

Electoral Act 1907

Extract of Part IIA – Representation in Parliament

Consolidation 13d: The Act as at 26 February 2007

© State of Western Australia.

Copyright in this document is reserved to the Crown in right of the State of Western Australia. It is reproduced with permission of the State of Western Australia, but it does not purport to be the official or authorised version. The Copyright Act 1968 (C'th) permits certain reproduction and publication of Western Australian legislation. In particular, s 182A of that Act enables a complete copy to be made by reprographic reproduction by or on behalf of a particular person. For reproduction or publication beyond that permitted by that Act, permission should be sought in writing from the State Law Publisher, 10 William Street, Perth Western Australia 6000.

The only authorised version of Western Australian legislation is the hardcopy (printed) version published under authority of the Government Printer, available from the State Law Publisher, 10 William Street, Perth WA 6000.

Part IIA — Representation in Parliament

Division 1 — Preliminary

16A.	Terms used in this Part	17
16B.	Electoral Distribution Commissioners	17

Division 2 — Districts, regions and representation

16C.	Electoral districts and representation	19
16D.	Electoral regions and representation	19

Division 3 — Division of State into districts and regions

16E.	Division required after each election	19
16F.	Commissioners' functions	19
16G.	Basis for division of the State into districts	21
16H.	Basis for division of the State into regions	22
16I.	Matters to be considered in dividing the State into regions and districts	23
16J.	Power of Commissioners to modify boundaries of districts	24
16K.	Effect of notice dividing the State into districts and regions	24
16L.	Transitional provisions	24
16M.	Absolute majorities required for Bills affecting one vote one value principle	25

Part IIA — Representation in Parliament

[Heading inserted by No. 1 of 2005 s. 4.]

Division 1 — Preliminary

[Heading inserted by No. 1 of 2005 s. 4.]

16A. Terms used in this Part

In this Part —

“**average district enrolment**” has the meaning given to that term in section 16G(1);

“**Commissioners**” means the Electoral Distribution Commissioners appointed under section 16B including any person appointed under section 16B(2), (3) or (4) to act in the office of an Electoral Distribution Commissioner;

“**Government Statistician**” means the Government Statistician appointed under the *Statistics Act 1907*;

“**relevant day**”, in relation to a division of the State into districts and regions in accordance with this Part, means the day specified in section 16E(a) or (b) as the day as soon as practicable after which the division is to be carried out.

[Section 16A inserted by No. 1 of 2005 s. 4.]

16B. Electoral Distribution Commissioners

- (1) For the purposes of this Part there shall be 3 Electoral Distribution Commissioners of whom —
 - (a) one shall be the Chief Justice of Western Australia who shall be chairman;
 - (b) one shall be the Electoral Commissioner; and
 - (c) one shall be the Government Statistician.
- (2) If the office of Chief Justice of Western Australia is vacant, or the Chief Justice is absent or is for any other reason unable to act as an Electoral Distribution Commissioner, the Governor

may appoint another Judge of the Supreme Court to act in the office of Electoral Distribution Commissioner and as chairman under subsection (1)(a) during the vacancy, absence or inability.

- (3) A person acting in the office of the Electoral Commissioner under section 5D or 5H(2) shall, while so acting, act in the office of Electoral Distribution Commissioner under subsection (1)(b).
- (4) If the office of the Government Statistician is vacant, or the holder of that office is absent or is for any other reason unable to act as an Electoral Distribution Commissioner, the Governor, on the recommendation of the Premier, may appoint a suitable person to act in the office of Electoral Distribution Commissioner under subsection (1)(c) during the vacancy, absence or inability.
- (5) Before making a recommendation under subsection (4) the Premier shall consult with, and seek the written views of, the parliamentary leader or representative of each party and Independent members in the Parliament.
- (6) The Commissioners shall meet as often as may be necessary for carrying out their duties under this Part.
- (7) For the purposes of this Part the Commissioners have the powers of a duly appointed Royal Commission, and of a chairman of a Royal Commission, under the *Royal Commissions Act 1968*.
- (8) The moneys reasonably required for the purposes of the Commissioners shall be charged, on the certificate of the Auditor General, to the Consolidated Account, which this subsection appropriates to the necessary extent.

[Section 16B inserted by No. 1 of 2005 s. 4; amended by No. 77 of 2006 s. 4.]

Division 2 — Districts, regions and representation

[Heading inserted by No. 1 of 2005 s. 4.]

16C. Electoral districts and representation

- (1) The State shall be divided into 59 electoral districts.
- (2) Each district will return one member to serve in the Assembly.

[Section 16C inserted by No. 1 of 2005 s. 4; amended by No. 2 of 2005 s. 4(2).]

16D. Electoral regions and representation

- (1) The State shall be divided into 6 electoral regions.
- (2) Each region will return 6 members to serve in the Council.

[Section 16D inserted by No. 1 of 2005 s. 4.]

Division 3 — Division of State into districts and regions

[Heading inserted by No. 1 of 2005 s. 4.]

16E. Division required after each election

The State shall be divided into districts and regions in accordance with this Part —

- (a) as soon as practicable after 26 February 2007; and
- (b) as soon as practicable after the day that is 2 years after polling day for any subsequent general election for the Assembly.

[Section 16E inserted by No. 1 of 2005 s. 4.]

16F. Commissioners' functions

- (1) The Commissioners shall divide the State into districts and regions in accordance with this Part whenever a division of the State is required under this Part.

- (2) For the purposes of carrying out their duty under subsection (1) the Commissioners shall —
- (a) by notice published in the *Gazette* and in a newspaper circulating throughout the State —
 - (i) invite written suggestions relating to the division of the State as required by subsection (1) to be lodged with the Commissioners within 30 days from the day of the publication of the notice in the *Gazette*; and
 - (ii) invite written comments being comments on the suggestions lodged under subparagraph (i) to be lodged with the Commissioners within 14 days from the expiration of the period of 30 days referred to in that subparagraph;
 - (b) forthwith after the expiration of the period of 30 days referred to in paragraph (a)(i), cause copies of the suggestions lodged with the Commissioners under paragraph (a)(i) to be made available for perusal at the office of the Electoral Commissioner;
 - (c) consider all of the suggestions and comments lodged with the Commissioners under paragraph (a);
 - (d) within 42 days from the expiration of the period of 14 days referred to in paragraph (a)(ii), formulate proposals for the division of the State in the manner required under subsection (1) and the names proposed to be assigned to the districts and publish in the *Gazette* and in a newspaper circulating throughout the State —
 - (i) a map or maps setting out those proposals; and
 - (ii) a statement of the Commissioners' reasons for making those proposals;
 - (e) consider any objections in writing that may be lodged with the Commissioners within 30 days from the day of the publication of the map or maps and statement in the *Gazette* under paragraph (d); and

- (f) as soon as practicable, but not more than 90 days after the expiration of the period of 30 days referred to in paragraph (e), by notice published in the *Gazette*, divide the State in the manner required under subsection (1).
- (3) Any additional details and explanatory information that the Commissioners think appropriate may be included on or published with the map or maps mentioned in subsection (2)(d).
- (4) The notice mentioned in subsection (2)(f) shall set out —
- (a) the average district enrolment at the relevant day;
 - (b) in respect of each of the districts —
 - (i) the name assigned to the district;
 - (ii) the boundaries fixed for the district; and
 - (iii) the number of electors within the boundaries as so fixed;
- and
- (c) the districts included in each of the regions,
- and shall include a map or maps showing the boundaries of the districts and the boundaries of the regions.
- (5) Suggestions under subsection (2)(a)(i), comments under subsection (2)(a)(ii) and objections under subsection (2)(e) may be made by any person.

[Section 16F inserted by No. 1 of 2005 s. 4; amended by No. 2 of 2005 s. 4(3).]

16G. Basis for division of the State into districts

- (1) For the purposes of this section the Commissioners shall divide the number of electors by the number of districts, and the result of that division is referred to as the “**average district enrolment**”.

- (2) The Commissioners shall divide the State into districts in accordance with the principle that, for each district, the number of electors that the district would have had at the relevant day must not be more than 10% greater, or more than 10% less, than the average district enrolment at the relevant day.
- (3) If a district has an area of 100 000 square kilometres or more, subsection (2) does not apply but the sum of —
- (a) the number of electors that the district would have had at the relevant day; and
 - (b) the large district allowance,
- must not be more than 10% greater, or more than 20% less, than the average district enrolment at the relevant day.
- (4) In subsection (3) —
- “large district allowance”** means 1.5% of the number of square kilometres in the area of the district.

[Section 16G inserted by No. 1 of 2005 s. 4.]

16H. Basis for division of the State into regions

- (1) The Commissioners shall divide the State into regions so that those regions generally reflect the recognised communities of interest and land use patterns in the State and so that —
- (a) 3 contiguous regions, to be known, respectively, as the North Metropolitan Region (being a region that is generally to the north of the Swan River), the South Metropolitan Region (being a region that is generally to the south of the Swan River) and the East Metropolitan Region (being a region that includes the hills and foothills of the Darling Escarpment) —
 - (i) each consist of approximately the same number of complete and contiguous districts; and
 - (ii) together form an area that is generally coextensive with the metropolitan area of Perth;

- (b) one region, to be known as the Mining and Pastoral Region, consists of complete and contiguous districts that together form an area that is remote from Perth and in which the land use is primarily for mining and pastoral purposes;
- (c) one region, to be known as the Agricultural Region, consists of complete and contiguous districts that together form an area that is generally south, or south and west, of and adjacent to the Mining and Pastoral Region and in which the land use is primarily for agricultural purposes; and
- (d) one region, to be known as the South West Region (being a region that includes coastal and forest areas in the south-west of the State), consists of complete and contiguous districts.

(2) In subsection (1) —

“metropolitan area of Perth” means the part of the State that comprises —

- (a) the region that was, as at the relevant day, described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*; and
- (b) Rottnest Island.

[Section 16H inserted by No. 1 of 2005 s. 4.]

16I. Matters to be considered in dividing the State into regions and districts

In making the division of the State into regions and districts the Commissioners shall give due consideration to —

- (a) community of interest;
- (b) land use patterns;
- (c) means of communication and distance from the capital;
- (d) physical features;
- (e) existing boundaries of regions and districts;

- (f) existing local government boundaries; and
- (g) the trend of demographic changes.

[Section 16I inserted by No. 1 of 2005 s. 4.]

16J. Power of Commissioners to modify boundaries of districts

In the exercise of the powers conferred on the Commissioners by this Part, the boundaries of the districts may be modified by the Commissioners by excising portions from them, or by adding other portions to them and the districts may be designated and redesignated.

[Section 16J inserted by No. 1 of 2005 s. 4.]

16K. Effect of notice dividing the State into districts and regions

On and by virtue of a notice being published in the *Gazette* under section 16F(2)(f), the division of the State by the Commissioners into districts and regions as set out in that notice takes effect and has the force of law and applies in respect of —

- (a) elections in districts held after the date of the publication of the notice other than elections held before the first general election for the Assembly held after that date; and
- (b) elections in regions held after the date of the publication of the notice other than elections held before the first general election for the Council held after that date,

unless and until a further division of the State into districts and regions takes effect under this section.

[Section 16K inserted by No. 1 of 2005 s. 4.]

16L. Transitional provisions

- (1) In this section —

“**previous electoral distribution**” means the division of the State into districts and regions for the election of members

of the Assembly and the Council that was in effect on 26 February 2005.

- (2) Despite the repeal of the *Electoral Distribution Act 1947* by section 8 of the *Electoral Amendment and Repeal Act 2005*, the previous electoral distribution continues to apply in respect of —
- (a) elections in districts held before the first general election for the Assembly held after the commencement of the *Electoral Amendment and Repeal Act 2005*;
 - (b) elections in regions held before the first general election for the Council held after the commencement of the *Electoral Amendment and Repeal Act 2005*; and
 - (c) the representation of electoral districts and electoral regions by members of the Assembly and the Council elected —
 - (i) before the commencement of the *Electoral Amendment and Repeal Act 2005*;
 - (ii) at elections referred to in paragraphs (a) and (b); or
 - (iii) under sections 156C and 156D before 22 May next following the first general election for the Council held after the commencement of the *Electoral Amendment and Repeal Act 2005*.

[Section 16L inserted by No. 1 of 2005 s. 4.]

16M. Absolute majorities required for Bills affecting one vote one value principle

- (1) A Bill that repeals or alters any of the provisions of this Part, other than Division 2, section 16G(3) or (4) or section 16L, shall not be presented for assent by or in the name of the Queen unless the second and third readings of the Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Council and the Assembly, respectively.

Electoral Act 1907

Part IIA Representation in Parliament

Division 3 Division of State into districts and regions

s. 16M

- (2) A Bill assented to consequent upon its presentation in contravention of subsection (1) shall be of no effect as an Act.

[Section 16M inserted by No. 1 of 2005 s. 4.]