

Constitution (Parliamentary Reform) Act 2003

Act No. 2/2003

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Victoria

No. 2 of 2003

Constitution (Parliamentary Reform) Act 2003[†]

[Assented to 8 April 2003]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to reform the Parliament of Victoria based on recommendations made by the Constitution Commission Victoria by—

- (a) providing for a fixed 4 year term Parliament unless the Assembly is dissolved sooner;

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- (b) re-constituting the Legislative Council to consist of 40 members elected from 8 regions each returning 5 members;
 - (c) providing for the election of members of the Legislative Council by using a proportional representation system with optional preferential voting;
 - (d) providing for the filling of casual vacancies in the Legislative Council by a joint sitting of the Legislative Council and the Legislative Assembly;
 - (e) providing that the President of the Legislative Council has a deliberative vote but not a casting vote;
 - (f) recognising the principle of Government mandate;
 - (g) removing the power of the Legislative Council to block the Annual Appropriation Bill;
 - (h) enacting a procedure to deal with disputes concerning Bills between the Legislative Assembly and the Legislative Council;
 - (i) providing for the entrenchment of certain legislative provisions.

2. Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (4), Divisions 1, 3 and 4 of Part 2, Division 1 of Part 3 and Division 1 of Part 4 come into operation on a day to be proclaimed.

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- (3) Division 2 of Part 2, Division 2 of Part 3 and Division 2 of Part 4 come into operation on the day of the dissolution or other lawful determination of the Legislative Assembly next occurring after the day on which this Act receives the Royal Assent.
- (4) If a provision referred to in sub-section (2) does not come into operation before 1 January 2004, it comes into operation on that day.
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PART 2—AMENDMENT OF THE CONSTITUTION ACT 1975

Division 1—Fixed 4 year term

3. *Dissolution of the Assembly*

See:
Act No.
8750.
Reprint No. 15
as at
1 September
2002.
LawToday:
www.dms.
dpc.vic.
gov.au

For sections 8(3) to 8(6) of the **Constitution Act 1975** substitute—

"(3) The Governor may not dissolve the Assembly (including the Assembly last elected before the **Constitution (Parliamentary Reform) Act 2003** receives the Royal Assent) unless—

- (a) the Assembly is dissolved in accordance with section 8A; or
- (b) the Premier has given advice to the Governor under section 65E(2) to dissolve the Assembly."

4. *New section 8A inserted—Dissolution of Assembly after a no confidence motion*

After section 8 of the **Constitution Act 1975** insert—

"8A. *Dissolution of Assembly after a no confidence motion*

- (1) The Assembly may be dissolved if—
 - (a) a motion of no confidence in the Premier and the other Ministers of State for the State of Victoria is passed by the Assembly; and
 - (b) during the period commencing on the day of the passage of the motion of no confidence and ending 8 clear days after that day, the Assembly has not passed a motion of confidence in the

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then Premier and the other Ministers of State for the State of Victoria.

- (2) Notice of a proposed motion of no confidence under sub-section (1)(a) must be given at least 3 clear days before it is moved.
- (3) After a motion of no confidence under sub-section (1)(a) is passed, unless a motion of confidence is passed under sub-section (1)(b), the Assembly may not be—
 - (a) prorogued before the end of the period specified in sub-section (1)(b); or
 - (b) adjourned for a period extending beyond the end of the period specified in sub-section (1)(b)."

5. Section 28 substituted—Duration of the Council

For section 28 of the **Constitution Act 1975** substitute—

"28. Duration of the Council

- (1) The Council which is in existence immediately before the **Constitution (Parliamentary Reform) Act 2003** receives the Royal Assent shall exist and continue until the dissolution or other lawful determination of the Assembly last elected before that Royal Assent is received.
- (2) The Council (other than the Council to which sub-section (1) applies) shall exist and continue until the dissolution or other lawful determination of the Assembly."

6. Section 38 substituted—Duration of the Assembly

For section 38 of the **Constitution Act 1975** substitute—

"38. Duration of Assembly

- (1) Subject to sub-section (2), the Assembly last elected before the **Constitution (Parliamentary Reform) Act 2003** receives the Royal Assent and each subsequent Assembly shall expire on the Tuesday which is 25 days before the last Saturday in November which is nearest to the fourth anniversary of the election day on which it was elected.
- (2) If the previous Assembly is dissolved, the subsequent Assembly shall expire on the Tuesday which is 25 days before the last Saturday in November which is nearest to the last anniversary of the election day on which it was elected that occurs not more than 4 years after it was elected.

38A. Date of general election

- (1) The writs issued under the **Electoral Act 2002** for a general election of the Assembly and Council must name as the election day—
 - (a) if the previous Assembly expired, the last Saturday in November nearest to the fourth anniversary of the election day on which the previous Assembly was elected or if section 38(2) applies, the Saturday referred to in that section; or
 - (b) if the previous Assembly was dissolved, a Saturday within the period that starts 15 days after the final nomination day and ends 30 days after the final nomination day.
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- (2) Despite sub-section (1)(a), in exceptional circumstances, on the recommendation of the Premier with the agreement of the Leader of Her Majesty's Opposition, the Governor may postpone the election day under sub-section (1)(a) to another Saturday as nearest as possible to the fourth anniversary of the election day on which the previous Assembly was elected or to another Saturday as nearest as possible to the Saturday referred to in section 38(2) as the case may be."

7. Consequential amendments

- (1) Sections 2(4), 2(5), 4(1), 4(2), 66, 67 and 68 of the **Constitution Act 1975** are **repealed**.
- (2) In section 5 of the **Constitution Act 1975**—
- (a) in the definition of "general election" after "members of the" **insert** "Council and";
 - (b) the definition of "periodical election" is **repealed**.
- (3) In section 24(5) of the **Constitution Act 1975**—
- (a) for "either House" **substitute** "the Assembly";
 - (b) for "that House" (where first occurring) **substitute** "a House".
- (4) In section 24(6) of the **Constitution Act 1975**—
- (a) for "either House" **substitute** "the Assembly";
 - (b) for "that House" (where first occurring) **substitute** "a House".

**Division 2—Proportional Representation and Other Reform
of the Council**

8. Sections 26 and 27 substituted

For sections 26 and 27 of the **Constitution Act 1975** substitute—

"26. Number of members of the Council

- (1) This section and section 27 apply in respect of the first Council to be elected after the **Constitution (Parliamentary Reform) Act 2003** receives the Royal Assent and each subsequent Council.
- (2) The Council is to consist of 40 members who are to be representatives of, and elected by, the electors of the respective regions.

27. Division of Victoria into 8 regions

- (1) The State of Victoria is to be divided into 8 regions each of which is to return 5 members to the Council.
 - (2) Each region must—
 - (a) consist of 11 districts; and
 - (b) have a boundary that is contiguous with the boundaries of the districts that constitute the region.
 - (3) The Electoral Boundaries Commission must in accordance with the **Electoral Boundaries Commission Act 1982**—
 - (a) divide the State of Victoria into regions; and
 - (b) publish the name and boundaries of each region in the Government Gazette."
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9. New section 27A inserted—Filling of casual vacancies in the Council

After section 27 of the **Constitution Act 1975**
insert—

"27A. Filling of casual vacancies in the Council

- (1) Subject to this section, if a casual vacancy occurs in the seat of a member of the Council, a person must be chosen to occupy the vacant seat by a joint sitting of the Council and the Assembly.
- (2) A joint sitting of the Council and the Assembly need not be held if the casual vacancy occurs 3 months or less before the day on which the seat would have become vacant due to the expiry of the Assembly.
- (3) Sub-section (4) applies if a casual vacancy occurs in the seat of a member of the Council who was at the time that the member was elected endorsed as a candidate in the election by a registered political party the name of which was printed adjacent to the name of the candidate on the ballot-paper under section 74 of the **Electoral Act 2002**.
- (4) If this sub-section applies, the joint sitting of the Council and the Assembly must choose a member of the registered political party referred to in sub-section (3) nominated by that registered political party if the registered political party nominates a member of the registered political party for the vacancy who would otherwise be qualified to be elected a member of the Council.
- (5) If sub-section (4) does not apply, the joint sitting of the Council and the Assembly must choose a person who—

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- (a) would otherwise be qualified to be elected as a member of the Council and has resided in the region to which the vacancy relates for a period of not less than 12 months immediately before the joint sitting; and
 - (b) has not been a member of a political party at any time during the period of 5 years immediately before the joint sitting.
 - (6) Subject to sub-section (7), the joint sitting of the Council and the Assembly is to be conducted in accordance with the rules adopted by the members present at the joint sitting.
 - (7) At the joint sitting of the Council and the Assembly—
 - (a) the members have the same privileges and immunities as the members of the Assembly in relation to proceedings before that House;
 - (b) a question—
 - (i) other than a question to which sub-paragraph (ii) applies, is to be decided by a majority of the votes cast by the members present at the joint sitting;
 - (ii) for the purpose of sub-section (5) is to be decided by a special majority being 3/5ths of the whole number of members of both the Council and the Assembly present at the joint sitting;
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- (c) in the event of an equality of votes on a question, the question is to be taken to have been determined in the negative."

10. *New section 29A inserted*

After section 29 of the **Constitution Act 1975** insert—

'29A. *Title of members*

- (1) A member of the Council who is not the President or a member of the Executive Council is not entitled to be styled "The Honourable".
- (2) Nothing in sub-section (1) affects any privilege or right of a person who ceased to be a member of the Council before the commencement of section 10 of the **Constitution (Parliamentary Reform) Act 2003** to be styled "The Honourable".

11. *Deliberative vote of the President*

- (1) In section 32(1) of the **Constitution Act 1975** for "exclusive" substitute "inclusive".
- (2) For section 32(2) of the **Constitution Act 1975** substitute—
- "(2) Subject to sub-section (2A) and section 18, all questions arising in the Council shall be determined by a majority of the members present including the President.
- (2A) The President has a deliberative vote but not a casting vote."

Division 3—Improving the Relationship Between the Houses

12. *New section 16A inserted—The principle of Government mandate*

After section 16 of the **Constitution Act 1975**
insert—

"16A. *The principle of Government mandate*

- (1) It is the intention of the Parliament that regard should be given to the following principle—

The Council as a House of Review will exercise its powers in recognition of the right and obligation of the current Government to implement—

- (a) the Government's specific mandate—the policies, promises and initiatives which were publicly released by or on behalf of the Government during the last election campaign; and
- (b) the Government's general mandate—to govern for and on behalf of the people of Victoria.
- (2) The principle in sub-section (1) is not to be construed as limiting the powers of the Council, the Assembly or the Parliament."

13. *Section 62 substituted—Appropriation Bills*

For section 62 of the **Constitution Act 1975**
substitute—

"62. *Appropriation Bills*

- (1) A Bill for appropriating any part of the Consolidated Fund or for imposing any duty, rate, tax, rent, return or impost must originate in the Assembly.
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- (2) Subject to section 65, a Bill for appropriating any part of the Consolidated Fund or for imposing any duty, rate, tax, rent, return or impost may be rejected but not altered by the Council."

14. Section 65 substituted—Annual Appropriation Bills

For section 65 of the **Constitution Act 1975** substitute—

'65. Annual Appropriation Bills

- (1) In this section "**Annual Appropriation Bill**" means a Bill which deals only with the annual appropriation of the Consolidated Fund for the ordinary annual services of the Government for a particular year only but does not include a Bill to appropriate money for appropriations for or relating to the Parliament.
- (2) For the purposes of sub-section (1), "**ordinary annual services**" includes—
- (a) the construction or acquisition of public works, land or buildings; and
 - (b) the construction or acquisition of plant or equipment which normally would be regarded as involving an expenditure of capital; and
 - (c) services proposed to be provided by the Government which have not formerly been provided by the Government.
- (3) An Annual Appropriation Bill must deal only with appropriation.
- (4) Sub-section (5) applies if an Annual Appropriation Bill is passed by the Assembly and within 1 month of its passing by the Assembly—
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- (a) the Council rejects or fails to pass it; or
 - (b) the Council returns it to the Assembly with a message suggesting any amendment to which the Assembly does not agree.
- (5) If this sub-section applies, the Annual Appropriation Bill, with any amendments suggested by the Council and made by the Assembly, must be presented to the Governor for Her Majesty's Assent and becomes an Act of Parliament on the Royal Assent being signified notwithstanding that the Council has not passed the Bill.
- (6) The words of enactment for an Annual Appropriation Bill that is to be presented to the Governor for Her Majesty's Assent under sub-section (5) are to be altered to "Her Majesty and the Legislative Assembly in accordance with section 65(5) of the **Constitution Act 1975** enact as follows:".
- (7) There is to be endorsed on the Annual Appropriation Bill when it is presented to the Governor for Her Majesty's Assent under sub-section (5), the certificate of the Speaker signed by the Speaker that the Bill is a Bill to which section 65(5) of the **Constitution Act 1975** applies and has been passed in accordance with that section.
- (8) The certificate of the Speaker under this section is conclusive evidence for all purposes and cannot be questioned in any court.
- (9) The alteration of an Annual Appropriation Bill to give effect to sub-section (6) is not to be taken to be an amendment of the Bill.'
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15. New Division 9A inserted

After section 65 of the **Constitution Act 1975**
insert—

**'Division 9A—Provisions Relating to Disputes
concerning Bills**

65A. Definitions

(1) In this Division—

"Deadlocked Bill" means a Disputed Bill to
which section 65C(3) or 65D(1)
applies;

"Dispute Resolution" means a resolution
reached by the Dispute Resolution
Committee recommending to the
Assembly and the Council that the
Disputed Bill specified in the
resolution—

- (a) be passed as transmitted by the
Assembly to the Council without
amendment; or
- (b) be passed with the amendment or
amendments specified in the
resolution; or
- (c) not be passed;

"Dispute Resolution Committee" means
the Committee established under
section 65B;

"Disputed Bill" means a Bill which has
passed the Assembly and having been
transmitted to and received by the
Council not less than 2 months before
the end of the session has not been
passed by the Council within 2 months
after the Bill is so transmitted, either

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without amendment or with such
amendments only as may be agreed to
by both the Assembly and the Council.

- (2) For the purposes of this Division, any omission or amendment suggested by the Council in accordance with section 64 is deemed to be an amendment made by the Council.
- (3) This Division does not apply to an Annual Appropriation Bill within the meaning of section 65.

65B. *Dispute Resolution Committee*

- (1) A Dispute Resolution Committee is to be established as soon as conveniently practicable after the commencement of each Parliament.
- (2) The Dispute Resolution Committee holds office for the Parliament during which it is appointed until the dissolution or other lawful determination of the Assembly.
- (3) The Dispute Resolution Committee is to consist of 12 members of whom—
 - (a) 7 are to be members of, and appointed by, the Assembly; and
 - (b) 5 are to be members of, and appointed by, the Council.
- (4) When appointing members under sub-section (3), each House of the Parliament must take into account the political composition of that House.
- (5) The Dispute Resolution Committee cannot meet until both the Assembly and the Council have made the appointments referred to in sub-section (3).

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- (6) A member of the Dispute Resolution Committee is to be appointed by the Dispute Resolution Committee as the Chair.
 - (7) Each member of the Dispute Resolution Committee is entitled to 1 vote.
 - (8) In the event of an equality of votes, the Chair also has a casting vote.
 - (9) The Dispute Resolution Committee—
 - (a) must meet in private; and
 - (b) subject to this Division, may determine the rules to be adopted for the conduct of meetings.

65C. *Dispute Resolution*

- (1) The Dispute Resolution Committee must seek to reach a Dispute Resolution on a Disputed Bill within 30 days after the Disputed Bill is referred to the Dispute Resolution Committee by a resolution of the Assembly.
- (2) If the Dispute Resolution Committee reaches a Dispute Resolution, a copy of the Dispute Resolution must be tabled in the Assembly and the Council on the first sitting day of that House after the Dispute Resolution has been reached.
- (3) If the Dispute Resolution Committee—
 - (a) cannot reach a Dispute Resolution; or
 - (b) cannot meet or fails to meet for any reason—the Disputed Bill becomes a Deadlocked Bill.

**65D. *Consideration of Dispute Resolution by
Assembly and Council***

- (1) If either the Assembly or the Council fails to give effect to the Dispute Resolution within the period of 30 days or the period of 10 sitting days (whichever period is longer) after the tabling of the Dispute Resolution in that House, the Disputed Bill becomes a Deadlocked Bill.
- (2) For the purposes of sub-section (1), the Assembly or the Council fails to give effect to the Dispute Resolution—
 - (a) if the Dispute Resolution provided that the Disputed Bill be passed by the Council as transmitted by the Assembly to the Council without amendment, and the Council does not pass the Bill without amendment;
 - (b) if the Dispute Resolution provided that the Disputed Bill be passed with the amendment or amendments specified in the Dispute Resolution, and the Assembly or the Council does not pass the Bill with the specified amendment or amendments;
 - (c) if the Dispute Resolution provided that the Disputed Bill not be passed, and the Assembly or the Council resolves not to accept the Dispute Resolution.
- (3) If the Assembly or the Council has, in relation to a Bill to which section 18(1B) applies, given effect to a Dispute Resolution, it is only lawful to present the Bill to the Governor for Her Majesty's assent if the Bill has been approved by the majority of electors voting at a referendum.

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- (4) If the Assembly or the Council has, in relation to a Bill to which section 18(2) or 18(2AA) applies, given effect to a Dispute Resolution, it is only lawful to present the Bill to the Governor for Her Majesty's assent if the third reading of the Bill was passed by a special majority or an absolute majority, as the case may be.

65E. Provisions applying if dispute not resolved

- (1) This section applies in the case of a Deadlocked Bill.
- (2) The Premier may advise the Governor in writing that the Assembly be dissolved as a result of this section applying to the Deadlocked Bill specified in the advice.
- (3) There is to be attached to the advice under sub-section (2) a copy of the Deadlocked Bill endorsed with the certificate of the Speaker signed by the Speaker that the Bill is a Bill to which section 65E of the **Constitution Act 1975** applies.
- (4) The certificate of the Speaker under this section is conclusive evidence for all purposes and cannot be questioned in any court.
- (5) If the Premier does not give advice under sub-section (2), the Deadlocked Bill may be re-introduced in the Assembly in accordance with section 65F.

65F. Provisions applying to Deadlocked Bills

- (1) This section applies if during the existence of the Assembly first elected after the previous Assembly has been dissolved under section 65E(2) or otherwise dissolved or lawfully determined, a Deadlocked Bill from the
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- previous Assembly is again introduced in the Assembly.
- (2) For the purposes of this section, a Deadlocked Bill may be introduced in the Assembly in the form in which—
- (a) it was introduced in the previous Assembly; or
 - (b) it was passed by the previous Assembly and transmitted to the previous Council; or
 - (c) it is consistent with the Dispute Resolution reached in respect of the Deadlocked Bill.
- (3) If a Bill introduced in accordance with this section again becomes a Disputed Bill, the Premier may advise the Governor in writing to convene a joint sitting of the Assembly and the Council.
- (4) There is to be attached to the advice under sub-section (3) a copy of the Disputed Bill endorsed with the certificate of the Speaker signed by the Speaker that the Bill is a Bill to which section 65F(3) of the **Constitution Act 1975** applies.
- (5) The certificate of the Speaker under this section is conclusive evidence for all purposes and cannot be questioned in any court.
- (6) A joint sitting of the Assembly and the Council convened in accordance with this section may consider all the Bills that are Disputed Bills in accordance with this section.
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65G. *Joint Sitting*

- (1) A joint sitting of the Assembly and the Council convened in accordance with section 65F must consider a Disputed Bill to which that section applies in the form in which it was last passed by the Assembly and transmitted to the Council.
 - (2) Subject to sub-section (3), the joint sitting of the Assembly and the Council is to be conducted in accordance with the rules adopted by the members present at the joint sitting.
 - (3) At the joint sitting of the Assembly and the Council—
 - (a) the members have the same privileges and immunities as the members of the Assembly in relation to proceedings before that House;
 - (b) subject to sub-section (4), a question is to be decided by a majority of the votes cast by the members present at the joint sitting;
 - (c) in the event of an equality of votes on a question, the question is to be taken to have been determined in the negative.
 - (4) If an absolute majority of the total number of the members of the Assembly and the Council passes the third reading of the Disputed Bill with or without any amendments at the joint sitting of the Assembly and the Council, the Bill so passed is to be taken to have been duly passed by both Houses of the Parliament, whether or not it is a Bill to which section 18(2) or 18(2AA) applies.
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- (5) Subject to sub-sections (6) and (7), a Bill passed in accordance with this section must be presented to the Governor for Her Majesty's Assent and becomes an Act of Parliament on the Royal Assent being signified.
 - (6) If a Bill to which section 18(1B) applies is passed in accordance with this section, it must be submitted to a referendum.
 - (7) A Bill that is referred to in sub-section (6) and that is approved by the majority of electors voting at a referendum must be presented to the Governor for Her Majesty's assent and becomes an Act of Parliament on the Royal Assent being signified.
 - (8) There is to be endorsed on the Bill when it is presented to the Governor for Her Majesty's Assent under sub-section (5) or (7), the certificate of the Speaker signed by the Speaker that the Bill is a Bill to which section 65G of the **Constitution Act 1975** applies and has been passed in accordance with that section.
 - (9) The certificate of the Speaker under this section is conclusive evidence for all purposes and cannot be questioned in any court.
 - (10) If a Bill is passed in accordance with this section, the Bill is deemed for all purposes to be a Bill that has been passed by the Assembly and the Council.'

16. Consequential amendment

In the Heading to Division 9 of Part II of the **Constitution Act 1975** omit "and Disagreements between the Houses".

Division 4—Strengthening the Constitution

17. Amendment of section 18—Power for Parliament to alter the Constitution Act 1975

(1) In section 18(1) of the **Constitution Act 1975**, for "sub-section (2)" **substitute** "this section,".

(2) For section 18(2) of the **Constitution Act 1975** **substitute**—

(1A) In this section—

"referendum" means a referendum conducted in accordance with Part 9A of the **Electoral Act 2002**;

"special majority" means 3/5ths of the whole number of the members of the Assembly and of the Council respectively.

(1B) It shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which—

- (a) this sub-section or sub-section (1A), (1BA), (1C) or (3); or
- (b) Subdivision 1 of Division 5 of Part II; or
- (c) Subdivision 2 of Division 5 of Part II; or
- (d) Subdivision 1 of Division 6 of Part II; or
- (e) Subdivision 2 of Division 6 of Part II; or
- (f) Subdivision 3 of Division 6 of Part II; or
- (g) section 41; or

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- (h) Division 9 of Part II; or
- (i) Division 9A of Part II; or
- (j) Part IIA; or
- (k) section 75(1); or
- (l) Part IIIA; or
- (m) Part IV; or
- (n) Division 3 of Part V; or
- (o) Part VA; or
- (p) any provision substituted for any provision specified in paragraphs (a) to (o)—

may be repealed, altered or varied unless the Bill has been passed by the Assembly and the Council and approved by the majority of the electors voting at a referendum.

- (1BA) For the purposes of sub-section (1B), a provision of a Bill is not to be taken to repeal, alter or vary Part IIA unless the Bill expressly refers to that Part in, or in relation to, that provision and expressly, and not merely by implication, states an intention to repeal, alter or vary Part IIA.
- (1C) A Bill to which sub-section (1B) applies must be submitted to a referendum on a day not sooner than 59 days after the Bill has been passed by the Assembly and the Council.
- (2) It shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which—
 - (a) Part I; or
 - (b) Division 1 of Part II (other than section 18); or

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- (c) this sub-section or sub-section (4); or
- (d) Subdivision 1 of Division 7 of Part II;
or
- (e) Subdivision 2 of Division 7 of Part II;
or
- (f) Section 61A; or
- (g) any provision substituted for any
provision specified in paragraphs (a)
to (f)—

may be repealed, altered or varied unless the
third reading of the Bill is passed by a
special majority.

(2AA) It shall not be lawful to present to the
Governor for Her Majesty's assent any Bill
by which—

- (a) this sub-section or sub-section (2A)
or (5); or
- (b) Part III (other than section 75(1) or 85);
or
- (c) any provision substituted for any
provision specified in paragraph (a)
or (b)—

may be repealed, altered or varied unless the
third reading of the Bill is passed by an
absolute majority.'

(3) In section 18(2A) of the **Constitution Act 1975**
before "the Bill" **insert** "the third reading of".

(4) For sections 18(3) and 18(4) of the **Constitution**
Act 1975 substitute—

"(3) Any Bill dealing with any of the matters
specified in sub-section (1B) which has not
been approved in accordance with that sub-
section is void.

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- (4) Any Bill dealing with any of the matters specified in sub-section (2) which has not been passed in accordance with that sub-section is void.
- (5) Any Bill dealing with any of the matters specified in sub-section (2AA) which has not been passed in accordance with that sub-section is void."

18. Amendment of Constitution Act 1975—Local Government

For section 74A(1) of the **Constitution Act 1975** substitute—

"(1) Local government is a distinct and essential tier of government consisting of democratically elected Councils having the functions and powers that the Parliament considers are necessary to ensure the peace, order and good government of each municipal district.

(1A) Subject to section 74B, each Council—

- (a) is responsible for the governance of the area designated by its municipal boundaries; and
- (b) is constituted by democratically elected Councillors as the governing body which is—
 - (i) accountable for its decisions and actions; and
 - (ii) responsible for ensuring good governance; and
- (c) includes an administration which—
 - (i) implements the decisions of the Council; and

- (ii) facilitates the performance of the duties and functions of the Council."

19. New Part VA inserted—Special Provisions

After Part V of the **Constitution Act 1975**
insert—

"PART VA—SPECIAL PROVISIONS

94E. Independence of the Ombudsman

- (1) The Ombudsman appointed in accordance with the **Ombudsman Act 1973** is an independent officer of the Parliament.
- (2) The functions, powers, rights, immunities and obligations of the Ombudsman are as specified in this section, the **Ombudsman Act 1973** and other laws of the State.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the Ombudsman being an independent officer of the Parliament.
- (4) The powers of the Parliament to act in relation to the Ombudsman are as specified in the **Ombudsman Act 1973**.
- (5) There are no implied powers of the Parliament arising from the Ombudsman being an independent officer of the Parliament.
- (6) Subject to this section, the **Ombudsman Act 1973** and other laws of the State, the Ombudsman has complete discretion in the performance or exercise of his or her functions or powers.

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- (7) The Ombudsman is not to be removed or suspended from office except in accordance with the provisions of sections 3 and 4 of the **Ombudsman Act 1973** as in force immediately before the commencement of section 19 of the **Constitution (Parliamentary Reform) Act 2003** or provisions substituted for those sections which have the same effect.

94F. *Independence of the Electoral Commissioner*

- (1) The Electoral Commissioner appointed in accordance with the **Electoral Act 2002** is an independent officer of the Parliament.
- (2) The functions, powers, rights, immunities and obligations of the Electoral Commissioner are as specified in this section, the **Electoral Act 2002** and other laws of the State.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the Electoral Commissioner being an independent officer of the Parliament.
- (4) The powers of the Parliament to act in relation to the Electoral Commissioner are as specified in the **Electoral Act 2002**.
- (5) There are no implied powers of the Parliament arising from the Electoral Commissioner being an independent officer of the Parliament.
- (6) Subject to this section, the **Electoral Act 2002** and other laws of the State, the Electoral Commissioner has complete discretion in the performance or exercise of his or her functions or powers.
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- (7) The Electoral Commissioner is not to be removed or suspended from office except in accordance with the provisions of sections 12 and 14 of the **Electoral Act 2002** as in force immediately before the commencement of section 19 of the **Constitution (Parliamentary Reform) Act 2003** or provisions substituted for those sections which have the same effect.

94G. Electoral Boundaries

There is to be in force at all times as part of the laws of Victoria an Act that provides for—

- (a) the constitution of an Electoral Boundaries Commission as specified in section 3 of the **Electoral Boundaries Commission Act 1982** as in force immediately before the commencement of section 19 of the **Constitution (Parliamentary Reform) Act 2003** or provisions substituted for that section 3 which have the same effect; and
 - (b) the Electoral Boundaries Commission to have the function specified in section 5 of the **Electoral Boundaries Commission Act 1982** as in force immediately after the commencement of section 45 of the **Constitution (Parliamentary Reform) Act 2003** or provisions substituted for that section 5 which have the same effect; and
 - (c) the Electoral Boundaries Commission to perform the function referred to in paragraph (b) in accordance with the factors specified in section 5 of the **Electoral Boundaries Commission Act 1982** as in force immediately after
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the commencement of section 45 of the **Constitution (Parliamentary Reform) Act 2003** or provisions substituted for that section 5 which have the same effect.

94H. Access to information

There is to be in force at all times as part of the laws of Victoria an Act the objectives and functions of which are to facilitate and promote, promptly and at the lowest reasonable cost, the disclosure of information by creating a general right of access to information in documentary form in the possession of Ministers and agencies limited only by exceptions and exemptions necessary for the protection of essential public interests and the private and business affairs of persons in respect of whom information is collected and held by agencies."

PART 3—AMENDMENTS TO THE ELECTORAL ACT 2002

Division 1—Referendums

20. *Amendment of Electoral Act 2002*

After Part 9 of the **Electoral Act 2002** insert—

'PART 9A—REFERENDUMS

177A. *Purpose of this Part*

The purpose of this Part is to provide for the conduct of referendums for the purpose of section 18 of the **Constitution Act 1975**.

177B. *Application of provisions relating to elections*

- (1) Subject to this Part, the provisions of this Act and the regulations made under this Act apply so far as they are applicable to and in respect of a referendum as if it were an election.
- (2) Without limiting sub-section (1), for the purposes of the conduct of a referendum—
 - (a) a reference to a writ is to be construed as a reference to a writ for a referendum;
 - (b) a reference to the election day is to be construed as a reference to the day fixed by the writ for a referendum for the taking of votes on the referendum;
 - (c) a reference to an election is to be construed as a reference to a referendum;
 - (d) a reference to electoral matter or electoral papers is to be construed as a

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- reference to corresponding electoral matter or electoral papers in relation to a referendum;
- (e) a reference to a ballot-paper, ballot material, ballot-box or other thing is to be construed as a reference to a ballot-paper, ballot material, ballot-box or corresponding thing in relation to a referendum;
- (f) a reference to a how-to-vote card is to be construed as a reference to a corresponding how-to-vote card in relation to a referendum and as if—
- (i) paragraph (b) of the definition of "how-to-vote card" in section 3 were omitted; and
 - (ii) in section 77(1)(a), if the day appointed for the taking of votes on a referendum is not on an election day for an election, the reference to "final nomination day" were a reference to a day fixed and publicly advertised by the Commission for the purposes of this paragraph;
- (g) a reference to disputing the validity of an election is to be construed as a reference to disputing the validity of a referendum.
- (3) For the purposes of a referendum—
- (a) the Commission may appoint appropriate persons as election managers or election officials and make the necessary arrangements for the taking of the votes of electors in each electoral district;
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- (b) a ballot-paper must not be rejected as informal except in accordance with this Part;
 - (c) the vote of an elector must be marked on the ballot-paper in the manner directed by this Part.
- (4) For the purposes of a referendum, if the day appointed for the taking of votes on a referendum is the same as the election day for an election, an application by an elector to vote early under section 99 cannot be made before the day after the final nomination day for the election.
- (5) For the purposes of a referendum, if the day appointed for the taking of votes on a referendum is not on an election day for an election, an application by an elector to vote early under section 99 may be made on the days and during the hours fixed and publicly advertised by the Commission for the purposes of this sub-section.
- (6) Part 12 does not apply in respect of a referendum.

177C. *Distribution of arguments for and against Bill to electors*

- (1) This section applies if—
- (a) a Bill to which section 18(1B) of the **Constitution Act 1975** applies is to be submitted to the electors; and
 - (b) not later than 28 days before the day appointed for the taking of votes on the referendum there is forwarded to the Commission—
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- (i) an argument in favour of the Bill, consisting of not more than 2000 words, authorised by a majority of those members of the Parliament who voted for the Bill and desire to forward such an argument; or
 - (ii) an argument against the Bill, consisting of not more than 2000 words, authorised by a majority of those members of the Parliament who voted against the Bill and desire to forward such an argument.
 - (2) Unless the Premier informs the Commission that the referendum is not to be held, the Commission must, not later than 14 days before the day appointed for the taking of votes on the referendum, cause to be printed and to be posted to each elector as nearly as practicable, a pamphlet containing the arguments together with a statement setting out the text of the Bill and the text of the particular provisions of any Act proposed to be textually altered by the Bill and the textual alterations proposed to be made therein.
 - (3) If there are to be referendums upon more than one Bill on the same day—
 - (a) the arguments in relation to all the Bills must be printed in one pamphlet; and
 - (b) the argument in favour of any Bill may exceed 2000 words if the arguments in favour of all the Bills do not average more than 2000 words each and the argument against any Bill may exceed 2000 words if the arguments against all
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Bills do not average more than 2000 words each; and

- (c) there may be one statement setting out all the textual alterations proposed to be made, with marginal notes identifying the proposed Bill by which each alteration or addition is proposed to be made.
- (4) The State must not expend money in respect of the presentation of the argument in favour of, or argument against, a Bill, except in relation to—
- (a) the preparation, printing and posting, in accordance with this section, of the pamphlets referred to in this section; or
 - (b) the preparation, by or on behalf of the Commission, of translations into other languages of material contained in those pamphlets; or
 - (c) the preparation, by or on behalf of the Commission, of presentations of material contained in those pamphlets in forms suitable for the visually impaired; or
 - (d) the distribution or publication, by or on behalf of the Commission, of those pamphlets, translations or presentations (including publication on the Internet); or
 - (e) the provision by the Commission of other information relating to, or relating to the effect of, the Bill; or
 - (f) the salaries and allowances of members of the Parliament, of members of staff of members of the Parliament or of persons who are employed under the
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**Public Sector Management and
Employment Act 1998.**

177D. *Issue of writ*

- (1) If a Bill is to be submitted to a referendum, the Governor must issue a writ for the referendum.
- (2) A writ issued under this section must be—
 - (a) in or to the effect of the form in Schedule 3; and
 - (b) directed to the Commission; and
 - (c) returnable to the Governor on a day within 21 days after the day for the taking of votes on the referendum appointed and named in the writ.
- (3) The day appointed for the taking of votes on the referendum must be—
 - (a) a Saturday; and
 - (b) not sooner than the 33rd day after the day on which the writ is issued.

177E. *Copy of Bill or statement*

The Governor must cause to be attached to the writ—

- (a) a copy of the Bill as passed by the Assembly and the Council; or
 - (b) a statement setting out the text of the Bill as passed by the Assembly and the Council and the text of the particular provisions of any Act proposed to be textually altered by the Bill and the textual alterations proposed to be made therein.
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177F. Duties of Commission on receipt of writ

If a writ for a referendum is received by the Commission under section 177D, the Commission must—

- (a) endorse on the writ the date of its receipt; and
- (b) publicly advertise—
 - (i) receipt of the writ; and
 - (ii) the day for the taking of votes on the referendum; and
 - (iii) the Short Title of the Bill which is to be submitted to the referendum; and
- (c) if the Premier has requested the Commission to do so, publicly advertise a copy of the Bill or of the statement attached to the writ.

177G. Electors who are entitled to vote

A person is entitled to vote at a referendum if, were the referendum an election, the person would be entitled under section 87 to vote at the election.

177H. Voting to be by ballot

- (1) The voting at a referendum must be by ballot.
- (2) Each elector must mark the elector's vote on the ballot-paper—
 - (a) if the elector approves of the Bill, by writing the word "YES" in the space provided; or
 - (b) if the elector does not approve of the Bill, by writing the word "NO" in the space provided.

177I. Form of ballot-papers

The form of the ballot-papers to be used at a referendum must be in the form of Schedule 4.

177J. Rejection of ballot-paper

Despite anything to the contrary in this Act, a ballot-paper used at a referendum must be rejected as informal if—

- (a) it has no vote marked on it; or
- (b) the elector's vote is not clear; or
- (c) it has more than one vote marked on it.

177K. Declaration of the result

- (1) After the completion of the count of votes, the Commission must publicly declare as regards each electoral district and for the whole State—
 - (a) the number of votes given in favour of the Bill;
 - (b) the number of votes given not in favour of the Bill;
 - (c) the number of ballot-papers rejected as informal.
 - (2) The Commission must publicly advertise the result of the referendum.
 - (3) The Commission must—
 - (a) endorse on the writ a statement containing the matters specified in subsection (1); and
 - (b) return the writ to the Governor.'
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Part 3—Amendments to the Electoral Act 2002

SCHEDULE 4

FORM OF BALLOT-PAPER FOR A REFERENDUM

ELECTORAL DISTRICT OF

REFERENDUM ON PROPOSED BILL

Directions to Voter

*If you approve of the proposed Bill, write "YES" in
the space provided opposite the question set out below.*

*If you disapprove of the proposed Bill, write "NO" in
the space provided opposite the question set out below.*

[HERE INSERT THE SHORT TITLE OF THE BILL]

DO YOU APPROVE OF THIS BILL?

*Fold the ballot-paper and put it in the ballot-box or declaration envelope,
as appropriate.*

_____!

Division 2—Other Amendments

23. Definitions

In section 3 of the **Electoral Act 2002**—

- (a) in the definition of "by-election"—
 - (i) **omit** "or the Council";
 - (ii) **omit** "or Council";
- (b) in the definition of "election", in paragraph (a), for "simultaneous" **substitute** "general";
- (c) the definition of "province" is **repealed**;
- (d) the definition of "simultaneous election" is **repealed**;
- (e) **insert** the following definitions—
 - ' "**Council election**" means an election at which all the members of the Council have to be elected;
 - "**general election**" means an election at which all the members of the Assembly and all the members of the Council have to be elected;
 - "**region**" means electoral region;'

24. Election managers and election officials

In section 18 of the **Electoral Act 2002**—

- (a) in sub-sections (6) and (7), for "province" **substitute** "region";
 - (b) in sub-section (8)—
 - (i) for "simultaneous" **substitute** "general";
 - (ii) for "province in so far as any part of any province" **substitute** "region in so far as any part of any region";
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- (iii) in paragraph (b), for "province" (where twice occurring) **substitute** "region";
- (c) in sub-section (9), for "province" **substitute** "region".

25. Provision of enrolment information

In section 33 of the **Electoral Act 2002**—

- (a) in sub-section (2), for "province" **substitute** "region";
- (b) in sub-section (4)—
 - (i) for "province" (wherever occurring) **substitute** "region";
 - (ii) for "dissolution of the second Assembly after the member has been elected" **substitute** "Assembly is dissolved";
- (c) in sub-section (5), in paragraphs (a) and (b), for "province" (where twice occurring) **substitute** "region".

26. Writs and voting centres

- (1) For section 61(1) of the **Electoral Act 2002** **substitute**—

"(1) A writ for a general election must be issued by the Governor—

- (a) in the case of the expiration of the Assembly, on the day on which the Assembly expires; or
 - (b) in the case of the dissolution of the Assembly, within 7 days after the dissolution."
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- (2) For section 61(2) of the **Electoral Act 2002** **substitute**—
- "(2) A writ for a by-election for the election of a member of the Assembly must be issued by the Speaker within one month after the occurrence of the vacancy."
- (3) In section 61(3) of the **Electoral Act 2002** **omit** "or President".
- (4) In section 62 of the **Electoral Act 2002**, for "Council must" **substitute** "choosing of a person to fill the vacancy occurring in the Council under section 27A of the **Constitution Act 1975** must".
- (5) In section 63(3) of the **Electoral Act 2002**, for "3" **substitute** "7".
- (6) For section 63(5) of the **Electoral Act 2002** **substitute**—
- "(5) Subject to sub-section (6), the final nomination day must be—
- (a) in the case of the expiration of the Assembly, 10 days after the expiration; or
 - (b) in the case of the dissolution of the Assembly, a day within the period that—
 - (i) starts 10 days after the date of the writ; and
 - (ii) ends 28 days after the date of the writ."
- (7) For section 63(7) of the **Electoral Act 2002** **substitute**—
- "(7) The election day must be—
- (a) unless paragraph (c) applies, if the previous Assembly expired, the last

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Saturday in November nearest to the fourth anniversary of the election day on which the previous Assembly was elected or the Saturday referred to in section 38(2) of the **Constitution Act 1975** as the case may be; or

- (b) if the previous Assembly was dissolved, a Saturday within the period that starts 15 days after the final nomination day and ends 30 days after the final nomination day; or
 - (c) if section 38A(2) of the **Constitution Act 1975** applies, the Saturday to which the election day is postponed in accordance with that section."
- (8) In section 65(1)(c) of the **Electoral Act 2002**, for "province" **substitute** "region".

27. Nomination of candidates for Council elections

- (1) After section 69(2)(a) of the **Electoral Act 2002** **insert**—

"(aa) in the case of a candidate for a Council election, specifies the suburb or locality in which is located the address in respect of which the candidate is enrolled; and".

- (2) After section 69(3)(a) of the **Electoral Act 2002** **insert**—

"(aa) in the case of a candidate for a Council election, specifies the suburb or locality in which is located the address in respect of which the candidate is enrolled; and".

- (3) For section 69(4) of the **Electoral Act 2002** **substitute**—

"(4) There must be delivered with a nomination form referred to in sub-section (2) or (3) the sum of \$350 paid in cash or by cheque drawn

on account of an authorised deposit-taking institution within the meaning of the Commonwealth Banking Act 1959."

28. Council elections

After section 69 of the **Electoral Act 2002**
insert—

"69A. Grouping of candidates for Council elections

- (1) Two or more candidates for a Council election who are not endorsed by a registered political party may make a joint request to the Commission that—
 - (a) their names be grouped on the ballot-papers; or
 - (b) their names be grouped on the ballot-papers in a specified order.
- (2) If 2 or more candidates for a Council election are endorsed by a registered political party, the registered officer of the registered political party may make a request to the Commission that—
 - (a) the candidates' names be grouped on the ballot-papers; or
 - (b) the candidates' names be grouped on the ballot-papers in a specified order.
- (3) If 2 or more candidates for a Council election are endorsed by different registered political parties, the registered officers of each registered political party may make a joint request to the Commission that—
 - (a) the candidates' names be grouped on the ballot-papers; or
 - (b) the candidates' names be grouped on the ballot-papers in a specified order.

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- (4) A request under sub-section (1), (2) or (3) must—
- (a) be in writing; and
 - (b) in the case of a request under sub-section (1), be signed by each candidate; and
 - (c) in the case of a request under sub-section (2), be signed by the registered officer of the registered political party; and
 - (d) in the case of a request under sub-section (3), be signed by the registered officers of each registered political party; and
 - (e) be delivered to the Commission before noon of the day before the final nomination day.
- (5) If the request is made under sub-section (2), the request may include a further request that the name of the registered political party that endorsed all the candidates be printed beneath the square in relation to the group of candidates on the ballot-papers.
- (6) If the request is made under sub-section (3), the request may include a further request that a composite name formed from the registered political parties that endorsed the candidates be printed beneath the square in relation to the group of candidates on the ballot-papers.
- (7) A candidate's name may not be included in more than one group.
-

69B. *Group voting tickets*

- (1) Candidates who made a joint request under section 69A(1) may lodge with the Commission a written statement that—
 - (a) they wish voters in the Council election to indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates lodging the statement before any other candidate; or
 - (b) they wish voters in the Council election to indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—
 - (i) give preferences to the candidates lodging the statement before any other candidate; and
 - (ii) give the preferences to the candidates lodging the statement in the same order.
 - (2) The registered officer of a registered political party who made a request under section 69A(2) may lodge with the Commission a written statement that—
 - (a) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates on whose behalf the statement is lodged before any other candidate; or
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- (b) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—
 - (i) give preferences to the candidates on whose behalf the statement is lodged before any other candidate; and
 - (ii) give the preferences to the candidates on whose behalf the statement is lodged in the same order.
 - (3) The registered officers of each registered political party who made a joint request under section 69A(3) may lodge with the Commission a written statement that—
 - (a) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in a specified order, being an order that gives preferences to the candidates on whose behalf the statement is lodged before any other candidate; or
 - (b) it is wished that voters in the Council election indicate their preferences in relation to all candidates in the Council election in either of 2 specified orders, or any one of 3 specified orders, being an order that—
 - (i) give preferences to the candidates on whose behalf the statement is lodged before any other candidate; and
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- (ii) give the preferences to the candidates on whose behalf the statement is lodged in the same order.
- (4) Without limiting the generality of subsection (1)(a), (1)(b), (2)(a), (2)(b), (3)(a) or (3)(b), a statement may specify an order of preferences by setting out the names of all candidates in the Council election in the groups, and in the order, in which they would be set out in a ballot-paper—
- (a) with squares opposite to each name; and
 - (b) with a number in each square showing that order of preferences.
- (5) If a statement in relation to a group of candidates in a Council election is lodged in accordance with this section, that group of candidates must be taken to have a group voting ticket or 2 or 3 group voting tickets, as the case requires, registered for the purposes of the Council election, being the order of preferences or the orders of preferences given in that statement.
- (6) If a group voting ticket or 2 or 3 group voting tickets are registered for the purposes of a Council election—
- (a) the Commission must allocate a letter of the alphabet to the group; and
 - (b) a square in relation to the group must be printed beneath the letter of the alphabet allocated to the group; and
 - (c) if a request was made under section 69A(5), the name of the registered political party must be printed beneath the square in relation to the group; and
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- (d) if a request was made under section 69A(6), the composite name of the registered political parties must be printed beneath the square in relation to the group.
 - (7) A statement under sub-section (1), (2) or (3) must be lodged with the Commission after the election manager has determined the order of the candidates and the groups on the ballot-paper in accordance with section 74 and before noon on the second day after the final nomination day.
 - (8) A statement lodged under sub-section (1), (2) or (3) may, at any time before the period for lodging the statement expires, be amended, withdrawn or replaced by a written notice to the Commission.
 - (9) A statement under sub-section (1) or a written notice relating to that statement under sub-section (8) must be signed by—
 - (a) the candidate whose name first appears in the group on the ballot-paper; or
 - (b) a person authorised by all the members of the group by written instrument given to the Commission with the nomination or nominations of members of the group, to sign such a statement on behalf of the group.
 - (10) A statement under sub-section (2) or a written notice relating to that statement under sub-section (8) must be signed by the registered officer of the registered political party.
 - (11) A statement under sub-section (3) or a written notice relating to that statement under sub-section (8) must be signed by the
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registered officers of the registered political parties making the joint request.

- (12) A statement lodged under sub-section (1)(b), (2)(b) or (3)(b) must indicate the order in which the voting tickets of the group are to be displayed for the purposes of section 73A."

29. Failed elections

In sections 72(1)(a) and 72(1)(b) of the **Electoral Act 2002**, after "candidate" **insert** "for an Assembly election".

30. When election is required

For section 73(1) of the **Electoral Act 2002** **substitute—**

- "(1) An election must be held if—
- (a) there is more than one candidate for an election in a district; or
 - (b) there are more than 5 candidates for an election in a region."

31. Group voting tickets to be displayed

After section 73 of the **Electoral Act 2002** **insert—**

"73A. Group voting tickets to be displayed

- (1) If a group voting ticket is, or group voting tickets are, registered for the purposes of a Council election, the Commission must cause the ticket or the tickets to be prominently displayed at the election day voting centre in a manner determined by the Commission.

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- (2) If a group has 2 or 3 group voting tickets, the tickets relating to that group must be displayed in the order indicated in the statement lodged under section 69B(1)(b), 69B(2)(b) or 69B(3)(b)."

32. *Ballot-papers for the Assembly and the Council*

- (1) In section 74(1) of the **Electoral Act 2002**, after "candidates" (where twice occurring) **insert** "or groups of candidates".
- (2) In section 74(3) of the **Electoral Act 2002**, after "printed" **insert** "to be used in an Assembly election".
- (3) After section 74(3) of the **Electoral Act 2002** **insert**—

"(3A) The Commission must cause ballot-papers to be printed to be used in a Council election with the names of all the candidates at the election and of no other persons, in the form of Schedule 1A and in the order determined by the election manager.

- (3B) In printing the ballot-papers to be used in a Council election—
- (a) the names of candidates in respect of whom a request under section 69A was made must be printed in groups in accordance with the request and before the names of candidates who have not made such a request; and
- (b) the suburb or locality in which is located the address in respect of which each candidate is enrolled as specified in each candidate's nomination form in accordance with section 69(2)(aa) must be printed adjacent to the name of the relevant candidate; and
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- (c) if a request was made under section 69A(5), the name of the registered political party that endorsed the candidates must be printed beneath the square in relation to the group; and
- (d) if a request was made under section 69A(6), the composite name formed from the registered political parties that endorsed the candidates must be printed beneath the square in relation to the group."

33. *Scrutineers*

In section 76 of the **Electoral Act 2002**—

- (a) in sub-section (1), for "province" **substitute** "region";
- (b) in sub-section (2), for "and 114" **substitute** ", 114 and 114A".

34. *How-to-vote cards*

(1) In section 77(4) of the **Electoral Act 2002**—

- (a) in paragraph (b), before "that the how-to-vote card" **insert** "in the case of a how-to-vote-card to be used for an Assembly election,";
- (b) after paragraph (b) **insert**—
 - "(ba) in the case of a how-to-vote card to be used for a Council election, that the how-to-vote card—
 - (i) indicates a voting preference for one group in relation to which a square is printed on the ballot-paper under section 69B; or
 - (ii) indicates the order of voting preference for all candidates whose names are printed opposite squares on the ballot-paper; or

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- (iii) contains a statement to the effect that—
 - (A) the number 1 must be placed in the square in relation to the group for which the elector votes as first preference; or
 - (B) the number 1 must be placed opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes;"

(2) In section 79(4) of the **Electoral Act 2002**—

- (a) in paragraph (b), before "that the how-to-vote card" **insert** "in the case of a how-to-vote card to be used for an Assembly election,";
- (b) after paragraph (b) **insert**—
 - "(ba) in the case of a how-to-vote card to be used for a Council election, that the how-to-vote card—
 - (i) indicates a voting preference for one group in relation to which a square is printed on the ballot-paper under section 69B; or
 - (ii) indicates the order of voting preference for all candidates whose names are printed opposite squares on the ballot-paper; or

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(iii) contains a statement to the effect that—

(A) the number 1 must be placed the square in relation to the group for which the elector votes as first preference; or

(B) the number 1 must be placed opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes;".

(3) In section 79(7) of the **Electoral Act 2002**, in paragraphs (a) and (b), for "province" **substitute** "region".

(4) In section 81 of the **Electoral Act 2002**—

(a) in sub-section (1), for "province" **substitute** "region";

(b) in sub-section (2)(b), for "province" **substitute** "region".

35. Voting in Assembly elections

(1) In the heading to section 93 of the **Electoral Act 2002**, after "*elector*" **insert** "*in Assembly election*".

(2) In section 93(1) of the **Electoral Act 2002**, after "receiving a ballot-paper" **insert** "in accordance with Schedule 2".

36. Voting in Council elections

After section 93 of the **Electoral Act 2002**
insert—

**"93A. How votes to be marked by elector in
Council election**

- (1) After receiving a ballot-paper in accordance with Schedule 1A, an elector must mark the elector's vote on the ballot-paper in accordance with this section.
- (2) An elector must mark the elector's vote on the ballot-paper by placing—
 - (a) the number 1 in the square in relation to the group for which the elector votes as first preference; or
 - (b) the number 1 opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes.
- (3) If an elector has marked a tick or cross in a square printed on a ballot-paper in relation to a group, the voter is taken to have placed the number 1 in the square.
- (4) If a candidate dies after the final nomination day and before or on election day, and the number of candidates remaining is greater than 5, a ballot-paper is not deemed to be informal by reason only of—
 - (a) the inclusion on the ballot-paper of the name of the deceased candidate; or
 - (b) the marking of any consequential number opposite that name.

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- (5) Subject to sections 108 to 110, an elector must, after marking the elector's vote on the ballot-paper, deposit it in the ballot-box."

37. *Rejection of ballot-papers*

In section 112(1) of the **Electoral Act 2002**—

- (a) in paragraph (c), for "section 93." **substitute** "section 93, in the case of an Assembly election; or";
- (b) after paragraph (c) **insert**—
- "(d) if it is not marked in accordance with section 93A, in the case of a Council election."

38. *Formal Council ballot-papers*

After section 112 of the **Electoral Act 2002** **insert**—

"112A. *Certain Council ballot-papers with non-consecutive numbers to be formal*

A ballot-paper in a Council election that—

- (a) has, in not less than 5 of the squares printed opposite the names of the candidates, numbers in the sequence of consecutive numbers starting with the number 1; and
- (b) would be informal by virtue of section 112(1)(d)—

is taken to be formal in relation to the preferences marked on the ballot-paper by numbers up to a break in the sequence.

112B. Council ballot-papers deemed to be marked according to group voting tickets

- (1) For the purposes of section 114A, if—
- (a) a ballot-paper in a Council election has been marked in accordance with section 93A(2)(a) by a mark having been placed in a square printed in relation to a group; and
 - (b) the candidates in that group have only 1 group voting ticket registered for the purposes of that election—

that ballot-paper is taken to have been marked in accordance with that ticket.

- (2) For the purposes of section 114A, if—
- (a) a ballot-paper has, or ballot-papers have, been marked in accordance with section 93A(2)(a) by a mark having been placed in a square in relation to a group; and
 - (b) the candidates in that group have 2 group voting tickets registered for the purposes of that election—

then—

- (c) if the number of ballot-papers is an even number, half of the ballot-papers are to be taken to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket; or
 - (d) if the number of ballot-papers is not an even number—
 - (i) one of the ballot-papers is taken to have been marked in accordance with whichever of the 2 tickets is
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drawn by lot in a manner determined by the election manager, either manually or by computer; and

- (ii) half the remainder (if any) of the ballot-papers are to be taken to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket.

(3) For the purposes of section 114A, if—

- (a) a ballot-paper has, or ballot-papers have, been marked in accordance with section 93A(2)(a) by a mark having been placed in a square in relation to a group; and
- (b) the candidates in that group have 3 group voting tickets registered for the purposes of that election—

then—

- (c) if the number of ballot-papers is a number divisible by 3 without any remainder, one-third of the ballot-papers is to be taken to have been marked in accordance with one of the tickets, one-third of the ballot-papers is to be taken to have been marked in accordance with another one of the tickets and the other one-third in accordance with the other ticket; or
- (d) if there is only one ballot-paper or the number of ballot-papers is a number divisible by 3 with a remainder of 1—
 - (i) the ballot-paper or one of the ballot-papers is to be taken to have been marked in accordance with

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- whichever of the 3 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and
- (ii) one-third of the remainder of the ballot-papers (if any) is to be taken to have been marked in accordance with one of the tickets, one-third of that remainder is to be taken to have been marked in accordance with another one of the tickets and the other one-third of that remainder is to be taken to have been marked in accordance with the other ticket; or
- (e) if there are 2 ballot-papers or the number of ballot-papers is a number divisible by 3 with a remainder of 2—
- (i) one of the ballot-papers is to be taken to have been marked in accordance with whichever of the 3 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and
- (ii) one of the ballot-papers is to be taken to have been marked in accordance with whichever of the other 2 tickets is drawn by lot in a manner determined by the election manager, either manually or by computer; and
- (iii) one-third of the remainder of the ballot-papers (if any) is to be taken to have been marked in accordance with one of the tickets,
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one-third of that remainder is to be taken to have been marked in accordance with another one of the tickets and the other one-third of that remainder is to be taken to have been marked in accordance with the other ticket.

- (4) For the purposes of section 114A, if a ballot-paper in a Council election—
- (a) has been marked in accordance with section 93A(2)(a) and section 93A(2)(b); and
 - (b) would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(a) or section 93A(2)(b)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(b).

- (5) For the purposes of section 114A, if—
- (a) an elector has attempted to vote in accordance with section 93A(2)(a) and with section 93A(2)(b); and
 - (b) the elector has validly marked the ballot-paper only in accordance with section 93A(2)(a); and
 - (c) the ballot-paper would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(a)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(a).

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- (6) For the purposes of section 114A, if—
- (a) an elector has attempted to vote in accordance with section 93A(2)(a) and with section 93A(2)(b); and
 - (b) the elector has validly marked the ballot-paper only in accordance with section 93A(2)(b); and
 - (c) the ballot-paper would not be informal by virtue of section 112(1)(d) if it had been marked only in accordance with section 93A(2)(b)—

the ballot-paper is taken to have been marked only in accordance with section 93A(2)(b).".

39. *Ascertaining votes for Assembly candidates*

- (1) In the heading to section 113 of the **Electoral Act 2002**, after "*only*" insert "*for Assembly election*".
- (2) In section 113(1) of the **Electoral Act 2002**, before "election" insert "Assembly".
- (3) In section 113(2) of the **Electoral Act 2002**, in paragraph (a), after "ballot-box" insert "containing ballot-papers used for an Assembly election".
- (4) In the heading to section 114 of the **Electoral Act 2002**, after "*candidates*" insert "*for Assembly election*".
- (5) In section 114(1) of the **Electoral Act 2002**, before "election" insert "Assembly".

40. Ascertaining votes for Council candidates

After section 114 of the **Electoral Act 2002**
insert—

**'114A. Procedure for ascertaining number of votes
for Council candidates**

(1) The result of a Council election is to be determined as set out in this section.

(2) In this section—

"continuing candidate" means a candidate not already elected or excluded from the count;

"quota" means the number determined by dividing the number of first preference votes by 1 more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1;

"surplus votes" means the number, if any, of votes in excess of the quota of each elected candidate.

(3) A reference to votes of or obtained or received by a candidate includes votes obtained or received by the candidate on any transfer.

(4) Sub-sections (2) to (4) of section 113 are to be followed as if a reference to the ballot-box containing ballot-papers used for an Assembly election were a reference to a ballot-box containing ballot-papers used for a Council election.

(5) A quota is to be determined.

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- (6) Any candidate who has received a number of first preference votes equal to or greater than the quota is to be declared elected by the election manager.
- (7) Unless all the vacancies have been filled, the surplus votes of each elected candidate are to be transferred to the continuing candidates as follows—
 - (a) the number of surplus votes of the elected candidate is to be divided by the number of first preference votes received by the elected candidate and the resulting fraction is the transfer value;
 - (b) the total number of ballot-papers of the elected candidate that express the first preference vote for the elected candidate and the next available preference for a particular continuing candidate is to be multiplied by the transfer value;
 - (c) the number obtained under paragraph (b) (disregarding any fraction) is to be added to the number of first preference votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate.
- (8) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any transfer under sub-section (7) is to be declared elected by the election manager.

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- (9) Unless all the vacancies have been filled, the surplus votes, if any, of any candidate elected under sub-section (8) or elected subsequently under this sub-section are to be transferred to the continuing candidates in accordance with sub-section (7) and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of the transfer is to be declared elected by the election manager.
- (10) If a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer of the surplus votes of a particular elected candidate under sub-section (7) or (9), no votes of any other candidate are to be transferred to the continuing candidate.
- (11) For the purposes of the application of sub-section (7) in relation to a transfer of the surplus votes of an elected candidate under sub-section (9) or (14), each ballot-paper of the elected candidate obtained by the elected candidate on a transfer is to be dealt with as if—
- (a) any vote it expressed for the elected candidate were a first preference vote; and
 - (b) the name of any other candidate previously elected or excluded had not been on the ballot-paper; and
 - (c) the numbers indicating subsequent preferences had been altered accordingly.
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- (12) If, after the counting of first preference votes or the transfer of any surplus votes of elected candidates, no candidate has, or less than the number of candidates required to be elected have, received a number of votes equal to the quota, the candidate who has the fewest votes is to be excluded and all that candidate's votes are to be transferred to the continuing candidates as follows—
- (a) the total number of ballot-papers of the excluded candidate that express the first preference vote for the excluded candidate and the next available preference for a particular continuing candidate are to be transferred at a transfer value of 1 for each ballot-paper and added to the number of votes of the continuing candidate and all those ballot-papers are to be transferred to the continuing candidate;
 - (b) the total number, if any, of other votes obtained by the excluded candidate on transfers are to be transferred from the excluded candidate beginning with the highest transfer value and ending with the ballot-papers received at the lowest transfer value, as follows—
 - (i) the total number of ballot-papers received by the excluded candidate at a particular transfer value and expressing the next available preference for a particular continuing candidate is to be multiplied by that transfer value; and
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- (ii) the number so obtained (disregarding any fraction) is to be added to the number of votes of the continuing candidate; and
 - (iii) all those ballot-papers are to be transferred to the continuing candidate.
 - (13) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer of votes of an excluded candidate under sub-section (12) or (16) is to be declared elected by the election manager.
 - (14) Subject to sub-section (15), unless all the vacancies have been filled, the surplus votes, if any, of a candidate elected under sub-section (13) are to be transferred in accordance with sub-section (7).
 - (15) If a candidate elected under sub-section (13) is elected before all the votes of the excluded candidate have been transferred, the surplus votes, if any, of the elected candidate are not to be transferred until the remaining votes of the excluded candidate have been transferred in accordance with sub-section (12) to continuing candidates.
 - (16) Subject to sub-section (18), if after the transfer of all the votes of an excluded candidate no continuing candidate has received a number of votes greater than the quota—
 - (a) the continuing candidate who has the fewest votes must be excluded; and
 - (b) that candidate's votes must be transferred in accordance with sub-section (12).
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- (17) If a candidate is elected as a result of a transfer of ballot-papers under sub-sections (12) and (16), no other ballot-papers of an excluded candidate are to be transferred to the candidate so elected.
 - (18) In respect of the last vacancy for which 2 continuing candidates remain, the continuing candidate who has the larger number of votes is to be elected notwithstanding that that number is below the quota and if those candidates have an equal number of votes the result is to be determined by lot.
 - (19) Despite any other provision of this section, if the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates are to be declared elected by the election manager.
 - (20) Subject to sub-sections (21), (22) and (23), if after any count or transfer, 2 or more candidates have surplus votes the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative size of the surpluses, the largest surplus being transferred first.
 - (21) Subject to sub-section (23), if after any count or transfer, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates is to be in accordance with the relative numbers of votes of those candidates at the last count or transfer at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count or transfer being transferred first.
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- (22) For the purposes of sub-section (21), if there has been no count or transfer the election manager must determine the order in which the surpluses are to be dealt with.
- (23) If after any count or transfer, a candidate obtains surplus votes, those surplus votes are not to be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count or transfer.
- (24) If on any count or transfer 2 or more candidates have the fewest number of votes and the candidate who has the fewest number of votes is required to be excluded, the result is to be determined—
- (a) by declaring whichever of those candidates had the fewest votes at the last count at which those candidates had a different number of votes to be excluded; or
 - (b) if a result is still not obtained or there has been no count or transfer, by lot by the election manager.
- (25) If on the final count or transfer 2 candidates have an equal number of votes, the result is to be determined—
- (a) by declaring whichever of those candidates had the fewest votes at the last count or transfer at which those candidates had a different number of votes to be excluded; or
 - (b) if a result is still not obtained or there has been no count, by lot by the election manager.
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- (26) If a candidate is elected by reason that—
- (a) the number of first preference votes received by the candidate; or
 - (b) the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate on transfers—
- is equal to the quota, all the ballot-papers expressing those votes are to be set aside as finally dealt with.
- (27) In any case in which section 93A(4) applies, a vote marked on the ballot-paper opposite the name of a deceased candidate must be counted to the candidate next in order of the voter's preference, and the numbers indicating subsequent preferences shall be taken to be altered accordingly.
- (28) For the purposes of this section each of the following constitutes a separate transfer—
- (a) a transfer under sub-section (7), (9) or (14) of all the surplus votes of an elected candidate;
 - (b) a transfer in accordance with sub-section (12)(a) of all first preference votes of an excluded candidate;
 - (c) a transfer in accordance with sub-section (12)(b) of all the votes of an excluded candidate that were transferred to that candidate from a particular candidate.'

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42. Form of ballot-paper for the Council

After Schedule 1 to the **Electoral Act 2002**
insert—

"SCHEDULE 1A

FORM OF BALLOT-PAPER FOR THE COUNCIL

Section 74(3A)

For your vote to count, you must vote in either one of the two ways described below

D I R E C T I O N S	<p>_____</p> <p>EITHER</p> <p>_____</p>	<p>Place the number 1 in one, and one only of these squares to indicate your choice.</p> <p style="text-align: center;"> <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D 2 2 2 2 </p>	<p>Ballot-paper</p> <p>Region of [4]</p> <p>Election of 5 members of the Legislative Council</p>
O R	<p>_____</p> <p>OR</p> <p>_____</p>	<p>Place the numbers 1 to at least 5 in these squares to indicate your choice.</p> <p style="text-align: center;"> <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 <input type="checkbox"/> 1 3 </p>	<p>Ungrouped</p> <p><input type="checkbox"/> 1 3</p>

1. Here insert name of a candidate.
2. Here insert name of registered political party or composite name of registered political parties if so requested.
3. Here insert name of a registered political party if to be printed and the suburb or locality of the candidate's address in respect of which the candidate is enrolled.
4. Here insert name of region.

Fold the ballot-paper and put it in the ballot-box or declaration envelope, as appropriate.

_____".

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43. *Form of ballot-paper for the Assembly*

In Schedule 2 to the **Electoral Act 2002**—

- (a) in the heading to Schedule 2, after **"BALLOT-PAPER"** insert **"FOR THE ASSEMBLY"**;
 - (b) under the heading to Schedule 2 insert **"Section 74(3)"**;
 - (c) **omit** "[or Province]".
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PART 4—CONSEQUENTIAL AMENDMENTS

Division 1—Transitional Provisions

44. *New sections 18 and 19 and Schedule inserted*

After section 17 of the **Electoral Boundaries Commission Act 1982** insert—

"18. *Establishment of first regions*

- (1) Subject to and in accordance with the provisions of this Act, for the purpose of enabling the holding of the first election of the Council in accordance with sections 26 and 27 of the **Constitution Act 1975** as proposed to be inserted by section 8 of the **Constitution (Parliamentary Reform) Act 2003**, it is also a function of the Commission during the period starting on 1 January 2005 and ending on 30 November 2005, to divide the State of Victoria into electoral regions for the Legislative Council for the conduct of elections for the Legislative Council with the object of establishing electoral regions of approximately equal enrolment and to determine the boundaries thereof.
 - (2) For the purpose of this section, the Commission is to carry out its function as if sections 26 and 27 of the **Constitution Act 1975** as proposed to be inserted by section 8 of the **Constitution (Parliamentary Reform) Act 2003** were in operation.
 - (3) Immediately after the day notified in the Government Gazette under section 13 in relation to a division of electors for the purposes of this section, the names and boundaries of the electoral regions for the Legislative Council set forth in the statement
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of the Commissioners deposited in the Central Plan Office must be published in the Government Gazette by the Victorian Electoral Commission.

- (4) On the day on which writs are issued for the general election next following the dissolution or other lawful determination of the Assembly last elected before the **Constitution (Parliamentary Reform) Act 2003** receives the Royal Assent, the names and boundaries of the electoral regions published in accordance with sub-section (3) are deemed to be substituted for the names and boundaries of the electoral provinces previously published in the Government Gazette under section 27 of the **Constitution Act 1975** as in force immediately before the commencement of section 8 of the **Constitution (Parliamentary Reform) Act 2003**.

19. *Interim regions if early election required*

- (1) This section only applies if, before the Commission has completed the division of the State of Victoria into electoral regions in accordance with section 18, the Legislative Assembly is dissolved and section 8 of the **Constitution (Parliamentary Reform) Act 2003** comes into operation.
- (2) Despite anything in this Act and despite section 27 of the **Constitution Act 1975**, if this section applies, on the commencement of section 8 of the **Constitution (Parliamentary Reform) Act 2003**, the boundaries of the regions referred to by a number in the Schedule are deemed to be substituted for the names and boundaries of the provinces previously published in the

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Part 4—Consequential Amendments

- Government Gazette under section 27 of the **Constitution Act 1975** as in force immediately before the commencement of section 8 of the **Constitution (Parliamentary Reform) Act 2003**.
- (3) If this section applies, immediately after the commencement of section 8 of the **Constitution (Parliamentary Reform) Act 2003**, the Commission must—
- (a) divide the State of Victoria into the regions referred to in the Schedule; and
 - (b) allocate a name to each region; and
 - (c) publish the names and the regions in the Government Gazette.
- (4) The name allocated to a region in the statement published in the Government Gazette is deemed to be substituted in the Schedule for the number of the region to which the name is allocated as from the date that the Government Gazette is published.
- (5) As soon as practicable after the commencement of section 8 of the **Constitution (Parliamentary Reform) Act 2003**, the Victorian Electoral Commission must cause new electoral rolls to be prepared in accordance with the **Electoral Act 2002** for the new electoral regions.
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Part 4—Consequential Amendments

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SCHEDULE

REGIONS

<i>Region</i>	<i>Boundary</i>
1	Enclosing the districts of Bass, Frankston, Gembrook, Gippsland East, Gippsland South, Hastings, Monbulk, Mornington, Morwell, Narracan, Nepean
2	Enclosing the districts of Albert Park, Box Hill, Brunswick, Essendon, Hawthorn, Ivanhoe, Kew, Melbourne, Northcote, Prahran, Richmond
3	Enclosing the districts of Ballarat East, Ballarat West, Bellarine, Geelong, Lara, Lowan, Melton, Polwarth, Ripon, South Barwon, South-West Coast
4	Enclosing the districts of Bentleigh, Brighton, Burwood, Carrum, Caulfield, Clayton, Malvern, Mordialloc, Mount Waverley, Oakleigh, Sandringham
5	Enclosing the districts of Bulleen, Bundoora, Doncaster, Eltham, Evelyn, Kilsyth, Mill Park, Preston, Thomastown, Warrandyte, Yan Yean
6	Enclosing the districts of Benalla, Benambra, Bendigo East, Bendigo West, Macedon, Mildura, Murray Valley, Rodney, Seymour, Shepparton, Swan Hill
7	Enclosing the districts of Bayswater, Cranbourne, Dandenong, Ferntree Gully, Forest Hill, Lyndhurst, Mitcham, Mulgrave, Narre Warren North, Narre Warren South, Scoresby
8	Enclosing the districts of Altona, Broadmeadows, Derrimut, Footscray, Keilor, Kororoit, Niddrie, Pascoe Vale, Tarneit, Williamstown, Yuroke

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Division 2—Miscellaneous Amendments

45. Electoral Boundaries Commission Act 1982

- (1) In section 2 of the **Electoral Boundaries Commission Act 1982**—
 - (a) **omit** the definition of "province";
 - (b) **insert** the following definition—

' "**region**" means electoral region for the Legislative Council;'
 - (2) For section 5(1) of the **Electoral Boundaries Commission Act 1982** **substitute**—

"(1) Subject to and in accordance with the provisions of this Act, the functions of the Commission shall be to divide the State of Victoria into electoral regions for the Legislative Council and electoral districts for the Legislative Assembly as often as is necessary from time to time for the conduct of elections for the Legislative Council and the Legislative Assembly with the object of establishing and maintaining electoral regions of approximately equal enrolment and electoral districts of approximately equal enrolment and to determine the boundaries thereof."
 - (3) In section 5 of the **Electoral Boundaries Commission Act 1982**—
 - (a) in sub-section (2), for "provinces" **substitute** "regions";
 - (b) in sub-section (3), for "provinces" (where twice occurring) **substitute** "regions".
 - (4) In section 8(1) of the **Electoral Boundaries Commission Act 1982** **omit** "for the Legislative Assembly and periodical elections for the Legislative Council".
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- (5) In section 9(1) of the **Electoral Boundaries Commission Act 1982** for "province" substitute "region".
- (6) In section 9(2) of the **Electoral Boundaries Commission Act 1982**—
- (a) for "provinces" (where twice occurring) substitute "regions";
 - (b) for "province" substitute "region".
- (7) In section 10A of the **Electoral Boundaries Commission Act 1982**, for "province" (where thrice occurring) substitute "region".
- (8) In section 10B of the **Electoral Boundaries Commission Act 1982**, for "province" substitute "region".
- (9) In section 11 of the **Electoral Boundaries Commission Act 1982**, for "province" (where twice occurring) substitute "region".
- 46. Section 14 of the Electoral Boundaries Commission Act 1982 substituted**

For section 14 of the **Electoral Boundaries Commission Act 1982** substitute—

"14. Commencement of region divisions

- (1) Immediately after the day notified in the Government Gazette under section 13 in relation to a division of electors, the names and boundaries of the electoral regions for the Legislative Council set forth in the statement of the Commissioners deposited in the Central Plan Office must be published in the Government Gazette by the Victorian Electoral Commission.
 - (2) On the day on which writs are issued for a general election, the names and boundaries of the regions published in accordance with
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Part 4—Consequential Amendments

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sub-section (1) are deemed to be substituted for the names and boundaries of the electoral regions previously published in the Government Gazette under section 27 of the **Constitution Act 1975**."

47. Section 16 of the Electoral Boundaries Commission Act 1982 substituted

For section 16 of the **Electoral Boundaries Commission Act 1982** substitute—

"16. Effect of division upon choosing person to fill Council vacancy

Where, after the day notified in the Government Gazette under section 13 in relation to a division of electors and before the day of dissolution or other lawful determination of the Assembly occurring next after that division, the seat of a member for a region which was existing immediately before that division becomes vacant, that division does not affect the choosing of a person to occupy the vacant seat in accordance with section 27A of the **Constitution Act 1975**."

48. Further amendment to the Electoral Boundaries Commission Act 1982

In section 17(1) of the **Electoral Boundaries Commission Act 1982**, for "provinces" substitute "regions".

49. Constitution Act 1975

(1) In section 5 of the **Constitution Act 1975**—

- (a) the definition of "province" is **repealed**;
- (b) **insert** the following definition—

' "**region**" means electoral region of the Council;'

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- (2) In section 24(2) of the **Constitution Act 1975** **omit** "(whether or not the Council is dissolved after he so ceases to be a member)".
 - (3) In the heading to subdivision (1) of Division 5 of Part 2 of the **Constitution Act 1975**, for "**Provinces**" **substitute** "**Regions**".
 - (4) In section 42 of the **Constitution Act 1975**, for "province" **substitute** "region".

50. *University of Ballarat Act 1993*

In section 3 of the **University of Ballarat Act 1993**, in the definition of "Ballarat region", for "province for the Legislative Council of Victoria of Ballarat" **substitute** "districts for the Legislative Assembly of Victoria of Ballarat East and Ballarat West".

51. *Geographic Place Names Act 1998*

In section 4(a)(i) of the **Geographic Place Names Act 1998**, for "province" **substitute** "region".

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Endnotes

ENDNOTES

† *Minister's second reading speech—*

Legislative Assembly: 27 February 2003

Legislative Council: 25 March 2003

The long title for the Bill for this Act was "to reform the Parliament of Victoria, to amend the **Constitution Act 1975** and the **Electoral Act 2002**, to consequentially amend certain Acts and for other purposes."

Constitution Act 1975:

Absolute majorities:

Legislative Assembly: 20 March 2003

Legislative Council: 27 March 2003