

Version No. 011
Electoral Boundaries Commission Act 1982

Act No. 9801/1982

Version incorporating amendments as at 9 October 1997

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An Act to establish an Electoral Commission for dividing the State of Victoria from time to time into Electoral Provinces for the Legislative Council and Electoral Districts for the Legislative Assembly.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

1. *Short title*

This Act may be cited as the **Electoral Boundaries Commission Act 1982**.¹

S. 1
amended by
No. 75/1988
s. 7(1).

2. *Definitions*

In this Act unless inconsistent with the context or subject-matter—

"Commission" means the Electoral Boundaries Commission² constituted under this Act;

S. 2 def. of
"Comm-
ission"
amended by
No. 75/1988
s. 7(5).

"district" means electoral district for the Legislative Assembly;

"province" means electoral province for the Legislative Council.

3. *Establishment of Electoral Boundaries Commission*

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S. 3(1)
amended by
No. 75/1988
s. 7(5).

(1) For the purposes of this Act there shall be an Electoral Boundaries Commission³ constituted as provided in sub-section (2).

S. 3(2)
amended by
No. 75/1988
s. 7(5).

(2) The Electoral Boundaries Commission shall consist of three persons of whom—

(a) one, who shall be chairman, shall be the Chief Judge of the County Court or his duly appointed nominee;

S. 3(2)(b)
amended by
No. 75/1988
s. 4(3).

(b) one shall be the Electoral Commissioner for the time being; and

(c) one shall be the Surveyor-General for the time being.

4. *Tenure of Office of Electoral Commissioner and Surveyor-General*

S. 4(1)
amended by
No. 75/1988
s. 4(3).

(1) The Electoral Commissioner and the Surveyor-General shall hold office during good behaviour and may be suspended from office by the Governor in Council, but shall not be removed from office except as hereinafter provided.

S. 4(2)
amended by
No. 75/1988
s. 4(3).

(2) The Minister shall cause to be laid before both Houses of Parliament a full statement of the grounds of any suspension of the Electoral Commissioner or the Surveyor-General within seven days after such suspension if Parliament is then sitting, or if not then sitting within seven days after the next sitting of Parliament.

S. 4(3)
amended by
No. 75/1988
s. 4(3).

(3) The Electoral Commissioner or the Surveyor-General so suspended shall be restored to office by the Governor in Council unless each House of Parliament within forty-two days after the day when such statement is laid before it and in the same session severally declares by resolution that he ought to be removed from office; and if each House within the said time so declares the Electoral Commissioner or the Surveyor-General

shall be removed by the Governor in Council accordingly.

* * * * *

S. 4(4)(5) amended by No. 75/1988 s. 4(3), repealed by No. 42/1995 s. 224(Sch. 2 item 12).

- (6) The Electoral Commissioner and the Surveyor-General shall cease to hold their office if they become bankrupt or apply to take the benefit of any law for the relief of bankrupt debtors or compound with their creditors or make an assignment of their property for their benefit or a deed of arrangement under any law relating to bankruptcy.

S. 4(6) amended by No. 75/1988 s. 4(3).

5. Function of Commission

- (1) Subject to and in accordance with the provisions of this Act the function of the Commission shall be to divide the State of Victoria into electoral provinces 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 provinces of approximately equal enrolment and electoral districts of approximately equal enrolment and to determine the boundaries thereof.

- (2) ⁴Subject to and in accordance with section 27 and section 35 of the **Constitution Act 1975** the Commission shall divide Victoria into provinces and districts.

S. 5(2) substituted by No. 9894 s. 2(1).

- (3) Notwithstanding the foregoing provisions of this section the Commission shall not be required to undertake a redivision of the State of Victoria after the Commission has divided the State into

electoral provinces and electoral districts pursuant to the provisions of this Act unless the number of electors enrolled for the provinces or districts do not comply to a substantial extent with the requirements of this Act with respect to approximate equal enrolment.

6. *Assignment of Judge to Commission*

The Chief Judge of the County Court may by writing signed by him assign a Judge of the County Court to be a member of the Commission in his stead either generally or for a specified period or periods.

7. *Chairman and quorum*

- (1) At all meetings of the Commission the chairman, if present, shall preside and in his absence the members present shall appoint one of their number to preside.
- (2) Two members of the Commission shall constitute a quorum of the Commission and shall have full power to act.

8. *Meetings*

- (1) The Commission shall meet as often as it considers necessary for carrying out its functions under this Act but shall meet at intervals of not more than two years after the holding of general elections for the Legislative Assembly and periodical elections for the Legislative Council.
- (2) The Commission shall meet at such times and in such places as the Commission from time to time determines or as the chairman appoints and notifies to the Commissioners.

9. *Factors to be taken into account by Commissioners*

- (1) In making any division of electors and in determining the number of electors to be allocated
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to a province or district the Commissioners shall give due consideration to—

- (a) area and physical features of terrain;
 - (b) means of travel, traffic arteries, and communications and any special difficulties in connection therewith;
 - (c) community or diversity of interests; and
 - (d) the likelihood of changes in the number of electors in the various localities.
- (2) For the purposes of this Act the Commission may take electoral provinces or electoral districts to be of approximately equal enrolment where the enrolment for each province or district does not vary by more than 10 per centum from the average enrolment of all provinces or districts (as the case requires).

10. *Submissions and reports*

- (1) In the course of its deliberations the Commission shall invite submissions from the public and may obtain such reports and make such inspections as it thinks necessary and may call such persons having special knowledge before the Commission as it thinks necessary.
- (2) A person shall be entitled to make submissions to the Commission in writing or, by leave of the Commission, orally.
- (3) Where the Commission hears oral submissions the Commission shall hear them in public and cause them to be recorded and a transcript to be made thereof which shall be taken to be a public document as described in this section.
- (4) Each submission made in response to such invitation shall be deemed to be a public document and the same or a copy thereof and a

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s. 10B

transcript or copy of a transcript of any oral submission shall be open for inspection at the office of the Commission at all times during its normal office hours until the expiration of three months after the statement, particulars and maps referred to in section 11 shall have first been laid before Parliament.

- (5) Every person who obstructs or endeavours to influence a member of the Commission in the performance of his duties or the exercise of his discretion under this Act otherwise than by way of a submission pursuant to sub-section (1) shall be guilty of an offence.

Penalty: \$5000.

- (6) Any person convicted of any offence against sub-section (5) shall be disqualified from being elected to or holding office as a member of the Parliament of Victoria during a period of three years after the date of such conviction.

S. 10(6)
amended by
No. 9894 s. 3.

S. 10A
inserted by
No. 9894 s. 4,
amended by
No. 12/1989
s. 4(1)(Sch. 2
items 32.1,
32.2).

10A. *Map to be exhibited*

Before forwarding to the Minister a statement of the division of electors agreed upon together with other particulars referred to in section 11, the Commissioners shall cause a map of the boundaries of each proposed electoral province, showing the proposed electoral districts contained therein, to be exhibited at the municipal office of every municipal council within the meaning of the **Local Government Act 1989** in the proposed electoral province and invite public attention to that map by advertisement published in the Government Gazette and in two newspapers circulating throughout the proposed electoral province.

S. 10B
inserted by
No. 9894 s. 4.

10B. *Objections*

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Suggestions or objections in writing concerning a proposed electoral province or proposed electoral district may be lodged with the Commissioners not later than 30 days after the advertisement in the Government Gazette referred to in the last preceding section, and the Commissioners shall consider all suggestions and objections so lodged before forwarding their statement to the Minister.

11. *Commissioners to forward statement of division etc. to Minister*

S. 11
amended by
No. 9894 s. 5.

The Commissioners shall, immediately after the expiration of the period of 30 days referred to in section 10B, consider any suggestions or objections which have been lodged pursuant to section 10B and where the Commissioners are agreed upon an electoral division the Commissioners shall forward to the Minister a statement of the division of electors agreed upon together with particulars of the number of electors residing in each electoral province or electoral district respectively as nearly as can be ascertained and maps signed by the Commissioners showing the name and boundaries of each electoral province and electoral district.

12. *Deposit of statement etc. in Central Plan Office etc.*

(1) Within fourteen days after receiving any statement, particulars, and maps referred to in section 11 the Minister shall cause a copy thereof—

(a) to be deposited in the Central Plan Office of the Department of Property and Services;

S. 12(1)(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 15.1).

(b) to be forwarded to the Electoral Commissioner;

S. 12(1)(b)
amended by
No. 75/1988
s. 4(3).

(c) to be laid before each House of Parliament if

Parliament is then sitting; and

(d) to be forwarded to each member of Parliament.

(2) If Parliament is not sitting at the time referred to in sub-section (1) the Minister shall cause a copy of the statement, particulars, and maps to be laid before each House of Parliament within fourteen days after the next meeting of Parliament.

13. *Notice of deposit of statement of division*

S. 13(1)
amended by
No. 41/1987
s. 103(Sch. 4
item 15.2).

(1) Within fourteen days after any statement, particulars, and maps are deposited in the Central Plan Office pursuant to the provisions of section 12 the Director-General of Conservation, Forests and Lands shall cause to be published in the Government Gazette notice of the fact thereof and of the day upon which they were so deposited.

(2) A notice under sub-section (1) shall also specify the days and hours when a copy of the statement, particulars, and maps may be inspected by members of the public.

14. *Commencement of province divisions*

S. 14
substituted by
No. 9894 s. 6,
amended by
No. 75/1988
s. 4(3).

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 provinces for the Legislative Council set forth in the statement of the Commissioners deposited in the Central Plan Office shall be published in the Government Gazette by the Electoral Commissioner and on the day on which writs are next issued for a general election or a periodical election for the Legislative Council (whichever first occurs) the names and boundaries of electoral provinces so published shall be 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**.

15. Commencement of district divisions

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 districts for the Legislative Assembly set forth in the statement of the Commissioners deposited in the Central Plan Office shall be published in the Government Gazette by the Electoral Commissioner and on the day on which a dissolution or other lawful determination of the Legislative Assembly next occurs the names and boundaries of electoral districts so published shall be deemed to be substituted for the names and boundaries of the electoral districts previously published in the Government Gazette under section 35 of the **Constitution Act 1975**.

S. 15 substituted by No. 9894 s. 6, amended by No. 75/1988 s. 4(3).

16. Effect of division upon Members of Legislative Council

- (1) Where a periodical election of members of the Legislative Council next occurs after a division of electors under this Act the division shall not affect those members of the Legislative Council who are not due to retire before that election but each such member shall be entitled to sit and vote as though that division of electors under this Act had not been made.
- (2) Where, after the day notified in the Government Gazette under section 13 in relation to a division of electors, the seat of a member for a province (in this Act called "the old province") the name and boundaries of which had been declared before that division in the Government Gazette in accordance with section 27 of the **Constitution Act 1975** and

S. 16 amended by No. 9894 s. 7(a)(b).

S. 16(2) inserted by No. 9894 s. 7(b).

which was existing immediately before that division becomes vacant otherwise than by a general dissolution of the Legislative Council or by his retirement due to effluxion of time a writ shall be issued for the election of one member of the Legislative Council to fill, and one member of the Legislative Council shall be elected by the electors of the old province to fill, the place of such member and such member so elected shall, subject to the **Constitution Act 1975**, be entitled to hold such seat during the unexpired portion of the period for which his predecessor was elected.

S. 16A
inserted by
No. 9894 s. 8.

16A. *Effect on election of Assembly members*

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 district which was existing immediately before that division becomes vacant, that division shall not affect any election of a member of the Assembly to serve in the place of that member, and for the purposes of any such election the electoral districts as theretofore existing and the electoral rolls in respect thereof shall continue to have full force and effect.

17. *Preparation of rolls*

S. 17(1)
amended by
No. 75/1988
s. 4(3).

- (1) As soon as practicable after he receives a copy of any statement of division of electors under this Act the Electoral Commissioner shall cause new electoral rolls to be prepared in accordance with The **Constitution Act Amendment Act 1958** for the new electoral provinces and electoral districts.
- (2) For the purpose of the preparation of the new electoral rolls the Governor in Council may by

proclamation published in the Government Gazette—

- (a) divide any electoral province or electoral district into subdivisions;
 - (b) specify the boundaries and names of subdivisions so proclaimed; and
 - (c) alter the boundaries and name of any subdivision so proclaimed.
- (3) Notwithstanding anything to the contrary in any other Act the Governor in Council may—
- (a) by Order give such directions or provide for any matters or things as appear necessary or expedient for the preparation of the new electoral rolls or for carrying into effect any of the provisions of this Act;
 - (b) modify any provision of any proclamation Order in Council or regulation so far as appears necessary or expedient to give effect to any direction or Order under this section.

S. 17(2)(a)
amended by
No. 9894 s. 9.

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NOTES

1. General Information

The **Electoral Boundaries Commission Act 1982** was assented to on 23 November 1982 and came into operation on 23 November 1982.

The name of this Act was changed from the **Electoral Commission Act 1982** to the **Electoral Boundaries Commission Act 1982** by section 7(1) of **The Constitution Act Amendment (Electoral Reform) Act 1988**, No. 75/1988.

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Electoral Boundaries Commission Act 1982** by Acts and subordinate instruments.

Electoral Commission (Amendment) Act 1983, No. 9894/1983

Assent Date: 31.5.83
Commencement Date: 31.5.83: s. 1(3)
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987

Assent Date: 19.5.87
Commencement Date: S. 103(Sch. 4 item 15.1) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the **Electoral Boundaries Commission Act 1982**

The Constitution Act Amendment (Electoral Reform) Act 1988, No. 75/1988

Assent Date: 15.12.88
Commencement Date: 1.1.89: s. 2
Current State: All of Act in operation

Local Government (Consequential Provisions) Act 1989, No. 12/1989

Assent Date: 9.5.89
Commencement Date: S. 4(1)(Sch. 2 items 32.1, 32.2) on 1.11.89: Government Gazette 1.11.89 p. 2798
Current State: This information relates only to the provision/s amending the **Electoral Boundaries Commission Act 1982**

Equal Opportunity Act 1995, No. 42/1995

Assent Date: 14.6.95
Commencement Date: S. 224(Sch. 2 item 12) on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the **Electoral Boundaries Commission Act 1982**

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3. Explanatory Details

¹ S. 1: Section 7(2)(3) of **The Constitution Act Amendment (Electoral Reform) Act 1988**, No. 75/1988 reads as follows:

7. Change of name of Electoral Commission

- (2) Any reference in any Act or subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** to—
- (a) the **Electoral Commission Act 1982** is to be construed as a reference to the **Electoral Boundaries Commission Act 1982**; and
 - (b) the Electoral Commission is to be construed as a reference to the Electoral Boundaries Commission.
- (3) The Electoral Boundaries Commission is the same body as the Electoral Commission and no act, matter or thing is in any way abated or affected by reason of the change of name.

² S. 2: See note 1.

³ S. 3: See note 1.

⁴ S. 5(2): Section 2(2) of the **Electoral Commission (Amendment) Act 1983**, No. 9894/1983 reads as follows:

2. Amendment of No. 9801 s. 5(2)

- (2) For the first division made under the **Electoral Commission Act 1982** each of the 22 provinces shall consist of four complete and contiguous districts and the Legislative Assembly shall consist of 88 districts.