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THE SCHEDULES

ELECTORAL ACT, 1929-1975

being

Electoral Act, 1929, No. 1929 of 1929 [Assented to 12th December, 1929]¹;

as amended by

Constitution Act, 1934, No. 2151 of 1934 [Assented to 18th October, 1934]²;
 Electoral Act Amendment Act, 1937, No. 2379 of 1937 [Assented to 15th December, 1937];
 Electoral Act Amendment Act, 1941, No. 26 of 1941 [Assented to 13th November, 1941];
 Electoral Act Amendment Act, 1942, No. 37 of 1942 [Assented to 16th December, 1942];
 Electoral Act Amendment Act, 1943, No. 30 of 1943 [Assented to 23rd December, 1943];
 Electoral Act Amendment Act, 1946, No. 35 of 1946 [Assented to 19th December, 1946];
 Electoral Act Amendment Act, 1950, No. 43 of 1950 [Assented to 30th November, 1950];
 Electoral Act Amendment Act, 1955, No. 52 of 1955 [Assented to 8th December, 1955];
 Electoral Act Amendment Act, 1959, No. 6 of 1959 [Assented to 1st October, 1959];
 Electoral Act Amendment Act, 1965, No. 5 of 1965 [Assented to 9th September, 1965];
 Electoral Act Amendment Act, 1969, No. 50 of 1969 [Assented to 27th November, 1969]³;
 Electoral Act Amendment Act (No. 2), 1969, No. 99 of 1969 [Assented to 18th December, 1969]⁴;
 Electoral Act Amendment Act, 1972, No. 136 of 1972 [Assented to 7th December, 1972]⁵;
 Electoral Act Amendment Act, (No. 2) 1973, No. 49 of 1973 [Assented to 15th November, 1973]⁶;
 Constitution and Electoral Acts Amendment Act, 1973, No. 52 of 1973 [Royal Assent proclaimed 22nd November, 1973]⁷;

and

Statute Law Revision Act (No. 3), 1975, No. 88 of 1975 [Assented to 20th November, 1975].

An Act to consolidate and amend the law relating to parliamentary elections, and for purposes incidental thereto.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Electoral Act, 1929-1975".

Short title.
 Citation
 amended by 88,
 1975, s. 3 (1)
 (2nd Sched.).

2. This Act shall come into operation on a date to be fixed by proclamation¹.

Commence-
 ment.

3. (1) The Acts mentioned in the first schedule are repealed.

Repeal and
 saving
 provisions.

(2) Every appointment, division, subdivision, Assembly polling place, Assembly electoral roll, regulation, rule of court, notice, proceeding, arrangement and other matter and thing duly appointed, made, commenced, or done under the Acts hereby repealed and in force, current, operative, or pending at

¹ Came into operation 19th December, 1929: *Gaz.* 19th December, 1929, p. 1305.

² This Act came into operation 1st January, 1935: *Gaz.* 20th December, 1934, p. 1217.

³ Came into operation on 4th December, 1969: *Gaz.* 4th December, 1969, p. 1858.

⁴ For commencement see 99, 1969, s. 2.

⁵ Came into operation 8th February, 1973: *Gaz.* 8th February, 1973, p. 438.

⁶ Came into operation 13th December, 1973: *Gaz.* 13th December, 1973, p. 3266.

⁷ Came into operation 22nd November, 1973: *Gaz.* 22nd November, 1973, p. 2970.

the commencement of this Act shall, subject to this Act, be of the same force or effect in all respects as if this Act had been in force when they were appointed, made, commenced, or done and they had been respectively appointed, made, commenced, or done hereunder.

(3) Every Council subdistrict existing at the commencement of this Act shall be deemed to be a subdivision of a Council district under this Act.

(4) The Council roll for every such subdistrict existing at the commencement of this Act shall be deemed to be the roll for the Council subdivision constituted pursuant to this section by that subdistrict.

(5) Every polling place for an Assembly subdivision existing at the commencement of this Act shall also be a polling place for the corresponding Council subdivision.

Parts.
S. 4 amended by
50, 1969, s. 3.

4. This Act is divided into Parts as follows:—

PART I—Preliminary.

PART II—Administration.

PART III—Subdivisions and Polling Places.

PART IV—Electoral Rolls.

PART V—Enrolment.

PART VI—Objections.

PART VII—Appeals.

PART VIII—Writs for Elections.

PART IX—Nominations.

PART X—Voting by Post.

PART XI—Polling.

PART XII—Scrutiny.

PART XIII—The Return of the Writ.

Struck out by
50, 1969, s. 3.

* * * * *

PART XV—Offences and Penalties.

PART XVI—Disputed Returns.

PART XVII—Supplementary.

Interpretation.

5. In this Act unless the context otherwise requires—

“Assembly” means House of Assembly:

“Assembly district” means electoral district for the return of members to serve in the Assembly:

“Assembly elector” means a person whose name appears as an elector on the electoral roll for an Assembly district:

“British subject” includes naturalised as well as natural born British subject:

Def. amended
by 136, 1972,
s. 3.

“candidate” in Parts II, and XV includes any person who within three months before the day of election announces himself as a candidate for election as a member of the Assembly or the Council:

“Council” means the Legislative Council:

“Council district” means an electoral district for the return of members to serve in the Council:

“Council elector” means a person whose name appears as an elector on the electoral roll for a Council district:

“district” means Assembly or Council district:

“division” means electoral division of a Council district:

“election” means election of a member or members to serve in the Council or Assembly:

“elector” means a Council elector or an Assembly elector:

“House” means House of Parliament:

“local governing body” means the Council of a Municipality or a District Council:

“naturalised” means naturalised under the law of the United Kingdom or of the Commonwealth:

“officer” means the Electoral Commissioner and any officer appointed under this Act or exercising any power or discharging any duty under this Act: Def. amended by 49, 1973, s. 3 (a).

“presiding officer” means the officer for the time being presiding and taking the poll at any polling place on the day of an election:

“registrar” means Electoral Registrar appointed under this Act:

“returning officer” means returning officer for any district:

“subdivision” means subdivision of an Assembly district or of a division of a Council district:

“the Electoral Commissioner” means the Electoral Commissioner appointed under subsection (1) of section 6 of this Act, for the time being in office and includes a person appointed under section 6b of this Act, to act as the Electoral Commissioner, while so acting. Def. inserted by 49, 1973, s. 3 (b).

PART II

PART II

ADMINISTRATION

6. (1) The Governor may, subject to this Act, by notice published in the *Gazette* appoint a person to be the Electoral Commissioner.

Appointment of Electoral Commissioner.
S. 6 amended by 136, 1972, s. 4; substituted by 49, 1973, s. 4.

(2) The Electoral Commissioner—

(a) shall be responsible for the administration of this Act;

and

(b) shall have and may exercise such other powers, functions and authorities as are conferred on him by this Act or any other Act.

(3) The terms and conditions of appointment and employment of the Electoral Commissioner (including his salary and allowances) shall be as, from time to time, determined by the Governor and the salary and allowances of the Electoral Commissioner shall not be reduced during his term of office to an amount less than the amount payable to him on his appointment.

(4) This section shall, without further or other appropriation, be sufficient authority for the payment of the salary and allowances of the Electoral Commissioner out of the general revenue of the State which is, to the necessary extent, appropriated accordingly.

PART II

Electoral
Commissioner
not to engage in
any
remunerative
employment.
S. 6a enacted by
49, 1973, s. 4.

6a. The Electoral Commissioner shall not, without the consent of the Minister, engage in any remunerative employment or undertaking outside the duties of his office.

Acting Electoral
Commissioner.
S. 6b enacted by
49, 1973, s. 4.

6b. (1) If for any reason—

(a) the Electoral Commissioner is temporarily unable to perform the duties of his office;

or

(b) the office of the Electoral Commissioner is temporarily vacant,

the Governor may, by notice published in the *Gazette*, appoint a person to act in the office of the Electoral Commissioner and while so acting that person shall have and may exercise and perform all the powers, functions and duties of the Electoral Commissioner in all respects as if he were the Electoral Commissioner.

(2) Subject to this Act, the terms and conditions of appointment and employment (including the salary and allowances) of the person appointed under subsection (1) of this section shall be as determined, from time to time, by the Governor.

(3) This section shall, without further or other appropriation, be sufficient authority for the payment of the salary and allowances of the person, appointed under subsection (1) of this section, out of the general revenue of the State which is, to the necessary extent, appropriated accordingly.

(4) An act done or purported to have been done by a person appointed under subsection (1) of this section in his capacity as such shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

Delegation.
S. 6c enacted by
49, 1973, s. 4.

6c. (1) The Electoral Commissioner may, by instrument in writing, delegate all or any of his powers, functions or duties (except this power of delegation) under this Act to any person and those powers, functions or duties may be exercised or performed by that person accordingly.

(2) The Electoral Commissioner may by instrument in writing revoke or vary any delegation given under subsection (1) of this section.

(3) The exercise or performance of any power, function or duty by a delegate pursuant to subsection (1) of this section shall not affect the exercise or performance of that power, function or duty by the Electoral Commissioner.

Term of office
of the Electoral
Commissioner,
etc.
S. 6d enacted by
49, 1973, s. 4.

6d. (1) The Electoral Commissioner shall be appointed for a term expiring on the day on which he attains the age of sixty-five years but nothing in this subsection shall be held to prevent the Electoral Commissioner retiring from office before he attains the age of sixty-five years.

(2) The Governor may remove the Electoral Commissioner from office upon the presentation of an address from both Houses of Parliament praying for his removal.

(3) The Governor may at any time suspend the Electoral Commissioner from office on the grounds of his incompetence or misbehaviour and—

(a) upon such suspension a full statement of the reason therefor shall be laid before both Houses of Parliament within seven days of the

suspension if Parliament is then in session or, if not, within seven days of the next succeeding session of Parliament;

and

- (b) if within one month of the statement being laid before Parliament, an address to the Governor praying for the removal of the Electoral Commissioner from office has not been presented by both Houses of Parliament, he shall be restored to office but if both Houses of Parliament present such an address, the Governor may remove him from office.

(4) The office of the Electoral Commissioner shall become vacant if—

- (a) he dies;
- (b) he resigns from office by written notice addressed to the Governor, or his term of office expires;
- (c) he is removed from office by the Governor under subsection (2) or (3) of this section;
- (d) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (e) he is convicted of any indictable offence or is sentenced to imprisonment for any offence;
- (f) he becomes a member of Parliament of the State, the Commonwealth or any other State of the Commonwealth;

or

- (g) he becomes, in the opinion of the Governor, incapable by reason of mental or physical illness of further exercising or performing his powers, functions or duties under this Act.

(5) Except as is provided by this section, the Electoral Commissioner shall not be removed or suspended from office, nor shall the office of the Electoral Commissioner become vacant.

6e. (1) The Electoral Commissioner shall not hold office under the Public Service Act, 1967-1973¹.

Office of
Electoral
Commissioner.
S. 6e enacted by
49, 1973, s. 4.

(2) If a person appointed as the Electoral Commissioner was, immediately before that appointment, an Officer as defined in the Public Service Act, 1967-1973¹, he shall for the purposes of determining his existing and accruing rights to recreation leave, long service leave and leave on account of illness or other pressing necessity be regarded as continuing as such an Officer and the service of that person as the Electoral Commissioner shall for those purposes be regarded as service under that Act.

(3) The Electoral Commissioner shall be an employee as defined in the Superannuation Act, 1969-1973².

6f. Where in any other Act, or in any document, rule or regulation whether that Act, document, rule or regulation is or was enacted, published or made before or after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, a reference direct or indirect is made to the Returning Officer for the State or to the returning officer for the State that reference shall on and

References to
Returning
Officer for the
State, etc.
S. 6f enacted by
49, 1973, s. 4.

¹ Now Public Service Act, 1967-1975.

² The Superannuation Act, 1969, and its amendments, have been repealed and superseded by the Superannuation Act, 1974.

after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, be read as a reference to the Electoral Commissioner.

Principal
returning
officer.
S. 6g enacted by
49, 1973, s. 4.

6g. (1) There shall be a principal returning officer who shall be appointed under and be subject to the Public Service Act, 1967-1972¹.

(2) The occupant, if any, of the office of assistant returning officer for the State immediately before the commencement of the Electoral Act Amendment Act, (No. 2) 1973, shall on that commencement be deemed to have been appointed principal returning officer.

(3) The principal returning officer shall, under the direction of the Electoral Commissioner, perform such duties as the Electoral Commissioner directs and without limiting the generality of the foregoing the principal returning officer may, in case of illness, absence or other temporary incapacity of the Electoral Commissioner, act in the name and on behalf of the Electoral Commissioner and while so acting the principal returning officer shall have and may exercise all the powers, duties and functions of the Electoral Commissioner.

(4) Where in any other Act, or in any document, rule or regulation, whether that Act, document, rule or regulation is or was enacted, published or made before or after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, a reference direct or indirect is made to the assistant returning officer for the State that reference shall, on and after the commencement of the Electoral Act Amendment Act, (No. 2) 1973, be read as a reference to the principal returning officer.

Returning
officers.
971, 1908,
ss. 27, 29.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

7. (1) There shall be a returning officer for every district who shall be appointed by the Minister on the recommendation of the Electoral Commissioner.

Subsec. (2)
amended by 49,
1973, s. 6
(Sched.).

(2) Each returning officer shall be responsible, subject to the direction of the Electoral Commissioner, for the execution of this Act in his district.

(3) The returning officer for each Assembly district shall also be the deputy returning officer for the division constituted by that Assembly district.

Assistant
returning
officers and
temporary
assistants.
Subsec. (1)
substituted by
52, 1955, s. 3;
amended by 49,
1973, s. 6
(Sched.).

8. (1) The Minister may, on the recommendation of the Electoral Commissioner, appoint assistant returning officers—

(a) for any portion of a district; or

(b) at a place outside the State.

Subsec. (2)
substituted by
52, 1955, s. 3.

(2) A person appointed to be an assistant returning officer for a portion of a district may, subject to the control of the returning officer, perform the functions and exercise the powers of the returning officer (except those relating to postal voting) in, or in relation to, that portion of the district.

Subsec. (2a)
inserted by 52,
1955, s. 3;
amended by 49,
1973, s. 6
(Sched.).

(2a) A person appointed to be an assistant returning officer at a place outside the State may, subject to the control of the Electoral Commissioner, perform such functions and exercise such powers as are conferred on him by this Act.

Subsec. (3)
amended by 49,
1973, s. 6
(Sched.).

(3) The Minister may, on the recommendation of the Electoral Commissioner, appoint any temporary officers necessary for the due administration of this Act.

¹ Now Public Service Act, 1967-1975.

PART II

9. The Minister may on the recommendation of the Electoral Commissioner, appoint electoral registrars to keep the Assembly rolls for specified subdivisions.

Electoral registrars.
1446, 1920, s. 9.
S. 9 amended by 49, 1973, s. 6 (Sched.).

10. If any returning officer, assistant returning officer, presiding officer, or temporary officer is from any cause incapable of acting, the Electoral Commissioner may appoint some person to perform the duties of the office during the period of incapacity.

Appointments in cases of temporary incapacity.
971, 1908, s. 34.
S. 10 amended by 49, 1973, s. 6 (Sched.).

11. No candidate and no person holding any official position in any political organisation or on any election committee shall be appointed an officer, and if any officer becomes a candidate or accepts any such position he shall thereby vacate his office.

Disqualification for office.
971, 1908, s. 35.

12. Every returning officer and registrar shall keep all necessary electoral forms and without fee supply the same to the public and assist the public in their proper use.

Duty of officers to keep forms.
971, 1908, s. 37.
1446, 1920, s. 9.

PART III

PART III

SUBDIVISIONS AND POLLING PLACES

13. (1) The Governor from time to time may by proclamation divide any Assembly district into subdivisions or may declare the whole of any Assembly district to be a subdivision and from time to time may by proclamation revoke or vary any such proclamation.

Subdivisions.
971, 1908, s. 40.
Subsec. (1) amended by 2379, 1937, s. 2 (1)¹.

(2) The subdivisions of an Assembly district shall be the subdivisions of the Council division constituted by that Assembly district.

14. (1) The Minister may by notice in the *Gazette*—

Polling places.
971, 1908, s. 44.
1446, 1920, s. 16.

(a) appoint a chief polling place for each district:

(b) appoint any other polling places for each district:

(c) declare any polling places to be the polling places for any specified subdivision:

(d) abolish any polling place.

(2) No polling place shall be abolished after the issue of the writ and before the time appointed for its return: Provided that if the Minister on a certificate from the Electoral Commissioner considers it to be impracticable to take the poll at any polling place he may by notice in the *Gazette* close that polling place for the purpose of the election.

Subsec. (2) amended by 49, 1973, s. 6 (Sched.).

15. When an Assembly district is divided into subdivisions or the boundaries of such a district or subdivision are altered, or a new subdivision is proclaimed, the changes thereby rendered necessary for the transfer of the names of electors from one roll to another roll shall be made in the prescribed manner.

Changes in roll when subdivision created.
1446, 1920, s. 18.

¹ It is provided by 2379, 1937, s. 2 (2) that the amendment made by that section shall be deemed to take effect from the 11th August, 1937.

PART IV

PART IV

ELECTORAL ROLLS

Rolls.
971, 1908, s. 46,
1446, 1920,
s. 20.

16. (1) There shall be a roll for each district.

(2) There shall be a separate roll for each subdivision.

(3) The rolls for all the subdivisions in a district shall together form the roll for the district.

Form of rolls.
Com., s. 31.

17. The rolls may be in the prescribed form and shall set out the surname, Christian names, place of living, occupation or other prescribed particulars, and any further particulars which are prescribed.

Arrangement
with
Commonwealth
for keeping
Assembly rolls.
971, 1908, s. 48.
Subsec. (1)
amended by 50,
1969, s. 4.

18. (1) The Governor may arrange with the Governor-General of the Commonwealth for the preparation, alteration, and revision of the rolls in any manner consistent with the provisions of this Act jointly by the State and the Commonwealth to the intent that those rolls may be used as electoral rolls for both the Commonwealth elections and State elections.

(2) When any such arrangement has been made the rolls may contain for the purpose of Commonwealth elections—

(a) the names and descriptions of persons who are not entitled to be enrolled thereon as Assembly electors of the State provided that it is clearly indicated that those persons are not enrolled thereon as State electors;

(b) distinguishing marks against the names of persons enrolled as State Assembly electors to show that those persons are or are not also enrolled as Commonwealth electors; and

(c) any other particulars.

(3) If any such arrangement ceases to operate, the rolls then in existence shall as altered from time to time be the rolls of Assembly electors until superseded by new rolls under this Act.

New rolls.
971, 1908, s. 50.

19. (1) New rolls for any subdivision or district shall be prepared whenever directed by proclamation.

(2) Any such proclamation may give any necessary directions for the preparation of the rolls.

(3) When new rolls have been prepared the Minister may, by notice in the *Gazette*, fix a day on which the new rolls shall come into operation. The new rolls shall come into operation accordingly.

Subsec. (4)
inserted by 99,
1969, s. 3;
struck out by 52,
1973, s. 16.

* * * * *

Subsec. (5)
inserted by 99,
1969, s. 3;
struck out by 52,
1973, s. 16.

* * * * *

Subsec. (6)
inserted by 99,
1969, s. 3.

(6) Where any roll is prepared and maintained for any subdivision or district as constituted for the purpose of any general election to be held after the commencement of the Constitution Act Amendment Act, 1969, or for the purpose of any election to be held thereafter, that roll shall be used in relation to that subdivision or district for the purpose of any such election.

20. Subject to this Act the rolls shall be conclusive evidence of the right to vote of the electors enrolled thereon and shall not be questioned except in accordance with Part VI.

Conclusiveness of rolls.
971, 1908, s. 53.

21. (1) The rolls shall be printed whenever the Minister directs.

Printing of rolls.
971, 1908, s. 55.
1446, 1920, s. 28.

(2) Supplementary rolls setting out the additions since the last previous print of the rolls shall be wherever practicable printed immediately before every general election and at such other times as the Minister directs.

22. Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed prior to the day on which new rolls come into operation the objections or notices shall have effect in relation to the new rolls as if those rolls had been in existence when the objections were lodged or the notices issued.

Effect of new rolls on objections and notices.
Com., s. 35.

23. The date to which any print of a roll or supplementary roll is made up shall appear on that roll or supplementary roll.

Date on rolls.
971, 1908, s. 57.
1446, 1920, s. 29.

24. (1) Every public officer in the service of the State or of any local governing body and every occupier of a habitation shall, upon application, furnish to the Electoral Commissioner or to any officer acting under his direction any information which he requires in connection with the preparation, maintenance, or revision of the rolls.

Duty to furnish information and copies of documents.
971, 1908, s. 58.
1446, 1920, s. 30.
Subsec. (1) amended by 49, 1973, s. 6 (Sched.).

(2) Every city clerk, town clerk, or district clerk shall, on the request of the Electoral Commissioner, furnish him with a copy of the assessment book prepared for the local governing body of which he is clerk.

Subsec. (2) amended by 49, 1973, s. 6 (Sched.).

The Electoral Commissioner may, in his discretion, pay a reasonable fee for any such list.

25. (1) The Electoral Commissioner shall, as soon as possible after the issue of the writ for a Council election, supply to every returning officer and deputy returning officer concerned in the election a copy of the electoral roll for each subdivision within his division. Every copy shall be signed and certified by the Electoral Commissioner and for the purposes of the election be deemed to be the roll for the subdivision to which it relates.

Duty to supply copies of rolls to returning officers.
971, 1908, s. 60.
1446, 1920, s. 31.
Subsec. (1) amended by 49, 1973, s. 6 (Sched.).

(2) Every registrar shall, as soon as possible after the issue of the writ for an election for any Assembly district comprising subdivisions for which he keeps the rolls, supply to the returning officer for that district a copy of the electoral roll for every subdivision within that district and for which he is registrar. Every copy shall be signed and certified by the registrar and for the purposes of the election be deemed to be the roll for the subdivision to which it relates.

(3) Every registrar shall, whenever required by the Electoral Commissioner so to do, supply to the said Commissioner a copy of the electoral roll for any subdivision for which he acts as registrar, setting forth the additions and alterations since the last print of the said roll up to such date as is specified by the said Commissioner. The copy shall be signed and certified by the registrar.

Subsec. (3) amended by 49, 1973, s. 6 (Sched.).

PART IV

Public inspection of rolls.

971, 1908, ss. 61, 62, 1446, 1920, s. 32.

Subsec. (1) amended by 49, 1973, s. 6 (Sched.).

Subsec. (2) amended by 52, 1973, s. 17.

Subsec. (4) amended by 49, 1973, s. 6 (Sched.).

Validity of rolls.

971, 1908, ss. 64, 65, 1446, 1920, ss. 33, 34.

26. (1) Every roll kept by the Electoral Commissioner or a registrar shall be open for public inspection at the office of the Electoral Commissioner or registrar, as the case may be, at all convenient times during his ordinary office hours.

(2) The last print of the roll for any Assembly district shall be open for public inspection at the office of the returning officer for that Assembly district, and the last print of the roll for an Assembly or Council subdivision shall be open for public inspection at every post office, police station, and institute within the meaning of the Libraries and Institutes Act, 1939¹, and the office of every local governing body within that subdivision.

(3) No fee shall be charged for the inspection of any roll.

(4) The last print of the roll of any subdivision or district shall be obtainable from the Electoral Commissioner upon payment of the price prescribed.

27. (1) No roll shall be invalidated because it does not comply with this Act or because of any error in copying or printing it.

(2) A misnomer or inaccurate description of any person, place, or thing in any roll shall be immaterial so long as the misnomer or inaccuracy does not prevent the roll from being understood.

PART V

PART V

ENROLMENT

Enrolment.

1446, 1920, s. 40, Com., ss. 40, 41.

Subsec. (1) amended by 52, 1973, s. 18 (a).

Subsec. (1a) inserted by 52, 1973, s. 18 (b).

28. (1) Names shall be placed upon Assembly rolls pursuant to claims for enrolment or claims for transfer of enrolment.

(1a) Where a name has been placed upon an Assembly roll that name shall be placed upon a Council roll.

(2) Any person qualified for enrolment as a Council or Assembly elector who lives in a subdivision and has so lived for a period of one month last past shall be entitled to have his name placed on the Council or, as the case may be, Assembly roll for that subdivision.

(3) Any elector whose name is on any roll for a subdivision and who lives in any other subdivision and has so lived for a period of one month last past shall be entitled to have his name transferred to the corresponding roll for the subdivision in which he lives: Provided in the case of a Council elector that he possesses the qualification required by law.

(4) No person is entitled to have his name placed on more than one roll for the same House nor on any roll other than the roll for the subdivision in which he lives.

¹ Reference to Public Library, Museum, and Art Gallery, and Institutes Act, 1936 has been altered to Libraries and Institutes Act, 1939 (now Libraries and Institutes Act, 1939-1975) pursuant to 61, 1967, s. 7 (1) (b). See also 44, 1939, s. 3 (2).

29. (1) Any person entitled to enrolment on an Assembly roll or transfer of enrolment from the Assembly roll for one subdivision to the Assembly roll for another subdivision may apply therefor by sending a claim in the prescribed form to the registrar for the subdivision in which he lives.

(2) Every claim shall be filled in in accordance with the directions printed thereon.

Claims for enrolment on Assembly rolls.
Cf. Com., s. 42.

* * * * *

S. 30 repealed by 52, 1973, s. 19.

31. Upon the receipt of a claim for enrolment on an Assembly roll or transfer of enrolment from the Assembly roll for one subdivision to the Assembly roll for another subdivision the registrar shall—

Procedure on receipt of claim.
1446, 1920, s. 37.

(a) note on the claim the date of its receipt by him; and

(b) if the claim is in order and he is satisfied that the claimant is entitled to be enrolled forthwith—

(i) enter on the subdivision roll the name of the claimant and the particulars relating to him;

(ii) notify the claimant in the prescribed form that he has been enrolled; and

(iii) in the case of a transfer of enrolment give notice of the transfer to the registrar keeping the subdivision roll from which the elector's name has been transferred.

(2) The registrar keeping the subdivision roll from which an elector's name has been transferred shall, on receipt of notice of the transfer, remove the elector's name from the roll kept by him.

(3) Where it appears to the registrar that a claim under this section has not been made in respect of the correct subdivision, he may amend the claim by inserting a reference to the correct subdivision, and by deleting any reference to a subdivision in the claim that appears to him to be incorrect.

Subsec. (3) inserted by 136, 1972, s. 5.

(4) Where a claim has been amended under subsection (3) of this section, the provisions of this section shall apply thereto in all respects as if the claim had originally been made by the claimant in its amended form.

Subsec. (4) inserted by 136, 1972, s. 5.

32. (1) The registrar, on receipt of a claim for enrolment on an Assembly roll or transfer from one Assembly roll to another, shall, if he is not satisfied that the claimant is entitled to be enrolled in pursuance of the claim forthwith—

Reference of claims to Electoral Commissioner.
1446, 1920, s. 38.

(a) refer the claim, with such observations as he thinks proper, to the Electoral Commissioner for his decision; and

(b) send to the claimant a notification in the prescribed form that the claim has been so referred.

Para. (a) amended by 136, 1972, s. 6; 49, 1973, s. 6 (Sched.).

(2) After the Electoral Commissioner has made such inquiry as may be necessary to enable him to decide the claim, he shall forthwith return the claim to the registrar, and notify the registrar of his decision, and, if he decides to reject the claim, the reason for such decision.

Subsec. (2) amended by 136, 1972, s. 6; 49, 1973, s. 6 (Sched.).

(3) If the Electoral Commissioner decides that the claimant is entitled to enrolment pursuant to the claim, the registrar shall forthwith enrol the claimant, and send to him a notification in the prescribed form that he has been so enrolled.

Subsec. (3) amended by 136, 1972, s. 6; 49, 1973, s. 6 (Sched.).

PART V

Subsec. (4)
amended by 136,
1972, s. 6; 49,
1973, s. 6
(Sched.).

(4) If the Electoral Commissioner decides that the claimant is not entitled to enrolment pursuant to the claim, the registrar shall forthwith send to the claimant a notification in the prescribed form that his claim has been rejected, specify the reason for the rejection, and advise the claimant that he is entitled, at any time within one calendar month after the receipt of the notification, to appeal to a court of summary jurisdiction for an order directing that his name be added to the roll.

S. 33 repealed
by 52, 1973,
s. 20.

* * * * *

S. 34 repealed
by 52, 1973,
s. 20.

* * * * *

Enrolment on
Council Roll.
S. 35 substituted
by 52, 1973,
s. 21.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

35. (1) The Electoral Commissioner, on receipt of notice from a registrar of an enrolment of an elector on an Assembly roll, shall forthwith enrol the elector on the roll for the subdivision of the Council that corresponds to the subdivision of the Assembly roll on which the elector is enrolled.

Subsec. (2)
amended by 49,
1973, s. 6
(Sched.).

(2) The Electoral Commissioner on receipt of notice from a registrar of a transfer of enrolment from one subdivision of an Assembly roll to another subdivision of an Assembly roll shall forthwith make such consequential alterations to the Council roll as may be necessary.

Evidence in
support of
claim.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

36. (1) Every person claiming enrolment or transfer of enrolment shall supply the Electoral Commissioner in the case of a claim for enrolment on the Council roll, and the registrar in the case of a claim for enrolment on the Assembly roll, with any evidence in support of his claim which that officer demands.

(2) If the evidence so demanded is not furnished the name of the claimant shall not be entered on the roll or transferred, as the case may be.

Time at which
enrolment takes
effect.
S. 37 substituted
by 136, 1972,
s. 7.

37. (1) Subject to subsection (2) of this section where a person is enrolled under this Part, he shall be deemed to have been enrolled at the time the claim for enrolment was received by the registrar.

Subsec. (2)
amended by 49,
1973, s. 6
(Sched.).

(2) Where a claim for enrolment or the transfer of enrolment is received by the Electoral Commissioner, or the registrar, after the issue of a writ for an election, the enrolment or transfer of enrolment shall not be registered until after the close of polling at that election and shall be effective from the date on which it is actually registered.

Alteration of
rolls.
1446, 1920,
s. 41.
Subsec. (1)
amended by 50,
1969, s. 5 (a);
49, 1973, s. 6
(Sched.).

38. (1) In addition to the other powers of alteration conferred by this Act the Electoral Commissioner may at any time, and notwithstanding the issue of the writ for an election, alter any Council roll, and a registrar may alter any Assembly roll kept by him by—

(a) correcting any mistake or omission in the particulars of the enrolment of an elector:

(aa) amending any description in the particulars of an elector in consequence of the numbering or renumbering of any street or the naming or renaming of any street or generally for bringing up to date any such description:

(b) altering, subject to section 30, on the written application of the elector, the original name, address, or occupation of the elector on the same subdivisional roll:

Para. (aa)
inserted by 50,
1969, s. 5 (a).

- (c) removing the name of any deceased elector:
- (d) striking out the superfluous entry where the name of the same elector appears more than once on the same subdivisional roll:
- (e) reinstating any name removed by mistake as the name of a deceased elector:
- (f) reinstating any name removed as the result of an objection if the Electoral Commissioner or the registrar, as the case may be, is satisfied that the objection was based on a mistake as to fact and that the person objected to still retains and has continuously retained his right to the enrolment in respect of which the objection was made:

Para. (f) amended by 49, 1973, s. 6 (Sched.).

- (g) reinstating any other name removed by mistake:

- (h) removing from the roll the name of any elector if the Electoral Commissioner or the registrar, as the case may be, is satisfied that the elector has ceased to be qualified for enrolment on that roll and has secured enrolment on another roll, or in the case of a Council elector has ceased to be qualified as an elector: Provided that where the said Commissioner or registrar removes any such name he shall send by post to the elector whose name is removed notice of the fact: Provided also that a registrar shall only remove a name pursuant to this paragraph by direction of and upon receiving a certificate from the Electoral Commissioner.

Para. (h) amended by 49, 1973, s. 6 (Sched.).

(2) Where the name of an elector has, pursuant to a claim, been incorrectly placed on the roll for a subdivision other than the subdivision in which he was living at the date of the claim, and the elector was entitled on that date to have his name placed on the roll for the subdivision in which he was living, the Electoral Commissioner or registrar may, at any time other than during the period elapsing between the issue of a writ and the holding of the election to which the writ relates, transfer the name of the elector from the roll for the subdivision for which he is enrolled to the roll for the subdivision in which he lives.

Subsec. (2) amended by 50, 1969, s. 5 (b); 49, 1973, s. 6 (Sched.).

* * * * *

S. 39 repealed by 50, 1969, s. 6.

40. The Principal Registrar of Births, Deaths, and Marriages¹, shall as soon as practicable after the beginning of each month or at any other times arranged with the Electoral Commissioner—

Duty of Principal Registrar of Births, Deaths, and Marriages. 1446, 1920, s. 43.
S. 40 amended by 136, 1972, s. 8; 49, 1973, s. 6 (Sched.).

- (a) forward to the Electoral Commissioner a list of the names, addresses, occupations, ages, sexes, and dates of death of all persons of the age of eighteen years or upwards whose deaths have been registered during the preceding month:
- (b) forward to the Electoral Commissioner particulars of all marriages of women of the age of eighteen years or upwards which have been registered in the State during the preceding month.

Para. (a) amended by 136, 1972, s. 8; 49, 1973, s. 6 (Sched.).

Para. (b) amended by 136, 1972, s. 8; 49, 1973, s. 6 (Sched.).

¹ The title "Principal Registrar of Births, Deaths, and Marriages" has been substituted for the title "Registrar-General of Births, Marriages, and Deaths" pursuant to the Acts Republishing Act, 1967, s. 7 (1) (c). See also 16, 1967, s. 6 (4).

PART V

Duty of
Director of
Correctional
Services.
1446, 1920,
s. 43.
S. 41 amended
by 49, 1973, s. 6
(Sched.).

41. The Comptroller of Prisons¹ shall, as soon as practicable after the beginning of each month, forward to the Electoral Commissioner a list of the names, addresses, occupations, and sexes of all persons who during the preceding month have been convicted in the State and are under sentence for any offence punishable by imprisonment for one year or longer.

Duty of
Electoral
Commissioner
on receipt of
information.
1446, 1920,
s. 43.
S. 42 amended
by 49, 1973, s. 6
(Sched.).

42. The Electoral Commissioner shall, upon receipt of information pursuant to either of the last two sections, take action to effect such alterations of the rolls in accordance with this Act as are necessary.

PART VI

PART VI

OBJECTIONS

Objections by
officers.
971, 1908, s. 80.
1446, 1920,
s. 44.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

43. (1) The Electoral Commissioner shall object to any name which is on a Council roll and which he has reason to believe ought not to be retained on the roll.

(2) The registrar keeping an Assembly roll for any subdivision shall object to any name which is on that roll and which he has reason to believe ought not to be retained on that roll.

Objections by
other persons.
971, 1908, s. 80.

44. (1) Any other person may object to any name on any roll which he claims ought not to be retained on that roll.

Subsec. (2)
amended by 49,
1973, s. 6
(Sched.).

(2) Every such objection against any name on a Council roll shall be lodged with the Electoral Commissioner and every such objection against any name on an Assembly roll shall be lodged with the registrar keeping that roll.

Subsec. (3)
amended by 50,
1969, s. 7; 49,
1973, s. 6
(Sched.).

(3) At the time of lodging an objection under this section the objector shall deposit with the Electoral Commissioner, or the registrar, as the case may be, the sum of one dollar which shall be forfeited to the King if the objection is held by the said Commissioner or the registrar to be frivolous.

Form of
objection.
1446, 1920,
s. 45.

45. Every objection shall be in writing and shall set forth the grounds of the objection and shall be signed by the person making the objection, and may be in the prescribed form.

Notice of
objection.
971, 1908, s. 80.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

46. (1) When an objection is made by, or lodged with, the Electoral Commissioner or a registrar he shall forthwith give notice of the objection to the person objected to.

(2) The notice may be in the prescribed form and may be served by being posted to the place of abode for the time being of the person objected to if that place of abode is known to the officer giving the notice or if the place of abode is not known then to the place of living appearing on the roll.

(3) An objection on the ground that a person does not live in the subdivision for which he is enrolled shall not be good unless it alleges that the person objected to does not live in the subdivision and has not so lived for at least one month last past.

¹ By s. 6 (1a) of the Prisons Act, 1936-1975, it was provided, *inter alia*, that where in any Act a reference is made to the Comptroller of Prisons, that reference shall, where such a construction is applicable, be construed and read as a reference to the Director of Correctional Services.

47. The person objected to may orally or in writing in the prescribed manner answer the objection.

Answer to
objection.
1446, 1920,
s. 48.

48. (1) The Electoral Commissioner or, as the case may be, the registrar to whom an objection is made—

Determination
of objection.
1446, 1920,
s. 49.

(a) shall determine the objection forthwith on receipt of the answer of the person objected to or if no answer is received within a period of twenty days after posting the notice then after the expiration of that period; and

Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

(b) if it appears that the person objected to is not entitled to be enrolled on the roll in respect of which the objection has been made shall remove the name of that person from the roll.

(2) No name shall be removed from a roll pursuant to this section after the issue of the writ for an election and before the close of the polling at the election.

(3) If any objection lodged by any person other than an officer is held to be frivolous the person objected to shall be entitled to such reasonable allowance not exceeding ten dollars as the said Electoral Commissioner thinks fit to award.

Subsec. (3)
amended by 50,
1969, s. 8; 49,
1973, s. 6
(Sched.).

(4) In default of payment the sum awarded may be recovered by the person objected to in any civil court as a debt due by the objector.

PART VII

PART VII

APPEALS

49. (1) Any person—

Appeals to
Court of
summary
jurisdiction.
1446, 1920,
s. 50.

(a) who has sent or delivered to the Electoral Commissioner or a registrar a claim for enrolment or transfer of enrolment and who has not been enrolled pursuant thereto; or

Para. (a)
amended by 49,
1973,
s. 6 (Sched.).

(b) whose name has been removed from a roll pursuant to an objection; or

(c) who has made an objection which has been determined adversely to him,

may appeal against the decision.

(2) Every appeal shall be made not later than one month after the receipt of the notice of the rejection of the claim or the notice of the determination of the objection, as the case may be, and shall be made in the prescribed manner to a court of summary jurisdiction.

(3) Where the application relates to a decision upon an objection the appellant shall as prescribed serve the objector or the person objected to, as the case may be, with notice of the appeal and the person so served may appear or may in writing authorize any person to appear on his behalf to resist the appeal.

(4) The court shall hear and determine every appeal under this section and may make any order as to costs which it thinks fit.

PART VII

(5) Any costs ordered by the court to be paid may be recovered in the same manner as the costs of any other proceeding before the court.

Subsec. (6)
amended by 49,
1973,
s. 6 (Sched.).

(6) The clerk of the court shall send by post to the Electoral Commissioner or, as the case may be, the registrar a certified copy of the order of the court and the said Commissioner or registrar shall take action to effect such entries upon the roll as are necessary to give effect to the order.

(7) There shall be no appeal against the order of a court of summary jurisdiction under this section.

PART VIII

PART VIII

WRITS FOR ELECTION

Issue of writ.
971, 1908, s. 92.
Subsec. (1)
amended by 50,
1969, s. 9 (a).

50. (1) Except as mentioned in subsection (2) and subject to subsection (1a) of this section every writ for an election shall be issued by the Governor.

Subsec. (1a)
inserted by 50,
1969, s. 9 (b).

(1a) The Governor shall not issue a writ for an election until after at least two days' notice of his intention so to do has been given by notice published in a daily newspaper circulating in the State.

Subsec. (2)
substituted by
52, 1973, s. 22.

(2) If on any casual vacancy occurring in the House of Assembly the Speaker of that House is within the State he shall issue the writ after two clear days' notice to the Governor of his intention to do so.

Contents of
writ.
971, 1908, s. 93.
Com., s. 59.

51. (1) Every writ shall be in the form set forth in the second schedule and shall fix the dates for—

- (a) the nomination;
- (b) the polling; and
- (c) the return of the writ.

Subsec. (2)
amended by 50,
1969, s. 10.

(2) A writ shall be deemed to have been issued at the hour of twelve o'clock noon on the day on which it was issued.

Date of
nomination.
Com., s. 62.
Subsec. (1)
amended by 50,
1969, s. 11.

52. (1) The date fixed for the nomination shall be not less than seven nor more than twenty-one days after the day of issue of the writ.

(2) Every writ for a periodical or general election shall fix the same day for all nominations of candidates for the same House.

Polling day.
971, 1908, s. 94.
Com., s. 63.
S. 53 amended
by 50, 1969,
s. 12.

53. The date fixed for the polling shall be—

- (a) a Saturday;
- and
- (b) not less than seven nor more than thirty days after the date of nomination.

Address of
writ.
Com., s. 61.
Subsec. (1)
amended by 49,
1973, s. 6
(Sched.).

54. (1) Every writ shall be directed to the returning officer for the district for which the election is to be held, and may be issued through the Electoral Commissioner.

Subsec. (2)
amended by 49,
1973, s. 6
(Sched.).

(2) The Electoral Commissioner may advise any returning officer by telegram of the issue of the writ for an election and the particulars thereof and the said returning officer may act on that advice under section 55 as if he had received the writ.

55. Upon the receipt of a writ the returning officer to whom it is directed shall—

- (a) endorse thereon the date of its receipt and in the case of an Assembly election forward a copy of the writ to each assistant returning officer and in the case of a Council election forward a copy of the writ to each deputy returning officer who shall forward a copy to each assistant returning officer in his division:
- (b) advertise the receipt and particulars of the writ in at least two newspapers circulating in his district.

Duty of returning officer on receipt of writ.
971, 1908, s. 100.

PART IX

PART IX

NOMINATIONS

56. No person shall be capable of being elected a member of either House unless duly nominated.

Nominations.
971, 1908, s. 101.

57. Every nomination shall be in the form set out in the third schedule and shall—

- (a) name the candidate, his place of residence, and his occupation; and
- (b) be signed by not less than two persons entitled to vote at the election.

Mode of nomination.
971, 1908, s. 103.

58. (1) Every nomination shall be made to the returning officer for the district for which the person nominated seeks election.

To whom nominations made.
Com., s. 72.
S. 58 redesignated s. 58 (1) by 136, 1972, s. 9.

(2) The returning officer shall, as soon as practicable after receipt of a nomination under this section, inform the candidate whether the nomination is in order.

Subsec. (2) inserted by 136, 1972, s. 9.

59. The hour of nomination shall be twelve o'clock noon on the day of nomination.

Hour of nomination.

60. The place of nomination shall be the office of the returning officer for each district.

Place of nomination.
Com., s. 77.

61. No nomination shall be valid unless—

- (a) the person nominated consents to act if elected; and
- (b) the nomination paper complying with this Part is received by the returning officer after the issue of the writ and not later than the hour of nomination; and
- (c) at the time of the delivery of the nomination paper the person nominated or someone on his behalf deposits with the returning officer the sum of one hundred dollars in cash or a banker's cheque for that amount.

Requisites for nomination.
Com., s. 73.

62. The consent of the person nominated to act if elected and the declaration of qualification shall be sufficient if he signs the form of consent and declaration at the foot of the nomination paper, but the returning officer receiving the nomination may accept any other form of consent and declaration

Para. (c) amended by 50, 1969, s. 13.

Form of consent to act.
971, 1908, s. 104.

whether accompanying the nomination paper or not that he deems satisfactory, and such acceptance shall be final.

Withdrawal of
consent to
nomination.
Com., s. 80.

63. A candidate may withdraw his consent to nomination at any time before the hour of nomination by lodging with the returning officer a notice of withdrawal in the prescribed form, and thereupon the nomination shall be cancelled, and the deposit lodged shall be returned.

Formal defects.
Com., s. 75.

64. No nomination shall be rejected by reason of any formal defect or error therein if the returning officer receiving the nomination is satisfied that the provisions of this Act have been substantially complied with.

Group of
candidates.
Com., s. 72A.

65. (1) In any election in a district for which two or more members are required to be elected candidates nominated for that district may claim to have their names grouped in the ballot-papers in the manner prescribed in this Act.

Subsec. (1a)
inserted by 52,
1973, s. 23 (a).

(1a) In any election in a district for which two or more members are required to be elected a candidate who does not make a claim pursuant to subsection (1) of this section shall be deemed to be included in a group comprised of himself alone.

Subsec. (2)
amended by 52,
1973, s. 23 (b).

(2) Subject to subsection (1a) of this section, a group shall include the names of those candidates only each of whom signifies to the returning officer in the prescribed manner after he has been nominated and not later than the hour of nomination that he desires to have his name included in that group with the names of the other candidates in that proposed group and with those names only: Provided that no candidate shall be included in any group unless with the consent in writing of the rest of the candidates in such group.

(3) A candidate shall not be entitled to have his name included in more than one group.

(4) A notification under this section shall not be rejected because there is any formal defect or error therein, if the returning officer who receives the notification is satisfied that the provisions of this Act have been substantially complied with.

(5) Upon receipt of notifications in accordance with this section from all candidates in any proposed group, the returning officer shall include the names of those candidates in a group and shall notify each member of the group of the fact that he has included his name in the group and of the names of the other candidates included in the group.

Declaration of
nominations.
Com., s. 79.

66. Every returning officer shall at the hour of nomination attend at the place of nomination for his district and shall there publicly produce all nomination papers received by him and declare the names and residences of all candidates nominated.

Proceedings on
nomination day.
Com., s. 82.

67. (1) If the number of candidates nominated is not greater than the number of candidates required to be elected the returning officer shall declare the candidates nominated duly elected.

(2) If the number of candidates nominated is greater than the number required to be elected the proceedings shall, subject to the provisions of this Act and the regulations relating to voting before polling day, stand adjourned to polling day.

68. Immediately after the nominations have been declared the returning officer shall by telegram or other expeditious means inform the Electoral Commissioner of the full name and address of each candidate nominated and particulars of the notifications of grouping of candidates under section 65.

Duty to notify Electoral Commissioner of nominations. 971, 1908, s. 107.
S. 68 amended by 49, 1973, s. 6 (Sched.).

69. If a nominated candidate dies before or on polling day the election shall be deemed to have wholly failed.

Death of candidate after nomination. Com., s. 83 (2).

70. (1) Whenever an election wholly or partially fails a new writ shall forthwith be issued for a supplementary election.

Failure of election. 971, 1908, s. 110.
Com., s. 84.

(2) An election shall be deemed to have wholly failed if no candidate is nominated or returned as elected.

(3) An election shall be deemed to have partially failed whenever one or more candidates is returned as elected, but not the full number required to be elected.

(4) If an election fails as a consequence of the death of a candidate after the declaration of the nominations and before or on polling day a supplementary election shall be held upon the roll which was prepared for the purpose of the election which failed.

71. (1) The deposit made by or on behalf of a candidate shall be retained pending the election and after the election shall be returned to the candidate or to any person authorized by him in writing to receive it if he is elected or obtains more than the prescribed number of votes, otherwise it shall be forfeited to the King.

Forfeiture of deposit. Com., s. 76.

(2) A candidate shall be deemed to have obtained the prescribed number of votes only in the following circumstances:—

(a) where he is a candidate for a district for which two or more members are required to be elected the group in which he is included or which he comprises secures the prescribed number of votes determined for that election pursuant to subparagraph (b) of paragraph (9) of section 125 of this Act or more than that number:

Para. (a) amended by 2379, 1937, s. 3; substituted by 52, 1973, s. 24; amended by 49, 1973, s. 5.

* * * * *

Para. (b) struck out by 52, 1973, s. 24.

(c) where he is a candidate for a district for which only one member is required to be elected, if the total number of votes polled in his favour as first preference is more than one-fifth of the total number of first preference votes polled by the successful candidate in the election.

72. If a candidate dies before or on polling day, the deposit lodged by him shall be returned to his personal representatives.

Return of deposit on death of candidate. Com., s. 81.

PART X

PART X

VOTING BY POST

Application for
a postal vote
certificate and
postal
ballot-paper.
Com., s. 85.

73. (1) An elector who—

Para. (a) struck
out by 2379,
1937, s. 4.

* * * * *

Para. (b)
amended by 136,
1972, s. 10.

(b) will not throughout the hours of polling on polling day be within eight kilometres by the nearest practicable route of any polling booth:

(c) will throughout the hours of polling on polling day be travelling under conditions which will preclude him from voting at any polling booth:

Para. (d)
amended by 6,
1959, s. 3.

(d) is seriously ill or infirm, and by reason of the illness or infirmity will be precluded from attending at any polling booth to vote, or, in the case of a woman, will by approaching maternity be precluded from attending at any polling booth to vote: or

Para. (e)
inserted by 6,
1959, s. 3;
substituted by
50, 1969,
s. 14 (a).

(e) is, by reason of his membership of a religious order or his religious beliefs—

(i) precluded from attending at a polling booth;

or

(ii) precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours,

may apply for a postal vote certificate and postal ballot-paper.

(2) The application—

(a) must contain a declaration by the applicant setting out the grounds upon which he applies for the postal vote certificate and postal ballot-paper:

(b) may be in the prescribed form:

Para. (c)
amended by 43,
1950, s. 2 (1);
50, 1969,
s. 14 (b).

(c) must be signed by the applicant in his own handwriting in the presence of an authorized witness or, if the applicant is, by reason of illiteracy unable to sign the application, must be authenticated in the prescribed manner:

Para. (d)
substituted by
52, 1955,
s. 4 (a);
amended by 50,
1969, s. 14 (c),
(d); 49, 1973,
s. 6 (Sched.).

(d) must be made and sent to the Electoral Commissioner or to the returning officer for the Assembly district or deputy returning officer for the Council division, as the case may be, for which the applicant is enrolled: Provided that if the applicant is temporarily outside the State the application may be made to an assistant returning officer at a place outside the State:

Proviso
amended by 52,
1955, s. 4 (b);
50, 1969,
s. 14 (e), (f); 49,
1973, s. 6
(Sched.).

Provided that the application shall not be deemed to have been duly made unless it reaches the Electoral Commissioner or the returning officer or deputy returning officer or assistant returning officer to whom it is addressed before five o'clock in the afternoon of the day immediately preceding the polling day for the election.

(3) No elector shall make, and no person shall induce an elector to make, any false statement in an application for a postal vote certificate and postal ballot-paper, or in the declaration contained in such application.

Subsec. (3)
amended by 50,
1969, s. 14 (g).

Penalty: Two hundred dollars, or imprisonment for one month.

74. (1) An authorized witness shall not witness the signature of any elector to an application for a postal vote certificate and postal ballot-paper unless—

Duty of
witnesses.
Com., s. 87.
Subsec. (1)
amended by 43,
1950, s. 2 (2) (a);
50, 1969,
s. 15 (a), (b).

(a) he has satisfied himself as to the identity of the applicant;

(b) he has seen the applicant sign the application in the applicant's own handwriting except where the applicant is, by reason of illiteracy unable to sign the application in which case he has satisfied himself that the application has been authenticated in the prescribed manner; and

Para. (b)
amended by 50,
1969, s. 15 (a).

(c) he knows that the statements contained in the application are true, or has satisfied himself by inquiry from the applicant or otherwise that the statements contained in the application are true.

Penalty: Two hundred dollars, or imprisonment for one month.

(2) The authorized witness witnessing the application shall sign his name in his own handwriting and set out his occupation and the address of his usual place of residence on the application in the space provided for the purpose, and shall add the date.

Subsec. (2)
amended by 43,
1950, s. 2 (2)
(b); 50, 1969,
s. 15 (c).

(3) No such authorized witness shall persuade or induce, or associate himself with any person in persuading or inducing, any person to apply for a postal vote certificate and postal ballot-paper.

Subsec. (3)
amended by 43,
1950, s. 2 (2) (c);
50, 1969,
s. 15 (d).

Penalty: Two hundred dollars, or imprisonment for one month.

75. (1) The Electoral Commissioner or the returning officer or deputy returning officer who receives the application if he is satisfied that—

Issue of
certificate and
ballot-papers.
Com., s. 88.

(a) the applicant is, by reason of the provisions of subsection (1) of section 73 of this Act, entitled to apply for a postal vote certificate and postal ballot-paper;

Subsec. (1)
amended by 50,
1969, s. 16 (a),
(b), (c), (d); 49,
1973, s. 6
(Sched.).

(b) the application is—

(i) properly signed by the applicant;

or

(ii) authenticated in the prescribed manner, as the case requires;

and

(c) the application is witnessed and that in relation to the witness an occupation and address have been set out in the application,

shall deliver or post to the elector a postal vote certificate printed on an envelope addressed to the returning officer for the district for which the applicant declares that he is enrolled, and a postal ballot-paper for the election at which the applicant is entitled to vote:

Provided that where the application is received after five o'clock in the afternoon of the day preceding polling day the Electoral Commissioner, the returning officer, or deputy returning officer, shall not deliver or post to the elector a postal vote certificate or a postal ballot-paper.

Proviso
amended by 50,
1969, s. 16 (c),
(d); 49, 1973,
s. 6 (Sched.).

Subsec. (1a)
inserted by 52,
1955, s. 5 (a);
amended by 50,
1969, s. 16 (e),
(f).

(1a) An assistant returning officer at a place outside the State who receives an application appearing to be properly signed or properly authenticated, as the case may be, and witnessed shall deliver or post to the applicant a postal vote certificate printed on an envelope addressed to the returning officer for the district for which the applicant declares that he is enrolled, and a postal ballot-paper for the election at which the applicant desires to vote: Provided that where the application is received after five o'clock in the afternoon of the day preceding polling day the assistant returning officer shall not deliver or post to the elector a postal vote certificate or postal ballot-paper.

(2) The postal vote certificate and postal ballot-papers for a Council election and for an Assembly election respectively, may be in the prescribed form.

Subsec. (3)
amended by 52,
1955, s. 5 (b).

(3) The returning officer or deputy returning officer or assistant returning officer shall place his initials in the back of every postal ballot-paper issued. The initials shall be placed in such a position as to be easily seen when the ballot-paper is folded so as to conceal the vote.

Inspection of
applications.
Com., s. 89.

76. (1) All applications for postal vote certificates and postal ballot-papers received by a returning officer or deputy returning officer shall, if they relate to the Assembly district for which he is returning officer, be kept by him, or if they relate to a Council district shall, after being endorsed by him with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent by him to the returning officer for that district.

Subsec. (1a)
inserted by 52,
1955, s. 6.

(1a) Every application for a postal vote certificate and a postal ballot-paper received by an assistant returning officer at a place outside the State, shall, after being endorsed by him with the date of the issue of the postal vote certificate and postal ballot-paper, forthwith be sent by him to the returning officer for the district to which the ballot-paper relates.

(2) All applications for postal vote certificates and postal ballot-papers shall be open to public inspection at all convenient times during office hours, until the election can be no longer questioned.

S. 77 repealed
by 50, 1969,
s. 17.

* * * * *

Surrender of
postal
ballot-paper
where elector
votes at polling
booth.
Com., s. 91.

78. An elector to whom a postal vote certificate has been issued or whose name is noted on the certified list of voters as an elector to whom a postal vote certificate and postal ballot-paper have been issued shall not be entitled to vote at any polling booth unless he first delivers to the presiding officer for cancellation his postal vote certificate and postal ballot-paper.

Lost postal
ballot-paper.
S. 79 substituted
by 50, 1969,
s. 18.

79. Notwithstanding anything in section 78 of this Act where an elector to whom a postal vote certificate and a postal ballot-paper has been posted pursuant to section 75 of this Act, satisfies a returning officer or presiding officer that he has not received that postal vote certificate or postal ballot-paper then that elector if he is otherwise qualified to vote may—

(a) be permitted to vote;

or

(b) be issued with a further postal vote certificate and postal ballot-paper (which shall be deemed to have been issued to him under section 75 of this Act),

as the case requires.

80. (1) Except as provided in subsection (2) of this section any person over or apparently over the age of eighteen years or any person who is an elector of the Commonwealth is an authorized witness within the meaning of this Act.

Authorized witnesses.
S. 80 amended by 26, 1941, s. 2; substituted by 43, 1950, s. 3.

(2) No person who is a candidate at any election shall be an authorized witness at that election: Provided that nothing in this subsection shall apply to the witnessing of an application for a postal vote certificate and postal ballot-paper.

Subsec. (1) amended by 52, 1955, s. 7; substituted by 50, 1969, s. 19; amended by 136, 1972, s. 11.

81. (1) An elector who desires to vote by means of a postal ballot-paper shall—

Directions for postal voting.
S. 81 amended by 26, 1941, s. 3; 52, 1955, s. 8; substituted by 50, 1969, s. 20.

(a) exhibit the ballot-paper to an authorized witness and satisfy the witness that at the time the ballot-paper was so exhibited no vote was recorded on that ballot-paper;

(b) except as provided in subsection (2) of this section, sign his name in his own handwriting on the postal vote certificate in the space provided for the signature of the voter;

(c) except as provided in subsection (2) of this section, in the presence of the witness but so that the witness cannot see the vote, mark his vote on the ballot-paper in the prescribed manner and then place the ballot-paper or cause it to be placed in the envelope addressed to the returning officer of the district to which the ballot-paper relates and fasten the envelope or cause it to be fastened;

and

(d) after the certificate on the envelope has been signed by an authorized witness, as required by subsection (3) of this section, post or deliver it or cause it to be posted or delivered to the returning officer of the district to which the ballot-paper relates.

(2) Where by reason of his illiteracy the elector is unable to sign his name it shall be sufficient compliance with paragraph (b) of subsection (1) of this section if the postal vote certificate is authenticated in the prescribed manner and it shall be sufficient compliance with paragraph (c) of that subsection if a person, appointed by the elector or if no such person is appointed, an authorized witness, marks the ballot-paper in accordance with the directions of the elector and places the ballot-paper so marked in the envelope addressed to the returning officer.

(3) If the witness is satisfied that the requirements of subsection (1) have been complied with he shall sign his name in the space provided on the envelope for the signature of the witness and shall insert in the place provided his occupation and the address of his usual place of residence.

(4) Where in the opinion of the elector a ballot-paper, proposed to be posted or delivered pursuant to paragraph (d) of subsection (1) of this section, will not be received by the returning officer referred to in that paragraph before the close of poll, it shall be sufficient compliance with that paragraph if the envelope in which the ballot-paper is enclosed is addressed to and posted or delivered to any returning officer, or assistant returning officer or, on the polling day, delivered to any presiding officer.

(5) The returning officer, assistant returning officer or presiding officer referred to in subsection (4) of this section shall deal with an envelope received pursuant to that subsection in the prescribed manner.

PART X

Duty of
authorized
witness.
Com., s. 93.
S. 82 amended
by 50, 1969,
s. 21.

82. Every authorized witness shall—

- (a) comply with the preceding section in so far as it is to be complied with on his part;
- (b) see that the directions in the preceding section are complied with by every elector voting by post before him, and by every person present when the elector votes; and
- (c) refrain from disclosing any knowledge of the vote of any elector voting by post before him.

Penalty: Four hundred dollars, or imprisonment for three months.

Penalty for
unlawfully
marking postal
ballot-paper.
Com., s. 93A.
S. 83 amended
by 50, 1969,
s. 22 (a), (b), (c).

83. No person other than—

- (a) the elector to whom the postal ballot-paper has been issued; or

Para. (b)
amended by 50,
1969, s. 22 (a),
(b).

- (b) a person appointed by the elector or an authorized witness, acting in pursuance of subsection (2) of section 81 of this Act,

shall mark a vote upon the ballot-paper.

Penalty: Four hundred dollars, or imprisonment for six months.

Penalty for
failure to post
or deliver postal
ballot-paper,
and for
unlawfully
opening
ballot-paper.
Com., ss. 93B,
94.
Subsec. (1)
amended by 50,
1969, s. 23 (a).

84. (1) Any person to whom an application for a postal vote certificate and postal ballot-paper or an envelope containing or purporting to contain a postal ballot-paper is entrusted by a voter for the purpose of posting or delivery to a returning officer, and who fails to forthwith post or deliver the application or envelope shall be guilty of an offence.

Penalty: Two hundred dollars, or imprisonment for one month.

Com., s. 93B.
Subsec. (2)
amended by 50,
1969, s. 23 (b),
(c), (d).

(2) No person other than the returning officer for the district in respect of which a postal ballot-paper has been issued or an officer acting under his directions shall open the envelope in which the postal ballot-paper has been placed pursuant to subsection (1) or (2) of section 81 of this Act, and which has been fastened by an authorized witness, or other person, in accordance with the provisions of either of those subsections.

Penalty: Two hundred dollars.

Duty of persons
present when an
elector votes by
post.
Com., s. 95.
S. 85 amended
by 50, 1969,
s. 24 (a), (b).

85. Any person present when an elector is before an authorized witness for the purpose of voting by post shall—

- (a) obey all directions of the authorized witness; and

- (b) except as provided in section 81 of this Act—

- (i) refrain from making any communication whatever to the elector in relation to his vote;
- (ii) refrain from assisting the elector or in any manner interfering with him in relation to his vote; and
- (iii) refrain from looking at the elector's vote or doing anything whereby he may become acquainted with the elector's vote.

Penalty: Four hundred dollars, or imprisonment for three months.

Para. (b)
amended by 50,
1969, s. 24 (a).

86. At the scrutiny the returning officer shall produce all applications for postal vote certificates and postal ballot-papers, and shall produce unopened all envelopes containing postal votes received by him up to the end of seven days immediately succeeding the close of the poll or received up to the close of the poll by any other returning officer or any assistant returning officer or presiding officer in pursuance of subsection (4) of section 81, and shall—

Preliminary scrutiny of postal ballot-papers. Com., s. 96. S. 86 amended by 26, 1941, s. 4 (a), (b); 52, 1955, s. 9; 50, 1969, s. 25 (a), (b); 136, 1972, s. 12.

(a) examine the signature of the elector or the authentication on each postal vote certificate and examine the signature of or the authentication in respect of the same elector on the application for that certificate and allow the scrutineers to examine such signatures or authentications;

Para. (a) substituted by 50, 1969, s. 25 (b).

(b) if he is satisfied that the signature on the certificate is that of the elector who made the application or that the authentication on the certificate relates to the elector in respect of whom the application is authenticated as the case requires and if he is also satisfied that the envelope bearing the certificate—

Para. (b) substituted by 50, 1969, s. 25 (b); amended by 136, 1972, s. 12 (a).

(i) was received by him, any returning officer, any assistant returning officer or any presiding officer prior to the close of the poll;

or

(ii) bears a post mark disclosing a date not later than the polling day,

accept the ballot-paper for further scrutiny but, if not so satisfied, disallow the ballot-paper (if any) contained in the envelope by endorsing the unopened envelope with the reason for disallowance;

(ba) if he is satisfied that there are two or more envelopes bearing a certificate, or authentication, relating to the same elector, disallow the ballot-paper (if any) contained in any envelope bearing a certificate or authentication relating to that elector (except the first such envelope examined under this section) by endorsing the unopened envelope with the reason for disallowance;

Para. (ba) inserted by 136, 1972, s. 12 (b).

(c) withdraw from the envelopes bearing the postal vote certificates all postal ballot-papers accepted for further scrutiny, and, without inspecting or unfolding the ballot-papers or allowing any other person to do so, place them in a locked and sealed ballot-box by themselves for further scrutiny;

(d) seal up in separate parcels and preserve—

(i) all envelopes bearing postal vote certificates relating to postal ballot-papers accepted for further scrutiny; and

(ii) all unopened envelopes containing postal ballot-papers disallowed; and

(e) proceed with the scrutiny of the postal ballot-papers which have been accepted for further scrutiny.

87. A postal vote shall not be rejected because the surname only of any candidate has been written thereon, if no other candidate has the same

Mistakes. Com., s. 97.

surname, or by reason of any mistake in spelling where the elector's intention is clear.

PART XI

PART XI

THE POLLING

Duty of returning officer to make arrangements. Com., s. 98. Subsec. (1) amended by 50, 1969, s. 26; 49, 1973, s. 6 (Sch.).

88. (1) If the proceedings on the day of nomination stand adjourned to polling day, the Electoral Commissioner and the returning officer shall immediately make all necessary arrangements for taking the poll, and in particular the returning officer or deputy returning officer shall—

- (a) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks, and doorkeepers;
- (b) provide and furnish proper polling booths and ballot-boxes; and
- (c) provide ballot-papers and all necessary certified lists of voters.

(2) In any emergency on polling day due to the absence of any assistant presiding officer, poll clerk, or doorkeeper, or to any unforeseen and continued pressure at the polling which cannot be met by the duly appointed officers, the presiding officer may appoint any person to act as assistant presiding officer, poll clerk, or doorkeeper, and the person so appointed or acting shall be deemed to have been duly appointed if the returning officer, or deputy returning officer, afterwards ratifies the appointment by appointing that person to be assistant presiding officer, poll clerk, or doorkeeper, as the case may be.

Subsec. (3) amended by 136, 1972, s. 13.

(3) No person under the age of eighteen years shall be appointed to be a presiding officer or assistant presiding officer.

(4) Any assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.

Substitute presiding officer. Com., s. 99.

89. Any presiding officer may appoint a substitute to perform his duties during his temporary absence from any cause, and the substitute may, while so acting, exercise all the powers of the presiding officer, and shall, in the exercise of those powers, be deemed to be the presiding officer.

Restriction on use of licensed premises. 971, 1908, s. 129.

90. No part of any premises licensed for the sale of intoxicating liquor shall be used for the purpose of any polling booth.

Power to use certain buildings free. 971, 1908, s. 130.

91. Any State school, any building under the control of the Government of the State, any building the property of a local governing body which has been or is subsidised by the State Government, and any building of an institute within the meaning of the Libraries and Institutes Act, 1939¹, which participates in grants voted by Parliament in aid of institutes, may be used free of charge for the purposes of any poll.

Separate voting compartments. 971, 1908, s. 131.

92. Every polling booth shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pencil for the use of voters.

¹ Reference to Public Library, Museum, and Art Gallery, and Institutes Act, 1936 has been altered to Libraries and Institutes Act, 1939 (now Libraries and Institutes Act, 1939-1975) pursuant to 61, 1967, s. 7 (1) (b). See also 44, 1939, s. 3 (2).

93. (1) Each polling booth shall be provided with the necessary ballot boxes, constructed and fitted as prescribed.

Ballot boxes.
Com., s. 102.
1447, 1913,
s. 36.

(2) When an election for the Council and an election for the Assembly are held on the same day the same polling booth and the same ballot boxes may be used for both elections.

(3) When a referendum or other poll referred to the electors of either House is to be taken on the same day as an election for a member or members of either House, the same polling booth and the same ballot boxes as are used for the purposes of the election may be used for the purposes of the referendum or other poll.

94. The certified list of voters to be used by a presiding officer at a polling place shall be the list of the electors on the roll enrolled for the subdivision for which the polling place is prescribed certified by the returning officer, or deputy returning officer and shall, before the hour of commencing the poll, be delivered to the presiding officer for his guidance during the polling.

Certified list of
voters.
Com., s. 103.

95. Ballot-papers shall be in such of the forms prescribed in the fourth schedule to this Act, as is applicable.

Ballot-papers.
Com., s. 104.

96. (1) In printing the ballot-papers to be used in an election for a district for which two or more members are required to be elected the following provisions shall be observed:—

Printing of
ballot-papers.
Com., s. 105A.

(a) Each group shall be identified by a letter and in the event of there being more than twenty-six groups each group in the number of groups as exceeds twenty-six shall be identified by a symbol as determined by the Electoral Commissioner:

Para. (a)
substituted by
52, 1973,
s. 25 (a);
amended by 49,
1973, s. 6
(Sched.).

(b) The names in each group shall be printed in the alphabetical order of the surnames comprised in that group: Provided that if all the candidates whose names are included in a group, at the time of signifying pursuant to section 65 their desire to have their names included in the group, also request the returning officer in writing to print their names in any specified order in the group, the names in the group shall be printed in that order:

Para. (b)
amended by
2379, 1937, s. 5.

(c) The groups shall be printed horizontally:

(d) The order of the groups from left to right shall be determined as follows:—

Para. (d)
substituted by
52, 1973,
s. 25 (b).

(i) A series of sealed plain envelopes of identical appearance shall be prepared each containing the names of all the persons included in a group of two or more persons so that the number of envelopes equals the number of such groups and each envelope contains the names of persons included in a different group:

(ii) The envelopes shall be placed in a container and the container shall be shaken:

(iii) The returning officer for the district shall select and open the envelopes and the order in which he so selects and opens the envelopes shall determine the order of the groups from left to right, the group the names of the members included in which is contained in the first envelope so selected and opened being placed on the left, the group the names of the members included in which is contained in the second envelope so selected

and opened being placed on the immediate right of that first group and so on until the order of each such group is determined:

and

- (iv) The procedure set out in subparagraphs (i), (ii) and (iii) of this paragraph shall then be followed, *mutatis mutandis*, in relation to the groups comprised of a single candidate and the order in which the envelopes containing the name of the candidate comprising such a group are selected and opened shall determine the order of such groups from left to right, the name of the member comprising the group contained in the first envelope selected and opened shall be placed on the immediate right of the last group of two or more persons in the order determined by reference to those subparagraphs:

Para. (e) struck out by 52, 1973, s. 25 (c).

- (f) If there are two or more candidates having the same surname in any group their names shall, subject to the provisions of this section, be arranged according to the alphabetical order of their Christian names, or if their Christian names are the same, then according to the alphabetical order of their residences which shall, in such case, be arranged and stated in the ballot-paper:

Para. (g) struck out by 52, 1973, s. 25 (d).

- (h) Where similarity in the names of two or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another: and

Para. (i) amended by 52, 1973, s. 25 (e).

- (i) Except as otherwise provided by the regulations a square shall be printed opposite each group.

(2) In printing the ballot-papers to be used in an election for a district for which one member only is required to be elected the following provisions shall be observed:—

- (a) The names of all candidates duly nominated shall be printed in alphabetical order according to their surnames:
- (b) If there are two or more candidates of the same surname, their names shall be printed according to the alphabetical order of their Christian names, or if their Christian names are the same then according to the alphabetical order of their residences, which shall in such cases be arranged and stated in the ballot-paper:
- (c) Where similarity in the names of two or more candidates is likely to cause confusion the names of such candidates may be arranged with such description or addition as will distinguish them from one another and except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

Initials on ballot-papers. Com., s. 107.

97. (1) No ballot-paper shall be delivered to any voter without being first initialled by the proper officer, and an exact account shall be kept of all initialled ballot-papers.

(2) The initials of the officer shall be placed on the back of the ballot-paper in such a position as to be easily seen when the ballot-paper is folded so as to conceal the names of the candidates.

98. (1) Any candidate may appoint scrutineers to represent him at polling places during the polling, but so that no more than one scrutineer shall be allowed to each candidate at each polling booth or subdivision of a polling booth.

Scrutineers at the polling.
Com., s. 108.

(2) Appointments of scrutineers shall be made by notice in writing or by telegram addressed to the returning officer or deputy returning officer, as the case may be, or the presiding officer, and such notice or telegram shall be signed by the candidate, and shall give the name and address of the scrutineer.

99. (1) A scrutineer shall not—

- (a) interfere with or attempt to influence any elector within the polling booth; or
- (b) communicate with any person in the polling booth except so far as is necessary in the discharge of his functions.

Provision relating to scrutineers.
Com., s. 109.
Subsec. (1) amended by 50, 1969, s. 27.

Penalty: Twenty dollars.

(2) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and, during his absence, a relieving scrutineer may act in his place, but so that not more than one scrutineer for each candidate shall be entitled to be present in the polling booth or subdivision of the polling booth at any one time.

(3) A scrutineer who commits any breach of this section, or who misconducts himself, or who fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any constable or person authorized by the presiding officer to remove him.

100. No candidate at an election shall in any way take part in the conduct of that election, and no person, other than the presiding officer, assistant presiding officers, poll clerks, doorkeepers, and scrutineers, and the electors voting and about to vote, shall be permitted to enter or remain in the polling booth during the polling except by permission of the presiding officer.

Persons present at polling.
Com., s. 110.

101. The polling shall be conducted as follows:—

The polling.
Com., s. 111.

- (a) Before any vote is taken the presiding officer shall exhibit the ballot box empty, and shall then securely close, fasten, and seal it in such a manner as to prevent its being opened without breaking the seal, and shall keep it closed, fastened, and sealed:
- (b) The poll shall open at eight o'clock in the morning, and shall not close until all electors present in the polling booth at eight o'clock in the evening, and desiring to vote, have voted:
- (c) The doors of the polling booth shall be closed at eight o'clock in the evening, and no person shall be admitted after that hour to the polling booth for the purpose of voting:
- (d) At the close of the poll the presiding officer shall, in the presence of the poll clerk and of any scrutineers who may be in attendance, publicly close, fasten, seal, and take charge of the ballot box, and with the least possible delay forward it for the purposes of scrutiny, and it shall on no account be opened except as allowed by this Act:

Para. (b) amended by 26, 1941, s. 5 (a).

Para. (c) amended by 26, 1941, s. 5 (b).

Provided that, where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten, or seal the ballot box as required by paragraph (d) of this section.

Elections at which electors are entitled to vote.

Com., s. 112.

102. (1) In any election an elector shall only be entitled to vote for the election of members for the district for which he is enrolled.

(2) The electoral rolls in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector unless he shows by his answers to the questions prescribed by section 105 that he is not entitled to vote.

Polling places at which electors may vote.

Com., s. 114.

103. (1) On polling day an elector shall be entitled to vote—

(a) at any prescribed polling place for the subdivision for which he is enrolled; or

(b) at any other polling place within the State at which a polling booth is open, subject to the regulations relating to absent voting.

Para. (b) substituted by 2379, 1937, s. 6.

(2) The regulations relating to absent voting may prescribe all matters (not inconsistent with this Act) necessary or convenient to be prescribed for carrying this section into effect, and in particular may provide for—

(a) the forms of absent voters' ballot-papers;

(b) the manner in which votes are to be marked on absent voters' ballot-papers;

(c) the method of dealing with absent voters' ballot-papers, including the scrutiny thereof, and the counting of the votes thereon; and

(d) the grounds upon which absent voters' ballot-papers are to be rejected as informal.

(3) Absent voters' ballot-papers containing votes and enclosed in any prescribed envelope may, if so provided by the regulations, be placed in any ballot box in use at the polling booth at which the votes were cast, but notwithstanding anything contained in this Act a prescribed envelope containing an absent voter's ballot-paper shall (unless the regulations otherwise provide) only be opened and the ballot-paper dealt with, as regards the scrutiny thereof and the counting of the votes thereon, by the returning officer for the district for which the voter declares that he is enrolled.

(4) Nothing in this section shall authorize any elector to vote more than once at any election.

Duty of voters to give names and other particulars.

Com., s. 114.

104. Every person claiming to vote at any polling booth shall state his Christian name and surname, and, if so desired by the presiding officer or poll clerk for the purpose of identifying the name under which the vote is claimed, any other particulars necessary to be stated in the roll.

Questions to be put to voter. 971, 1908, ss. 149-151; 1147, 1913, s. 27.

105. (1) The presiding officer or poll clerk shall put to every person claiming to vote, the following question:—

Have you already voted here or elsewhere in this election (or these elections, as the case requires)?

(2) The presiding officer—

(a) may, and, at the request of any scrutineer shall, also put all or any of the following questions:—

Para. (a) amended by 136, 1972, s. 14.

Are you of the full age of 18 years?

Do you live within this district?

Are you qualified to vote?

- (b) may, and, at the request of any scrutineer shall, also put to any person claiming to vote whose name appears on the certified list of voters or on the roll for any subdivision the following question:—

Are you the person whose name appears as (here state the name under which the person claims to vote) on the certified list of electors for this polling place (or the roll for the subdivision of.....as the case requires)?

- (3) If any person claiming to vote to whom any of the foregoing questions are put—

Subsec. (3)
amended by 50,
1969, s. 28 (a),
(b), (c).

(a) refuses to answer fully any question so put to him;

- (ab) fails to answer the question referred to in subsection (1) of this section absolutely in the negative when that question is put to him;

Para. (ab)
inserted by 50,
1969, s. 28 (b).

or

- (b) by his answer to any of the questions referred to in subsection (2) of this section shows that he is not entitled to vote, his claim to vote shall be rejected.

Para. (b)
amended by 50,
1969, s. 28 (c).

(4) The voter's answer to any question put to him under this section shall be conclusive and the matter shall not be further inquired into during the polling.

106. (1) The omission in the roll or in the certified list of voters of any Christian name, or the entry of a wrong Christian name, or address, or occupation, or a mistake in the spelling of any surname, shall not warrant the rejection at any polling of any claim to vote if the voter is sufficiently identified in the opinion of the presiding officer, and no female elector shall be disqualified from voting under the name appearing on the roll because her surname has been changed by marriage.

Errors not to
forfeit vote.
971, 1908,
s. 152.

* * * * *

Subsec. (2)
struck out by 52,
1973, s. 26.

107. (1) The presiding officer or poll clerk shall at the polling hand to each person claiming to vote a ballot-paper duly initialled—

Right of elector
to receive
ballot-paper.
Com., s. 117.

- (a) if the name under which he claims to vote is on the certified list of voters for the polling-place and his right to vote is not challenged;
or

- (b) if the name under which he claims to vote is on the certified list of voters for the polling-place and his right to vote is challenged, and his answers to the prescribed questions show that he is entitled to vote; or

- (c) if he claims to vote under the regulations relating to absent voting and complies with those regulations.

(2) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of any person to vote, and shall keep a record thereof.

(3) If the presiding officer puts to any person all or any of the prescribed questions, his right to vote shall be deemed to have been challenged.

PART XI

Duty to mark
list of voters on
issue of
ballot-paper.
Com., s. 118.

108. (1) Immediately upon handing the ballot-paper to the person claiming to vote, the presiding officer or a poll clerk shall place a mark against the person's name on the certified list of voters if his name is on that list.

(2) The mark made against a person's name as required by this section shall be *prima facie* evidence of the identity of the person to whom the ballot-paper is handed with the elector whose name is so marked on the certified list, and of the fact that that elector voted at the election.

Marking of
votes.
Com., s. 119.

109. (1) Except as otherwise prescribed the voter upon receipt of the ballot-paper shall without delay—

(a) retire alone to some unoccupied compartment of the booth, and there in private, mark his vote on the ballot-paper in the manner hereinafter described;

(b) fold the ballot-paper so as to conceal his vote and to show clearly the initials of the presiding officer, and exhibit it so folded to the presiding officer, and then forthwith openly, and without unfolding it, deposit it in the ballot box; and

(c) quit the booth.

Subsec. (2)
amended by 50,
1969, s. 29.

(2) No person shall take out of the polling booth any ballot-paper either before or after it has been marked by him.

Penalty: Two hundred dollars.

Assistance to
certain voters.
S. 110
substituted by
50, 1969, s. 30.

110. If any voter satisfies the presiding officer that he is unable to vote without assistance then that presiding officer, in the presence of another officer, shall mark the voter's ballot-paper in accordance with the voter's directions and shall thereupon fold and deposit the ballot-paper in the ballot box.

Vote of person
whose name is
not on certified
list, or has been
struck out of
certified list.
S. 110a enacted
by 35, 1946,
s. 3.

110a. (1) Notwithstanding anything contained in this Act, when any person who is entitled to be enrolled on the roll for a subdivision of an Assembly district claims to vote at an Assembly election at a polling place for that subdivision, and his name has been omitted from or struck out of the certified list of voters for that polling place owing to an error of an officer or a mistake of fact or when any person who is enrolled on the roll for a subdivision of an Assembly district claims to vote at an election at a polling place for that subdivision and his name cannot be found by the presiding officer on the certified list of voters, he may, subject to this Act and the regulations, be permitted to vote if—

(a) in the case of a person whose name has been omitted from the certified list—

(i) he sent or delivered to the registrar for the subdivision a duly completed claim for enrolment or transfer of enrolment, as the case requires, in respect of the subdivision, and the claim was received by the registrar before the issue of the writ for the election; and

(ii) he did not after sending or delivering the claim and before the issue of the writ become qualified for transfer of enrolment to another subdivision; or

(b) in the case of a person whose name has been struck out of the certified list—

(i) his name was not, to the best of his knowledge, removed from the roll for the subdivision owing to objection, or

transfer or duplication of enrolment, or disqualification; and

(ii) he had, from the time of his enrolment for the subdivision to the date of the issue of the writ for the election, continuously retained his right to enrolment for that subdivision; or

(c) in the case of a person whose name is on the roll for a subdivision for which he claims to vote but cannot be found on the certified list by the presiding officer, he claims that his name appears or should appear on the roll,

and makes a declaration in the prescribed form before the presiding officer at the polling place.

(2) Where a voter claims to vote under the provisions of this section, he shall mark and fold his ballot-paper in the manner prescribed in this Act and return it so folded to the presiding officer.

(3) The presiding officer shall thereupon, in the presence of the voter and of such scrutineers as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the voter and addressed to the returning officer for the district for which the voter claims to be entitled to vote, and shall forthwith securely fasten the envelope and deposit it in the ballot-box.

(4) The assistant returning officer who is authorized under the provisions of this Act to open the ballot-box shall without opening the envelope forthwith transmit it to the returning officer for the district for which the voter claims that he is entitled to vote.

(5) The returning officer, on receipt of the envelope containing the ballot-paper as aforesaid, shall, before opening the envelope or allowing any other person to do so, examine the declaration of the voter, and, if it is in order and he is satisfied, after making such inquiry as may be necessary, that the voter is a person to whom paragraph (a), (b) or (c) of subsection (1) of this section applies, shall deal with the ballot-paper in the manner prescribed in connection with the scrutiny of absent voters' ballot-papers, and forthwith inform the Electoral Commissioner of such correction, if any, as is necessary to be made in the roll by the registrar.

Subsec. (5)
amended by 49,
1973, s. 6
(Sched.).

111. Notwithstanding anything contained in this Act where a voter, against whose name on the certified list of voters used at a polling place prescribed for the subdivision for which he is enrolled a mark has been placed, in accordance with section 108, claims to vote in an election at that polling place he may, if otherwise qualified to vote and subject to section 105 and the regulations, be permitted to vote if he satisfies the presiding officer that he has not already voted at the election.

Claim to vote
of person whose
name has been
marked on the
roll.
Com., s. 121.

112. If any voter before depositing his ballot-paper in the ballot box satisfies the presiding officer that he has spoilt the ballot-paper by mistake or accident, he may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper, and deal with it as prescribed.

Spoilt
ballot-papers.
Com., s. 122.

PART XI

Mode of voting.
Com., ss. 123,
124.

113. (1) In every election for a district for which two or more candidates are required to be elected a voter shall mark his vote on his ballot-paper as follows:—

Para. (a)
substituted by
52, 1973, s. 27.

- (a) where his ballot-paper is a ballot-paper in accordance with Form D in the fourth schedule to this Act he shall place the number 1 in the square opposite the group for whom he votes as his first preference and shall continue his votes for all the remaining groups by placing the numbers 2, 3, 4 and so on, as the case requires, in the square opposite those groups so as to indicate the order of his preference for them;
- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting—in the manner prescribed by those regulations;
- (c) where he votes by post under the provisions of Part X of this Act—in the manner prescribed by the regulations relating to voting by post.

(2) In every election for a district for which one candidate only is required to be elected the voter shall mark his vote on his ballot-paper as follows:—

- (a) where his ballot-paper is in Form E in the fourth schedule he shall place the number 1 in the square opposite the name of the candidate for whom he votes as his first preference and shall continue his votes for all the remaining candidates by placing the numbers 2, 3, 4 and so on, as the case requires, in the square opposite their names so as to indicate the order of his preference for them;
- (b) where he votes at a polling place on polling day in accordance with the regulations relating to absent voting, in the manner prescribed by those regulations; and
- (c) where he votes by post under the provisions of Part X of this Act, in the manner prescribed by the regulations relating to voting by post.

Adjournment of
polling on
account of riot.
971, 1908,
s. 153.

114. The presiding officer may adjourn the polling from day to day if the polling is interrupted or obstructed by riot or open violence.

Adjournment in
other cases.
971, 1908,
s. 154.

115. If from any cause any polling booth at a polling place is not opened on polling day the returning officer or the presiding officer may adjourn the polling for a period not exceeding twenty-one days, and shall forthwith give public notice of the adjournment.

Locking of
ballot boxes
when voting
adjourned.
971, 1908,
s. 155.

116. If from any cause the polling at any polling place is adjourned, and a ballot-paper or ballot-papers have been deposited in the ballot box, the presiding officer shall—

- (a) immediately upon the adjournment publicly close, fasten, and seal the outer cover of the ballot box;
- (b) allow any scrutineer so desiring also to seal the same; and
- (c) retain the ballot box and the key thereof in his possession until the day to which the poll is adjourned, when he shall at the polling place publicly break the seal and unfasten and open the outer cover of the ballot box for the purpose of continuing the poll.

117. If the polling is adjourned at any polling place, those electors only who are enrolled for the subdivision for which the polling place is prescribed and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.

Voting at adjourned polling.
971, 1908, s. 156.

118. It shall not be necessary to open polling booths at the polling places for any district for which no election is being held.

Arrangement where election held in some districts only.
Com., s. 128.

118a. (1) It shall be the duty of every Assembly elector to record his vote at every election in the Assembly district for which he is enrolled.

Compulsory voting for House of Assembly.
S. 118a enacted by 37, 1942, s. 3.

(2) It shall be the duty of the returning officer for each Assembly district at the close of each election in that district to prepare a list of the names, addresses and descriptions of the electors enrolled for his Assembly district who have not voted at the election, and to certify the list by statutory declaration under his hand.

(3) The list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the election.

(4) Within the prescribed period after the close of each election in an Assembly district the Electoral Commissioner shall send by post to each elector whose name appears on the list prepared in accordance with subsection (2) of this section, at the address mentioned in that list, a notice, in the prescribed form, notifying the elector that he appears to have failed to vote at the election, and calling upon him to give a valid, truthful and sufficient explanation of his apparent failure so to vote: Provided that the said Commissioner need not send a notification in any case where he is satisfied that the elector—

Subsec. (4) amended by 43, 1950, s. 4 (a); 50, 1969, s. 31 (a); 49, 1973, s. 6 (Sched.); 88, 1975, s. 3 (1), (Sched.).

(a) is dead;

(b) was ineligible to vote at the election;

or

(c) had a valid and sufficient reason for his failure to vote at the election.

(5) Before sending any such notice, the Electoral Commissioner shall insert therein a date, not being less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Electoral Commissioner.

Subsec. (5) amended by 43, 1950, s. 4 (b); 49, 1973, s. 6 (Sched.).

(6) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed so to vote, sign the form, and post it so as to reach the Electoral Commissioner not later than the date inserted in the notice.

Subsec. (6) amended by 43, 1950, s. 4 (b); 49, 1973, s. 6 (Sched.).

(7) If any elector is unable, by reason of absence from his place of living or physical incapacity, to fill up, sign, and post the form, within the time allowed under subsection (5) of this section, any other elector who has personal knowledge of the facts may, subject to the regulations, fill up, sign and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form may be treated as compliance by the firstmentioned elector with the provisions of subsection (6) of this section.

(8) Upon receipt of a form referred to in either of the last two preceding subsections, the Electoral Commissioner shall endorse on the list prepared in accordance with subsection (2) of this section, opposite the name of the

Subsec. (8) amended by 43, 1950, s. 4 (b); 49, 1973, s. 6 (Sched.).

PART XI

elector, his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.

Subsec. (9)
amended by 43,
1950, s. 4 (b);
49, 1973, s. 6
(Sched.).

(9) The Electoral Commissioner shall also endorse on the list, opposite the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly filled up and signed and witnessed has not been received by him, a note to that effect.

Subsec. (10)
amended by 43,
1950, s. 4 (c);
49, 1973, s. 6
(Sched.).

(10) The list prepared and endorsed by the returning officer for the Assembly district, indicating—

Para. (b)
amended by 49,
1973, s. 6
(Sched.).

(a) the names of the Assembly electors who did not vote at the election;

(b) the names of the Assembly electors from whom or on whose behalf the Electoral Commissioner received, within the time allowed under subsection (5) of this section, forms properly filled up and signed; and

(c) the names of the Assembly electors who failed to reply within that time,

and any extract therefrom, certified by the Electoral Commissioner under his hand, shall in all proceedings be *prima facie* evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the election, and that the notice specified in subsection (4) of this section was received by those electors, and that those electors did, or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed under subsection (5) of this section.

Subsec. (11)
amended by 50,
1969, s. 31 (b).

(11) Every Assembly elector who—

(a) fails to vote at an election without a valid and sufficient reason for such failure; or

(b) on receipt of a notice in accordance with subsection (4) of this section, fails to fill up, sign, and post within the time allowed under subsection (5) of this section the form (duly witnessed) which is attached to the notice; or

Para. (c)
substituted by
50, 1969,
s. 31 (b).

(c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of another elector in pursuance of subsection (7) of this section, states in such form a false reason why that other elector did not vote,

shall be guilty of an offence and shall be liable to a penalty of not less than two dollars and not more than eight dollars.

Subsec. (12)
amended by 49,
1973, s. 6
(Sched.).

(12) Proceedings for an offence against this section shall not be instituted except by the Electoral Commissioner or an officer thereto authorized in writing by the Electoral Commissioner.

PART XII

PART XII

THE SCRUTINY

Scrutiny.
Com., s. 129.

119. The result of the polling shall be ascertained by scrutiny.

Scrutineers at
the scrutiny.
Com., s. 120.

120. Each candidate may by notice in writing or by telegram addressed to the assistant returning officer or returning officer, or deputy returning officer, as the case requires, appoint one scrutineer to represent him at the scrutiny at

each polling booth or other place at which the scrutiny is being conducted, and such notice or telegram shall be signed by the candidate and shall give the name and address of the scrutineer.

121. The scrutiny shall be conducted as follows:—

Conduct of
scrutiny.
Com., s. 131.

- (a) It shall commence as soon as practicable after the closing of the poll:
- (b) Any scrutineers duly appointed pursuant to the preceding section, and any persons approved by the officer conducting the scrutiny, may be present:
- (c) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers:
- (d) The scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete.

122. (1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper "admitted" or "rejected" according to his decision to admit or reject the ballot-paper.

Action on
objections to
ballot-papers.
Com., s. 132.

(2) Nothing in this section shall prevent the officer conducting the scrutiny from rejecting any ballot-paper as being informal although it is not objected to.

123. (1) A ballot-paper shall (except as otherwise provided by the regulations relating to absent voting on polling day or to voting by post) be informal if—

Informal
ballot-papers.
Com., s. 133.

- (a) it is not authenticated by the initials of the presiding officer, or by an official mark as prescribed;
- (b) in an election for a district for which two or more candidates are required to be elected, it has no vote indicated on it, or does not indicate the voter's first preference for one group;
- (c) in an election for a district for which one candidate only is required to be elected it has no vote indicated on it, or does not indicate the voter's first preference for one candidate and consecutive preferences for all the remaining candidates: Provided that where the voter has indicated preferences for all the candidates except one and the square opposite the name of that one candidate has been left blank, it shall be deemed that the voter's preference for that candidate is his last and that accordingly he has indicated his preferences for all the candidates;
- (d) it has upon it any mark or writing by which, in the opinion of the returning officer, the voter can be identified.

Para. (b)
amended by 52,
1955, s. 10 (a);
substituted by
52, 1973, s. 28.

Para. (c)
substituted by
52, 1955,
s. 10 (b).

(2) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear.

124. An officer shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Penalty on
officers marking
ballot-papers.
Com., s. 134.
S. 124 amended
by 50, 1969,
s. 32.

Penalty: Forty dollars.

Scrutiny of
votes.
Com., s. 135.

125. In every election the scrutiny shall, subject to the provisions and regulations relating to absent voting and to voting by post, be conducted in the manner following:—

(1) Each assistant returning officer shall, in the presence of an assistant presiding officer or a poll clerk, and of any authorized scrutineers who attend—

(a) open all ballot boxes received from polling places within or for that portion of the district in which he exercises his powers;

Subpara. (b)
amended by 52,
1973, s. 29 (a),
(b).

(b) reject all informal ballot-papers and arrange the unrejected ballot-papers under the names of the respective candidates or, as the case may be, the descriptions of the respective groups by placing in a separate parcel all those on which a first preference is indicated for the same candidate or group;

Subpara. (c)
amended by 52,
1973, s. 29 (c).

(c) count the first preference votes given for each candidate or group on all unrejected ballot-papers;

Subpara. (d)
amended by 52,
1973, s. 29 (d).

(d) make out and sign a statement (which may be countersigned by an assistant presiding officer or a poll clerk, and, if they so desire, by any scrutineers who are present) setting out the number of first preference votes given for each candidate or group, and the number of informal ballot-papers, and certify by endorsement on the copy of the writ received by him the like particulars;

(e) place in a separate parcel all the ballot-papers which have been rejected as informal;

Subpara. (f)
amended by 52,
1973, s. 29 (e).

(f) transmit the following information, by telegram or in some other expeditious manner, to the returning officer—

(i) the number of first preference votes given for each candidate or group; and

(ii) the total number of ballot-papers rejected as informal;

(g) seal up the parcels and endorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the endorsement; and

(h) transmit the parcels to the returning officer with the least possible delay, together with the statement specified in paragraph (d) of this subsection, and the copy of the writ endorsed in accordance with that paragraph.

In the case of a Council election the information mentioned in paragraph (f) of this subsection and the parcels, statement and writ mentioned in paragraph (h) shall be transmitted to the returning officer through the deputy returning officer.

(2) The returning officer shall open all ballot boxes not opened by an assistant returning officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.

(3) The returning officer shall, in the manner prescribed by this Act or the regulations, examine, count, and deal with all ballot-papers used for voting in pursuance of—

- (a) the provisions of this Act relating to voting by post; or
- (b) the regulations relating to absent voting on polling day.

(4) The returning officer shall—

(a) open the sealed parcels of ballot-papers received from the assistant returning officers in or for the district for which he is returning officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an assistant returning officer in relation to the original scrutiny;

(b) arrange the unrejected ballot-papers so scrutinized by him, together with the ballot-papers scrutinized by him pursuant to subsections (2) and (3) of this section, under the names of the respective candidates or, as the case may be, the descriptions of the respective groups by placing in a separate parcel all those on which a first preference is indicated for the same candidate or group; and

Subpara. (b) amended by 52, 1973, s. 29 (f), (g).

(c) count the first preference votes given for each candidate or group on the said ballot-papers.

Subpara. (c) amended by 52, 1973, s. 29 (h).

(5) In an election for a district where there is only one vacancy to be filled the candidate to be elected shall be determined in the following manner:—

Para. (5) substituted by 52, 1973, s. 29 (i).

(a) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected:

(b) If no candidate has received an absolute majority of first preference votes, a second count shall be made by the returning officer:

(c) On the second count, the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in order of the voter's preference:

(d) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated by the returning officer until one candidate has received an absolute majority of votes:

(e) The candidate who has received an absolute majority of votes shall be elected.

(6) If on any count two or more candidates have an equal number of votes, and one of them has to be excluded, the returning officer shall decide which shall be excluded; and if, in the final count for filling any vacancy, two candidates have an equal number of

Para. (6) substituted by 52, 1973, s. 29 (j).

votes, the returning officer shall decide by his casting vote which shall be elected; but, except as provided in this paragraph he shall not vote at the election.

Para. (7)
substituted by
52, 1973,
s. 29 (j).

- (7) Notwithstanding anything contained in the preceding provisions of this section two or more candidates lowest on the poll may be excluded in any count in the one operation where the total number of votes of those lowest candidates does not in the aggregate exceed in number the votes of the candidate next higher on the poll.

Para. (8)
substituted by
52, 1973,
s. 29 (j).

- (8) If—

(a) any election is held for a district where there is only one vacancy to be filled;

and

(b) it appears to the returning officer from the information given to him by assistant returning officers pursuant to subparagraph (f) of paragraph (1) of this section and from the result of the scrutiny of the votes counted by the returning officer that any candidate has received an absolute majority of first preference votes,

then, notwithstanding the provisions of paragraph (4) of this section, the returning officer may ascertain the total number of first preference votes for each candidate by means of such information and scrutiny without conducting a fresh scrutiny of the ballot-papers to which such information relates.

Para. (9)
substituted by
52, 1973,
s. 29 (j).

- (9) In an election for a district where two or more vacancies are to be filled those vacancies shall be filled in the following manner:—

(a) Each group that received a number of first preference votes, being less than the prescribed number of votes, shall be excluded from the count and each ballot-paper relating to each such group shall be attributed to the group, that has received a number of first preference votes equal to or greater than the prescribed number, indicated by the next available preference, if any, of the voter and for the purposes of this paragraph votes represented by ballot-papers so attributed shall be deemed to be first preference votes received by the group to which they were attributed:

(b) For the purposes of subparagraph (a) of this paragraph, the prescribed number of votes is one half of the number obtained by dividing the number of first preference votes cast at the election for the district by one more than the number of candidates required to be elected for the district and by increasing the quotient so obtained (disregarding any remainder) by one:

(c) The returning officer for the district shall then determine the quota for that election by dividing the total number of first preference votes that have been received by all the continuing groups by one more than the number of candidates to be elected for the district and by increasing the quotient so obtained (disregarding any remainder) by one:

- (d) The returning officer for the district shall then divide the number of first preference votes received by each group by a number representing the quota determined under subparagraph (c) of this paragraph and shall express the results as a fraction of a quota, a whole quota, a whole quota plus a fraction of a quota, a number of whole quotas or a number of whole quotas plus a fraction of a quota as the case requires:
- (e) For each quota obtained by a group, a candidate included in or comprising that group shall be elected and the order of election as between candidates included in a group shall be determined by reference to subparagraph (g) of this paragraph but where the number of whole quotas received by a group exceeds the number of candidates included in or comprising that group the number of whole quotas by which the whole quotas received by the group exceeds the number of candidates included in or comprising the group shall be disregarded:
- (f) If the application of paragraph (e) of this paragraph has not resulted in the election of the required number of candidates for the district, a candidate included in or comprising the group which has the largest fraction of a quota shall be elected, and if the election of this candidate does not result in the election of the required number of candidates for the district, a candidate included in or comprising the group which has the next largest fraction of a quota shall be elected and so on until the required number of candidates are elected for the district and the order of election as between candidates included in a group shall be determined by reference to subparagraph (g) of this paragraph but, in the application of this subparagraph, where a group has a fraction of a quota and there is no candidate included in or comprising that group yet to be elected then that fraction shall be disregarded and regard had to the group which has the next largest fraction of a quota:
- (g) The order of election as between candidates included in a group shall be determined by reference to the position of the names of those candidates included in the group as printed on the ballot-paper reading from top to bottom, the candidate whose name appears first, shall be first elected, the candidate whose name appears second shall be second elected and so on.
- (10) Where, in an election for a district where two or more vacancies are to be filled, two or more groups receive the same number of first preference votes the returning officer for the district shall, before proceeding in the manner provided by subparagraph (d) of paragraph (9) of this section, by lot, attribute to one or more of those groups sufficient notional first preference votes to make the difference between the total first preference votes for each of those groups one vote and the notional first preference votes so attributed shall thereafter be deemed to be first preference votes cast for that group.

Para. (10)
substituted by
52, 1973,
s. 29 (j).

PART XII

Para. (11)
substituted by
52, 1973,
s. 29 (j).

- (11) Where, in an election for a district where two or more vacancies are to be filled, and after the returning officer for the district has proceeded in the manner provided by subparagraph (d) of paragraph (9) of this section two or more groups have obtained identical fractions of a quota the returning officer shall, by lot, attribute to one or more of those groups sufficient notional first preference votes to make the difference between the number of votes comprising each of those fractions one vote and the notional first preference votes so attributed shall thereafter be deemed to be first preference votes constituting the fraction of a quota to which they were so attributed.

Para. (12)
substituted by
52, 1973,
s. 29 (j).

- (12) The returning officer shall—

Subpara. (a)
amended by 49,
1973, s. 6
(Sched.).

- (a) make out and sign a statement setting out, in respect of the district for which he is returning officer, the number of votes counted to each candidate at each count or, as the case may be, the number of first preference votes counted to each group and the number of informal ballot-papers and forward the statement to the Electoral Commissioner;

- (b) place in a separate parcel all the ballot-papers which have been rejected as informal;

- (c) place in a separate parcel all the unrejected ballot-papers;
and

- (d) seal up the parcels and endorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the endorsement.

Para. (13)
substituted by
52, 1973,
s. 29 (j).

- (13) In this section—

“an absolute majority of votes” means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers and the casting vote of the returning officer, given pursuant to paragraph (6) of this section shall be included in reckoning an absolute majority of votes:

“continuing candidate” means a candidate not already excluded from the count:

“continuing group” means a group not excluded from the count:

“description” in relation to a group means the letter or symbol that identifies that group on the ballot-paper:

“group” includes a single candidate who, pursuant to subsection (1a) of section 65 of this Act is deemed to be included in a group comprised of himself alone.

Para. (14)
struck out by 52,
1973, s. 29 (j).

* * * * *

Para. (15)
struck out by 52,
1973, s. 29 (j).

* * * * *

Para. (16)
inserted by 26,
1941, s. 6;
struck out by 52,
1973, s. 29 (j).

* * * * *

126. Where in the course of the scrutiny the returning officer is satisfied that the votes on any ballot-papers which have been lodged at some remote polling place and have not been received by him, cannot, having regard to the number of those ballot-papers possibly affect the result of the election, the returning officer may, subject to the concurrence of the Electoral Commissioner, proceed with the scrutiny without awaiting the receipt of the ballot-papers, as the case may be.

Scrutiny prior to receipt of certain ballot-papers.
Com., s. 136A.
S. 126 amended by 50, 1969, s. 33 (a), (b); 49, 1973, s. 6 (Sched.).

127. At any time before the declaration of the result of an election a returning officer may, if he thinks fit, on the request of any candidate setting forth the reasons for the request, or of his own motion, and shall, if so directed by the Electoral Commissioner, re-count the ballot-papers contained in any parcel.

Re-count.
Com., s. 137.
S. 127 amended by 49, 1973, s. 6 (Sched.).

128. (1) The officer conducting a re-count shall, subject to this section, have the same powers as if the re-count were the scrutiny and, without limiting the generality of the foregoing, may reverse any decision given in the scrutiny as to the admission or rejection of any ballot-paper or any decision given pursuant to section 86 of this Act as to the disallowance of any ballot-paper but that officer may not reverse any decision relating to the acceptance of any ballot-paper for further scrutiny pursuant to that section.

Powers of officer conducting re-count.
S. 128 substituted by 50, 1969, s. 34.

(2) Nothing in this section shall be construed as affecting the exercise of any power conferred on the Court of Disputed Returns.

129. (1) The officer conducting a re-count may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the Electoral Commissioner.

Reservation of disputed ballot-papers.
Com., s. 140.
Subsec. (1) amended by 49, 1973, s. 6 (Sched.).

(2) The Electoral Commissioner shall decide whether any ballot-paper, reserved for his decision, in pursuance of this section, is to be allowed and admitted or disallowed and rejected.

Subsec. (2) amended by 49, 1973, s. 6 (Sched.).

(3) In the event of the validity of the election being disputed, the Court of Disputed Returns may consider any ballot-papers which were reserved for the decision of the Electoral Commissioner, but shall not order any further re-count of the whole or any part of the ballot-papers in connection with the election unless it is satisfied that the re-count is justified.

Subsec. (3) amended by 49, 1973, s. 6 (Sched.).

130. Any delay, error, or omission in the printing, preparation, issue, transmission, or return of any roll, writ, ballot-papers, or certified list of voters, may be remedied, removed, rectified, or supplied by proclamation specifying the matter dealt with, and providing for the course to be followed, and such course shall be valid and sufficient.

Correction of errors.
971, 1908, s. 167.

131. Within twenty days before or after the day appointed for any election the person issuing the writ may provide for extending the time for holding the election or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election; and any provisions so made shall be valid and sufficient:

Extension of time.
971, 1908, s. 168.

Provided that—

- (a) public notice shall be immediately given in the district for which the election is to be held of any extension of time for holding the election; and
- (b) no polling day shall be postponed under this section at any time later than seven days before the time originally appointed.

PART XII

Custody of
ballot-papers
after count.
971, 1908,
s. 164.
S. 132 amended
by 49, 1973,
s. 6 (Sched.).

132. After the count each returning officer shall retain in his custody all ballot-papers used at the election, all ballot-papers cancelled at the election, and all declarations made in connection with postal votes or absent votes until those ballot-papers are delivered to the Court of Disputed Returns or the Electoral Commissioner authorizes them to be destroyed.

PART XIII

PART XIII

RETURN OF THE WRIT

Return of the
writ.
Com.,
s. 142 (1).

133. As soon as conveniently may be after the result of an election has been ascertained each returning officer shall—

I at the chief polling-place publicly declare the result of the election and the names of the candidates elected:

II by endorsement under his hand certify on the original writ the name of the candidates elected and return the writ so endorsed through the Electoral Commissioner.

Para. II
amended by 49,
1973,
s. 6 (Sched.).

Return of the
writ
notwithstanding
outstanding
ballot-papers.
S. 134,
substituted by 5,
1965, s. 3;
amended by 49,
1973,
s. 6 (Sched.).

134. Where the returning officer is satisfied that any ballot-papers—

(a) issued at a remote polling place; or

(b) posted or delivered to him in pursuance of section 81 of this Act,

could not possibly affect the result of the election, he may, with the concurrence of the Electoral Commissioner, declare the result of the election and return the writ without awaiting the receipt of the said ballot-papers.

Heading to Part
XIV struck out
by 50, 1969,
s. 35.

* * * * *

S. 135 repealed
by 50, 1969,
s. 35.

* * * * *

S. 136 amended
by 52, 1955,
s. 11; repealed
by 50, 1969,
s. 35.

* * * * *

S. 137 amended
by 52, 1955,
s. 12; repealed
by 50, 1969,
s. 35.

* * * * *

S. 138 repealed
by 52, 1955,
s. 13.

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Ss. 139-143
repealed by 50,
1969, s. 35.

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PART XV

PART XV

OFFENCES AND PENALTIES

Offences.
971, 1908,
s. 179.

144. Any person who is guilty of—

I breach or neglect of official duty:

II any illegal practice, including—

(a) bribery:

(b) undue influence:

III any electoral offence,

shall be guilty of an offence against this Act.

145. "Breach or neglect of official duty" includes—

I any attempt by any officer to influence the vote of any elector, or, except by recording his vote, the result of any election:

II the disclosure of any knowledge officially acquired by any officer or scrutineer touching the vote of any elector:

III any neglect or refusal by any officer to discharge any official duty, and any violation by any officer of any provision of this Act.

Breach or neglect of official duty shall be punishable by a fine not exceeding eight hundred dollars, or by imprisonment not exceeding one year.

Breach or neglect of official duty.
971, 1908, s. 180.
S. 145 amended by 50, 1969, s. 36.

146. Whoever—

(a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition:

(b) gives or takes any valuable consideration, advantage, recompense, reward, or benefit for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or omission to vote, or any support of, or opposition to, any candidate, or any promise of any such vote, omission, support, or opposition:

(c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward, or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,

shall be guilty of bribery.

Bribery.
971, 1908, s. 181.

147. Without limiting the effect of the general words in the next preceding section "bribery" particularly includes the supply of meat, drink, or entertainment after the nominations have been declared, or conveyance or horse or carriage hire for any voter whilst going to or returning from the poll, with the view of influencing the vote of an elector.

Definition of "bribery."
971, 1908, s. 182.

148. Whoever—

(a) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage for or on account of, or to induce any candidature, or withdrawal of candidature, or any vote or any omission to vote, or any support or opposition to any candidate, or any promise of any such vote, omission, support, or opposition; or

(b) uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support, or opposition; or

Undue influence.
971, 1908, s. 183.

- (c) at any time between the issue of the writ and the close of the poll publishes or exposes, or causes to be published or exposed, to public view any document or writing or printed matter containing any untrue statement defamatory of any candidate, and calculated to influence the vote of any elector, or verbally makes any such untrue statement,

shall be guilty of undue influence.

Definition of
"undue
influence."
971, 1908,
s. 184.

149. Without limiting the effect of the general words in the next preceding section, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any elector.

Exception.
971, 1908,
s. 185.

150. No declaration of public policy or promise of public action shall be deemed bribery or undue influence.

Illegal
practices.
971, 1908,
s. 186.

151. Bribery and undue influence and the following shall be illegal practices:—

- (a) any personal solicitation by a candidate of the vote of any elector within eight hours before the opening of the poll on polling day, or at any time during polling day before the close of the polling;
- (b) any attendance by a candidate at any meeting of electors held for electoral purposes at any time during polling day before the close of the polling:

Para. (c) struck
out by 136,
1972, s. 15.

* * * * *

- (d) any publication of any electoral advertisement, which has not at the end thereof the name and address of the person authorizing it or any issue of any electoral notice which has not on the face thereof the name and address of the person authorizing the notice.

Punishment for
illegal practices.
971, 1908,
s. 187.
Para. (a)
amended by 50,
1969, s. 37 (a).

152. Illegal practices shall be punishable as follows:—

- (a) bribery or undue influence by a fine not exceeding eight hundred dollars, or by imprisonment not exceeding one year:
- (b) any other illegal practice by a fine not exceeding four hundred dollars, or by imprisonment not exceeding six months.

Para. (b)
amended by 50,
1969, s. 37 (b).

Disqualifica-
tion.
971, 1908,
s. 188.

153. If any candidate is by the Court of Disputed Returns found to be guilty of any illegal practice he shall be disqualified from election to Parliament for two years, and his election (if he is a successful candidate) shall be declared void.

Electoral
offences.
971, 1908,
s. 189.
S. 154 amended
by 26, 1941,
s. 7; 50, 1969,
s. 38 (a), (b), (c),
(d); 136, 1972,
s. 16.

154. The matters mentioned in the first column of the table at the foot of this section shall be electoral offences, and shall be punishable as provided in the second column of such table opposite the statement of the offence.

Table of Electoral Offences and Punishments

First Column—Offences	Second Column—Punishments
Falsely personating any person to secure a ballot-paper to which the personator is not entitled, or personating any other person for the purpose of voting	Imprisonment not exceeding two years
Fraudulently destroying or defacing any nomination or ballot-paper	Imprisonment not exceeding two years
Fraudulently putting any ballot or other paper into the ballot box	Imprisonment not exceeding six months
Fraudulently taking any ballot-paper out of any polling booth	Imprisonment not exceeding six months
Forging or uttering, knowing the same to be forged, any nomination of ballot-paper	Imprisonment not exceeding two years
On polling day, in a polling booth or within six metres of any entrance to a polling booth	} Fine not exceeding Two Hundred Dollars, or imprisonment not exceeding three months
(a) soliciting the vote of any elector; or	
(b) in any way interfering with any elector with the intention of influencing him or advising him as to his vote; or	
(c) inducing any elector not to vote for any particular candidate; or	
(d) inducing any elector not to vote at the election	
In any polling booth on polling day misconducting oneself, or failing to obey the lawful directions of the presiding officer	Fine not exceeding Forty Dollars, or imprisonment not exceeding one month
Supplying any ballot-paper without authority	Imprisonment not exceeding six months
Unlawfully destroying, taking, opening, or otherwise interfering with any ballot box or ballot-paper	Imprisonment not exceeding six months
Voting more than once at the same election	Fine not exceeding Two Hundred Dollars, or imprisonment not exceeding three months
Wagering on the result of any election	Fine not exceeding Two Hundred Dollars
Wilfully defacing, mutilating, destroying, or removing any list of voters, or any notice, list, or other document affixed by any returning officer or presiding officer, or by the authority of either of such officers	Fine not exceeding Eight Dollars
Wilfully making any false statement in or with reference to any claim, application, return, or declaration, or in answer to a question put under the authority of this Act	Imprisonment not exceeding two years
Distributing advertisement, handbill, or pamphlet published in contravention of section 151	Penalty not exceeding Eighty Dollars, or imprisonment not exceeding one month
Any contravention of this Act, whether by act or omission, for which no other punishment is provided	Penalty not exceeding Eighty Dollars

* * * * *

S. 155 repealed by 50, 1969, s. 39.

155a. (1) If any association, or any member of the controlling or executive body of an association, or any officer of an association, or any person acting on behalf of an association, publishes or announces without the written authority of the candidate any matter in which it is claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of that association, that association, member, officer, or person, shall be guilty of an offence.

Penalty: Four hundred dollars.

(2) Nothing in the foregoing provisions of this section shall apply to or in relation to any announcement or publication made or authorized by any

Publication of matter.

S. 155a enacted by 52, 1955, s. 14; amended by 50, 1969, s. 40.

political party or by any branch thereof respecting a candidate who, by public announcement, has declared or indicated that he is a member of or a candidate on behalf of or in the interests of that party.

(3) In this section "association" includes any association, league, organization or other body of persons corporate or unincorporate by whatever name called, and includes any branch of an association.

Prohibition of certain electoral posters.
S. 155b enacted by 52, 1955; s. 14.
Subsec. (1) amended by 50, 1969, s. 41 (a), (b); 136, 1972, s. 17 (a), (b).

155b. (1) A person shall not post up or exhibit, or permit to be posted up or exhibited, on any building, vehicle, vessel, hoarding or structure of any kind an electoral poster the area of which is more than eight thousand square centimetres.

Penalty: Four hundred dollars.

For the purposes of this section, every electoral poster any part of which is within one metre of another electoral poster shall be regarded as forming part of that other poster and the combined area of all such electoral posters shall be deemed to be the area of one electoral poster.

Subsec. (2) substituted by 50, 1969, s. 41 (c).

(2) A person shall not write, draw or depict any electoral matter directly on—

(a) any roadway or footpath;

or

(b) any building, vehicle, vessel, fence, hoarding or structure of any kind without the permission (proof of which shall lie upon him) of the owner of that building, vehicle, vessel, fence, hoarding or structure.

Penalty: Four hundred dollars.

Subsec. (2a) inserted by 50, 1969, s. 41 (d).

(2a) It is hereby declared that the application of subsection (1) and subsection (2) of this section extends in relation to an election or referendum although the writ for that election or referendum has not been issued.

Subsec. (3) substituted by 50, 1969, s. 41 (d).
Para. (a) amended by 136, 1972, s. 17 (c).

(3) Nothing in this section shall prohibit—

(a) the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party and specifying the name of the candidate or the names of the candidates or the name of the party concerned in any case where the sign is so posted up, exhibited, written, drawn or depicted on or at such an office or committee room which is situated more than one hundred metres distant from the entrance to a polling booth;

or

(b) the projection by means of cinematograph or other similar apparatus of electoral matter onto a screen in a public theatre, hall or premises used for public entertainment.

(4) In this section—

"electoral matter" means any matter intended or calculated to affect the result of an election or referendum under any law of the State:

"electoral poster" means any material whatsoever on which any electoral matter is written, drawn, or depicted.

155c. For the purpose of ensuring compliance with the last preceding section, any member of the police force may, and, if so directed by the Electoral Commissioner, shall—

- (a) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of subsection (1) of the last preceding section; or
- (b) obliterate electoral matter which appears to have been written, drawn, or depicted in contravention of subsection (2) of the last preceding section.

156. Any person who accepts for transmission to the Electoral Commissioner or a registrar the custody of a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the Electoral Commissioner or the registrar.

Penalty: Two hundred dollars.

157. (1) If any employee who is an elector notifies his employer before the polling day that he desires leave of absence to enable him to vote at any election, and the employer does not, if the absence desired is necessary to enable the employee to vote at the election, allow him leave of absence, without any penalty or disproportionate deduction of pay, for such reasonable period, not exceeding two hours, as is necessary to enable the employee to vote at the election, such employer shall be guilty of a contravention of this Act.

(2) If any employee, having obtained leave of absence under this section, does not vote at the election, he shall, in the absence of a satisfactory reason, be guilty of a contravention of this Act.

(3) This section shall not apply to any employee whose absence may cause danger or substantial loss in respect of the employment in which he is engaged.

158. If any person purporting to act for and on behalf of a candidate incurs or authorizes any electoral expense without the written authority of the candidate or of his election agent, he shall be guilty of a contravention of this Act.

159. Any person who neglects or fails to do any act or thing which by this Act he is required to do, or does any act or thing which is forbidden by this Act, shall be guilty of a contravention of this Act.

160. (1) Whoever in any polling booth on any polling day misconducts himself, or fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any member of the police force, or by the presiding officer or any person authorized by the presiding officer.

(2) Any person so removed who re-enters without the permission of the presiding officer shall be guilty of a further electoral offence, punishable on conviction by twice the penalties prescribed for the original offence.

161. Every person shall be liable for an illegal practice committed directly or indirectly by himself, or by any other person on his behalf, and with his knowledge or authority.

162. (1) Witnesses called on the part of the prosecutor in any prosecution for an offence under this Act may, unless the court orders the contrary, be cross-examined by the prosecutor or his counsel.

Removal of prohibited electoral posters.
S. 155c enacted by 52, 1955, s. 14; amended by 49, 1973, s. 6 (Sched.).

Failure to transmit claim.
Com., s. 173.
S. 156 amended by 50, 1969, s. 42; 49, 1973, s. 6 (Sched.).

Duty of employers to allow employees leave of absence to vote.
971, 1908, s. 194.

Expenditure on behalf of a candidate.
971, 1908, s. 195.

Contravention of this Act.
971, 1908, s. 196.

Power to remove offenders from polling booth.
971, 1908, s. 197.

Liability for indirect acts.
971, 1908, s. 198.

Cross-examination of witnesses.
971, 1908, s. 200.

(2) The court may, without argument, order that the prosecutor or his counsel be not allowed to cross-examine any witness called on his part if such witness appears to the court to be hostile to the person charged.

Evidentiary effect of returning officer's certificate. 971, 1908, s. 201.

163. On any prosecution under this Act the certificate of the returning officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at such election shall be conclusive evidence of the matter stated.

Evidentiary effect of signature on claim. 1147, 1913, s. 35.

164. Any person whose name appears as claimant on a form of application for enrolment or transfer of enrolment shall in all legal proceedings be deemed, in the absence of evidence to the contrary, to have signed his name thereto, and if his name appears as the person making a declaration set out on the form to have also declared to the truth of the statements contained in that declaration.

Indictable offences. 971, 1908, s. 203.

165. Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

Summary proceedings for offences. 971, 1908, s. 204.

166. All proceedings for offences against this Act other than indictable offences shall be dealt with summarily.

PART XVI

PART XVI

DISPUTED RETURNS

The Court. 971, 1908, s. 206.

167. There shall be a Court of Disputed Returns, in this Part called "the Court".

Constitution etc. of Court. S. 168 substituted by 50, 1969, s. 43.

168. (1) The Court shall—

(a) be constituted, in accordance with subsection (2), of this section by a single Judge of the Supreme Court;

(b) subject to this Act, have the same powers, jurisdiction and authority as a Judge of the Supreme Court presiding at the trial of a civil cause;

and

(c) be a Court of record.

(2) The Court shall be constituted—

(a) by the senior puisne Judge of the Supreme Court;

or

(b) where the senior puisne Judge is, for any reason, not available to constitute the Court, by the puisne Judge next in order of seniority, who is so available.

Method of disputing returns and jurisdiction of Court. S. 169 substituted by 50, 1969, s. 44.

169. (1) The validity of any election or return may be disputed by petition addressed to the Court, but not otherwise.

(2) The Court shall have jurisdiction to hear and determine any petition referred to in subsection (1) of this section.

170. (1) Every petition referred to in subsection (1) of section 169 of this Act, in this Part referred to as "the petition" shall—

Requisites of
petition.
S. 170
substituted by
50, 1969, s. 45.

- (a) set out the facts relied upon to invalidate the election or return;
 - (b) contain a prayer asking for the relief the petitioner claims to be entitled to;
 - (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote at that election;
 - (d) be attested by two witnesses whose occupations and addresses are stated;
- and
- (e) be lodged with the Master of the Supreme Court within twenty-eight days after the day on which the writ to which it relates is returned.

(2) At the time of filing the petition, the petitioner shall deposit with the Master the sum of one hundred dollars as security for costs.

(3) Where a petition claims a seat for a person who has not been returned as a member a notice of the lodging of that petition and a copy of that petition shall forthwith be served on the person, if any, returned as a member whose election is disputed.

(4) A person served in accordance with subsection (3) of this section if he proposes to contest the petition shall within seven days after that service or such further time as may be allowed by the Court lodge with the Master of the Supreme Court and serve on the petitioner a reply.

(5) A reply referred to in subsection (4) of this section shall—

- (a) set out the facts upon which the person referred to in that subsection proposes to rely;
 - (b) ask for the relief to which that person claims to be entitled;
 - (c) be signed by that person;
- and
- (d) be attested by two witnesses whose occupations and addresses are stated.

171. No proceedings on the petition shall be proceeded with unless the requirements of section 170 of this Act are complied with.

No proceedings
to lie unless the
requisites are
complied with.
S. 171
substituted by
50, 1969, s. 46.

172. The Electoral Commissioner shall be entitled by leave of the Court to enter an appearance in any proceedings on the petition and to be heard thereon and in such case the Electoral Commissioner shall be deemed to be a party respondent to the petition.

Right of
Electoral
Commissioner
to be
represented.
S. 172
substituted by
50, 1969, s. 47;
amended by 49,
1973, s. 6
(Sched.).

* * * * *

Ss. 173-176
repealed by 50,
1969, s. 48.

177. (1) The Court shall sit as an open court, and its powers shall include the following:—

Powers of
Court.
971, 1908,
s. 216.

- (a) to adjourn;

Para. (ca)
inserted by 50,
1969, s. 49 (a).

(b) to compel the attendance of witnesses and the production of documents:

(c) to examine witnesses upon oath, affirmation, or declaration:

(ca) with the consent of the parties to the proceedings, to receive evidence on affidavit or by statutory declaration:

(d) subject to any rules made under section 191, to regulate the form and mode of its proceedings in each case:

(e) to declare that any person who was returned as elected was not duly elected:

(f) to declare any candidate duly elected who was not returned as elected:

(g) to declare any election void:

(h) to dismiss or uphold any petition, in whole or in part:

Para. (ha)
inserted by 50,
1969, s. 49 (b).

(ha) to amend or allow the amendment of any petition or reply:

(i) to award any costs:

(j) to punish any contempt of its authority by fine or imprisonment.

(2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(3) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected or to declare any election void, may be exercised on the ground that illegal practices were committed in connection with the election.

Ss. 178, 179 and
180 repealed by
50, 1969, s. 50.

* * * * *

Inquiries by
Court.
971, 1908,
s. 220.

181. The Court shall inquire whether or not the petition is duly signed, but the Court shall not inquire into the correctness of any electoral roll, or into the qualification of any nominator, or into the sufficiency of any nomination, or into the qualifications of persons whose votes have been either admitted or rejected, but so far as rolls and voting are concerned, only into the identity of the persons, and whether their votes were improperly admitted or rejected, assuming the rolls to be correct.

Voiding election
for illegal
practices.
971, 1908,
s. 221.

182. (1) If the Court finds that a candidate has committed or has attempted to commit bribery or undue influence, his election, if he is a successful candidate shall be declared void.

(2) No finding by the Court shall bar or prejudice any prosecution for any illegal practice.

(3) The Court shall not declare that any person returned as elected was not duly elected, or declare any election void—

(a) on the ground of an illegal practice committed by any person other than the candidate and without his knowledge or authority; or

(b) on the ground of any illegal practice other than bribery or undue influence or attempted bribery or undue influence,

unless the Court is satisfied that the result of the election was likely to be affected thereby, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

183. When the Court finds that any person has committed an illegal practice the Master of the Supreme Court shall forthwith report the finding to the Minister.

Duty of Master in relation to a finding of illegal practice.
971, 1908, s. 223.
S. 183 amended by 50, 1969, s. 51.

184. The Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

Duty of Court to be guided by substantial merits.
971, 1908, s. 227.

185. No election shall be declared void on account of any delay in the declaration of nominations, the polling, or the return of the writ, or on account of the absence or error of any officer which is not proved to have affected the result of the election.

Effect of immaterial errors.
971, 1908, s. 224.

186. Every decision of the Court shall be final and conclusive and without appeal, and shall not be questioned in any way.

Decisions to be final.
971, 1908, s. 226.

187. The Master of the Supreme Court shall forthwith after the filing of the petition forward to the Clerk of the House of Parliament affected by the petition a copy of the petition and after the determination of the petition shall forthwith forward to that Clerk a copy of the order of the Court.

Copies of petition and order to be sent to Clerk of House affected.
S. 187 substituted by 50, 1969, s. 52.

187a. Any party to any proceedings arising from the petition may be represented by counsel or solicitor.

Appearance by counsel or solicitor.
S. 187a enacted by 50, 1969, s. 52.

187b. The Court may, on the application of any of the parties to the proceedings, or of its own motion state a question of law, arising in or in relation to those proceedings, for the opinion of the Full Court of the Supreme Court.

Special case.
S. 187b enacted by 50, 1969, s. 52.

187c. The Court may award costs against an unsuccessful party to the petition and may in its discretion recommend that all or portion of the costs be paid by the Crown.

Costs.
S. 187c enacted by 50, 1969, s. 52.

188. If costs are awarded to any party against the petitioner, the deposit, on the order of the Court, shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Deposit applicable for costs.
971, 1908, s. 228.
S. 188 amended by 50, 1969, s. 53.

189. All other costs awarded by the Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the Supreme Court, and that order shall be entered as a judgment of the Supreme Court, and shall be enforced accordingly.

Other costs.
971, 1908, s. 229.
S. 189 amended by 50, 1969, s. 54.

190. Effect shall be given to any decision of the Court, as follows:—

Effect of decision.
971, 1908, s. 230.

- (a) if any person returned is declared not to have been duly elected, he shall cease to be a member of the Council or Assembly (as the case may be);
- (b) if any person not returned is declared to have been duly elected, he shall take his seat accordingly;
- (c) if any election is declared void, a new election shall be held.

PART XVI

Power to make rules.
971, 1908,
s. 231.

191. The Judges of the Supreme Court or any two of them may make such rules of court, not being inconsistent with this Act, as may be necessary or convenient for carrying this Part into effect, and in particular for regulating the practice and procedure of the Court, the forms to be used, and the fees to be paid by the parties.

PART XVII

PART XVII

SUPPLEMENTARY

How-to-vote cards.
S. 192 repealed by 2151, 1934, s. 2 (Sched.).
New S. 192 enacted by 136, 1972, s. 18.

192. (1) A candidate for election in any district may, not less than forty-eight hours before the commencement of polling on the day on which an election is to be held, furnish the person appointed to be the presiding officer at any polling place in the district with how-to-vote cards in the prescribed form.

(2) Where how-to-vote cards have been furnished in accordance with subsection (1) of this section the presiding officer shall, in accordance with the regulations, affix the cards in the various compartments to be used for the purpose of voting in the polling place.

(3) Any person who removes or defaces any how-to-vote card affixed in accordance with this section shall be guilty of an offence and liable to a penalty not exceeding two hundred dollars.

(4) Where a how-to-vote card affixed under this section has been removed or defaced, the presiding officer or a scrutineer may replace that card with a how-to-vote card in identical form.

(5) In this section—

“how-to-vote card” means a card indicating the order of preference in which the candidate suggests that electors should vote for candidates for election in the district.

Power to telegraph electoral matter.
971, 1908,
s. 232.

193. If it is impracticable to communicate any electoral information or matter by post without causing undue delay, any telegraphic advice communicated in the ordinary course shall suffice for all the purposes of this Act as if the information or matter telegraphed had been communicated in manner provided by this Act.

Power to amend schedules.
971, 1908,
s. 233.

194. The Governor, may by proclamation, make such alterations and additions to the forms in the schedules contained in this Act or any Act amending this Act as he may think fit.

Payment of fees to Treasurer.

195. All moneys received for printed copies of electoral rolls shall be paid to the Treasurer.

Notices.
971, 1908,
s. 237.

196. When any officer is by this Act required or authorized to give a public notice, and no special mode of giving it is mentioned, he may give it by advertisement, placard, handbills, or such other means as he thinks best calculated to give the information to the electors interested.

Voting-machines.
971, 1908,
s. 238.

197. (1) The Governor may, by proclamation, direct that at any election a voting-machine specified in the proclamation shall be used by way of experiment and any such proclamation shall be complied with by the returning officer at such election.

(2) By the proclamation the Governor shall prescribe the mode in which the machine shall be used.

(3) On the making of any such proclamation the Electoral Commissioner shall provide the returning officer with a sufficient number of such voting-machines.

Subsec. (3)
amended by 49,
1973, s. 6
(Sched.).

198. The Governor may make regulations, not inconsistent with this Act, prescribing fees payable to officers for performing duties under this Act and all matters which by this Act are required or permitted to be prescribed, or which may be necessary or convenient for giving effect to this Act, and in particular—

Regulations.
971, 1908,
s. 239.
S. 198 amended
by 30, 1943,
s. 2; 50, 1969,
s. 55.

(a) prescribing penalties not exceeding one hundred dollars for any breach of any regulation under this Act:

Para. (a)
inserted by 30,
1943, s. 2;
amended by 50,
1969, s. 55.

(b) prescribing the procedure in relation to the imposition and recovery of penalties for offences against the compulsory voting provisions of this Act.

Para. (b)
inserted by 30,
1943, s. 2.

199. No declaration made for the purposes of this Act shall be chargeable with stamp duty.

Exemption of
declarations
from stamp
duty.

THE SCHEDULES

THE FIRST SCHEDULE

REPEALED ACTS

Number of Act	Title of Act	Extent of Repeal
No. 971 of 1908	The Electoral Code, 1908	The whole.
No. 1147 of 1913	The Electoral Code Amendment Act, 1913	The whole.
No. 1446 of 1920	Electoral Code Further Amendment Act, 1920	The whole, except sections 53 and 54 thereof.
No. 1691 of 1925	Electoral Code Amendment Act, 1925	The whole.

Electoral Act, 1929-1975

THE SECOND SCHEDULE

FORM A

WRIT

State of South [Royal Arms] Australia

To Returning Officer for the District, in the State of South
Australia:

Greeting—

By virtue of the provisions of "The Electoral Act, 1929", I, the Governor of the State of South Australia (or the President of the Legislative Council, or the Speaker of the House of Assembly), hereby command you that you cause election to be made according to law of member for the [here set out name of District for which election is to be held] to serve in the Legislative Council (or House of Assembly) of the said State, and I appoint the following dates for the purposes of the said election:—

1. For nomination—, the day of , 19 .
2. For taking the poll at the different polling places (in the event of the election being contested), the day of , 19 .
3. For return of writ, on or before , the day of , 19 .

Given [if issued by the Governor, "under my hand and the public seal of South Australia"; if issued by the President or Speaker, "under my hand and seal"] at Adelaide, the day of , 19 .

ENDORSEMENTS

I, , Returning Officer for the District, do hereby certify that I have received the within writ on the day of , 19 .

, Returning Officer.

I, , Returning Officer for the District, do hereby certify that on the* day of , duly elected member to serve in the Legislative Council (or House of Assembly) for the said District.

*[Fill in date of nomination if election uncontested, and date of polling day if contested.]

, Returning Officer.

The execution of this writ appears by the endorsements made by me hereon, and sealed up and transmitted by me to His Excellency the Governor (or the Honourable the President of the Legislative Council, or the Honourable the Speaker of the House of Assembly).

, Returning Officer for the District.

THE THIRD SCHEDULE

FORM B

LEGISLATIVE COUNCIL NOMINATION PAPER

To the Returning Officer for District.

Sir—We, the undersigned, being electors entitled to vote at an election for the District, and being enrolled on the electoral roll for the Legislative Council for the subdivision of , do hereby nominate [*Christian names and surname, residence, and occupation of person nominated*] as a candidate to serve in Parliament as a member of the Legislative Council for the said District.

Dated the day of , 19 .

Signature of Nominator	Place of Living of Nominator	Subdivision for which Nominator Enrolled	No. on Roll

I, , of , consent to the above nomination, and to act if elected, and I declare that I am qualified under the laws of the State to be elected as a member of the Legislative Council.

[Signature of Candidate]

Witness—

Address—

N.B.—The candidate's consent to the nomination may be on a separate paper and in any form, but if given on the nomination paper in the above form its sufficiency is not to be questioned.

FORM C

HOUSE OF ASSEMBLY NOMINATION PAPER

To the Returning Officer for District.

Sir—We, the undersigned, being electors entitled to vote at an election for the District, and being registered on the electoral roll for the House of Assembly for the subdivision of , do hereby nominate [*Christian names and surname, residence, and occupation of person nominated*] as a candidate to serve in Parliament as a member of the House of Assembly for the District.

Dated the day of , 19 .

Signature of Nominator	Place of Living of Nominator	Subdivision for which Nominator Enrolled	No. on Roll

I, , of , consent to the above nomination, and to act if elected, and I declare that I am qualified under the laws of the State to be elected as a member of the House of Assembly.

[Signature of Candidate]

Witness—

Address—

N.B.—The candidate's consent to the nomination may be on a separate paper and in any form, but if given on the nomination paper in the above form its sufficiency is not to be questioned.

THE FOURTH SCHEDULE

Section 113.
Form D
substituted by
52, 1973, s. 30.

FORM D

BALLOT-PAPER WHERE TWO OR MORE MEMBERS ARE REQUIRED TO BE ELECTED

State of South Australia

[Name of District]

Election of [here insert number] members of

Directions—The voter must place the number 1 in the square opposite the group he votes as his first preference and shall continue his votes for all the remaining groups by placing the numbers 2, 3, 4 and so on in the square opposite those groups so as to indicate the order of his preference for them.

Group A	Group B	Group C	Group D	Group E
<input type="checkbox"/> Brown, Clark William Russell, Fred Jones, John Thomas Quick, Thomas King, Henry Carran, Charles Thompson, Henry	<input type="checkbox"/> Johnson, Matthew McPhee, Ian Cowan, Mary Jenkins, Craig Johns, Ian Ellis, Anthony	<input type="checkbox"/> Smith, James	<input type="checkbox"/> Cole, Colin	<input type="checkbox"/> West, Reginald

FORM E

BALLOT-PAPER WHERE ONE MEMBER ONLY IS REQUIRED TO BE ELECTED

State of South Australia

[Name of Council or Assembly District]

Election of one member of

Directions—The Elector should mark his vote on this ballot-paper by placing the number 1 in the square opposite the name of the candidate for whom he votes as his first preference; and must give contingent votes for all the remaining candidates by placing the numbers 2, 3, 4 (and so on, as the case requires), in the squares opposite their names, so as to indicate the order of his preference for them.

CANDIDATES

- ☐ Albert, John
- ☐ Andrews, Joseph
- ☐ Dickens, Charles
- ☐ McPhee, William
- ☐ Walker, Henry