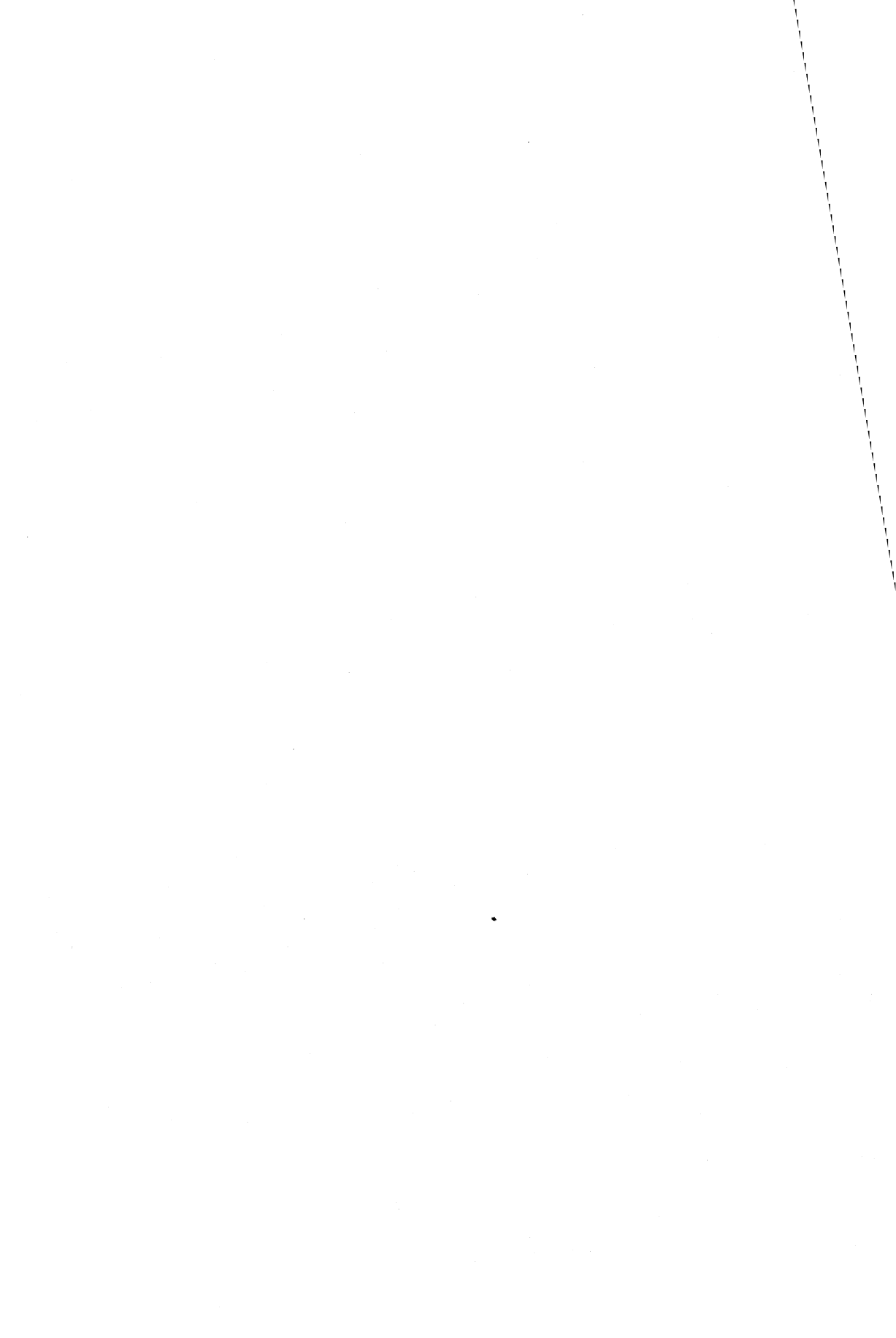

ELECTORAL ACT 1974

ANALYSIS

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ELECTORAL

No. 66 of 1974

AN ACT to amend the Electoral Act 1907.

[21 November 1974]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Electoral Act* 1974.

Short title and citation.

(2) The *Electoral Act* 1907, as subsequently amended, is in this Act referred to as the Principal Act.

2 Section 67A of the Principal Act is amended by omitting, from the commencement of subsection (2), the word “A” and substituting therefor the words “Subject to section 67C, a”.

Grouping of Assembly candidates.

3 The Principal Act is amended by inserting, after section 67A, the following sections:—

Names of registered parties in ballot-papers.

“67B—(1) Subject to subsections (2) and (3), on the application of the endorsement representative of a registered party made to the returning officer of a division, a group of names referred to in section 67A, being names specified in the application, shall be under a heading being the name of the registered party of which the applicant is the endorsement representative or the other or abbreviated name of the party that is entered in the party register for the purpose.

“(2) An application under this section shall be in the Form I in the first schedule and shall be made not later than 12 noon on the day of nomination.

“(3) On being satisfied that an applicant under this section is the endorsement representative of the registered party in respect of which the application is made, the returning officer to whom it is made shall comply with the application and shall notify the representative that he has done so.

Claims by candidates to appear in ballot-paper under name of registered party.

“67C—(1) Where a notification under section 67A (2) relates to a group that is to appear in the ballot-paper under a heading referred to in section 67B, the notification shall be rejected unless it is accompanied by the certificate of the endorsement representative of the registered party to which the heading relates that the nomination of the candidate giving the notification has been endorsed by the party.

“(2) On receiving a notification referred to in subsection (1), the returning officer to whom it is given shall satisfy himself that the person certifying as required by that subsection is the endorsement representative of the party to which the notification relates.”.

4 The Principal Act is amended by inserting the following Part after Part VIII:—

“ PART VIIIA

“ REGISTRATION OF POLITICAL PARTIES AND IDENTIFICATION OF ENDORSED CANDIDATES

Division I—Registration of parties; objections

Interpretation.

“77A In Part VIII and in this Part, unless the contrary intention appears—

‘ endorsed candidate ’ means a candidate for election to the Assembly whose nomination has been endorsed by a registered party;

- ‘ endorsement representative ’ in relation to a registered party means a person whose name is entered in the party register in relation to that party in accordance with section 77E (2) (d);
- ‘ other or abbreviated name ’ in relation to a registered party means the name, other than the name of the party, registered under this Part as the name to be printed in ballot-papers at the head of the group of names of endorsed candidates of the party;
- ‘ party ’ means a number of persons being not less than 7 (whether incorporated or not) that exists for political purposes and includes any branch in this State of such a number of persons that exists for such purposes outside this State;
- ‘ party register ’ means the register maintained by the Chief Electoral Officer pursuant to section 77E (2);
- ‘ registered member ’ in relation to a registered party means a person whose name is entered in the party register in relation to that party in accordance with section 77E (2) (c) or a person whose name has been substituted therefor, as provided by section 77F;
- ‘ registered party ’ means a party that is registered with the Chief Electoral Officer, as provided by section 77E, for the purposes of this Part;
- ‘ registration objection board ’ means a board appointed as provided by section 77N.

“ 77B Subject to this Part, the Chief Electoral Officer shall, on application being made in that behalf, register a party for the purposes of this Part. Registration of political parties.

“ 77c—(1) An application for registration under this Part—

(a) shall be in writing in the Form II in the first schedule;

(b) shall be signed by 7 persons each of whom—

- (i) is of or above the age of 18 years;
- (ii) is ordinarily resident in this State; and
- (iii) is a member of the party in relation to which the application is made; and

Mode of application for registration of a party.

(c) shall be lodged with the Chief Electoral Officer, and there shall be specified therein—

(d) the name of the party;

- (e) the other or abbreviated name (if any) which the applicants desire to be printed in ballot-papers as the name of the party for the purposes of this Part; and
- (f) the name and address of a member of the party (whether one of the applicants or not) who, if registration is granted, shall be the endorsement representative.

“(2) Each of the signatories to an application under subsection (1) shall make a statutory declaration in which he shall declare that he is a member of the party in relation to which the application is made and the Chief Electoral Officer shall refuse to accept the application unless such declaration of each signatory is lodged with him.

Public notice of application for registration of a party.

“77D—(1) Before proceeding to register a party in pursuance of an application under this Part, the Chief Electoral Officer shall, as soon as practicable after the application and the statutory declarations referred to in section 77C have been lodged with him, give notice in the Form III in the first schedule of the application in accordance with this section.

“(2) A notice given in accordance with this section shall be published twice in each daily newspaper published in this State and in the *Gazette* and—

- (a) the particulars referred to in section 77C (1) (d) and (e); and
- (b) the names and addresses of the persons by whom the application was made,

shall be specified therein.

“(3) The publications of a notice in the *Gazette* and in each daily newspaper as required by this section shall, in the *Gazette* and each newspaper, be separated in time by a period of not less than 6, or more than 14, days.

Registration of parties.

“77E—(1) If, after the expiration of one month from the last publication of the notice referred to in section 77D, no objection is lodged with the Chief Electoral Officer in accordance with this Part or if, on an objection being so lodged, a registration objection board directs him to do so, the Chief Electoral Officer shall register the party that is the subject of the application.

“(2) On registering a party the Chief Electoral Officer shall cause to be entered in the party register that he shall maintain for the purpose—

- (a) the name of the party;

- (b) the other or abbreviated name (if any) by which the party shall be designated in ballot-papers as the party for the purposes of this Act;
- (c) the names and addresses of the applicants for registration of the party; and
- (d) the name and address of the endorsement representative of the party.

“ 77F—(1) Any person who is—

- (a) of or above the age of eighteen years;
- (b) ordinarily resident in this State; and
- (c) a member of a registered party,

Change of
registered
member.

may apply to the Chief Electoral Officer to have the name and address of a registered member of the party deleted from the party register and his own name and address substituted therefor.

“(2) Subject to subsection (3), an application under this section shall be in the Form IV in the first schedule and shall contain a statement of the concurrence of the registered member whose name is to be deleted and shall be signed by the applicant, that registered member, and at least three of the other registered members of the party as witnesses.

“(3) Notwithstanding subsection (2), an application under this section need not contain a statement of the concurrence of, or be signed by, the registered member whose name is to be deleted if at least three of the other registered members each make a statutory declaration that the member whose name is to be deleted has ceased to be a member of the party or that, for any reason stated in the declaration, it is not reasonably practicable to obtain the concurrence and signature of that member, and those declarations are lodged with the Chief Electoral Officer with the application.

“(4) On receiving an application that accords with this section, the Chief Electoral Officer shall cause the party register to be altered accordingly and thenceforth the applicant shall, to the exclusion of the person whose name has been deleted, be a registered member of the party in relation to which the application was made.

“(5) After altering the party register in accordance with this section, the Chief Electoral Officer shall cause notice of the alteration to be given to the applicant and, whenever practicable, to the person whose name has been deleted from the party register.

Change of
endorsement
representative.

“77G—(1) Any three registered members of a party may apply in the Form V in the first Schedule to the Chief Electoral Officer to have the name and address of the endorsement representative for the party deleted from the party register and the name and address of another person substituted therefor.

“(2) Subject to subsection (3), on receiving an application under subsection (1), the Chief Electoral Officer shall cause the party register to be altered accordingly and thenceforth the person named in the application as the substitute endorsement representative shall, to the exclusion of the person whose name has been deleted, be the endorsement representative of the party in relation to which the application was made.

“(3) The Chief Electoral Officer shall not in any case act in accordance with an application under subsection (1) of this section unless the applicants referred to in that subsection lodge with their application statutory declarations made by each of them that the person who was registered as the endorsement representative has ceased to be the endorsement representative of the party and the person whose name is sought to be substituted therefor has been appointed as such endorsement representative.

Application for
change of party
name.

“77H—(1) Any three registered members of a party may apply in the Form VI in the first schedule to the Chief Electoral Officer to have the name of the party, or the other or abbreviated name of the party, entered in the party register, or any of them, changed to a name specified in the application.

“(2) Before proceeding to alter a party register in pursuance of an application under subsection (1), the Chief Electoral Officer shall, as soon as practicable after the application has been lodged with him, give notice of it in the Form VII in the first schedule in accordance with this section.

“(3) A notice given in accordance with this section shall be published twice in each daily newspaper published in this State and in the *Gazette* and—

(a) the name of the registered party in relation to which the application is made; and

(b) the name to be deleted and the name to be substituted therefor,

shall be specified therein.

“(4) The publication of a notice in the *Gazette* and in each daily newspaper as required by this section shall, in the *Gazette* and each newspaper, be separated by a period of not less than 6, or more than 14, days.

“(5) The Chief Electoral Officer shall not in any case act in accordance with an application under subsection (1) unless the applicants referred to in that subsection lodge with their application statutory declarations made by each of them that the change of name is in consequence of the proper action of the executive or other controlling body of the party.

“77J Subject to section 77H (5), if, after the expiration of one month from the last publication of the notice referred to in section 77H (2), no objection is lodged with the Chief Electoral Officer in accordance with this Part or if, on an objection being so lodged, a registration objection board directs him to do so, the Chief Electoral Officer shall cause the party register to be altered in accordance with the application. Change of party name in register.

“77K—(1) Subject to subsection (3), the Chief Electoral Officer shall, on the application of three of the registered members of a registered party, delete all particulars in relation to that party from the party register. Cancellation of registration of a party; application of party.

“(2) An application under subsection (1) shall be in the Form VIII in the first schedule and shall be lodged with the Chief Electoral Officer.

“(3) The Chief Electoral Officer shall not in any case act in accordance with an application under subsection (1) unless the applicants referred to in that subsection lodge with their application statutory declarations made by each of them that the registered party the subject of the application has ceased to exist or that the application is in consequence of the proper action of the executive or other controlling body of the party.

“77L—(1) If the Chief Electoral Officer believes for any reason that any of the registered members of a registered party has ceased to be a member of the party or has ceased to be eligible for the purposes of this Act to be a registered member of that party, he shall give notice thereof in the Form IX in the first schedule to the endorsement representative of that party. Cancellation of registration of a party; ineligibility for registration.

“(2) Within one month of the giving of a notice under subsection (1) the endorsement representative to whom it is given, or a registered member of the registered party of which that

representative is the endorsement representative, may lodge with the Chief Electoral Officer a statutory declaration that the party that is the subject of the notice, still exists and is comprised of at least 7 members and that the person, the subject of the notice, is still a member of the party and, for reasons stated in the declaration, is eligible as provided by this Act to be such a member.

“(3) If, within one month of the giving to an endorsement representative of a notice under subsection (1), the Chief Electoral Officer does not receive the statutory declaration referred to in subsection (2) in relation to the person, the subject of the notice, or an application under section 77F to have the name of that person deleted from the party register and the name of an eligible person substituted therefor, he shall delete all particulars in relation to that party from the party register.

Objection to registration of a party or to a change of name of a registered party.

“77M—(1) Any person whose name appears in the party register as a member of a registered party may, within one month of the last of the second publications of a notice (as provided by section 77D) of an application to register a party or a notice (as provided by section 77H) of an application to change the name or other or abbreviated name of a registered party in the party register, lodge with the Chief Electoral Officer a notice of objection in the Form X in the first schedule against the granting of the application, the subject of the notice.

“(2) An objection under subsection (1) may be on the ground—

- (a) that any of the persons making the application are not eligible, within the terms of section 77C (1) (b), to be registered members of a registered party; or
- (b) that the name of the party in respect of which the application is made, or the other or abbreviated name (if any) by which, if the party is registered, it will be designated on ballot-papers as the name of the party for the purposes of this Act, is identical with or so nearly resembles the full, or other or abbreviated name of the registered party on behalf of which the objection is made as to be reasonably likely to be misleading or confusing to persons voting as to the party affiliations (if any) of the candidates for election or any of them,

and on no other ground.

“(3) Where a notice of objection under subsection (1) is lodged with the Chief Electoral Officer he shall, after satisfying himself that

the person lodging it is a registered member of the registered party on behalf of which the objection is brought, forthwith transmit it to the registrar of the Supreme Court together with his certificate that the objector is a registered member of that party.

“77N—(1) The registrar of the Supreme Court shall, as soon as practicable after the receipt by him of a notice of objection and the certificate of the Chief Electoral Officer, referred to in section 77M (3), communicate the objection to the Chief Justice who, with two other judges of the Supreme Court, shall constitute a registration objection board which shall, as soon as practicable, hear and determine the application. Registration objection board.

“(2) Where an objection under section 77M is brought, the applicants for registration or for a change of name (as the case may be) shall be joined as a party at the hearing and determination of the objection.

“(3) On the hearing and determination of an objection as provided by this section, the procedure shall be as the registration objection board may determine.

“(4) A determination of any two members of a registration objection board may constitute a determination of that board.

“(5) A determination of a registration objection board under this section is final and is not subject to appeal or review, and shall not be challenged, quashed, or called in question before any court or in any legal proceedings, or restrained, removed, or otherwise affected by prohibition, mandamus, certiorari, or otherwise.

“(6) If, on the hearing of an objection as provided by this section, a registration objection board determines to disallow the objection, it shall make an order directed to the Chief Electoral Officer requiring him to add to or change the particulars recorded in the party register in accordance with the application, and the Chief Electoral Officer shall comply with the order.

“(7) On the determination of an objection under this section, a registration objection board shall make such orders as to payment of costs as appear to be just and such costs shall be recoverable in the same manner as an order for the payment of costs made in the Supreme Court.

“77P When the Governor issues a writ for an election, notwithstanding any of the foregoing provisions of this Part— Operation of certain provisions of Part VIII A suspended on issue of writ for election.

(a) no application to register a party, or to change the name or the other or abbreviated name of a registered party, shall be lodged with, or received by, the Chief Electoral Officer;

- (b) the Chief Electoral Officer shall suspend action on any application to register a party, or to change the name or the other or abbreviated name of a registered party, then in his hands; and
- (c) if a notice of objection under section 77M has been lodged with the Chief Electoral Officer, no proceedings thereon before a registration objection board shall be commenced or, if such proceedings have been commenced, they shall be stayed,

until the declaration of the poll consequent upon the issue of the writ.

“ Division II—Miscellaneous

Rights of existing parties.

“ 77Q—(1) Where a member of an organization of persons associated together for political purposes, or a branch of such an organization, was a candidate at the general election held in 1972, that organization shall, for the purposes of this Part, be deemed to be a registered party, the name by which that organization is commonly known being deemed to have been entered in the party register as the registered name of that organization.

“(2) Subsection (1) of this section shall cease to be of any effect after the expiration of two months from the date of the commencement of this Act.

Inspection of party register.

“ 77R The Chief Electoral Officer shall produce the party register at any reasonable time, without fee, for inspection by any person requesting to see it.

Service of documents, &c.

“ 77s Any document or notification the service or giving of which is authorized or required under this Part may be served or given either personally or by post.”.

Preservation of section of Principal Act.

5 Except as provided by section 2, nothing in Part VIIIA of the Principal Act (inserted by this Act) shall derogate from section 67A of the Principal Act.

First schedule.

6 The Principal Act is amended by inserting after section 195 the following schedule:—

“ THE FIRST SCHEDULE

FORM I

(Section 67B)

APPLICATION FOR NAMES TO BE GROUPED UNDER NAME OF REGISTERED PARTY

To the returning officer for the division of.....
(name of division)

In relation to the forthcoming election, nominations for which close at 12 noon on.....,
(date of close of nominations)

I hereby make application on behalf of.....
(name of registered party)

for the following names to be included in the one group on the ballot-paper under the name—

.....
(name of registered party or other or abbreviated name registered for the purpose of ballot-papers)

NAMES

(Here list the names to be included in the group in respect of which the application is made)

Signed.....

The endorsement representative of the abovementioned registered party

Date.....

FORM II

(Section 77c)

APPLICATION FOR REGISTRATION OF A POLITICAL PARTY

To the Chief Electoral Officer.

We, the undersigned, being persons of or above the age of 18 years and being ordinarily resident in Tasmania, hereby make application for registration under the *Electoral Act* 1907 as a political party.

The name of the party for the purpose of registration is—

.....
(name of party to be entered in the register)

The name that we desire to be printed at the head of the group of registered members of the party on ballot-papers is—

.....
(proposed registered name of party or other or abbreviated name to be registered for the purpose of ballot-papers)

The endorsement representative of the party is.....
(name)

of..... who is a member of the party.
(usual place of abode)

Signed of
(name of applicant) (usual place of abode of applicant)

Take notice that any registered member of a registered party may, on or before the _____ day of _____ 19 __†, lodge with the Chief Electoral Officer an objection to the granting of the application on the ground—

- (a) that any of the persons making the application are not eligible, within the terms of section 77c (1) (b) of the *Electoral Act 1907*, to be registered members of a registered party; or
- (b) that the name of the party in respect of which the application is made, or the other or abbreviated name (if any) by which, if the party is registered, it will be designated on ballot-papers as the name of the party for the purposes of the *Electoral Act 1907*, is identical with or so nearly resembles the full, other, or abbreviated name of the registered party on behalf of which the objection is made as to be reasonably likely to be misleading or confusing to persons voting as to the party affiliations (if any) of the candidates for election or any of them,

and on no other ground.

Signed.....
Chief Electoral Officer

Date.....

* Omit if inapplicable.

† Set out the date being one month after the last of the second publications of the notice as required by section 77b.

FORM IV

(Section 77F)

APPLICATION FOR SUBSTITUTION OF A REGISTERED MEMBER OF A PARTY

To the Chief Electoral Officer.

I, the undersigned, being a person of or above the age of 18 years, ordinarily resident in Tasmania, and a member of.....

(name of registered party in respect of which application is made)

hereby apply to have the name of.....

(name)

of..... deleted from the party register

(registered address)

maintained by you and my name substituted therefor as a registered member of the party, together with my address, which is.....

(usual place of abode of the applicant)

Signed.....

Date.....

* I of

(signature of registered member)

(usual place of abode of registered member)

being the registered member in respect of whom deletion of particulars is sought by the applicant, hereby concur in the application.

Signed.....

Date.....

* other or abbreviated name of the party entered in the party register for the purpose of ballot-papers; or

* both the registered name of the party and the other or abbreviated name of the party,

changed to read as follows:—

* to be the registered name
(proposed registered name)
of the party, and *

(proposed other or abbreviated name)
to be the other or abbreviated name of the party for the purpose of ballot-papers.

Signed of
(signature of applicant) (usual place of abode of applicant)

Signed of
(signature of applicant) (usual place of abode of applicant)

Signed of
(signature of applicant) (usual place of abode of applicant)

N.B. This application must be accompanied by the statutory declarations referred to in section 77H of the *Electoral Act* 1907.

* Omit whichever is inapplicable.

FORM VII

(Section 77H)

NOTICE OF APPLICATION FOR CHANGE OF NAME OF A
POLITICAL PARTY

I hereby give notice that I have received an application made under the *Electoral Act* 1907 for a change of name of or in respect of—

.....
(registered political party in relation to which application is made)

The application relates to a proposed change in—

- * (a) the registered name of the party;
- * (b) the registered other or abbreviated name of the party for the purpose of ballot-papers;
- * (c) the registered name of the party and the registered other or abbreviated name of the party.

* The proposed changed registered name of the party is—

.....
(proposed registered name of party as altered)

* The proposed changed registered other or abbreviated name of the party is

.....
(proposed registered other or abbreviated name for purpose of ballot-paper)

Take notice that any registered member of a registered party may, on or before the day of 19 ..†, lodge with the Chief Electoral Officer an objection to the granting of the application on the ground that the proposed registered name or any of them is identical with or so nearly resembles the full, other, or abbreviated name of the registered

party on behalf of which the objection is made as to be reasonably likely to be misleading or confusing to persons voting as to the party affiliations (if any) of the candidates for election or any of them, and on no other ground.

Signed.....

Chief Electoral Officer

Date.....

* Delete whichever is inapplicable.

† Set out the date being one month after the last of the second publications of the notice as required by section 77H.

FORM VIII

(Section 77K)

APPLICATION FOR CANCELLATION OF REGISTRATION OF A
POLITICAL PARTY

To the Chief Electoral Officer.

We, the undersigned registered members of the political party entered in the party register maintained by you as.....

(registered name of the party)

hereby apply to have all particulars in relation to the party deleted from the party register.

Signed of

(signature of applicant)

(usual place of abode of applicant)

Signed of

(signature of applicant)

(usual place of abode of applicant)

Signed of

(signature of applicant)

(usual place of abode of applicant)

N.B. This application must be accompanied by the statutory declarations referred to in section 77K of the *Electoral Act* 1907.

FORM IX

(Section 77L)

NOTICE OF INTENTION TO CANCEL REGISTRATION OF A
POLITICAL PARTY

To

(registered endorsement representative of party concerned)

Take notice that I have reason to believe that.....

(name of registered member concerned)

has ceased to be eligible to be a registered member of a registered political party and that, by reason thereof, the number of members eligible for registration as members of the party and in fact so registered has fallen below 7 which is the required number. Take further notice that, if within one month of the giving of this notice, I do not receive from you or a registered member of the party a statutory declaration that the registered member concerned is still a member of the party and, for reasons which must be stated in the declaration, continues to be eligible to be a registered member of a registered political party, or alternatively, if I do not, within that time, receive an application under section 77F of the *Electoral Act* 1907 to have the name of the member

concerned deleted from the party register maintained by me and the name and address of some other eligible person substituted therefor, I shall delete all particulars concerning

(name of registered party concerned)

from the party register.

Signed.....

Chief Electoral Officer

Date.....19.....

FORM X

(Section 77M)

NOTICE OF OBJECTION

To the Chief Electoral Officer.

I of

(name of objector)

(usual place of abode of objector)

being a registered member of

(name of registered party on behalf of which objection is made)

hereby object to—

* The registration of the.....;

(political party on behalf of which registration is sought)

* The registration of the.....

(political party on behalf of which registration is sought)

under the name of.....;

(name sought to be registered)

* The registration of the other or abbreviated name sought to be registered for the purpose of ballot-papers;

* The registration of both such party name or other or abbreviated name,

on the following grounds:—

(Here state grounds of objection)

Signed.....

Date.....

* Omit whichever is inapplicable.

N.B. An objection under section 77M of the Electoral Act 1907 may be on the ground—

(a) that any of the persons making the application is not eligible, within the terms of section 77C (1) (b), to be a registered member of a registered party; or

(b) that the name of the party in respect of which the application is made, or the other or abbreviated name (if any) by which, if the party is registered, it will be designated on ballot-papers as the name of the party for the purposes of this Act, is identical with or so nearly resembles the full, or the other or abbreviated name of the registered party on behalf of which the objection is made as to be reasonably likely to be misleading or confusing to persons voting as to the party affiliations (if any) of the candidates for election or any of them,

and no other ground.”.

Form of
ballot-paper
amended.

7 The third schedule to the Principal Act is amended—

(a) by omitting from FORM IIIA the expressions “ GROUP

A

GROUP GROUP ” and substituting therefor the expres-
 sions “ *GROUP *GROUP *GROUP ”;

A B C

(b) by inserting in the note to that form, after the ampersand and letter “ c.,” the words “ or the name of or reference to a political party,”; and

(c) by inserting, at the end of that form, the following further note:—

“* NOTE FURTHER—Where, as provided by section 67B of the *Electoral Act* 1907, the name of or other reference to a political party is to appear at the head of a group, that name or reference shall be inserted there instead of an expression being a group and letter.”.