (3) The Fund consists of any money to be provided by Parliament for the purposes of the Fund and interest and accretions arising from investment of the Fund.
- 15 (4) The Fund may be applied by the Electoral Commissioner, in accordance with the regulations, to provide financial assistance for persons with a disability to stand as candidates in elections (whether held under this Act or any other Act or law).

Schedule 1—Related amendments

20 Part 1—Related amendment to *City of Adelaide Act 1998*

1—Amendment of Schedule 1—Special provisions for elections and polls

- (1) Schedule 1, clause 2(1)(a)—delete "majority" and substitute:
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- (2) Schedule 1, clause 2(1)(c)(iii)—delete "majority" and substitute:
25 16
- (3) Schedule 1, clause 4(2)(b)—delete "majority" and substitute:
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- (4) Schedule 1, clause 4(5)—delete "majority" and substitute:
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- 30 (5) Schedule 1, clause 5(1)(b)(i)—after "area" insert:
and is of or above 18 years of age

Part 2—Related amendment to *Juries Act 1927*

2—Amendment of section 11—Qualification of jurors

Section 11(b)—delete paragraph (b) and substitute:

- (b) who is not less than 18 years of age and not more than 70 years of age,

Part 3—Related amendment to *Local Government Act 1999*

3—Amendment of section 226—Moveable signs

Section 226(3)(c)—delete "State or"

Part 4—Related amendment to *Local Government (Elections) Act 1999*

4—Amendment of section 4—Preliminary

Section 4(1), definition of *designated person*—delete "majority" and substitute:

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5—Amendment of section 14—Qualifications for enrolment

- (1) Section 14(1)(ab)—delete "majority" and substitute:

16

- (2) Section 14(1)(c)(iii)—delete "majority" and substitute:

16

6—Amendment of section 16—Entitlement to vote

Section 16(1a)(b)—delete "majority" and substitute:

16

7—Amendment of section 17—Entitlement to stand for election

Section 17(1)—after paragraph (b) insert:

and

- (c) the person is of or above 18 years of age.

8—Amendment of section 29—Ballot papers

Section 29(3)—delete "majority" and substitute:

16

9—Amendment of section 41—Voter may be assisted in certain circumstances

Section 41(1)—delete "majority" and substitute:

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