

Legislative Council—No 182A

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 6 July 2017

South Australia

Electoral (Legislative Council Voting and Other Measures) Amendment Bill 2016

A BILL FOR

An Act to amend the *Electoral Act 1985*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Electoral (Legislative Council Voting and Other Measures) Amendment Act 2016*.

2—Commencement

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

3—Amendment provisions

- 10 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

- (1) Section 4(1)—after the definition of *general election* insert:

group means a group of 2 or more candidates nominated for election to the Legislative Council who have their names grouped together on ballot papers in accordance with section 58;

group voting square means a square printed on a ballot paper for a Legislative Council election in relation to the candidates included in a group who have requested a group voting square for the purposes of the election under section 58(2)(e);

- (2) Section 4(1), definition of *registered voting ticket*—delete "section 63" and substitute: section 60A

- (3) Section 4(1), definitions of *voting ticket* and *voting ticket square*—delete the definitions and substitute:

voting ticket means a written statement of a particular order in which a voter might allocate preferences in an election, being a statement for use under this Act in interpreting the votes of voters who, in relation to a House of Assembly election, do not indicate an order of preference covering all candidates;

5—Amendment of section 53—Multiple nominations of candidates endorsed by political party

Section 53(3)(b)(iii)—delete "and to lodge a voting ticket under section 63(1)" and substitute:

and (in the case of a candidate for election as a member of the House of Assembly) to lodge a voting ticket under section 60A(1)

5A—Amendment of section 57—Deposit to be forfeited in certain cases

Section 57(1)(c)—delete "4 per cent" and substitute:

2 per cent

6—Amendment of section 58—Grouping of candidates in Legislative Council election

Section 58(2)—after paragraph (d) insert:

and

- (e) may contain a request for a group voting square for the group on the ballot paper.

7—Amendment of section 59—Printing of Legislative Council ballot papers

(1) Section 59(1)—after paragraph (a) insert:

- (ab) the order of the names of the candidates included in each group will be the order specified by the candidates in the group under section 58(2)(c); and

(2) Section 59(2)—delete subsection (2) and substitute:

- (2) If the candidates in a group have requested under section 58(2)(e) a group voting square, an additional square must be printed on the ballot paper in order to provide for the casting of votes in that square.

8—Insertion of section 60A

After section 60 insert:

60A—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 for election as a member of the House of Assembly.
- (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; 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 to whom it relates; or
- (b) a person authorised in writing by the candidate to act on their behalf.
- (4) An authorisation under subsection (3)(b) may only be given to a registered officer of a registered political party of which the candidate is a member.
- (5) A voting ticket lodged by or on behalf of a candidate under subsection (1) must—
- (a) indicate by consecutive numbers commencing with the number 1 an order of preference for all candidates in the election; and
- (b) indicate a preference for that candidate over all other candidates in the election.

9—Repeal of section 63

Section 63—delete the section

10—Amendment of section 66—Preparation of certain electoral material

(1) Section 66(1)—delete subsection (1) and substitute:

(1) The Electoral Commissioner must have posters formed from how-to-vote cards submitted by the candidates in the election prepared for use in polling booths on polling day.

(2) Section 66(2)—delete "Material submitted for inclusion" and substitute:

How-to-vote cards submitted

(3) Section 66(2)(d)—delete "in the case of how-to-vote cards,"

(4) Section 66(2)(g)—delete "in the case of how-to-vote cards—"

(5) Section 66(3)—delete "or booklet"

(6) Section 66(4)—delete "the electoral material referred to in subsection (1) is arranged" and substitute:

material is displayed in a poster or posters prepared under this section

(7) Section 66(5)—delete subsection (5) and substitute:

(5) The presiding officer at each polling booth must ensure that posters prepared for use in polling booths on polling day are displayed in a prominent position in the polling booth (in accordance with any directions issued by the Electoral Commissioner) and that a poster prepared under subsection (1) in relation to the relevant House of Assembly election is displayed in each voting compartment.

11—Amendment of section 76—Method of voting at elections

Section 76(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:

(a) by placing the number 1 in the square printed opposite the name of the candidate for whom he or she votes as his or her first preference and consecutive numbers in the squares printed opposite the names of other candidates so as to indicate the order of preference for not less than 12 candidates in total (or, if there are 12 or fewer candidates in the election, so as to indicate the order of preference for all remaining candidates); or

(b) if the ballot paper contains 1 or more group voting squares—by placing the number "1" in the square that relates to the group of candidates for whom the voter votes as his or her first preference and consecutive numbers in other group voting squares so as to indicate the order of preference for not less than 6 groups of candidates in total (or, if there are 6 or fewer group voting squares on the ballot paper, so as to indicate the order of preference for all remaining groups of candidates).

11A—Amendment of section 84B—Applying provisions of Act to elector using electronic assisted voting

Section 84B(1)(b)—delete "satisfy the requirements of section 76" and substitute:

not be an informal ballot paper

12—Amendment of section 92—Interpretation of ballot papers in Legislative Council elections

Section 92(2) to (4)—delete subsections (2) to (4) (inclusive) and substitute:

- 5 (2) If 1 or more numbers, that are not disregarded under section 94(4d),
are placed in group voting squares on a ballot paper in relation to
groups of candidates (each group being a *preferred group*), the
ballot paper is taken to have been marked as if—
- 10 (a) each candidate in a preferred group was given a different
number starting from 1; and
- 15 (b) candidates in a preferred group were numbered
consecutively starting with the candidate whose name on the
ballot paper is at the top of the group to the candidate whose
name is at the bottom; and
- 20 (c) the order in which candidates in different preferred
groups are numbered is worked out by reference to the order
in which the groups were numbered on the ballot paper,
starting with the group marked 1; and
- (d) when all the candidates in a preferred group have been
numbered, the candidate whose name is at the top of the
next preferred group is given the next consecutive
number.
- 25 (4) If a voter marks 1 or more group voting squares in accordance with
subsection (2) but also indicates preferences for individual
candidates, the following provisions apply:
- 30 (a) if the indication of preferences for individual candidates
would not, if it stood alone, constitute an informal vote, that
indication of preferences will be taken to be the vote of the
voter and any marks in the group voting squares will be
disregarded;
- 35 (b) if the indication of preferences for individual candidates
would, if it stood alone, constitute an informal vote, the
voter will be taken to have recorded their vote by the
marking of the group voting square or squares in accordance
with subsection (2) and all other purported indications of
preferences will be disregarded.

13—Amendment of section 94—Informal ballot papers

(1) Section 94(1)(b)—delete paragraph (b) and substitute:

- 40 (b) —
- (i) in the case of a ballot paper for a House of Assembly
election—it has no vote indicated on it, or it does not
indicate, in the manner required by this Act, the order of the
voter's preference for all candidates in the election; or

(ii) in the case of a ballot paper for a Legislative Council election—it has no vote indicated on it, or it does not indicate, in the manner required by this Act—

(A) the order of the voter's preference for individual candidates in accordance with section 76(1)(a); or

(B) the order of the voter's preference for groups of candidates in accordance with section 76(1)(b); or

(1a) Section 94(3)—after "ballot paper" (first occurring) insert:

for a House of Assembly election

(2) Section 94(4)—after "ballot paper" insert:

for a House of Assembly election

(3) Section 94(4)—delete "subsection (1)(b)" and substitute:

subsection (1)(b)(i)

(4) Section 94(4a)—delete subsection (4a) and substitute:

(4a) A ballot paper for a Legislative Council election where there are more than 6 candidates is not informal under subsection (1)(b)(ii)(A) if the voter has placed consecutive numbers (starting from the number "1") in the squares printed opposite the names of at least 6 candidates in total.

(4b) For the purposes of this Act, the following numbers placed in a square printed opposite the name of a candidate on a ballot paper for a Legislative Council election are to be disregarded:

(a) numbers that are repeated and any higher numbers;

(b) if a number is missed—any numbers that are higher than the missing number.

(5) Section 94—before subsection (5) insert:

(4c) A ballot paper for a Legislative Council election is not informal under subsection (1)(b)(ii)(B) if the voter has placed the number "1" in a group voting square, or has placed the number "1" and one or more higher numbers in group voting squares, on the ballot paper.

(4d) For the purposes of this Act, the following numbers placed in a group voting square on a ballot paper for a Legislative Council election are to be disregarded:

(a) numbers that are repeated and any higher numbers;

(b) if a number is missed—any numbers that are higher than the missing number.

14—Amendment of section 95—Scrutiny of votes in Legislative Council election

(1) Section 95(3)(b)(i)—delete "voting ticket square" and substitute:

group voting square

(2) Section 95(3)(b)(iii)—delete "voting ticket" and substitute:

group voting square

(4) Section 95(7)(b)—after "next available preference" insert:

(if any)

5 (5) Section 95—after subsection (7) insert:

(7a) A ballot paper that is, under subsection (7), required to be transferred to a continuing candidate must be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.

10 (7) Section 95(10)—after "subsequent preferences" insert:

(if any)

(8) Section 95(11)(a)—after "next available preference" insert:

(if any)

(9) Section 95(11)(b)(i)—after "next available preference" insert:

15 (if any)

(10) Section 95(11)—after paragraph (b) insert:

(c) a ballot paper that under this subsection is, pursuant to the exclusion of a candidate, required to be transferred to a continuing candidate must be set aside as finally dealt with if it does not indicate a next available preference for a continuing candidate.

20 (11) Section 95(15)—after "last vacancy" insert:

for which 2 continuing candidates remain

(11a) Section 95(16)—delete "the last vacancy" and substitute:

a vacancy referred to in subsection (15)

25 (11b) Section 95(17)—after "are elected" insert:

(regardless of whether those candidates have received a number of votes equal to or greater than the quota)

(12) Section 95(25)—after "voter's preference" insert:

(if any)

30 (13) Section 95(25)—after "subsequent preferences" insert:

(if any)

15—Amendment of section 130A—Interpretation

Section 130A(1), definition of *group*—delete the definition

16—Amendment of section 130Q—Payment not to be made or to be reduced in certain circumstances

- (1) Section 130Q(1)(a)—delete "at least 4% of the total primary vote; or" and substitute:

—

- (i) in the case of a candidate in a Legislative Council election—at least 2% of the total primary vote; or
- (ii) in the case of a candidate in a House of Assembly election—at least 4% of the total primary vote; or

- (2) Section 130Q(2)(a)—delete "4%" and substitute:

2%

17—Repeal of section 130ZU

Section 130ZU—delete the section

18—Insertion of section 130ZZH

After section 130ZZG insert:

130ZZH—Regulations

- (1) The regulations may require greater detail to be provided in returns than is otherwise required by this Part.
- (2) Without limiting subsection (1), the regulations may—
- (a) require that a return under Division 7 include additional information relating to persons making gifts, loans or bequests; or
- (b) require that the total amounts referred to in section 130ZN be broken down in the way specified in the regulations.
- (3) The regulations may reduce the amount of information to be provided in returns under section 130ZO.