

ELECTORAL DISTRICTS ACT

No. 9 of 1991

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Queensland



ANNO QUADRAGESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 9 of 1991

**An Act to make provision for the distribution of the State
into electoral districts**

[ASSENTED TO 15TH APRIL, 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART 1—PRELIMINARY

1.1 Short title. This Act may be cited as the *Electoral Districts Act 1990*.

1.2 Repeals. The following Acts are repealed:—

- *Electoral Districts Act 1985* (No. 37 of 1985);
- *Electoral Districts Act 1985* (No. 50 of 1985).

1.3 Termination of zones. On the commencement of this Act the zones of representation into which the State was divided by the *Electoral Districts Act 1985* cease to exist.

1.4 Interpretation. In this Act, except where the contrary appears—
“average district enrolment” means—

- (a) subject to paragraph (b), the number ascertained by dividing the number of electors enrolled for the State by the number of electoral districts into which the State is required by this Act to be distributed for the time being;
- (b) in a case where the number ascertained in accordance with paragraph (a) includes a fraction—the number so ascertained—
 - (i) reduced to the nearest whole number, if the fraction is less than one-half;
 - or
 - (ii) increased to the nearest whole number if the fraction is one-half or more;

“Commission” means the Electoral and Administrative Review Commission constituted under the *Electoral and Administrative Review Act 1989-1990*;

“existing Legislative Assembly” means the Legislative Assembly duly constituted before and subsisting at the time of the prescribed event;

“existing roll” means an existing roll within the meaning and for the purposes of the law of the State for the time being relating to elections for the Legislative Assembly;

“Minister” includes a Minister of the Crown for the time being performing the duties of the Minister;

“prescribed event” means the making of a distribution of the State into electoral districts under Part 3;

“quota” means the quota of electors determined in accordance with section 3.2.

1.5 Existing Legislative Assembly not affected by Act. (1) Nothing in, or done under, this Act affects the constitution, power or authority of the existing Legislative Assembly.

(2) Unless it is sooner dissolved by the Governor, the existing Legislative Assembly will continue for the term prescribed by law from the day named for the return of the writs for choosing it.

(3) Every member of the existing Legislative Assembly will continue to hold the seat for the electoral district represented by the member immediately before the prescribed event, unless—

- the member dies or resigns;
or
- the seat is otherwise vacated;
or
- the existing Legislative Assembly expires by effluxion of time, or is sooner dissolved.

(4) If a member of the existing Legislative Assembly dies or resigns, or the member's seat is otherwise vacated, before the expiration or sooner dissolution of the existing Legislative Assembly—

- (a) any writ issued for the purpose of filling the vacancy so caused is to be issued for the electoral district represented by the member as constituted immediately before the prescribed event;
and
- (b) the ensuing by-election is to be held for that electoral district.

(5) The roll of electors for the purposes of a by-election for an electoral district held in accordance with subsection (4) is the existing roll of electors, as it was immediately before the prescribed event, for the electoral district as constituted immediately before the prescribed event together with a roll of persons who, had the electoral district continued to be so constituted, would have been entitled under the law of the State for the time being relating to elections for the Legislative Assembly to be enrolled for the electoral district, subject to all alterations to such existing roll and roll of persons made in accordance with that law.

(6) The making of alterations to any roll referred to in subsection (5) that could have been made pursuant to the law of the State for the time being relating to elections for the Legislative Assembly if the prescribed event had not occurred is hereby authorised.

PART 2—DISTRIBUTION OF STATE INTO ELECTORAL DISTRICTS

2.1 Composition of Legislative Assembly. (1) The Legislative Assembly consists of 89 members.

(2) The State is to be distributed into 89 electoral districts in accordance with this Act.

(3) Each such electoral district is represented in the Legislative Assembly by one member.

2.2 Distribution. The State is to be distributed in accordance with this Act into the prescribed number of electoral districts before the expiration by effluxion of time, or sooner dissolution, of the existing Legislative Assembly.

2.3 Commission to conduct distribution. It is the duty of the Commission to make the first distribution of the State following the commencement of this Act into the prescribed number of electoral districts, in accordance with this Act.

PART 3—PROCEDURE FOR DISTRIBUTION

3.1 Suggestions and comments relating to distribution. (1) As soon as practicable after commencement of the distribution of the State, the Commission, by notice published in the Gazette, 2 newspapers circulating throughout the State, and such regional newspapers circulating in any part of the State as the Commission considers appropriate—

(a) is to invite suggestions relating to the distribution of the State to be lodged with it within the period of 30 days following publication of the notice in the Gazette;

and

(b) is to invite written comments relating to suggestions lodged with it pursuant to the notice referred to in paragraph (a), to be lodged with it within the period of 21 days following the expiry of the period referred to in that paragraph.

(2) Forthwith after expiry of the period referred to in subsection (1) (a), the Commission is to cause copies of all suggestions lodged with it pursuant to the notice referred to in that subsection to be made available for public perusal at the office of the Commission during ordinary office hours of the Commission, and copies of all or any of such suggestions to be made available for perusal at such other places in the State as the Commission considers appropriate.

(3) Forthwith after expiry of the period referred to in subsection (1) (b), the Commission is to cause copies of the comments lodged with it pursuant to the notice referred to in that subsection to be made available for public perusal at the office of the Commission during ordinary office hours of the Commission.

(4) The Commission is to consider all suggestions and comments lodged with it under subsection (1).

3.2 Quota. (1) For the purposes of the distribution of the State, the Commission, by notification published in the Gazette, is to determine in accordance with subsection (2) the quota of electors for the State.

(2) The quota of electors is to be determined by dividing the number of electors enrolled for the State at the expiry of the period of

21 days referred to in section 3.1 (1) (b), as nearly as can be ascertained, by the prescribed number of members of the Legislative Assembly, and, if the quotient so obtained includes a fraction—

- (a) by reducing the quotient to the nearest whole number, if the fraction is less than one-half;
- or
- (b) by increasing the quotient to the nearest whole number, if the fraction is one-half or more.

(3) For the purpose of determining the quota the roll under and within the meaning of the *Commonwealth Electoral Act 1918*, as amended and for the time being in force, is to be used for ascertaining the number of electors enrolled for the State.

3.3 Proposed distribution to be prepared. (1) The Commission is to prepare, in accordance with subsection (2), a proposed distribution of the State that gives effect to section 2.1 (2).

(2) The quota of electors determined under section 3.2 is to be the basis for the proposed distribution.

The Commission may adopt a margin of allowance, to be used whenever the Commission considers it necessary, but, except as permitted by subsection (3), the quota must not be departed from to an extent greater than one-tenth more or one-tenth less.

(3) If in any case a proposed electoral district is at least 100,000 square kilometres in area, the quota may be departed from in that case to an extent greater than one-tenth less if the number of electors for that proposed electoral district is such that the sum of—

- the number of electors;
- and
- a number that expresses the value of 2 per centum of the area of the proposed electoral district expressed in square kilometres, rounded up or down, in the case of a fraction, in the manner prescribed by section 3.2 (2) in relation to the quota;

equals the quota or conforms to the margin of allowance permitted to the Commission by subsection (2).

(4) In preparing a proposed distribution of the State, the Commission, subject to subsections (2) and (3), is to consider, in relation to each proposed electoral district, the following matters:—

- (a) community of interests within the proposed electoral district—including economic, social and regional interests;
- and
- (b) means of communication and travel within the proposed electoral district;
- and
- (c) the physical features of the proposed electoral district;
- and

(d) demographic trends in the State with a view to ensuring, as far as practicable, on the basis of those trends, that the number of electors enrolled for the time being for the electoral district will remain—

- in the case of an electoral district such as referred to in subsection (3) in respect of which the Commission proposes to act under that subsection, within a margin of one-tenth more or one-tenth less of the number of electors accepted by the Commission for that electoral district in preparing the proposed distribution of the State;
- in the case of any other electoral district, within a margin of one-tenth more or one-tenth less of the average district enrolment;

until the State is again distributed into electoral districts in accordance with law.

(5) The Commission may give such weight to each of the matters mentioned in subsection (4) as it considers appropriate.

3.4 Reasons for proposed distribution. (1) The Commission is to state, in writing, its reasons for the proposed distribution prepared by it.

(2) A member of the Commission who disagrees with the proposed distribution in any respect is to state, in writing, the reasons for such disagreement.

3.5 Notice of proposed distribution. (1) As soon as practicable after the Commission has prepared the proposed distribution, the Commission is to comply with this section.

(2) The Commission is to cause a map or maps showing the names and boundaries of each proposed electoral district in the State to be exhibited for public perusal at the office of the Commission during ordinary office hours of the Commission.

One such map may be prepared in relation to all, or 2 or more, proposed electoral districts.

(3) The Commission is to cause to be conspicuously exhibited—

- at some place to which the public has access;
- and
- at such other places as the Commission considers appropriate;

in each proposed electoral district a copy of a map showing the boundaries of that proposed electoral district.

(4) The Commission is to cause copies of—

- the descriptions of the boundaries of each proposed electoral district;
- its reasons for the proposed distribution;

- reasons for disagreement with the proposed distribution that have been stated in writing by any member of the Commission;

to be made available for public perusal at the office of the Commission during ordinary office hours of the Commission and at such other places in the State as the Commission considers appropriate.

(5) By notice published in—

- the Gazette;
- and
- 2 newspapers circulating throughout the State;
- and
- such regional newspapers circulating in any part of the State as the Commission considers appropriate;

the Commission is to invite public attention to the exhibition of the map or maps referred to in subsection (2) or (3) and the availability for public perusal as prescribed of copies of the descriptions and reasons referred to in subsection (4).

A notice published in the Gazette or in a newspaper circulating throughout the State must be accompanied by a map, or maps, showing the names and boundaries of all proposed electoral districts in the State.

A notice published in a regional newspaper must be accompanied by a map, or maps, showing the names and boundaries of all proposed electoral districts in the part of the State in which the newspaper circulates.

(6) A notice published pursuant to subsection (5) must include a statement to the effect that any person, or association of persons, may—

- in the case of a notice published in the Gazette—within 30 days following such publication of the notice;
- or
- in the case of a notice published in a newspaper—within 30 days following the date of publication of the notice in the Gazette;

lodge with the Commission a written objection against the proposed distribution.

(7) At any time before publication of a notice pursuant to subsection (5), the Commission may (by issuing a statement to the media or otherwise) make publicly known the outline of its proposed distribution of the State.

3.6 Commission to consider objections. (1) If, within the period of 30 days referred to in section 3.5 there is lodged with the Commission an objection, which raises matter that, in the Commission's opinion, is not the same, or substantially the same, as the matter raised by any suggestion or comment lodged with the Commission pursuant to notice published under section 3.1, the Commission is to consider that objection.

The Commission is authorized to disregard any such objection—

- (a) that is lodged with it after the expiry of the aforesaid period of 30 days;
- or
- (b) that it considers to be frivolous or vexatious.

(2) If, within the period of 10 days after the period of 30 days referred to in subsection (1), written comments are lodged with the Commission in relation to an objection that the Commission is required to consider, the Commission is also to consider those comments.

3.7 Making of distribution. (1) As soon as practicable after, and before the expiry of the period of 60 days following, the expiry of the period of 30 days referred to in section 3.5, the Commission is to perform the duty prescribed by section 2.3, by determining, by notification published in the Gazette, the names and boundaries of the electoral districts into which the State is thereby distributed.

The electoral districts so notified are the electoral districts in the State until the State is again distributed into electoral districts in accordance with law.

(2) In making its determination under subsection (1) the Commission is to comply with sections 3.3 and 3.5 (2) and (3) as if its determination were the preparation of a proposed distribution.

3.8 Reasons for determination. The Commission is to state, in writing, its reasons for the determination made by it under section 3.7 and a member of the Commission who disagrees with the determination is to state, in writing, the reasons for such disagreement.

3.9 Documents to be given to Minister and tabled. (1) As soon as practicable after its determination under section 3.7 is made, the Commission is to give to the Minister a copy of—

- (a) the suggestions and comments relating to the distribution of the State lodged with the Commission pursuant to notice published under section 3.1;
- (b) the proposed distribution prepared by the Commission and the reasons therefor;
- (c) if a member of the Commission has stated, in writing, reasons for the member's disagreement with the proposed distribution—those reasons;
- (d) the objections against the proposed distribution lodged with the Commission pursuant to invitation published under section 3.5;
- (e) the written comments lodged with the Commission in relation to an objection mentioned in paragraph (d);
- (f) the Commission's determination made under section 3.7 and the reasons therefor;

- (g) if a member of the Commission has stated, in writing, reasons for the member's disagreement with the determination—those reasons.

(2) The Minister is to cause a copy of the material given to the Minister under subsection (1) to be laid before the Legislative Assembly within 5 sitting days after receipt of the material by the Minister.

3.10 Ancillary powers and duties of Commission. (1) In making the distribution of the State into electoral districts the Commission is to be taken as making an investigation for the purposes of the *Electoral and Administrative Review Act 1989-1990* and accordingly—

- (a) the Commission may conduct such public hearings as it considers to be appropriate;
- (b) subject to subsection (2), the Commission, and a member of the Commission, may exercise such powers, and is subject to such duties, conferred or imposed on the Commission or a Commissioner by that Act as are capable of application to the making of the distribution;
- (c) subject to subsection (2), such provisions of that Act as are capable of application to the making of the distribution apply with all necessary adaptations.

(2) The making of the distribution of the State into electoral districts is not a matter in relation to which the Commission is required by the *Electoral and Administrative Review Act 1989-1990* to report, and any or all of the following:—

- notification of the names and boundaries of electoral districts published under section 3.7 (1);
- material given to the Minister under section 3.9 (1);
- any writing of the Commission, or a Commissioner, relating to the distribution;

taken separately or in conjunction, does not constitute a report of the Commission to which the provisions of section 2.13 or Part V of that Act apply.

PART 4—GENERAL PROVISIONS

4.1 Duty to assist Commission. The Principal Electoral Officer of the State, on request by the Commission—

- (a) is to supply the Commission with all such information;
- (b) is to provide the Commission with all such assistance;

as the Commission requires for the purposes of this Act.

4.2 Electoral rolls to be compiled. (1) The Principal Electoral Officer of the State is to compile a roll of electors for each electoral district determined under this Act, and to that end may issue such orders and give such directions as that officer considers necessary or expedient for the purpose.

Such orders and directions have the force of law and are to be complied with.

(2) For each electoral district determined under this Act there is to be a roll of electors compiled under and in accordance with the provisions of the law of the State for the time being relating to elections for the Legislative Assembly, which provisions extend and apply to such rolls subject to this section.

(3) The roll of electors for an electoral district determined under this Act first compiled after such determination must contain the names of electors registered as living in that electoral district on the date of notification of such determination in the Gazette.

(4) The roll of electors for an electoral district compiled pursuant to this section, together with the supplemental roll (if any) of electors for that electoral district is the existing roll of electors for that electoral district until a new roll of electors for that electoral district is substituted therefor in accordance with law.

This subsection is subject to section 1.5 (5).

4.3 Improper influence an offence. A person is not to influence, or attempt to influence, a member of the Commission in the performance of the member's duties under this Act, unless the person does so by means prescribed.

Penalty: 35 penalty units, or imprisonment for 12 months, or both.

4.4 Proceedings for offence. (1) Proceedings for an offence against this Act may be taken in a summary way under the *Justice Act 1886-1989* on the complaint of a person authorized for the purpose by the Minister.

(2) The description of the complainant in a complaint of an offence against this Act as authorized by the Minister to lay the complaint is sufficient proof of such authority in the absence of evidence to the contrary.

4.5 Appeals against determination of Commission etc. (1) A person who is entitled to vote at an election of members of the Legislative Assembly may appeal to the Full Court of the Supreme Court against a determination made by the Commission under section 3.7 (1), on the ground that the determination has not been duly made in accordance with this Act.

(2) The appeal must be made:

(a) within 21 days of the publication of the determination in the Gazette;

and

(b) in the manner prescribed by the Rules of the Supreme Court.

(3) The Commission is the respondent to the appeal.

(4) If more than one appeal is instituted against the determination, every appeal may be dealt with in the same proceedings.

(5) Any person having an interest in the appeal may apply to the Court to be joined as a party to the appeal.

(6) If an appeal is instituted under this section, the determination does not take effect until the appeal has been disposed of by the Court.

(7) On the hearing of an appeal under this section, the Court may, in its discretion—

(a) quash the determination and, subject to such directions as it thinks fit, order the Commission to make a fresh determination under section 3.7 (1); or

(b) dismiss the appeal;

and may make any ancillary order as to costs or any other matter that it thinks expedient.

(8) The validity of the determination may only be called in question in an appeal under this section.

(9) An appeal against the determination is to be set down for hearing by the Court as soon as practicable after the expiry of 21 days from the publication of the determination in the Gazette, and is to be heard and determined by the Court as a matter of urgency.

(10) Except as provided in this section, a decision or determination made, or appearing to have been made by the Commission, or any member of the Commission, under or for the purposes of this Act—

(a) is final and conclusive; and

(b) cannot be challenged, appealed against, reviewed, quashed, set-aside or otherwise called in question in any court or tribunal on any ground; and

(c) is not subject to mandamus, prohibition, certiorari, injunction or any declaratory or other order of any court on any ground.

(11) A reference in subsection (10) to a decision includes reference to a refusal or failure to make a decision.

Minister's Second Reading Speech made on 14 March 1991.