

Legislative Council—No 14

As introduced and read a first time, 26 May 2010

South Australia

Electoral (Voting) Amendment Bill 2010

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

This Act may be cited as the *Electoral (Voting) Amendment Act 2010*.

2—Amendment provisions

- 5 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*

3—Amendment of section 4—Interpretation

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

5 *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 *how-to-vote card*—delete ", in the form of a ballot paper,"
(3) Section 4(1), definition of *registered voting ticket*—delete the definition
10 (4) Section 4(1), definition of *voting ticket*—delete the definition
(5) 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)—delete ", and to lodge a voting ticket under section 63(1),"

15 5—Amendment of section 58—Grouping of candidates in Legislative Council election

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

and

- 20 (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:

- 25 (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 60—Ballot papers for House of Assembly elections

- (1) Section 60(a)—delete "by lot" and substitute:

in accordance with Schedule 1

- 30 (2) Section 60—after its present contents as amended by this section (now to be
designated as subsection (1)) insert:

- (2) Ballot papers to be used in a House of Assembly election are to be
collated in a manner approved by the Electoral Commissioner so that
there is a random distribution of each particular form of ballot paper
constituted under Schedule 1.

- 5
- (3) When issuing ballot papers in relation to a House of Assembly election (not being declaration ballot papers), the presiding officer is to ensure, as far as is practicable, that the ballot papers are distributed to voters in the order in which they were collated in accordance with subsection (2).

8—Repeal of section 63

Section 63—delete the section

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

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

- 10
- (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)(a)—delete paragraph (a)

(3) Section 66(2)(b)—delete "other"

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

(5) Section 66(2)(e)—delete paragraph (e)

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

(7) Section 66(3)—delete "or booklet"

(8) Section 66(4) and (5)—delete subsections (4) and (5) and substitute:

- 20
- (4) The presiding officer at each polling booth must ensure that, in relation to a House of Assembly election, posters prepared under subsection (1) are displayed in each voting compartment.

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

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Section 74—after subsection (7) insert:

- (8) A candidate in an election, or a person acting on behalf of or otherwise assisting a candidate in an election, must not offer or agree to transmit any application by an elector for the issue of declaration voting papers under this section.

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Maximum penalty: \$1 250.

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

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

- 35
- (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

- 5 (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).

12—Substitution of section 92

10 Section 92—delete the section and substitute:

92—Interpretation of ballot papers in Legislative Council elections

- 15 (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.
- 20 (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.
- 25 (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.
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13—Repeal of section 93

35 Section 93—delete the section

14—Amendment of section 94—Informal ballot papers

- (1) Section 94(1)(b)—delete paragraph (b) and substitute:
- (b) it has no vote indicated on it;

(2) Section 94(3) to (4a)—delete subsections (3) to (4a) and substitute:

(3) If a series of numbers (starting from the number "1") appearing on a ballot paper 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.

15—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)

5 **16—Amendment of section 112A—Special provision relating to how-to-vote cards**

(1) Section 112A—after subsection (1) insert:

(1a) A person must not distribute, or cause or permit to be distributed, a how-to-vote card in printed form on polling day.

10 Maximum penalty: \$5 000.

(2) Section 112A(2)—delete "Subsection (1) does" and substitute:

Subsections (1) and (1a) do

17—Insertion of Schedule 1

After section 139 insert:

15 **Schedule 1—House of Assembly ballot papers**

1—Interpretation

In this Schedule, unless the contrary intention appears—

favoured position, in relation to a column of candidates names contained in a ballot paper, means (reading from the top of the column)—

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(a) if the names of 2 candidates are to appear in the column—the first position in the column; and

(b) if the names of 3 candidates are to appear in the column—the first and third positions in the column; and

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(c) if the names of 4 candidates are to appear in the column—the first and fourth positions in the column; and

(d) if the names of 5 candidates are to appear in the column—the first, third and fifth positions in the column; and

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(e) if the names of 6 candidates are to appear in the column—the first, second, fifth and sixth positions in the column; and

(f) if the names of 7 candidates are to appear in the column—the first, second, sixth and seventh positions in the column; and

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(g) if the names of 8 candidates are to appear in the column—the first, second, seventh and eighth positions in the column; and

- 5
- (h) if the names of 9 candidates are to appear in the column—the first, second, eighth and ninth positions in the column; and
 - (i) if the names of 10 or more candidates are to appear in the column—the first, second, third and last 3 positions in the column.

2—Order of names of candidates on first batch

10 For the printing of the first batch of ballot papers, the names of the candidates in the column are to be listed in an order determined by lot.

3—Order for subsequent batches

Subject to the provisions of this Schedule, the printing order for subsequent batches is to be as prescribed by the regulations.

4—Ballot papers to be printed in equal batches

15 In relation to each candidate whose name is required to be included in a ballot paper—

- 20
- (a) there is to be printed, in respect of each of the favoured positions for that column, a batch of ballot papers on which the name of that candidate appears in such a favoured position; and
 - (b) the number of ballot papers in each batch on which the name of that candidate appears in that column in a particular favoured position is, as far as is practicable, to be equal to the number of ballot papers in each of the other batches of ballot papers on which the name of every other candidate whose name is to be included in that column appears in that favoured position.
- 25

5—Sequence of names of candidates

30 If 6 or more names are to be included in a ballot paper, the name of a candidate is not to appear immediately above the name of a particular other candidate on more than 1 batch of ballot papers if the names of both candidates would be in favoured positions in the column of candidates names.