

**Legislative Council—No 61**

As introduced and read a first time, 23 September 2015

South Australia

**Electoral (Legislative Council) (Optional  
Preferential Voting) Amendment Bill 2015**

A BILL FOR

An Act to amend the *Electoral Act 1985*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement

### Part 2—Amendment of *Electoral Act 1985*

- 3 Amendment of section 4—Interpretation
  - 4 Amendment of section 53—Multiple nominations of candidates endorsed by political party
  - 5 Amendment of section 58—Grouping of candidates in Legislative Council election
  - 6 Amendment of section 59—Printing of Legislative Council ballot papers
  - 7 Amendment of section 63—Voting tickets
  - 8 Amendment of section 66—Preparation of certain electoral material
  - 9 Amendment of section 76—Method of voting at elections
  - 10 Substitution of section 92
    - 92 Interpretation of ballot papers in Legislative Council elections
  - 11 Amendment of section 94—Informal ballot papers
  - 12 Amendment of section 95—Scrutiny of votes in Legislative Council election
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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) (Optional Preferential Voting) Amendment Act 2015*.

#### 2—Commencement

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

### Part 2—Amendment of *Electoral Act 1985*

#### 3—Amendment of section 4—Interpretation

- 10 (1) Section 4(1)—after the definition of *general election* insert:
  - 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);
- 15 (2) Section 4(1), definition of *voting ticket*—delete the definition and substitute:
  - voting ticket* means a written statement of a particular order in which a voter might allocate preferences in a House of Assembly election, being a statement for use under this Act in interpreting the votes of voters who do not indicate an order of preference covering all candidates;
- 20 (3) Section 4(1), definition of *voting ticket square*—delete the definition

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

Section 53(3)(b)(iii)—after "and" insert:

(in the case of a candidate for election as a member of the House of Assembly)

**5—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.

**6—Amendment of section 59—Printing of Legislative Council ballot papers**

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.

**7—Amendment of section 63—Voting tickets**

(1) Section 63(a1)—delete subsection (a1)

(2) Section 63(1)—delete "or a group of candidates entitled to lodge a voting ticket under subsection (a1)" and substitute:

for election as a member of the House of Assembly

(3) Section 63(2)(a)—delete "or candidates"

(4) Section 63(3)—delete "or candidates" wherever occurring

(5) Section 63(3a)(a)—delete "or candidates are members" and substitute:

is a member

(6) Section 63(3a)(b)—delete paragraph (b)

(7) Section 63(4)(b)(ii)—delete subparagraph (ii)

(8) Section 63(5)—delete subsection (5)

**8—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)(d)—delete "in the case of how-to-vote cards,"

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

(4) Section 66(3)—delete "or booklet"

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

- (5) The presiding officer at each polling booth must ensure that—
- (a) in relation to a House of Assembly election, posters prepared under subsection (1) are displayed in each voting compartment; and
  - (b) all other posters prepared under subsection (1) are displayed in a prominent position in the polling booth and in accordance with any direction issued by the Electoral Commissioner.

## **9—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 opposite the name of the candidate for whom he or she votes as his or her first preference and, if the voter so desires, by placing the number "2" and consecutive numbers in the squares opposite the names of other candidates in the order of the voter's preference for them (but not so as to be required to indicate a preference for all 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, if the voter so desires, by placing the number "2" and consecutive numbers in the group voting squares that relate to other groups of candidates in the order of the voter's preference for them (but not so as to be required to indicate a preference for all groups of candidates).

## **10—Substitution of section 92**

Section 92—delete the section and substitute:

### **92—Interpretation of ballot papers in Legislative Council elections**

- (1) This section applies only in relation to a Legislative Council election.
- (2) If a voter records a vote on a ballot paper by placing the number "1" in the group voting square for a group of candidates, the ballot paper is taken to have recorded on it a first preference vote for the first candidate included in the group and subsequent preferences for all other candidates included in the group in the order in which the names of the candidates appear on the ballot paper.
- (3) If the voter also records a vote on the ballot paper by placing the number "2" in the group voting square for another group, the ballot paper is taken to have recorded on it a preference, subsequent to those referred to in subsection (2), for the first candidate included in that other group and subsequent preferences for all other candidates included in that other group in the order in which the names of the candidates appear on the ballot paper.

- 5 (4) If the voter also records a vote on the ballot paper by placing the number "3" or subsequent numbers in the group voting squares for other groups, the ballot paper is taken to have recorded on it preferences, subsequent to those referred to in subsections (2) and (3), for the first candidate included in those other groups and subsequent preferences for all other candidates included in those other groups in the order in which the names of the candidates appear on the ballot paper.
- 10 (5) If a voter marks a ballot paper by indicating preferences in group voting squares for 1 or more groups of candidates but also indicates preferences for individual candidates, the following provisions apply:
- 15 (a) if the indication of preferences for individual candidates would, if it stood alone, constitute a valid vote, that indication of preferences will be taken to be the vote of the voter and the indication of preferences in the group voting square or squares will be disregarded;
- 20 (b) if—
- (i) the indication of preferences for individual candidates would not, if it stood alone, constitute a valid vote; and
- (ii) the indication of preferences in the group voting square or squares would, if it stood alone, constitute a valid vote,
- 25 the indication of preferences for individual candidates will be disregarded and the vote of the voter will be taken to have been expressed by the indication of preferences in the group voting square or squares.

### **11—Amendment of section 94—Informal ballot papers**

- 30 (1) Section 94(1)(b)—delete paragraph (b) and substitute:
- (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
- 35 (ii) in the case of a ballot paper for a Legislative Council election—it has no vote indicated on it; or
- (2) Section 94(3)—after "ballot paper" (first occurring) insert:  
for a House of Assembly election

(3) Section 94—after subsection (3) insert:

(3a) If a series of numbers (starting from the number "1") appearing on a ballot paper for a Legislative Council election is non-consecutive by reason only of the omission of 1 or more numbers or the repetition of a number (not being the number "1"), the ballot paper is not informal and the votes are valid up to the point where the omission or repetition occurs.

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

for a House of Assembly election

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

subsection (1)(b)(i)

(6) Section 94(4a)—delete subsection (4a)

## **12—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

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

(if any)

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

(if any)

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

(if any)

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

(if any)

(7) 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.

(8) Section 95(15)—delete subsection (15) and substitute:

(15) If, after all the candidates who have received a number of votes equal to or greater than the quota are elected (following the transfer of votes under this section) there is 1 or more remaining vacancies, the following provisions apply:

(a) where there is 1 remaining vacancy—the continuing candidate who has the most votes will be elected despite the fact that the number of votes of that candidate may be below the quota;

(b) where there is more than 1 remaining vacancy—the continuing candidates who have the most votes will be elected despite the fact that the number of votes of each candidate may be below the quota.

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

a vacancy referred to in subsection (15)

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

(if any)

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

(if any)