

LEGISLATIVE COUNCIL ORDINANCE 1951.<sup>(1)</sup>

No. 28 of 1951.

**An Ordinance to provide for the Election of Members to the Legislative Council, and for other purposes.**

**B**E it ordained by the Administrator of the Government of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1950*, as follows:—

**Citation.** 1. This Ordinance may be cited as the *Legislative Council Ordinance 1951*.<sup>(1)</sup>

**Commencement.** 2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice<sup>(1)</sup> in the *Gazette*.

**Definitions.** 3. In this Ordinance, unless the contrary intention appears—

- “candidate” means a candidate for election as a member of the Legislative Council;
- “elector” means a person whose name appears on a roll as an elector;
- “electorate” means an electorate established under this Ordinance;
- “member” means a member of the Legislative Council;
- “roll” means a roll containing the names of persons entitled to vote at elections of members;
- “the Legislative Council” means the Legislative Council for the Territory;
- “the Regulations” means the Regulations made under this Ordinance;
- “this Ordinance” includes the Regulations.

**Electorates.** 4.—(1.) For the purposes of the election of members to the Legislative Council, the Territory is divided into three electorates as follows:—

(a) The Papua Electorate, comprising the whole of the Territory of Papua;

(1) Particulars of this Ordinance are as follows:—

Date on which made by Cwith. Administrator in Council.	Date on which notified in <i>Cwith. Gaz.</i>	Date on which took effect.
5.9.1951	13.9.1951	18.9.1951 ( <i>Papua and N.G. Govt. Gaz.</i> of 18.9.1951)

- (b) The New Guinea Mainland Electorate, comprising the Districts of Morobe, Madang, Sepik, Western Highlands and Eastern Highlands of the Territory of New Guinea; and
- (c) The New Guinea Islands Electorate, comprising the Districts of Manus, New Ireland, New Britain and Bougainville of the Territory of New Guinea.

(2.) One member shall be elected to represent each of the electorates referred to in the last preceding sub-section.

5.—(1.) Subject to this section, an election under the provisions of this Ordinance shall be held on a date to be fixed by the Administrator by notice published in the *Gazette*. Elections,  
when held.

(2.) The day fixed for an election shall be a Saturday, and shall not be less than six weeks after the publication of the notice referred to in the last preceding sub-section.

(3.) General elections (other than the first) shall be held at intervals not exceeding three years from the date of the last preceding general election.

(4.) An election for the purpose of filling a vacancy in the office of an elected member before the expiration of his term of office shall, subject to section thirty-eight of the Act, be held within three months of the date on which the vacancy occurs.

6.—(1.) The Administrator shall, for each electorate, appoint a Returning Officer, who shall be charged with the duty of giving effect to this Ordinance within his electorate. Returning  
Officers.

(2.) A Returning Officer may appoint Assistant Returning Officers to exercise within or for a portion of an electorate, subject to the control of the Returning Officer, such of the powers of a Returning Officer as he is authorized by the Returning Officer to perform.

7.—(1.) Each Returning Officer shall keep, in the prescribed manner, a roll of the names of persons who are entitled, and have applied as prescribed, to have their names entered upon the roll for his electorate. Rolls.

(2.) Where a Returning Officer receives an application for enrolment after six o'clock in the afternoon of the fourteenth day next following the publication of the notice fixing the date for holding an election, he shall not enter the applicant's name upon the roll until after the close of the polling at that election.

(3.) The roll of electors for each electorate shall be kept at the following places:—

- (a) In respect of the Papua Electorate, at the office of the Government Secretary;

PART A : ADMINISTRATION AND GOVERNMENT—

- (b) In respect of the New Guinea Mainland Electorate, at the office of the District Commissioner for the District of Morobe;
- (c) In respect of the New Guinea Islands Electorate, at the office of the District Commissioner for the District of New Britain.

(4.) Rolls shall be printed at such times as the Administrator directs.

(5.) Copies of the latest print of the rolls shall be kept at the office of the Returning Officer for each electorate and at the offices of the District Commissioners within each electorate, and may be inspected without fee by any person during the ordinary hours of business of those offices.

Persons  
entitled to  
enrolment and  
to vote.

8.—(1.) Every person resident in the Territory, not being a native or an alien as defined in section five of the *Nationality and Citizenship Act* 1948-1950, and who—

- (a) is not under the age of twenty-one years; and
- (b) has continuously resided in the Territory for at least twelve months immediately preceding the date of his application for enrolment,

is entitled to enrolment as an elector.

(2.) For the purpose of paragraph (b) of the last preceding sub-section, the temporary absence from the Territory of a bona fide resident of the Territory does not affect the continuity of his residence.

(3.) A person who—

- (a) is entitled to vote at elections of members of the Senate and House of Representatives of the Parliament of the Commonwealth;
- (b) has been convicted and is under sentence or subject to be sentenced for an offence punishable under the law of the Commonwealth or of a State or Territory under the authority of the Commonwealth, by imprisonment for one year or longer; or
- (c) is of unsound mind,

is not entitled to have his name placed on or retained on a roll.

(4.) A person is not entitled to have his name entered—

- (a) upon more than one roll; or
- (b) except in respect of enrolment for the first election, upon a roll for an electorate in which he has not resided for a period of at least one month immediately preceding the date of his application for enrolment.

(5.) A person whose name is on the roll for an electorate is, subject to this Ordinance, entitled to vote at elections of a member for that electorate.

**9. A person—**

Appeal to  
Administrator.

(a) who has sent or delivered to a Returning Officer an application for enrolment, and who has not been enrolled accordingly; or

(b) whose name has been removed from a roll,

may make application to the Administrator for an order directing that his name be enrolled or reinstated on the roll, as the case requires.

**10.** Voting for the election of members shall be by secret ballot and shall be according to the preferential system, as prescribed.

Voting at  
elections.

**11.—(1.)** Subject to sections thirty-six and thirty-seven of the Act, a person who—

Qualifications  
of members.

(a) is an elector;

(b) has continuously resided in the Territory during the three years immediately preceding the lodging of his nomination as a candidate; and

(c) is not an officer or employee of the Public Service of the Territory or of the Commonwealth or an officer or employee of an instrumentality of the Administration or of the Commonwealth,

is qualified for election as a member of the Legislative Council.

(2.) For the purpose of paragraph (b) of the last preceding sub-section, the temporary absence from the Territory of a bona fide resident of the Territory does not affect the continuity of his residence.

**12.** Within twenty-one days after the publication of the notice fixing the date for an election in pursuance of section five of this Ordinance, a person desiring to present himself as a candidate for that election shall lodge with the Returning Officer for the electorate for which he is seeking election, a nomination in the prescribed form signed by at least six electors of that electorate.

Nomination of  
candidates.

**13.—(1.)** As soon as practicable after the expiration of twenty-one days from the publication of the notice fixing the date for an election in pursuance of section five of this Ordinance, the Returning Officer for each electorate shall cause to be published in the *Gazette* the names, addresses and occupations of the persons nominated for election.

Names of  
candidates to  
be published.

(2.) If only one person is nominated as a candidate for an electorate, that person shall be deemed to be elected as the member for that electorate.

**14.—(1.)** A candidate for election as a member shall lodge with the Returning Officer a deposit of Twenty-five pounds.

Deposit by  
candidates.



PART A : ADMINISTRATION AND GOVERNMENT—

(2.) If the total number of first preference votes polled by a candidate for an electorate is less than one-sixth of the total number of first preference votes polled by the successful candidate, he shall forfeit his deposit to the Administration.

**Ballot-papers.** 15. If more than one person has been nominated as a candidate for an electorate, the Returning Officer of the electorate shall cause to be printed ballot-papers containing the following particulars:—

- (a) the name of the electorate;
- (b) the names of the candidates in alphabetical order; and
- (c) such directions for marking the ballot-paper as are prescribed.

**Times and places of voting.**

16. Voting for election of members shall take place between the hours of eight o'clock in the morning and six o'clock in the afternoon at such polling places in each electorate as the Administrator, by notice in the *Gazette*, appoints.

**Returning Officer to make arrangements for poll.**

17. The Returning Officer for each electorate shall make all necessary arrangements for taking the poll and in particular shall—

- (a) appoint a presiding officer to preside at each polling place and all necessary assistant presiding officers, poll clerks and doorkeepers;
- (b) provide proper polling-booths and ballot-boxes; and
- (c) provide ballot-papers and all necessary lists of electors.

**The polling.**

18.—(1.) An elector may vote at any polling place in the electorate for which he is enrolled.

(2.) An elector attending at a polling place shall be supplied with a ballot-paper by the presiding officer and shall record his vote in the prescribed manner.

(3.) A candidate shall not, during the hours prescribed for voting at an election, enter a polling booth except for the purpose of recording his own vote.

Penalty: Fifty pounds.

(4.) A person other than—

- (a) a Returning Officer or Assistant Returning Officer;
- (b) a presiding officer, assistant presiding officer, poll clerk or doorkeeper;
- (c) a scrutineer appointed by a candidate; and
- (d) an elector wishing to record his vote,

shall not, during the hours prescribed for voting at an election, enter a polling booth or remain within twenty yards thereof, except with the permission of the presiding officer.

Penalty: Fifty pounds.

(5.) A Returning Officer shall not, except to exercise a casting vote as prescribed, vote at an election.

Penalty: Fifty pounds.

(6.) An elector shall not vote more than once at an election.

Penalty: Fifty pounds.

**19. An elector who—**

Postal voting.

(a) will not throughout the hours of polling on the day fixed for an election—

(i) be within the Territory; or

(ii) be within ten miles by the nearest practicable route of a polling place in the electorate for which he is enrolled; or

(b) is seriously ill or infirm, and by reason of that illness or infirmity will be precluded from attending at a polling place to vote, or, in the case of a woman, will be precluded by approaching maternity from attending at a polling place to vote,

may, subject to such conditions and in such manner as are prescribed, record a postal vote.

**20.—(1.)** The result of the polling shall be ascertained by scrutiny.

(2.) The scrutiny shall be carried out in the manner prescribed.

**21.—(1.)** Each candidate may appoint one scrutineer to represent him at each polling booth or other place at which the scrutiny is being conducted.

(2.) The appointment of a scrutineer shall—

(a) be made by notice in writing or by telegram addressed to the Returning Officer or presiding officer;

(b) be signed by the candidate; and

(c) state the name and address of the scrutineer.

**22.—(1.)** On completion of counting, the Returning Officer for each electorate shall declare the result of the poll and shall forward to the Administrator a return showing the total number of first preference votes received by each candidate, and, if a distribution of preferences has been made in accordance with the Regulations, the result of that distribution.

Administrator to publish results of election.

(2.) The Administrator shall, as soon as practicable after receipt of the returns referred to in the last preceding sub-section, publish in the *Gazette* the names of the successful candidates and full details of the voting for all candidates.

PART A : ADMINISTRATION AND GOVERNMENT—

Recount of  
votes.

**23.**—(1.) A recount of votes for an electorate may be made, under the conditions prescribed, at the request of any candidate for that electorate.

(2.) A recount of votes shall be conducted by the Returning Officer, who shall have the same powers as if the recount were the scrutiny and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

(3.) Each candidate has, upon a recount of votes, the same right to appoint a scrutineer as upon the original scrutiny.

Disputed  
returns.

**24.**—(1.) The validity of an election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise.

(2.) The Supreme Court shall be the Court of Disputed Returns, and when sitting as that Court shall be constituted by a single judge.

(3.) The Judges of the Supreme Court may make Rules of Court<sup>(2)</sup> for regulating and prescribing the practice and procedure to be followed in the Court of Disputed Returns and in the offices of that Court in respect of proceedings under this section.

(4.) Rules of Court made under this section shall be published in the *Gazette*, and copies thereof shall, within twenty-one days after that publication, be forwarded by the Chief Judge to the Minister through the Administrator.

(5.) The Minister may, by notification in the *Gazette*, disallow any rule of Court made under this section, and thereupon the rule so disallowed shall cease to have effect.

Fees and  
allowances.

**25.** Members, including members appointed by the Governor-General, shall be paid such fees and allowances as are approved by the Minister.

Regulations.

**26.**—(1.) The Administrator in Council may make regulations,<sup>(3)</sup> not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

(2.) The regulations may prescribe penalties not exceeding Fifty pounds for breaches of the regulations.

(2) No Rules of Court have been published in Papua and N.G. *Govt. Gaz.* before 1.1.1952.

(3) See the *Legislative Council Regulations* 1951, printed in this Volume on pp. 87-119.