

THE CONSTITUTION ACT AMENDMENT (CONDUCT OF ELECTIONS) BILL.

EXPLANATORY MEMORANDUM.

The purpose of the Bill is to amend the provisions of *The Constitution Act Amendment Act 1958* relating to the conduct of Victorian Parliamentary elections.

| <i>Clause Number.</i> | <i>Effect of Amendment.</i> | <i>Section of Principal Act Amended.</i> |
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| Clause 1 (3) | The several provisions shall come into operation on the respective days to be fixed by proclamation. | .. |
| 1. ADMINISTRATIVE AMENDMENTS. | | |
| Clause 5 | Increases the penalties prescribed for failure to enrol on the electoral roll to the same amounts as are prescribed under the Commonwealth Electoral Act. | Sections 118 (2) and 118 (3) also Sections 84 (2) and 143 (2). |
| Clause 6 | Repeals Section 122 (1) (e) giving power to remove the name of an elector from the electoral roll if he is imprisoned for more than 12 months and also repeals Section 124 (2) requiring Clerks of Courts to prepare lists of persons imprisoned for more than 12 months, to be sent to the Chief Electoral Officer. | Sections 122 (1) (e) and 124 (2). |
| Clause 7 | Will allow a polling place to be appointed after nomination day in cases of emergency. | Section 148. |
| Clause 9 | The Chief Electoral Officer may notify a Returning Officer by telegraphic advice of the issue of the writ for an election and the Returning Officer may then proceed with his prescribed duties before the writ is received by him. | .. |
| Clause 10 (6) | Provides that a candidate's nomination paper shall not be made available for inspection. This is current procedure following an opinion from the Crown Solicitor. | .. |
| Clause 11 | Extends the period for submission of financial statements concerning the expenses of conducting an election by each Returning Officer to the Auditor General from 3 months after polling day to 6 months after polling day. | Section 161 (1) (b). |
| Clauses 12 (2), 12 (5) and 12 (6) | Provide that where two or more candidates at an election have the same surname, the order of their names on ballot-papers shall be according to the alphabetical order of their Christian or other names. | Sections 165, 187 (4) and 222 (3). |

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| Clauses 13 (1) and 14 (1) (b) | References to a "principal polling place" are repealed and it is made optional for a Returning Officer to preside at a polling booth. | Sections 169 and 170. |
| Clauses 13 (2) and 14 (1) (a) | Prescribe a minimum age of eighteen years for Deputy Returning Officers. | Sections 169 and 170. |
| Clause 13 (3) | .. Makes provision for an officer-in-charge of a polling place to appoint polling officials for his polling place in cases of emergency. | Section 169. |
| Clause 14 (2) | .. Empowers a Poll Clerk at a polling place containing only one voting table to act as the Deputy Returning Officer during the temporary absence of that officer. | .. |
| Clause 15 .. | .. Extends the list of persons before whom polling officials are required to make a declaration to include Returning Officers, Electoral Registrars and the persons specified in Section 120 (1) of the Evidence Act. | Section 171. |
| Clause 16 (1) | .. Will enable relieving scrutineers to be appointed. .. | Section 173 (1). |
| Clause 16 (2) | .. Scrutineers will be prohibited from communicating with persons in polling booths except in the performance of their duties as scrutineers. | Section 173 (2). |
| Clause 21 (2) | .. Polling officials and scrutineers prohibited from wearing in a polling place any badge emblem or political slogan of a candidate or the party he represents. | Section 193. |
| Clause 22 .. | .. Deputy Returning Officers given power to have removed any person remaining in a polling booth for longer than is necessary to record his vote. | Section 194 (1). |
| Clause 23 .. | .. The period for which polling may be adjourned when interrupted by riot, &c., extended to "a period of not more than seven days". | Section 195. |
| Clause 24 .. | .. The period for adjournment of polling in any case where the poll is not opened, extended until the day before the return of the writ. | Section 196. |
| Clause 25 .. | .. Clarifies the acceptable marking of ballot-papers where there are only two candidates. | Sections 205 (1) and 224 (2). |
| Clause 27 .. | .. Defines the term "absolute majority of votes" used in relation to a preferential count. | |

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| Clause 28 | The declaration of the poll may in future take place at the Returning Officer's office or at the " principal polling place ". | Sections 210 and 217. |
| Clause 29 (1) (b) .. | Prescribes amongst other things that an application for a postal ballot-paper shall not be made before the day of issue of the writ. | Section 219. |
| Clause 35 (1) | Repeals an unnecessary expression. | Sections 225 (1) and 225 (2). |
| Clause 44 | Clarification regarding the offence of placing more ballot-papers than one in a ballot-box with regard to a conjoint election when two ballot-papers are issued to each elector. | Section 252. |
| Clause 49 | Extends period to commence proceedings in respect of an illegal practice from 3 months to 6 months. | Section 265. |
| Clause 52 | Extends period for despatch of notices to non-voters from 3 months to 6 months after polling day. | Section 271. |
| Clause 54 (b) | Extends period to commence proceedings to enforce penalty for failure to vote from 6 months after polling day to 12 months. | Section 274. |
| Clause 54 (c) | Amends procedure in relation to a non-voter who fails to pay penalty imposed by Chief Electoral Officer. Provides that in such a case the matter will be referred to a Magistrates' Court for the offence of failing to vote without a valid excuse to be considered. | Section 274 Proviso (c). |
| Clause 56 | Requires a candidate's nomination paper to state the candidate's " residence " so that, if necessary, it may be stated on the ballot-paper pursuant to Section 165 (2). | Seventh Schedule. |

2. AMENDMENTS RELATED TO HEARING OF THE MOST RECENT PETITION BY THE COURT OF DISPUTED RETURNS.

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| Clause 3 | If a certified printed copy of the supplemental roll for an election cannot be supplied to a Returning Officer before nomination day, he is to be supplied with a certified list of the names to be included on the printed supplemental roll. | Sections 80 (1) and 131 (1). |
| Clauses 12 (1), 12 (3) and 12 (4) | Requirements regarding the initialling of ballot-papers altered so that the ballot-papers are to be initialled only once. They are to be initialled immediately prior to being issued to the voters. | Sections 165 (1), 172 (1) and 172 (3). |

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| Clauses 19 (3) and 19 (4) | The Returning Officer's decision as to the allowance or disallowance of absent votes is to be subject to review only by the Court of Disputed Returns. | Section 187 (9). |
| Clauses 26 and 57 .. | The grounds upon which ballot-papers are to be rejected as informal are clarified particularly in the case of ballot-papers not initialled. Provision is made for ballot-papers to be accepted if they bear the official mark which will be prescribed by regulation. | Section 206 (1) and 11th Schedule. |
| Clause 43 | At any recount the Chief Electoral Officer shall endorse his decisions on ballot-papers reserved for his decision. | Section 239 (4). |
| 3. AMENDMENTS ALTERING PRINCIPLES. | | |
| Clause 2 | The provisions in the Act relating to conducting a Conjoint Election to be a permanent feature of the Act. | Section 3 (2). |
| Clause 4 | Provides for a person in prison to be enrolled for his residence prior to his conviction but not to be enrolled if 3 months residence in Victoria was not completed prior to his conviction. | .. |
| Clause 8 (1) | Provides that, for the purposes of conducting a Conjoint Election, a Legislative Council periodical election may be held up to 12 months before the members retire. | .. |
| Clause 8 (2) | If the seat of a member of the Legislative Council becomes vacant less than 3 months before the member is due to retire, it shall not be necessary to fill the vacancy for the remainder of the term of office. | .. |
| Clause 10 (3), (4) and (5) | A person shall not be permitted to be a candidate for both a Legislative Council election and a Legislative Assembly election held on the same day. Either the Legislative Council nominations or those for the Legislative Assembly must be withdrawn otherwise all such nominations are void. | .. |
| Clauses 17, 31 (2) and 60 (a) | Amends the hours of polling and provides for the poll to close at 6 p.m. instead of 8 p.m. | Sections 176 (1) 220A (3) and 14th Schedule. |
| Clauses 21 (1) and 21 (3) | Alters provisions <i>re</i> canvassing outside polling places from 9 metres from entrance to polling place, which can be the entrance to school grounds, to 10 metres from entrance to building used as polling place. | Section 193. |

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| Clauses 26 and 57 .. | Requires any informal ballot-papers which have not been completed by the voter and have two or more squares blank, to be cancelled by the polling official who is required to write "Cancelled" on the ballot-paper together with the reason for its cancellation. | .. |
| Clause 20. Also clauses 18, 19 (1), 19 (2), and 19 (3) | <i>Voting by electors interstate and overseas.</i> New provisions to allow electors wishing to vote personally at the office of a Postal Voting Officer to vote as an absent voter instead of applying for and recording a postal vote. The procedures, with any necessary adaptations will follow the procedures for absent voting at a polling place on polling day. | Sections 181 (1), 187 (1), 187 (2) and 187 (9). |
| Clauses 20 and 32 (2) (a) | <i>Votes from Postal Voting Officers.</i> Provision to allow Postal Voting Officers to forward votes to Returning Officers before the close of the poll as well as immediately after the close of the poll. | Section 220B (2). |
| Clauses 20 and 32 (2) (c) | The Chief Electoral Officer, instead of each Returning Officer, will be advised by each Postal Voting Officer of the despatch of votes and the Chief Electoral Officer shall then notify each Returning Officer concerned. | Section 220B (2). |
| Clauses 20 and 37 (a) (i) | Each Returning Officer will admit to the count only those votes received by him from Postal Voting Officers not later than 10 days after polling day. | Section 230. |
| Clause 29 (1) (a) | <i>Postal Voting Amendments.</i> Extends grounds for applying to vote by post to allow voting by persons in prison, by persons caring for sick or elderly electors, and by persons prevented by their employment from voting personally. | Section 219 (1). |
| Clause 29 (2) .. | Repeals requirement to state reasons supporting ground for applying to vote by post. | Section 219 (2). |
| Clauses 29 (3) (a) (ii), 34 (3) (a); 37 (a) (iii), 41 (b), 58, 59 | Alters list of Authorized Witnesses for postal voting within Australia to "any Commonwealth elector" instead of persons in certain stated occupations or offices. | Sections 219 (3), 224 (6), 238 (1) 12th Schedule and 13th Schedule. |
| Clauses 41 (c) and 41 (d) | Combines old Sections 238 (1) (c) and 238 (1) (d) into one section relating to witnessing of postal votes outside Victoria. | Sections 238 (1) (c) and 238 (1) (d). |
| Clause 40 | Extends the offence of a person inducing a person "in his employment" to vote by post for a particular candidate to also include a person "under his management or control" to include persons in prison. | Section 237 (1). |
| Clause 58 | Prescribes a new postal vote application incorporating the various amendments to the law concerning postal voting. | 12th Schedule. |

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| Clause 59 | Prescribes a new endorsement on the postal voting declaration envelope incorporating the various amendments to the law concerning postal voting. | 13th Schedule. |
| Clauses 29 (3), 34 (1), 34 (2) (a), 35 (2), 36, 58 and 59 | <i>Postal voting for electors unable to sign their own name.</i> Provision is made to allow persons unable to sign their name in their own handwriting, but who can make their mark as their signature, e.g., quadraplegics, to apply for and vote by means of a postal vote. | Sections 219 (3), 224 (5), 225 (2), 12th Schedule and 13th Schedule. |
| Clause 29 (3) (d) .. | <i>List of postal applications not to be displayed.</i> Requirement that a list of all applicants for postal ballot-papers be displayed at the office of the Returning Officer is replaced by a requirement that such a list be kept for inspection upon demand and not displayed. | Section 219 (3). |
| Clauses 30 (2), 31 (3) and 64 (b) | <i>Postal ballot-papers not to be posted on day immediately preceding polling day.</i> Because of the cessation of postal deliveries on a Saturday, Returning Officers and Postal Voting Officers will not be required to post a postal ballot-paper on the day immediately before polling day. | Sections 220, 220A and 14th Schedule. |
| Clauses 30 (1) (a) and (b), 31 (1), 32 (1), 32 (2) (b), 33, 34 (2) (b), 34 (4), 37, 38, 39, and 42 | <i>Envelope for return of postal ballot-paper and declaration envelope.</i> Returning Officers will be required to supply to postal voters an envelope addressed to the Returning Officer for the return of the declaration envelope containing their postal ballot-paper. | Sections 220, 220A (1), 220B (1), 220B (2), 222, 224 (5), 224 (7), 230, 236 and 238A. |
| Clauses 29 (3) (a) (ii), 34 (3) (b), 41 (a), 58 and 59 | <i>Authorized witnesses for postal voting.</i> The term "elector for the Legislative Council or the Legislative Assembly" used in relation to authorized witnesses for postal voting purposes is replaced by the simpler term "Victorian elector". | Sections 219 (3), 224 (6), 238 (1), 12th Schedule and 13th Schedule. |

DECLARATIONS AND RETURNS *re* CANDIDATES' ELECTORAL EXPENSES.

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| Clause 46 (a) .. | 1. <i>Period for submission of returns, etc.</i> The period for submission by candidates of the required declaration and return of electoral expenses is altered to "within 3 months after polling day" instead of "within 8 weeks after the declaration of the poll". | Section 259 (1). |
| Clause 45 (b) .. | 2. <i>Alternative to "receipt".</i> Includes the term "or other evidence of payment" as an alternative to "receipt" in relation to a candidate's return of electoral expenses. | Section 258. |
| Clause 45 (a) .. | 3. <i>Minimum amount for receipts.</i> The minimum cost of items in respect of which bills and receipts (or other evidence of payment) are to be retained is increased from \$4 to \$20. | Section 258. |

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| Clauses 45 (b), 46 (b) and 47 | 4. <i>Receipts, or alternatives, to be retained by candidates.</i> Candidates will not be required to submit bills and receipts with their declaration and return of electoral expenses but are to retain the bills and receipts (or other evidence of payment). | Sections 258, 259 (1) and 261. |
| Clause 61 | 5. <i>Matters specified as "Electoral Expenses".</i> Increases the list of matters specified as "Electoral Expenses" in respect of which a candidate may make payments at an election. | 16th Schedule, Part I. |
| Clause 62 | 6. <i>Maximum amounts for expenditure by candidates.</i> The maximum amounts prescribed for expenditure by candidates on electoral expenses are increased from \$2,000 to \$3,000 for a Legislative Council election and from \$1,000 to \$1,500 for a Legislative Assembly election. | 16th Schedule, Part II. |
| Clauses 48 and 50 (1) (a) and (b) | <i>Period for authorization of electoral matter.</i> The period during which electoral advertisements require to be authorized is reduced by replacing the term "until the return of the writ for an election" with the term "until the close of polling (including any adjournment of the polling) at any election". | Sections 261A and 267 (2). |
| Clause 50 (1) (c) .. | <i>Authorization of letters, etc., in newspapers.</i> The authorization of any letters, etc., in a newspaper will not be required if the newspaper contains a statement that the editor or proprietor accepts responsibility for the views expressed in any letter, etc., in the newspaper. | Section 267 (2). |
| Clause 50 (2) .. | <i>Authorization of electoral matter on radio or television.</i> The transmission by radio or television of an election speech or discussion is to contain a statement of authorization but in such a statement the full name only of the author is required. The statement is to be made either immediately before or after instead of both before and after. | Section 267 (3). |
| Clause 53 | <i>Compulsory voting notices not to be sent in certain circumstances.</i> The Chief Electoral Officer is empowered not to send a notice seeking an elector's explanation for failure to vote in certain specified instances. | .. |
| Clauses 54 (a) and 55 | <i>Increased penalty for not voting.</i> The maximum penalty for failure to vote, without a valid and sufficient excuse, is increased from \$4 to \$10. | Section 276 (2). |