

**NORTHERN TERRITORY OF AUSTRALIA**

**NORTHERN TERRITORY ELECTORAL ACT 1995**

As in force at 7 August 1996

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 7 August 1996

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## NORTHERN TERRITORY ELECTORAL ACT 1995

**An Act to regulate elections of members of the Legislative Assembly,  
and for related purposes**

### **Part 1            Preliminary**

#### **1            Short title**

This Act may be cited as the *Northern Territory Electoral Act 1995*.

#### **2            Commencement**

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### **3            Interpretation**

(1) In this Act, unless the contrary intention appears:

**assistant officer** means a person appointed as an assistant officer under section 54(4)(c) or 54(6).

**Assistant Returning Officer** means a person appointed as an Assistant Returning Officer under section 8(1).

**authorised witness** means a person enrolled, or entitled to be enrolled, as a Commonwealth, Territory, or State elector, and in relation to:

- (a) an application for a postal ballot-paper signed; or
- (b) a vote on a postal ballot-paper recorded,

outside the Commonwealth, includes:

- (c) an officer of the naval, military or air forces of the Commonwealth, a member of the Australian Embassy, a Trade Commissioner and an Assistant Trade Commissioner within the meaning of the *Trade Representatives Act 1933* of the Commonwealth; and

- 
- (d) a Justice of the Peace, Commissioner for Oaths, Commissioner for Affidavits, Commissioner for Declarations and a Notary Public, appointed under a law of the Commonwealth, a State or another Territory of the Commonwealth.

**ballot-paper** includes a postal ballot-paper.

**candidate's representative** means:

- (a) for the purposes of Part 8 – a person appointed under section 61(1); and
- (b) for the purposes of Part 9 – a person appointed under section 81(1).

**certified list of voters** means a list referred to in section 54(5).

**Chief Electoral Officer** means the Chief Electoral Officer continued in office under section 139 or the person appointed as Chief Electoral Officer under section 4.

**distribution** means the division of the Territory into divisions or proposed divisions, and includes a redivision.

**Distribution Committee** means the Distribution Committee constituted under section 10.

**division** means an electoral division for the election of a member of the Legislative Assembly.

**Divisional Returning Officer** means a person appointed under section 7(1) as a Divisional Returning Officer.

**election** means an election of a member of the Legislative Assembly or, as the case requires, an election in respect of which assistance is given under section 6(1) .

**elector** means a person whose name is on a roll.

**enrolled**, in relation to a person, means that the person's name is on a roll.

**hours of polling** means:

- (a) in relation to a place other than a place at which a mobile polling team is used – from 8.00 a.m. until 6.00 p.m. on polling day; and



- 
- (b) in relation to a place at which a mobile polling team is used – the hours during which the mobile polling team may, in accordance with this Act, conduct polling at that place.

**Master** means the Master of the Supreme Court.

**mobile polling team** means a mobile polling team authorised under section 54(1)(b).

**mobile polling team leader** means a mobile polling team leader appointed under section 54(4)(b).

**nomination**, in relation to an election, means a nomination in accordance with section 36.

**nomination day** means the date fixed by a writ as the date for the nomination of candidates.

**nominee** means a person nominated in accordance with Part 6.

**officer** means Chief Electoral Officer, Divisional Returning Officer, Assistant Returning Officer, presiding officer or an assistant officer.

**petition** means a petition referred to in section 108 (1).

**political party** means an organisation the objects or activities, or one of the objects or activities, of which is the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it.

**polling day** means the date fixed by a writ as the date of polling day.

**polling place** means a polling place appointed under section 54(1)(a) and includes:

- (a) the area adjacent to a polling place designated by a notice erected by the presiding officer of the polling place; and
- (b) the area designated by a notice erected by a mobile polling team leader,

during the period the notice is displayed.

**presiding officer** means a presiding officer of a polling place appointed under section 54(4)(a), and includes a deputy presiding officer appointed under that section while presiding at the polling place and a mobile polling team leader appointed under section 54(4)(a).

**roll** means a roll of electors under this Act.

**Tribunal** means the Election Tribunal established by section 107(1).

**writ** means a writ for an election issued under this Act.

- (2) A ballot-paper is informal for the purposes of this Act:
- (a) unless it is either:
    - (i) printed by the Government Printer; or
    - (ii) created for the purposes of this Act by an officer and initialled by an officer;
  - (b) if it has no vote indicated on it or it does not indicate the elector's first preference for one candidate and his or her other preferences for all the remaining candidates except:
    - (i) where the voter has indicated a first preference for one candidate and his or her other preferences for all the remaining candidates except one and the square opposite the name of that candidate has been left blank, it shall be taken that the voter's preference for that candidate is his or her last and that, accordingly, the voter has indicated the order of his or her preference for all the candidates; or
    - (ii) where there are 2 candidates only and the voter has indicated his or her vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank, it shall be taken that the voter has indicated the order of his or her preference for both the candidates; or
  - (c) it has on it a mark or writing by which, in the opinion of the Divisional Returning Officer, the voter can be identified.

## **Part 2 Administration**

### **4 Chief Electoral Officer**

- (1) The Administrator shall, by notice in the *Gazette*, appoint a person to be the Chief Electoral Officer within 3 months after the occurrence of a vacancy in that office.

- (2) Except as provided by or under this or any other Act, in the performance of his or her functions or the exercise of his or her powers the Chief Electoral Officer is not under the direction of any person.

## **5 Delegation**

- (1) The Chief Electoral Officer may, by instrument in writing, delegate to a person any of his or her powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the Chief Electoral Officer.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Chief Electoral Officer.

## **6 Additional powers and functions of Chief Electoral Officer**

- (1) In addition to his or her other powers and functions under this Act but subject to subsection (2), the Chief Electoral Officer, on behalf of the Territory, may provide goods or services to organisations or to individuals to assist them in or in connection with the preparation for, holding and determination of the results of, elections of any kind.
- (2) The Chief Electoral Officer may provide such goods and services only to the extent that this can be done by using:
- (a) information or material in his or her possession for; or
  - (b) the expertise he or she has acquired in,
- the performance of his or her functions under this Act.

## **7 Divisional Returning Officer**

- (1) The Chief Electoral Officer may, by notice in the *Gazette*, appoint a Divisional Returning Officer for a division.
- (2) A Divisional Returning Officer shall comply with the directions of the Chief Electoral Officer when exercising the powers conferred or performing the functions imposed on a Divisional Returning Officer by or under this Act.

**8            Assistant Returning Officer**

- (1) Subject to subsection (2), the Chief Electoral Officer may appoint a person to be an Assistant Returning Officer for a division or a part of a division.
- (2) An Assistant Returning Officer shall not be appointed for a part of a division for which fewer than 100 electors are enrolled.
- (3) An Assistant Returning Officer may, subject to the directions of the Divisional Returning Officer for the division, exercise the powers and perform the functions of the Divisional Returning Officer.

**9            Officer becoming candidate**

- (1) An officer vacates his or her office if he or she becomes a candidate.
- (2) A candidate or spouse (including a de facto spouse) of a candidate shall not be appointed an officer.
- (3) A person who has not attained the age of 18 years shall not be appointed an officer.

**Part 3            Electoral Divisions**

**Division 1        Distribution Committee**

**10           Distribution Committee**

- (1) For the purposes of a proposed distribution under section 12, there shall be a Distribution Committee constituted by:
  - (a) the Chief Electoral Officer or his or her nominee;
  - (b) the Surveyor-General within the meaning of the *Licensed Surveyors Act*; and
  - (c) a person appointed under subsection (2).
- (2) Subject to subsection (3), the Administrator shall, by notice in the *Gazette*, appoint a person to be a member of the Distribution Committee for a proposed distribution in respect of which the Committee is constituted.

- (3) The Distribution Committee constituted in respect of a proposed distribution under section 12 shall, unless the Administrator sooner revokes the direction, remain in existence as so constituted until the declaration under section 18(1) in relation to the direction.
- (4) A member of the Distribution Committee appointed under subsection (2) shall be appointed by the Administrator as its Chairman.
- (5) At a meeting of the Distribution Committee:
  - (a) 2 members constitute a quorum; and
  - (b) the Chairman, if present, shall preside, and in the absence of the Chairman the members present shall appoint one of their number to preside.

## **11 Termination of office**

- (1) The Administrator shall remove a member of the Distribution Committee appointed under section 10(2) from office if the member:
  - (a) is, in the opinion of the Administrator, guilty of misbehaviour or incompetence;
  - (b) becomes permanently incapable of performing the member's duties; or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit.
- (2) A member of the Distribution Committee appointed under section 10(2) may resign office by writing under his or her hand delivered to the Administrator.

## **Division 2 Divisions**

### **12 Notice of proposed distribution**

The Administrator may, by notice in the *Gazette*, direct the Distribution Committee to divide or redivide the Territory into proposed electoral divisions and the Committee shall comply with the direction.

### **13 Suggestions, &c., relating to divisions**

- (1) For the purposes of a distribution of the Territory into proposed divisions, the Committee shall, by notice in the *Gazette*:
  - (a) invite suggestions in writing relating to the distribution to be lodged with it within 30 days after the date of the notice; and
  - (b) invite comments in writing relating to any suggestions lodged with the Committee under paragraph (a) to be lodged with it within 14 days after the expiration of the period referred to in that paragraph.
- (2) Immediately after the expiration of the period referred to in subsection (1)(a), the Distribution Committee shall make available for public inspection for a period of 14 days, at the office of the Chief Electoral Officer in Darwin, copies of suggestions lodged with the Committee.

### **14 Matters to be considered in distribution**

When making a distribution of the Territory into proposed divisions, the Distribution Committee shall:

- (a) ensure that each proposed division shall contain a number of electors not exceeding, or falling short of, one fifth of a quota calculated by dividing the whole number of electors in the Territory, as nearly as can be ascertained, by the number of members to be elected; and
- (b) give due consideration, in relation to each proposed division, to:
  - (i) community of interests within the proposed division, including economic, social and regional interests;
  - (ii) means of communication and travel within the proposed division, with special reference to disabilities arising out of remoteness or distance;
  - (iii) the trend of population changes within the Territory;
  - (iv) the density of population in the proposed division;
  - (v) the area of the proposed division;
  - (vi) the physical features of a proposed division;

- (vii) the existing boundaries of existing divisions and matters referred to in paragraphs (i) to (vi) inclusive in respect of the existing divisions; and
- (viii) suggestions and comments lodged with it in pursuance of section 13.

## **15 Publication of map**

Before reporting on the distribution of the Territory into proposed divisions, the Distribution Committee shall:

- (a) cause a map showing the boundaries of the proposed divisions to be exhibited at police stations, court houses and other buildings approved by the Committee, in each proposed division; and
- (b) by notice in the *Gazette* and in such newspapers circulating in the areas affected by the proposed distribution as the Committee thinks fit, invite public attention to the proposed distribution shown on the map referred to in paragraph (a).

## **16 Objections, &c., to map**

- (1) A person may, in writing, lodge with the Distribution Committee not later than 30 days after the date of the notice referred to in section 15(b), suggestions or objections relating to a distribution of the Territory into proposed divisions.
- (2) The Distribution Committee may, after considering the suggestions and objections lodged with it under subsection (1), amend the map showing the boundaries of the proposed divisions which has been exhibited under section 15.

## **17 Report of Distribution Committee to Minister**

- (1) The Distribution Committee shall, as soon as is practicable after the expiration of the period specified in section 16(1), forward to the Minister:
  - (a) its report, which shall include:
    - (i) details of the proposed divisions and the names to be applied to them;
    - (ii) the number of electors, as nearly as can be ascertained, residing in each proposed division; and

- (iii) a map, signed by the members of the Committee, showing the boundaries of each proposed division; and
  - (b) copies of suggestions, comments or objections lodged under sections 13(1) or 16(1) with the Committee.
- (2) The Minister shall, within 5 sitting days of the Legislative Assembly, after receiving the report of the Distribution Committee, table in the Legislative Assembly a copy of the report and of the suggestions, comments and objections referred to in subsection (1)(b).

## **18 Declaration of division**

- (1) If the Legislative Assembly passes a resolution approving of a distribution of the Territory into proposed divisions tabled in accordance with section 17(2), the Administrator shall, by notice in the *Gazette*, declare the names and boundaries of the divisions.
- (2) Subject to subsection (3), a distribution approved under subsection (1) shall not take effect except for the purposes of the next ensuing general election and all subsequent elections of members of the Legislative Assembly.
- (3) Subsection (2) does not, in respect of a distribution approved under subsection (1), prevent the appointment under section 7 of a Divisional Returning Officer or the preparation of the roll for a division specified in a notice under subsection (1), at any time after the notice appears in the *Gazette* but before the next ensuing general election.
- (4) If the Legislative Assembly passes a resolution disapproving a distribution of the Territory into proposed divisions tabled in accordance with section 17(2), or negatives a motion for the approval of such a distribution, the Minister may direct the Distribution Committee to report to him or her on an alternative distribution of the Territory into proposed divisions.
- (5) The Distribution Committee:
- (a) shall comply with a direction given to it under subsection (4); and
  - (b) may, in its discretion, subject to subsection (6), comply with section 14 in respect of that direction as if it were, for the purposes of complying with that section, a direction under section 12 from the Administrator.
- (6) Where the Distribution Committee, in pursuance of subsection (5)(b), complies with the requirements of section 14 in



respect of a direction given to it under subsection (4), it shall, as soon as practicable after complying with those requirements, forward to the Minister a report which shall include the matters referred to in section 17(1)(a) as if, for that purpose, the report were a report referred to in section 17(1)(a).

**19           Offence to influence member of Distribution Committee**

A person shall not seek to influence a member of the Distribution Committee in the exercise of the member's or Committee's powers or the performance of the member's or Committee's functions, other than in accordance with this Part.

Penalty:       \$2,000 or imprisonment for 2 years.

**Part 4           Rolls and enrolment**

**Division 1       Rolls**

**20           Roll of electors**

A Divisional Returning Officer shall, subject to the directions of the Chief Electoral Officer, keep and maintain a roll of electors for the division for which the Divisional Returning Officer is appointed.

**21           Form of rolls**

- (1) Subject to section 104 of the *Commonwealth Electoral Act 1918* of the Commonwealth, rolls shall set out the surname, given names, sex, occupation, place of residence and such other particulars as are prescribed, in relation to each elector.
- (2) Rolls shall include the matters required by subsection (1) to be set out for all persons who are qualified in accordance with section 28(1) to vote at an election and whose names are on the Roll kept under the *Commonwealth Electoral Act 1918* of the Commonwealth.
- (3) A Divisional Returning Officer may amend or add any matter to a roll in any manner not inconsistent with this Act.

**22           Preparation of new rolls**

- (1) A Divisional Returning Officer shall prepare a new roll for his or her division whenever so directed by the Administrator by notice in the *Gazette*.

- (2) A notice referred to in subsection (1) may specify the manner in which the new roll shall be prepared.

### **23           Emendations of new rolls**

On the completion of a new roll for a division in accordance with a direction under section 22(1), the Divisional Returning Officer shall:

- (a) make emendations in the roll; and
- (b) remove names from the roll,

in pursuance of any claims for enrolment received by him or her, between the date of the notice in the *Gazette* directing the preparation of the new roll and the date of completion of the roll.

### **24           Printing of rolls**

- (1) When the Minister so directs, the Chief Electoral Officer shall arrange for the rolls to be printed.
- (2) Supplementary rolls, setting out additions to the rolls since the last print of the rolls shall, where necessary, be prepared and printed:
  - (a) immediately after the issue of the writ for an election; and
  - (b) at such other times as the Minister directs.

### **25           Availability of rolls**

Copies of rolls shall:

- (a) be open for public inspection, without fee, at the office of each Divisional Returning Officer; and
- (b) be obtainable from those offices, and such other places in the division as the Divisional Returning Officer appoints, on payment of the prescribed fee.

### **26           Persons to furnish information**

- (1) The Chief Electoral Officer may require a person to furnish such information as the Chief Electoral Officer requires in relation to the preparation, maintenance or revision of a roll.
- (2) A person shall not contravene or fail to comply with a requirement of the Chief Electoral Officer made under subsection (1).

Penalty:       \$200.

## **27           Arrangement with Commonwealth for keeping rolls**

- (1) The Administrator may arrange with the Governor-General of the Commonwealth for, or for the carrying out of a procedure relating to, the preparation, alteration or revision of the rolls, in any manner consistent with this Act, jointly by the Territory and the Commonwealth, whether for the purpose of the rolls being used as electoral rolls for Commonwealth or Territory elections, or for any other purpose.
- (2) When an arrangement under subsection (1) has been made, the rolls may contain for the purposes of Commonwealth elections:
  - (a) the names and descriptions of persons who are not entitled to be enrolled thereon as electors for Territory elections provided that it is clearly indicated that those persons are not enrolled thereon as electors for Territory elections;
  - (b) distinguishing marks against the names of persons enrolled as electors, to show that those persons are or are not also enrolled as Commonwealth electors; and
  - (c) any other particulars,

and for the purposes of this Act the names, descriptions, marks and particulars so contained are deemed not to be part of the roll.

## **Division 2           Enrolment**

### **28           Persons qualified to vote**

- (1) Subject to this section and section 72, all persons who are, under the *Commonwealth Electoral Act 1918* of the Commonwealth, qualified to vote at, or entitled to be enrolled to vote at, an election of a member for the Northern Territory of the House of Representatives in the Parliament of the Commonwealth, other than such persons who are referred to in section 14(2) of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, are entitled to vote at an election for the division in which their address shown on the roll is located.
- (2) Notwithstanding anything contained in this Act:
  - (a) a member of the Legislative Assembly may, if he or she so desires, have his or her name placed on and retained on the roll for the division which the member represents (or for which he or she proposes to stand for election at the next ensuing general election) instead of on the roll for the division in which he or she lives; and

- (b) a member of the Legislative Assembly whose name is enrolled in accordance with this subsection may vote as an elector of the division in respect of which he or she is so enrolled.

## **29 Alteration of rolls**

- (1) A Divisional Returning Officer may alter a roll kept by him or her for the purpose of:
  - (a) correcting a mistake or error in the particulars of the enrolment of an elector; or
  - (b) removing the name of a deceased elector.
- (2) A Divisional Returning Officer shall not alter a roll kept by him or her in pursuance of a claim for enrolment or transfer of enrolment received by the Divisional Returning Officer after 6.00 p.m. on the day of the issue of the writ for an election until after the close of polling at the election.

## **Part 5 Writs for elections**

### **30 One member from division**

One member of the Legislative Assembly shall be chosen for each division.

### **31 Form of writ for election**

- (1) Writs for the election of members of the Legislative Assembly shall be issued by the Administrator.
- (2) A writ may be in accordance with Schedule 1 and, subject to this Act, shall fix the dates for:
  - (a) the nomination of candidates;
  - (b) polling day; and
  - (c) the last day on which the writ may be returned.
- (3) A writ is deemed to have been issued at 6.00 p.m. on the day on which it was issued.

### **32 Writ for election to be addressed to Chief Electoral Officer**

A writ for the election of a member of the Legislative Assembly shall be addressed to the Chief Electoral Officer.

**33 Limitation of dates**

In respect of an election:

- (a) nomination day shall be not earlier than 7 clear days nor later than 21 clear days after the date of the issue of the writ; and
- (b) polling day shall be not earlier than 7 clear days nor later than 30 clear days after the date of the nomination day for the election.

**34 Endorsement of writ**

The Chief Electoral Officer shall, on receiving a writ:

- (a) endorse on it the date of its receipt; and
- (b) advertise its receipt and particulars in a newspaper circulating in the division for which the election is to be held.

**Part 6 Nominations****35 Persons must be nominated**

A person shall not be elected as a member of the Legislative Assembly unless he is nominated in accordance with this Part.

**36 Mode of nomination**

- (1) A nomination shall:
  - (a) be in the prescribed form;
  - (b) set out the name, the place of residence and the occupation of the nominee;
  - (c) be signed by not less than 6 persons, other than the nominee, entitled to vote at the election in the division for which the nominee is nominated;
  - (d) contain a statement that the nominee consents to be nominated under this Part and to act as a member of the Legislative Assembly if elected;
  - (e) contain a declaration that the nominee is qualified in accordance with Division 2 of Part III of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth to be a candidate for election as a member of the Legislative Assembly;

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- (f) be accompanied by a photograph of the nominee in the prescribed form;
  - (g) be accompanied by the amount of \$200 in cash or a banker's cheque of that amount; and
  - (h) be signed by the nominee.
- (2) For the purpose of subsection (1)(b) the name set out in the nomination shall be:
- (a) the surname and the given name, or one or more of the given names, under which the nominee is enrolled; or
  - (b) where the nominee is not enrolled, a surname and the given name, or one or more of the given names, under which the nominee is entitled to be enrolled,
- but a given name may be specified by an initial standing for the name or a commonly accepted variation of the name, including an abbreviation, truncation or alternative form.
- (3) A person shall not consent to be nominated under this Part in respect of a division, and shall not sign a nomination under subsection (1)(h) as the nominee, if he or she has already consented to be nominated and has signed a nomination in respect of another division for election as a member of the Legislative Assembly at the same election, unless the person has first withdrawn his or her consent to the previous nomination.
- (4) A nomination shall be lodged with the Chief Electoral Officer after the date of the issue of the writ for the election and before 12 noon on nomination day.
- (5) A nomination shall not be valid unless it reaches the Chief Electoral Officer before 12 noon on nomination day.

### **37 Deposit to be returned in certain cases**

After an election, and subject to this Act, the amount of \$200 referred to in section 36(1)(g) shall be returned to a candidate, or to some person authorised by the candidate in writing to receive it, if:

- (a) the candidate is returned as elected; or
- (b) the total number of votes polled in the candidate's favour as first preference votes is equal to more than 20% of the total number of the first preference votes polled by the candidate returned as elected in the election,

otherwise it shall be forfeited to the Territory.

### **38 Withdrawal of consent**

- (1) A nominee may withdraw his or her consent referred to in section 36(1)(d) by lodging a notice of withdrawal of consent in the prescribed form with the Chief Electoral Officer before 12 noon on nomination day.
- (2) The amount of \$200 referred to in section 36(1)(g) shall be returned to a nominee who, under subsection (1), withdraws his or her consent referred to in section 36(1)(d).

### **39 Declaration of nomination**

- (1) The Chief Electoral Officer shall, at his or her office in Darwin, at 12 noon on nomination day, publicly produce all nomination forms lodged with the Chief Electoral Officer, other than the form of a nominee who has withdrawn his or her consent in accordance with section 38(1), and declare the names and addresses of all candidates nominated.
- (2) The Chief Electoral Officer shall not before that time reveal the names of candidates nominated.

### **40 Declaration of one candidate only**

Where one candidate only is declared in accordance with section 39, the Chief Electoral Officer shall declare that candidate duly elected.

### **41 Failure of election**

- (1) An election is deemed to have failed if:
  - (a) no nomination is declared under section 39;
  - (b) a candidate dies before polling day; or
  - (c) no candidate is returned as elected.
- (2) Where an election has failed, the amount of \$200 referred to in section 36(1)(g) lodged by a candidate shall be returned:
  - (a) to the candidate or to some person authorised by him or her in writing by the candidate to receive it; or
  - (b) in the case of a candidate who died before polling day – to the deceased candidate's personal representative.

**42 Issue of writ for failed election**

- (1) Where an election has failed, the Administrator shall, as soon as is practicable, issue a new writ for an election.
- (2) For the purposes of an election held pursuant to a writ issued under subsection (1), the roll shall be the roll prepared for the election which failed.

**Part 7 Voting by post****43 Register of Postal Voters**

- (1) Each Divisional Returning Officer may establish a register for his or her division to be known as the Register of Postal Voters.
- (2) A person who for a reason specified in section 44(1) or any other reason is likely to be unable to attend at a polling place at an election if the election were to be held within the period specified in the application may apply to be registered on the Register of Postal Voters.
- (3) An application under subsection (2):
  - (a) shall be in the prescribed form;
  - (b) shall contain a declaration by the applicant as to the facts stated in it;
  - (c) shall be signed by the applicant in the presence of an authorised witness; and
  - (d) shall be lodged with the Divisional Returning Officer.
- (4) If on receiving an application under subsection (2) the Divisional Returning Officer considers there is sufficient reason why an applicant should be registered as a postal voter, the Divisional Returning Officer shall register the applicant's name and other prescribed particulars on the Register of Postal Voters in respect of such period as the Divisional Returning Officer thinks fit and advise the applicant in writing of the registration and the period.
- (5) If the Divisional Returning Officer refuses to register an applicant under subsection (4), the applicant may, in writing, apply to the Chief Electoral Officer for a review of the Divisional Returning Officer's decision and if the Chief Electoral Officer, in his or her absolute discretion, considers there is sufficient reason why the applicant should be registered as a postal voter the Chief Electoral



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Officer shall direct the Divisional Returning Officer to register the applicant accordingly.

- (6) Where an election at which a registered postal voter is entitled to vote is to be held at any time during the period in respect of which he or she is so registered, the voter shall be deemed to have applied for a postal vote in respect of the election and this Part, with the necessary changes, applies accordingly.

#### **44 Application for postal ballot-paper**

- (1) An elector who:
- (a) will not, throughout the hours of polling, be within the Territory or within 20 km of a polling place;
  - (b) will, throughout the hours of polling, be travelling under such conditions as will preclude him or her from voting at a polling place;
  - (c) will, by reason of illness, infirmity or approaching maternity, be precluded from attending at a polling place;
  - (d) will, throughout the hours of polling, be unable to attend a polling place because the elector will be at a place caring for a person who is seriously ill or infirm or who is expected shortly to give birth (other than a polling place in respect of which a mobile polling team may be used and at which polling place the elector may be permitted to vote);
  - (e) is, by reason of his or her membership of a religious order or his or her religious beliefs:
    - (i) precluded from attending at a polling place; or
    - (ii) precluded from attending a polling place throughout the hours of polling or throughout the greater part of those hours;
  - (f) will not, by reason of being a prisoner, be able to attend at a polling place;
  - (g) is a person whose address has been excluded from the roll under section 21; or

- (h) throughout the hours of polling, will be engaged in his or her employment or occupation and:
  - (i) if an employee, is not entitled to leave of absence under section 78; and
  - (ii) in any other case, his or her absence for the purpose of attending at a polling place to vote would be likely to cause loss to the person in his or her occupation,

may apply for a postal ballot-paper.

- (2) An application for a postal ballot-paper:
  - (a) shall be in the prescribed form;
  - (b) shall contain a declaration by the applicant that he or she is entitled to a postal ballot-paper on grounds specified in subsection (1);
  - (c) shall be signed by the applicant in the presence of an authorised witness;
  - (d) may be made at any time before an election but remains in force for only 3 months from the date of the application; and
  - (e) shall be lodged with a Divisional Returning Officer.
- (3) A person shall not sign an application for a postal ballot-paper that contains a false or misleading statement.

Penalty: \$1,000.

- (4) A person shall not unlawfully induce or persuade an elector to make an application for a postal ballot-paper.

Penalty: \$1,000.

- (5) A person to whom an envelope containing or purporting to contain an application for a postal ballot-paper is entrusted by an elector for the purpose of posting or delivery to a Divisional Returning Officer shall post or deliver the envelope forthwith.

Penalty: \$1,000.

**45 Duty of witnesses**

A person shall not witness an application by an elector for a postal ballot-paper unless the person:

- (a) has satisfied him or herself as to the identity of the applicant;
- (b) has seen the applicant sign the application; and
- (c) is satisfied that the statements contained in the application are true.

Penalty: \$2,000 or imprisonment for 2 years.

**46 Issue of ballot-papers**

- (1) Where a Divisional Returning Officer who receives a completed application for a postal ballot-paper duly made in accordance with this Part is satisfied that the application is properly signed by the applicant and is properly witnessed, the Divisional Returning Officer shall deliver or post to the elector making the application:
  - (a) a postal vote certificate printed on an envelope addressed to the Divisional Returning Officer for the division for which the applicant declares that he or she is enrolled; and
  - (b) one postal ballot-paper in the prescribed form.
- (2) Subsection (1) does not apply to an application for a postal ballot-paper received by a Divisional Returning Officer after 6.00 p.m. on the day before polling day.

**47 Possession of applications**

- (1) All applications for postal ballot-papers received by a Divisional Returning Officer shall be endorsed by him or her with the date of the issue of the postal vote certificate and postal ballot-paper and shall:
  - (a) if they relate to the division for which he or she is the Divisional Returning Officer, be kept by him or her; or
  - (b) if they relate to another division, be sent by him or her, as soon as is practicable, to the Divisional Returning Officer for that other division.
- (2) A Divisional Returning Officer shall make available for public inspection at his or her office, at all convenient times during office hours, all applications for postal ballot-papers relating to the division for which he or she is the Divisional Returning Officer, for 14 days

from and including the third day after polling day.

**48 Numbering of applications**

A Divisional Returning Officer shall:

- (a) number in consecutive order all applications for postal ballot-papers received by him or her;
- (b) number each postal vote certificate issued by him or her with the number corresponding to the number on the application for the postal ballot-paper accompanying the certificate; and
- (c) place his or her initials on the back of all postal ballot-papers issued by him or her in a position which allows the initials to be easily seen when the ballot-paper is folded so as to conceal any vote on the paper.

**49 Divisional Returning Officer to notify issue of postal ballot-papers**

The Divisional Returning Officer for the division in respect of which a postal vote certificate and postal ballot-paper has been issued:

- (a) shall mark a certified list of voters to that effect; and
- (b) shall, if practicable, advise all presiding officers in the division for which he or she is the Divisional Returning Officer to whom a certified list of voters has been furnished that a postal vote certificate and a postal ballot-paper has been issued to the elector.

**50 Directions for postal voting**

- (1) Postal voting shall be carried out substantially in accordance with this section.
- (2) A postal vote may be cast at any time before 6.00 p.m. on polling day.
- (3) An elector shall show his or her postal ballot-paper (unmarked) and postal vote certificate to an authorised witness.
- (4) An elector shall, in the presence of the authorised witness, sign his or her name on the postal vote certificate.
- (5) The authorised witness shall sign his or her name on the postal vote certificate and shall add the title under which he or she acts as an authorised witness and the date and time.

- (6) Subject to this section, an elector shall, in the presence of the authorised witness but so that the authorised witness cannot see the vote:
- (a) mark his or her vote on the postal ballot-paper in accordance with this Act; and
  - (b) fold the postal ballot-paper and place it in the envelope which bears the postal vote certificate and seal the envelope.
- (7) If an elector is so physically incapacitated that he or she is unable to mark his or her vote on the postal ballot-paper without assistance or is illiterate, the authorised witness shall:
- (a) mark the elector's postal ballot-paper in accordance with the instructions of the elector; and
  - (b) fold the postal ballot-paper and place it in the envelope which bears the postal vote certificate and seal the envelope.
- (8) Section 71, with the necessary changes, applies to and in relation to an elector to whom subsection (7) applies as if a reference in that section to an officer or presiding officer were a reference to the authorized witness referred to in subsection (7) and a reference in that section to a ballot-paper were a reference to a postal ballot-paper.
- (9) An elector shall, as soon as is practicable after complying with subsection (6) or (7), as the case may be, and before the close of polling, cause the envelope referred to in that subsection to be posted or delivered to a Divisional Returning Officer or to be delivered to a presiding officer and the Divisional Returning Officer or the presiding officer shall deal with the envelope in the prescribed manner.
- (10) A person to whom an envelope containing or purporting to contain a postal ballot-paper is entrusted by an elector for the purpose of posting or delivery to a Divisional Returning Officer or delivery to a presiding officer shall post or deliver the envelope forthwith.
- Penalty:       \$1,000.
- (11) A Divisional Returning Officer who receives an envelope which bears a postal vote certificate for a division other than the division for which he or she is appointed, shall:
- (a) note on it the time of the receipt of the envelope;

- (b) immediately notify the Divisional Returning Officer for the division in respect of which the postal ballot-paper was issued of the receipt of the envelope; and
  - (c) as soon as is practicable, send the envelope to that Divisional Returning Officer.
- (12) A presiding officer who receives an envelope which bears a postal vote certificate shall, immediately on receiving it, write his or her name, the location of the polling place to which he or she is appointed and the date and time of its receipt on the envelope and:
- (a) make and sign a record of the name of the elector and the name of the division appearing on the postal vote certificate;
  - (b) deposit the envelope in a ballot-box in the polling place to which he or she is appointed; and
  - (c) forward the record referred to in paragraph (a) to his or her Divisional Returning Officer.

## **51 Voting on postal ballot-papers**

- (1) A person, other than:
- (a) an elector to whom a postal ballot-paper has been issued; or
  - (b) a person acting in pursuance of section 50(7),
- shall not mark a vote on a postal ballot-paper.
- Penalty: \$2,000 or imprisonment for 2 years.
- (2) A person, other than the Divisional Returning Officer for the division in respect of which a postal ballot-paper has been issued, shall not open an envelope in which a postal ballot-paper has been placed pursuant to section 50(6) or (7).
- Penalty: \$2,000 or imprisonment for 2 years.
- (3) A person shall not receive or take possession of a postal ballot-paper otherwise than in accordance with this Act.
- Penalty: \$2,000 or imprisonment for 2 years.

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**52 Disclosure of information**

An authorised witness shall not disclose to any person anything relating to the vote of an elector voting by post.

Penalty: \$2,000 or imprisonment for 2 years.

**Part 8 Polling****53 Pre-poll voting**

- (1) At any time after the close of nominations for an election and before polling day, an elector entitled to vote at that election may apply to an officer appointed for that purpose by the Chief Electoral Officer, to vote at that election before 6.00 p.m. on the day before the polling day at a location determined by the Chief Electoral Officer.
- (2) Where the officer to whom an application under subsection (1) is made is satisfied that the facilities for voting are presently available at the place the application is made and that the applicant satisfies the requirements for a postal vote under section 44(1), the applicant may there and then vote at the election.
- (3) In addition to any other question the officer issuing the ballot paper to the applicant may ask under this Act in relation to his or her entitlement to vote at the election, the officer shall ask the applicant the following question: "Will you be able to attend a polling place on polling day during the hours of polling?" and shall not issue the ballot paper unless the applicant answers the question in the negative.
- (4) Sections 58 to 77 inclusive, with the necessary changes, apply to and in relation to an application to vote and voting under this section.

**54 Minister to appoint polling places**

- (1) The Minister may, by notice in writing:
  - (a) appoint such places as he or she thinks fit to be polling places for a division or a part of a division; and
  - (b) authorise the use of mobile polling teams at particular polling places in a division or part of a division and where the use of the mobile polling team is to service the voting needs of a class of voters, such as the in-patients or inmates in a hospital or institution, specify that class of voters.

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- (2) Subject to section 56, where the Minister authorises under subsection (1)(b) the use of a mobile polling team at a polling place in an election, the Chief Electoral Officer shall, notwithstanding the date fixed by the writ for the election as polling day, specify the date and hours during which a mobile polling team shall be used at those places for the purposes of the election.
  - (3) The Chief Electoral Officer shall take such steps as he or she considers necessary or convenient to give public notice of the location of polling places appointed under subsection (1)(a) and, where the Minister authorises under subsection (1)(b) the use of mobile polling teams, the, dates and hours referred to in subsection (2) (and, as the case may be, the class of voters referred to in the notice in accordance with subsection (1)(b)) relating to that authorisation.
  - (4) A Divisional Returning Officer shall, for the division for which he or she is the Divisional Returning Officer, make all necessary arrangements for taking a poll and, in particular, shall:
    - (a) appoint a presiding officer to preside at each polling place and, where necessary, a deputy presiding officer;
    - (b) where the use of mobile polling teams has been authorised under subsection (1)(b), appoint a mobile polling team leader who, for the purposes of this Act, shall have all the functions, powers and duties of a presiding officer, for each mobile polling team; and
    - (c) appoint such assistant officers as he or she thinks fit for a polling place or, where the use of mobile polling teams has been authorised under subsection (1)(b), to be members of a mobile polling team.
  - (5) A Divisional Returning Officer shall supply a list of electors enrolled in the division for which he or she is Divisional Returning Officer, certified under his or her hand, to all presiding officers appointed for polling places for the division.
  - (6) A presiding officer may appoint a person to act as an assistant officer on polling day if it is necessary, in his opinion, for the conduct of polling at the polling place to which the presiding officer is appointed.
  - (7) A presiding officer may appoint an officer to perform the presiding officer's duties during his or her temporary absence, and the officer may, while so acting, exercise all the powers of the presiding officer, and is, in the exercise of those powers, deemed to be the presiding officer.



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- (8) An assistant officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer and is, in respect of the exercise of those powers, deemed to be the presiding officer.

**55 Voting at certain polling places may be restricted to class of voters**

Where the Minister authorises under section 54(1)(b) the use of a mobile polling team to service the voting needs of a class of voters at a polling place, and the Chief Electoral Officer specifies under section 54(2) the hours during which a mobile polling team shall be used at the polling place, only members of that class may vote by the use of that mobile polling team at the place and time.

**56 Places and hours of use of mobile polling team**

- (1) Where the Minister, under section 54(1)(b), authorises the use of a mobile polling team at a polling place and the Chief Electoral Officer specifies under section 54(2) the dates and hours during which a mobile polling team shall be used, the Chief Electoral Officer or mobile polling team leader may:

(a) except in the case of a mobile polling team to service the voting needs of a class of voters in accordance with an authorisation under section 54(1)(b), substitute another place for the appointed polling place; and

(b) change or vary the specified dates or hours,

if the mobile polling team is unable to be at the polling place on the specified dates or during the specified hours or, in the opinion of the Chief Electoral Officer, the exigencies of the election require it.

- (2) When the Chief Electoral Officer or a mobile polling team leader, under sub-section (1), substitutes another place or changes or varies dates or hours, he or she shall:

(a) take such steps as he or she considers necessary or convenient to give public notice of the substitution, change or variation; and

(b) inform the Divisional Returning Officer of the division in which the mobile polling team is authorised to operate of the substitution, change or variation.

- (3) An election or the result of an election shall not be invalidated on the grounds that a mobile polling team failed to attend at a polling place or on the dates or during the hours specified under

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section 54(2) by the Chief Electoral Officer or such place, dates or hours as substituted, changed or varied under this section by the Chief Electoral Officer or a mobile polling team leader.

### **57 Licensed premises to be used only in certain circumstances**

- (1) Subject to subsection (2), no part of premises licensed within the meaning of the *Liquor Act* shall be used for the purposes of a polling place.
- (2) Premises licensed within the meaning of the *Liquor Act* may be used for the purposes of a polling place if the Chief Electoral Officer declares, in writing, that he or she is satisfied that, during the hours of polling on polling day:
  - (a) intoxicating liquor will not be available for sale or consumption on the part of the premises proposed for use for the purpose of the polling place;
  - (b) the part of the premises proposed for use for the purpose of the polling place will be segregated from the part of the premises where intoxicating liquor will be available for sale or consumption; and
  - (c) access to the part of the premises proposed for use for the purpose of the polling place will not involve passing through the part of the premises where intoxicating liquor will be available for sale or consumption.

### **58 Separate voting compartments**

- (1) A polling place shall have separate polling booths constructed so as to screen the voters from observation while they mark their ballot-papers.
- (2) A person, other than an officer, shall not exhibit in a polling booth a card or paper having on it a direction or instruction with respect to voting.

Penalty: \$1,000.

### **59 Ballot-boxes**

A polling place for a division shall be provided with such number of ballot-boxes, constructed and fitted as prescribed, as the Divisional Returning Officer for the division thinks fit.

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**60 Ballot-papers**

Ballot-papers:

- (a) shall be in the prescribed form;
- (b) shall have the names of the candidates for the division for which the ballot-paper is to be used:
  - (i) in alphabetical order according to their surnames;
  - (ii) if there are 2 or more candidates of the same surname – in alphabetical order according to the given names of those candidates;
  - (iii) if there are 2 or more candidates with the same surname and given names – in alphabetical order according to the places of residence of those candidates which shall be so arranged and stated on the ballot-paper; and
  - (iv) where the names of 2 or more candidates are, in the opinion of the Chief Electoral Officer, so similar that confusion may be caused – with such description or addition to the names of the candidates as will distinguish one from the other; and
- (c) other than in respect of a ballot-paper referred to in section 72(3) or ballot-papers created for the purposes of allowing voting in accordance with section 46 or 53, shall have a photograph of each candidate opposite the candidate's name on the ballot-paper.

**61 Representatives at polling**

- (1) A candidate may appoint such persons as he or she thinks fit to be his or her representatives at each polling place for the division for which he or she is a candidate.
- (2) During the hours of polling, not more than one candidate's representative per candidate shall enter or remain in a polling place at any one time.
- (3) An appointment under subsection (1) shall be made by notice in writing or by telegram or other electronically transmitted writing:
  - (a) addressed to the Divisional Returning Officer for the division for which the election is to be held or the presiding officer of the polling place for which the candidate's representative is appointed;

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- (b) signed by the candidate, or bearing his or her name; and
  - (c) stating the name and address of the candidate's representative.

## **62 Persons present at polling**

A person, other than:

- (a) an officer;
- (b) subject to section 61(2), a candidate's representative; or
- (c) an elector voting or about to vote,

shall not enter or remain in a polling place except by the permission of the presiding officer of the polling place.

Penalty: \$2,000 or imprisonment for 2 years.

## **63 Polling**

- (1) Subject to this Act, polling at a polling place shall be conducted in such manner as the Chief Electoral Officer determines.
- (2) The presiding officer of a polling place shall:
  - (a) subject to subsection (4), before a vote is taken, exhibit the ballot-box empty and shall then securely fasten it closed;
  - (b) subject to subsection (3), at the close of the poll, in the presence of any candidates' representatives in attendance, publicly close, fasten, seal and take charge of the ballot-box, and with the least possible delay forward it for the purposes of the determination of the results of the poll, and it shall on no account be opened except in accordance with this Act.
- (3) Where the determination of the results of the poll is proceeded with immediately after the close of the poll at the polling place at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten or seal the ballot-box as required by subsection (2)(b).
- (4) Where the presiding officer referred to in subsection (2) is a mobile polling team leader, in a division attended in pursuance of section 54(2) by the mobile polling team of which he or she is the leader, he or she need not comply with the requirements of subsection (2)(a) other than at the first polling place in the division so attended.

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**64 Electors shall vote**

Subject to this Act, an elector shall not fail to vote at an election without a valid and sufficient reason for such failure.

Penalty: \$100.

**65 Person may vote only once**

Subject to section 87(5), a person shall not vote more than once at an election or general election.

Penalty: \$1,000.

**66 Name to be on roll**

Subject to this Part, an officer shall not issue a ballot-paper to a person unless the person's name appears on the roll for the division for which the person wishes to vote.

**67 Persons claiming to vote to give names and other particulars**

- (1) Subject to this Part, an officer shall issue a ballot-paper to a person if:
  - (a) the person states his or her full name and such other particulars as are necessary to identify the person as an elector; and
  - (b) the person has answered the following question in the absolute affirmative: "Is this the first time you have voted either here or elsewhere in this election?".
- (2) An officer may, and, at the request of a candidate's representative shall, put all or any of the following questions, in addition to the question referred to in subsection (1), to a person who claims to vote under the provisions of section 72(1) before issuing a ballot-paper to that person:
  - (a) "Are you of the age of 18 years or more?";
  - (b) "Are you an Australian citizen?"; and
  - (c) "Are you qualified to vote?",

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and, where the person answers the question specified in paragraph (b) in the negative:

(d) "Were you a British subject who was enrolled as a Commonwealth, Territory, or State elector on 25 January 1984?".

(3) A person shall truthfully answer all questions put to him or her under this Part.

Penalty: \$500.

(4) Subject to this section and section 53, a ballot-paper shall be issued under this Part:

(a) only:

(i) between the hours of 8.00 a.m. and 6.00 p.m. on polling day; or

(ii) to an elector who is in a polling place at 6.00 p.m. on a polling day and is desiring to vote; or

(b) only:

(i) during the hours specified under section 54(2) by the Chief Electoral Officer or such hours as changed or varied under section 56(1) by the Chief Electoral Officer or a mobile polling team leader; or

(ii) to a person who is in a polling place, designated by a notice erected by a mobile polling team leader, at the expiration of the hours specified under section 54(2) or those hours as changed or varied under section 56(1), and is desiring to vote.

## **68 Record of objections**

A presiding officer shall, at the request of a candidate's representative, keep a record of all objections by a candidate's representative to the issue of a ballot-paper to any person.

## **69 Ballot-papers to be initialled**

(1) An officer shall not issue a ballot-paper to a person unless the officer has first placed his initials on the back of the ballot-paper in such a position as to be capable of being easily seen when a ballot-paper is folded so as to conceal the names of the candidates printed on it.

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- (2) An officer shall, immediately before issuing a ballot-paper to a person whose name is on a certified list of voters, place a mark against that person's name on that list.

**70 Vote to be marked in private**

Subject to section 71, a person who has been issued with a ballot-paper shall, without delay:

- (a) retire alone to an unoccupied polling booth and there mark his or her vote on the ballot-paper in accordance with this Act;
- (b) having complied with paragraph (a), fold the ballot-paper so as to conceal his or her vote;
- (c) exhibit the ballot-paper folded in accordance with paragraph (b) to an officer; and
- (d) openly, and without unfolding the ballot-paper, deposit it in a ballot-box.

**71 Assistance of certain persons**

- (1) If a voter satisfies the presiding officer of a polling place that the voter is so physically incapacitated that he or she is unable to vote without assistance or is illiterate, the presiding officer shall, or shall direct an officer to:
- (a) enter an unoccupied polling booth with the voter;
  - (b) mark the voter's ballot-paper in accordance with the instructions of the voter; and
  - (c) fold and deposit the voter's ballot-paper in a ballot-box.
- (2) If the presiding officer of a polling place is satisfied that the physical incapacity or illiteracy of a voter is such as will not enable the voter:
- (a) to communicate the voter's instructions for marking his or her ballot-paper to the presiding officer or an officer under subsection (1); or
  - (b) to verify that his or her ballot-paper will be marked in accordance with his or her instructions,
- the presiding officer may permit a person appointed by the voter:
- (c) to assist the voter in accomplishing the matters referred to in paragraphs (a) and (b); and

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- (d) to be present while the ballot-paper of the voter is marked, folded and deposited in accordance with subsection (1).
- (3) For the purposes of this section, it shall be a sufficient indication of a voter's instructions if the voter or the person appointed by the voter under subsection (2) presents to an officer referred to in subsection (1) a piece of paper or card, whether or not a recognisable how-to-vote card, containing a list of names of all candidates and indicating an order of preference for them, and the officer is satisfied that the piece of paper or card reflects the wishes of the voter.
- (4) An officer who:
- (a) pursuant to this section is required to mark the ballot-paper of a voter; and
  - (b) marks the ballot-paper of the voter otherwise than in accordance with instructions given by the voter or, in a case where subsection (2) applies, by a person appointed by the voter,
- is guilty of an offence.
- Penalty: \$2,000 or imprisonment for 2 years.
- (5) A person, appointed under subsection (2) by a voter, who causes the ballot-paper of the voter to be marked by an officer otherwise than in accordance with the instructions of the voter is guilty of an offence.
- Penalty: \$2,000 or imprisonment for 2 years.
- (6) A candidate's representative or a person, appointed under subsection (2) by a voter, shall not disclose to any person anything relating to the vote of a voter voting under this section.
- Penalty: \$2,000 or imprisonment for 2 years.
- (7) Nothing in this Act, other than section 61 or 77(11), shall prevent a candidate's representative from being present, if he or she so desires, while the ballot-paper of a voter is marked, folded and deposited in accordance with this section.

## **72 Vote of unlisted persons**

- (1) The presiding officer of a polling place may, subject to the regulations, issue a ballot-paper to a person whose name is not on the certified list of voters for the division for which the polling place



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has been appointed if the person makes a declaration in the prescribed form that:

- (a) the person has complied with Part VIII of the *Commonwealth Electoral Act 1918* of the Commonwealth before the issue of the writ for the election;
  - (b) to the best of the person's knowledge, no objection has been upheld in relation to the inclusion of his or her name on a roll; and
  - (c) the person is not qualified for enrolment in a division other than the division for which he or she claims to vote.
- (2) The presiding officer of a polling place may, subject to the regulations, issue a ballot-paper to a person whose name appears on a certified list of voters marked in accordance with section 69(2) or who has been issued with a postal ballot-paper if the person makes a declaration in the prescribed form that he or she has not already voted and surrenders the postal ballot-paper if the person is in possession of a postal ballot-paper.
- (3) The presiding officer of a polling place may, subject to the regulations, issue a ballot-paper to a person whose name is not on a certified list of voters for the division in respect of which the polling place is appointed if the person makes a declaration in the prescribed form that he or she is enrolled in another division and that he or she has not already voted at the election.
- (4) A presiding officer who issues a ballot-paper under this section shall:
- (a) make and sign a record of:
    - (i) the name of the person to whom it is issued; and
    - (ii) the division for which the person declares under subsection (3) he or she is enrolled; and
  - (b) forward the record to the presiding officer's Divisional Returning Officer.

### **73 Method of voting**

- (1) Where a person is issued with a ballot-paper under section 72, the person shall mark and fold his or her ballot-paper in the manner prescribed in section 70(a) and (b) and return it so folded to the presiding officer for the polling place.

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- (2) A presiding officer who receives a ballot-paper in accordance with subsection (1) shall, in the presence of the person who marked and folded the ballot-paper and of such candidate's representatives as are present, and without unfolding the ballot-paper, enclose it in an envelope bearing the declaration of the person referred to in section 72(1), (2) or (3), as the case may be, and addressed to the Divisional Returning Officer for the division for which the person claims to be entitled to vote, and shall forthwith securely fasten the envelope and deposit it in a ballot-box.

#### **74 Spoilt or discarded ballot-papers**

If a person who has been issued with a ballot-paper satisfies the presiding officer of a polling place that the ballot-paper has been spoilt by mistake or accident, or the presiding officer or assistant officer finds a ballot-paper discarded in a polling booth or otherwise at the polling place, the presiding officer may, on receiving the spoilt ballot-paper or finding or being given the discarded ballot-paper, cancel the ballot-paper and, in the case of a spoilt ballot-paper, issue to that person to whom the ballot-paper was originally issued a new ballot-paper.

#### **75 Adjournment of polling**

- (1) The presiding officer of a polling place may adjourn the polling from day to day where the polling is interrupted by:
- (a) riot or open violence; or
  - (b) fire, storm, tempest, flood or a similar occurrence,
- and shall take such steps as he or she considers necessary or convenient to give public notice of the adjournment as soon as is practicable.
- (2) The Chief Electoral Officer may adjourn the polling at a polling place for a period not exceeding 21 days if, from any cause, the polling place is not open and shall take such steps as he or she considers necessary or convenient to give public notice of the adjournment as soon as is practicable.
- (3) Where polling at an election is adjourned in accordance with subsection (1) or (2), those persons only who, in accordance with this Act, are entitled to vote in the election for the division and who have not already voted, are entitled to vote at the adjourned polling.

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**76 Marking of ballot-papers**

- (1) A person issued with a ballot-paper shall:
  - (a) place the figure "1" in the square on the ballot-paper opposite the name of the candidate for whom he or she votes as his or her first preference; and
  - (b) place consecutively increasing numbers in the squares opposite the names of the other candidates appearing on the ballot-paper in the order of his or her preference until a number is placed against the names of all candidates appearing on the ballot-paper.
- (2) Subject to this Act, a person shall not mark a vote on a ballot-paper other than a ballot-paper issued to the person.

Penalty: \$500.

**77 Offences in relation to ballot-papers and at polling places**

- (1) A person shall not falsely impersonate a person to secure a ballot-paper to which the impersonator is not entitled.
- (2) Subject to this Act, a person shall not wilfully destroy or deface a nomination paper or ballot-paper.

Penalty: \$500.

Penalty: \$2,000 or imprisonment for 2 years.

- (3) A person shall not fraudulently put a ballot-paper or other paper into a ballot-box.

Penalty: \$500.

- (4) A person shall not fraudulently take a ballot-paper out of a polling place or a place at which the results of a poll are being determined.

Penalty: \$2,000 or imprisonment for 12 months.

- (5) Subject to this Act, a person shall not wilfully take a ballot-paper out of a polling place.

Penalty: \$200.

- (6) A person shall not misconduct him or herself or fail to obey the lawful directions of the presiding officer in a polling place.

Penalty: \$200.

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- (7) A person shall not supply ballot-papers without authority.
- Penalty: \$1,000 or imprisonment for 6 months.
- (8) A person shall not unlawfully destroy, take or otherwise interfere with, ballot-boxes or ballot-papers contained in a ballot-box.
- Penalty: Imprisonment for 5 years.
- (9) Subject to this Act, a person shall not wear or display an emblem, poster, representation or other identification of a candidate or a political party in a polling place.
- Penalty: \$200.
- (10) A person, other than an officer conducting a determination of the results of a poll, shall not open a ballot-box.
- Penalty: Imprisonment for 5 years.
- (11) Where the presiding officer at a polling place believes, on reasonable grounds, that a person, by his or her conduct at the polling-place is or is likely to disrupt the orderly conduct of voting or the counting of votes at the polling place, the presiding officer may, whether or not the person is a candidate or a candidate's representative or is entitled to vote at the polling place and has not voted, direct the person to leave and remain away from the polling place, and the person shall leave and remain away from the polling place in accordance with the direction.
- Penalty: \$1,000 or imprisonment for 6 months.

### **78. Employee wishing to vote**

- (1) Subject to subsection (2), where an elector notifies his or her employer that the elector desires leave of absence to enable him or her to vote at an election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow him or her leave of absence, without a penalty or disproportionate deduction of pay, for such reasonable period not exceeding 2 hours as is necessary to enable the employee to vote at the election.
- (2) An employee shall not, under pretence that he or she intends to vote at an election, but without the bona fide intention of so doing, obtain leave of absence under this section.
- Penalty: \$100.

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- (3) This section does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which the elector is engaged.

## **Part 9                    Determination of results of polling**

### **79                    Definition**

For the purposes of this Part, **officer** means a Divisional Returning Officer or an Assistant Returning Officer.

### **80                    Determination**

The results of a poll shall be ascertained in accordance with this Part.

### **81                    Candidate's representative at determination**

- (1) A candidate may appoint such persons as the candidate thinks fit to be his or her representatives at a place at which the results of the poll are determined.
- (2) Where, at a place referred to in subsection (1), tables are used for the purposes of counting the ballot-papers in respect of the poll to which the place relates, not more than one candidate's representative per candidate per table shall enter or remain in the place.

Penalty:        \$2,000 or imprisonment for 2 years.

- (3) An appointment under subsection (1) shall be made by notice in writing or by telegram or other electronically transmitted writing:
- (a) addressed to the officer conducting the determination of the results of the poll;
- (b) signed by the candidate, or bearing his or her name; and
- (c) stating the name and address of the candidate's representative.

### **82                    Proceedings at determination**

- (1) Candidate's representatives and such other persons who are approved by the officer conducting a determination may be present at the determination of the results of a poll.
- (2) Proceedings at a determination of the results of a poll shall be open to inspection by candidate's representatives.

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- (3) An officer conducting a determination of the results of a poll may adjourn the determination from time to time.

### **83 Conduct of determination**

- (1) An officer conducting a determination of the results of a poll shall:
- (a) open the ballot-boxes under his or her control;
  - (b) notwithstanding paragraphs (c) to (f) inclusive, if he or she is not the Divisional Returning Officer for the division in respect of which the vote on a ballot-paper contained in an envelope is cast – transmit, unopened, all envelopes containing such ballot-papers received by him or her to the Divisional Returning Officers for the divisions in respect of which the votes on such ballot-papers are cast;
  - (c) place all informal ballot-papers in a parcel;
  - (d) arrange all formal ballot-papers under the names of the candidates in respect of whom the first preference vote on the papers was cast;
  - (e) count the first preference votes given for each candidate on formal ballot-papers;
  - (f) make and sign a statement setting out the number of:
    - (i) votes cast as first preference votes for each candidate; and
    - (ii) informal votes;
  - (g) if he or she is not the Divisional Returning Officer for the division in respect of which the election is being held – transmit the information contained in the statement referred to in paragraph (f) to the Divisional Returning Officer for the division in respect of which the election is being held;
  - (h) place all formal ballot-papers referred to in paragraph (d) in separate parcels according to the candidate in respect of whom the first preference vote was cast;
  - (i) seal up the parcels referred to in paragraphs (c) and (h) and endorse on each parcel a statement of the contents; and

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- (j) if he or she is not the Divisional Returning Officer for the division in respect of which the election is being held – transmit to the Divisional Returning Officer referred to in paragraph (g), as soon as is practicable, all the parcels and statements.
- (2) A candidate's representative may sign:
    - (a) a statement referred to in subsection (1)(f); and
    - (b) any parcels referred to in subsection (1)(h).
  - (3) The Divisional Returning Officer for the division in respect of which the votes on ballot-papers, used for voting under Part 7 or section 53 or 72, are cast, shall, in the prescribed manner, examine, count and deal with those ballot-papers.

#### **84 Objections by candidate's representatives**

- (1) A candidate's representative may object to the officer conducting a determination of the results of a poll as to the admission or rejection of a ballot-paper as a formal ballot-paper.
- (2) The officer conducting a determination of the results of a poll shall determine an objection made under subsection (1) by admitting or rejecting the ballot-paper the subject of the objection as a formal ballot-paper and shall mark the ballot-paper "admitted" or "rejected" according to his or her decision.
- (3) Nothing in this section prevents the officer conducting a determination of the results of a poll from rejecting a ballot-paper as being informal although no objection is made to it.
- (4) A reference in this section to the officer conducting a determination of the results of a poll shall be read as a reference to the Divisional Returning Officer for the division in respect of which the election is being held in the application of this section to a ballot-paper used for voting under Part 7 or section 53 or 72.

#### **85 Determination of first preference votes**

A Divisional Returning Officer shall, from the statements made under section 83 and the result of the scrutiny of the votes counted by him or her, determine the number of first preference votes cast in respect of each candidate for the division in respect of which he or she is Divisional Returning Officer.

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**86 Declaration of election**

Subject to this Act, the candidate who receives more than 50% of the first preference votes determined in accordance with section 85 shall be declared by the Chief Electoral Officer to be returned as elected.

**87 Reconducting a determination**

- (1) If no declaration can be made in accordance with section 86, a Divisional Returning Officer shall:
  - (a) open all parcels containing ballot-papers; and
  - (b) subject to subsection (2), continue the determination of the results of the poll in accordance with section 83.
- (2) For the purposes of subsection (1), a Divisional Returning Officer shall, subject to subsection (3):
  - (a) exclude from consideration the candidate in respect of whom the fewest number of first preference votes has been cast and count the votes cast in favour of that candidate in favour of the candidate next in order of the voter's preference; and
  - (b) if no candidate then has more than 50% of the formal votes cast, follow the process of excluding from consideration the candidate who has the fewest number of votes and counting the votes cast in favour of that candidate to the un-excluded candidate next in the order of the voter's preference until one candidate has received more than 50% of the formal votes cast.
- (3) If there are 2 or more candidates with the fewest number of votes a Divisional Returning Officer shall decide by lottery which candidate or candidates shall be excluded from consideration.
- (4) A Divisional Returning Officer shall, after complying with the requirements of subsections (1), (2) and (3), if applicable, in respect of a poll, make and sign a statement setting out the determination of the results of the poll to that point and:
  - (a) forward the statement to the Chief Electoral Officer; and
  - (b) retain a copy of the statement.
- (5) Where all preference votes have been counted and 2 candidates have equally the highest number of formal votes cast, the Chief Electoral Officer shall have and exercise a casting vote.



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- (6) The candidate ascertained in accordance with subsections (2), (3) and (5), if applicable, shall be declared by the Chief Electoral Officer to be returned as elected.
  - (7) A Divisional Returning Officer shall, on completing a determination of the results of a poll:
    - (a) place in separate parcels all informal votes and all formal votes;
    - (b) seal up the parcels referred to in paragraph (a) and endorse on each parcel a statement of the contents; and
    - (c) allow any candidate's representatives present, if they desire, to sign each parcel.

### **88 Disregarding certain votes**

The Chief Electoral Officer may declare a candidate to be elected if he or she is satisfied that any ballot-papers which:

- (a) have not been received by the Divisional Returning Officer for the division for which the candidate stood for election; or
- (b) have not been dealt with in accordance with this Act,

cannot, due to the number of those ballot-papers, affect the outcome of a determination of the results of a poll.

### **89 Re-count**

- (1) The Divisional Returning Officer for a division, at any time before a candidate is declared to be elected:
  - (a) may, on the written request of a candidate or of his or her own motion; and
  - (b) shall, on the direction of the Chief Electoral Officer,re-count any ballot-papers placed in a parcel in accordance with this Part.
- (2) A request under subsection (1)(a) shall contain a statement of the reasons for the request.

**90 Applicable provisions for re-count**

This Part applies to a re-count of any ballot-papers as if the re-count were the determination of the results of a poll, and any decision in relation to the determination as to the admission or rejection of a ballot-paper as a formal ballot-paper may be reversed.

**91 Referral of questions**

- (1) The Divisional Returning Officer conducting a re-count under section 89 shall, if so required by a candidate's representative, refer any question relating to the formal or informal nature of a ballot-paper to the Chief Electoral Officer.
- (2) The Chief Electoral Officer shall decide a question referred for his or her decision under subsection (1).

**92 Public declaration of result**

The Chief Electoral Officer shall, as soon as is practicable after the results of an election have been determined, publicly declare the results of the election and the name of the candidate returned as elected.

**Part 10 Return of writ****93 Return of writ**

The Chief Electoral Officer shall, after declaring a candidate returned as elected:

- (a) endorse on the writ for the election the name of the candidate;
- (b) return the writ to the Administrator; and
- (c) retain a copy of the writ.

**94 Extension of time**

- (1) Subject to subsection (2), the Administrator may, by notice in the *Gazette*, within 20 days before or after polling day:
  - (a) extend the time for the holding of the election; or
  - (b) extend the time for the return of the writ,for the purpose of obviating a difficulty that may arise in the election.

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- (2) A polling day shall not be postponed under sub-section (1) at any time later than 7 days before the time originally appointed.
  - (3) The Chief Electoral Officer shall give public notice of any extension of time under subsection (1) in the division to which the extension relates.

## **Part 11            Offences**

### **95            Exemption of public policy statements**

Notwithstanding anything in this Act, a declaration of public policy or promise of public action shall not be construed as an offence.

### **96            Printing of advertisements**

- (1) On or after the date of issue and before the return of a writ for the election of a member of the Legislative Assembly, a person shall not:
  - (a) print or publish a printed electoral advertisement, handbill or pamphlet, other than an advertisement in a newspaper, without the name and place of business (if any) of the printer or other person producing the matter being printed at the foot of the matter;
  - (b) publish an electoral advertisement, handbill or pamphlet or issue an electoral notice, other than the announcement by advertisement in a newspaper of the holding of a meeting, without the name and address of the person authorising the advertisement, handbill, pamphlet or electoral notice appearing at the end of the document;
  - (c) print, publish or distribute an electoral advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, having on it directions intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote;
  - (d) print, publish or distribute an electoral advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of the elector's vote; or

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- (e) wilfully inform an elector that the elector is not enrolled, or that the elector is not enrolled for a particular division, where he or she is enrolled, or is enrolled for that division, as the case may be.

Penalty: \$1,000 or imprisonment for 6 months.

- (2) In subsection (1) **publish** and **distribute** includes publish and/or distribute by electronic means and that subsection applies whether or not the electronic means results in the production of printed matter.

### 97 **Heading of advertisements**

On and after the date of issue and before the return of a writ for the election of a member of the Legislative Assembly, the proprietor of every newspaper published or distributed in the Territory shall cause the word **advertisement** to be printed as a headline in letters not smaller than 10 point, to each article or paragraph in his or her newspaper containing:

- (a) matter intended or calculated to affect the result of an election;  
or
- (b) a report of a speech of a candidate,

the insertion of which is or is to be paid for or for which any reward or compensation or promise is or is to be made.

Penalty: \$1,000 or imprisonment for 6 months.

### 98 **Articles to be signed**

- (1) Subject to subsection (3), on and after the date of issue and before the return of a writ for the election of a member of the Legislative Assembly, every article, report, letter or other matter commenting on a candidate, political party or the issues being submitted to the electors at the election, published in any newspaper, circular, pamphlet or handbill shall:

- (a) be signed by the author; or
- (b) state the true name and address of the author at the end of the article, report, letter or other matter, or that part of it which is published.

Penalty: \$1,000 or imprisonment for 6 months.

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- (2) Subject to subsection (3), a newspaper editor or proprietor who permits, in a newspaper which he or she edits or owns, the contravention or failure to comply with subsection (1) is guilty of an offence.

Penalty: \$1,000 or imprisonment for 6 months.

- (3) This section does not apply to the publication in a newspaper of:
- (a) a leading article; or
  - (b) an article which consists solely of a report of a meeting and does not contain any comment, other than comment made by a speaker at the meeting, on a candidate, or political party, or the issues being submitted to the electors.

## **99 Untrue statements**

A person shall not make an untrue statement or supply false information:

- (a) to an officer for the purposes of or in connection with:
  - (i) the preparation, maintenance or revision of the rolls; or
  - (ii) obtaining a ballot-paper; or
- (b) in a document required by or under this Act to be signed by the person.

Penalty: \$2,000 or imprisonment for 2 years.

## **100 Signature to papers**

- (1) Where a person who is required by this Act to sign a document is unable to sign his or her name in writing and instead makes his or her mark as his or her signature, the mark is deemed to be his personal signature, if, subject to subsection (2), it is made in the presence of a witness who signs the document as witness.
- (2) Where a person of a description referred to in subsection (1) makes an application for a postal ballot-paper or completes a postal vote certificate, a reference in subsection (1) to a witness who signs the document as witness shall be read as a reference to 2 witnesses who sign the application or postal vote certificate, as the case may be, as witnesses.

- (3) A person shall not make the signature of another person on a document required by this Act to be signed by the other person.

Penalty: \$2,000 or imprisonment for 2 years.

### **101 Witnesses to papers**

- (1) A person shall not:

- (a) sign his or her name as witness on a blank document which is required by this Act to be witnessed;
- (b) sign his or her name as witness on a document required by this Act to be witnessed which has been wholly or partly completed unless it has been signed by the person intended to sign it;
- (c) sign his or her name as witness on a document required by this Act to be witnessed unless he or she has seen the person, whose signature he or she purports to witness, sign it; or
- (d) write a name other than his or her own name as his or her own name on a document required by this Act.

Penalty: \$2,000 or imprisonment for 2 years.

- (2) A nominee or candidate shall not sign his or her name as witness on a document required by this Act to be witnessed.

Penalty: \$100.

### **102 Prohibition of canvassing near polling booths**

Subject to this Act, a person shall not during polling hours on polling day or a day to which polling is adjourned, within 10 metres of the entrance of a polling place or by means of sound amplification with the intention that the message is audible in or within 10 metres of the entrance of a polling place:

- (a) canvass for votes;
- (b) solicit the vote of an elector;
- (c) induce an elector not to vote for a particular candidate;
- (d) induce an elector not to vote at the election; or

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(e) exhibit a notice or sign relating to the election.

Penalty: \$1,000.

### **103 Making unauthorised marks**

(1) A person shall not, without lawful authority, proof of which lies on him or her:

(a) make on or in a paper a mark required by this Act to be placed on or in the paper;

(b) have in his or her possession any paper bearing a mark referred to in paragraph (a); or

(c) make, use or have in his or her possession an instrument capable of making on or in a paper a mark referred to in paragraph (a) other than an instrument used for the purposes of voting.

Penalty: \$2,000 or imprisonment for 2 years.

(2) A person who, without lawful authority, proof of which authority lies on the person, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, a mark referred to in subsection (1)(a), is deemed to have forged the ballot-paper.

(3) A paper bearing a mark referred to in sub-section (1)(a), and all instruments capable of making that mark on or in a paper made, used or in the possession of any person without lawful authority, proof of which authority lies on the person, shall be forfeited to the Territory and may, without warrant, be seized by any member of the Police Force of the Territory and destroyed or dealt with in such manner as the Chief Electoral Officer or the Commissioner of Police thinks fit.

### **104 Forged documents**

A person shall not forge, or utter knowing it to be forged, a document required by this Act.

Penalty: \$2,000 or imprisonment for 2 years.

### **105 Publication of matter regarding candidates**

(1) A person shall not announce or publish, or cause to be announced or published on behalf of any body of persons, without the written authority of the candidate, proof of which lies on the person, that a candidate in an election is associated with, or supports the policy or

activities of, that person or body of persons.

Penalty: \$1,000 or imprisonment for 6 months.

- (2) Where a matter, the announcement or publication of which by a person without the written authority of a candidate would be an offence against subsection (1), is announced or published by or on behalf of or with the support of a body corporate or body of persons, every person who is an officer of the body at the time of the announcement or publication is guilty of an offence against subsection (1).
- (3) For the purposes of this section, where a matter purports expressly or impliedly to be announced or published by or on behalf of or in the interests or with the support of a person or body of persons, the matter is, in the absence of proof to the contrary, deemed to be announced or published by or on behalf of or with the support of the person or body of persons.
- (4) Nothing in this section applies to or in relation to an announcement or publication made or authorised by a bona fide political party or by a bona fide branch of such a party in respect of a candidate who, by public announcement, has declared his candidature on behalf of or in the interests of the party.

## **106 Influencing officer**

A person who, directly or indirectly, by force, deception, threat or intimidation of any kind, influences or attempts to influence an officer in the exercise of the officer's duty, authority or discretion under this Act, is guilty of an offence.

Penalty: \$2,000 or imprisonment for 2 years.

## **Part 12 Disputed elections**

### **Division 1 Election Tribunal**

#### **107 Election tribunal**

- (1) There is hereby established a tribunal to be known as the Election Tribunal.
- (2) The Tribunal shall be constituted by a Judge of the Supreme Court.
- (3) The Tribunal shall keep a record of its proceedings under this Part.



**108 Method of disputing validity of election**

- (1) The validity of an election may be disputed by petition addressed to the Tribunal, but not otherwise.
- (2) The Tribunal shall have jurisdiction to hear and determine a petition.
- (3) A petition shall, in respect of the election to which it relates:
  - (a) set out the facts relied on to invalidate the election;
  - (b) set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;
  - (c) contain a prayer asking for the relief the petitioner claims to be entitled to;
  - (d) be signed by the person making the petition;
  - (e) be attested by 2 witnesses whose occupations and addresses are stated; and
  - (f) be filed with the Master not later than 21 days after the day fixed for the return of the writ for the election.
- (4) At the time of filing a petition the petitioner shall lodge with the Master the amount of \$500 as security for costs.
- (5) The Master shall deposit moneys lodged under subsection (4) in a trust account to be known as "The Election Tribunal Trust Account" and shall not disperse those moneys other than in accordance with section 122.

**109 Persons to be served**

- (1) A notice of the lodging of a petition and a copy of the petition shall be served on:
  - (a) the Chief Electoral Officer; and
  - (b) where the petition claims a seat for a candidate who has not been returned as a member – the candidate, if any, returned as elected at the election,

which persons so served shall be parties to proceedings under this Part.

- (2) Where a person served in accordance with subsection (1) with a petition proposes to contest the petition, he or she shall, not later than 7 days after the service or such further time as allowed by the Tribunal, lodge a reply to the petition with the Master and the petitioner.
- (3) A reply referred to in subsection (2) shall:
- (a) set out the facts on which the person proposes to reply;
  - (b) ask for the relief to which the person claims to be entitled;
  - (c) be signed by the person; and
  - (d) other than where the reply is by the Chief Electoral Officer, be attested by 2 witnesses whose occupations and addresses are stated.

**110 No proceedings unless requisites complied with**

The proceedings on a petition shall not be proceeded with unless the requirements of sections 108 and 109 are complied with in respect of the petition.

**111 Hearings open to public, &c.**

The Tribunal shall, when exercising the jurisdiction conferred by this Part:

- (a) be open to the public; and
- (b) not be bound by the rules of evidence.

**112 Powers of Tribunal**

- (1) Subject to section 114, the powers of the Tribunal shall include the power to:
- (a) adjourn;
  - (b) compel the attendance of witnesses and the production of documents;
  - (c) examine witnesses on oath, affirmation or declaration;
  - (d) with the consent of the parties to the proceedings, receive evidence on affidavit or by statutory declaration;
  - (e) regulate the form and mode of its proceedings in each case;

- (f) grant to a party to the petition leave to inspect, in the presence of an officer nominated by the Tribunal, the rolls and other documents (except ballot-papers) used at or in connection with the election to which a petition relates and to take, in the presence of the officer, extracts from those rolls and documents;
  - (g) permit, at any stage of its proceedings and on such terms as it thinks fit, such amendments to a petition or other pleadings, as the Tribunal thinks fit;
  - (h) declare that a person who was returned as elected was not duly elected;
  - (i) declare a candidate duly elected who was not returned as elected;
  - (j) declare an election void;
  - (k) dismiss or uphold a petition, in whole or in part; and
  - (l) award costs.
- (2) The Tribunal may exercise all or any of its powers under this section on such grounds as it thinks fit.
- (3) Without limiting the powers conferred by this section, the power of the Tribunal to declare that a person returned as elected was not duly elected or to declare an election void, may be exercised on the ground that illegal practices were committed in connection with the election.
- (4) The Tribunal has the power to punish a contempt of its authority as if it were the Supreme Court and as if the contempt were a contempt of the Supreme Court.

### **113 Inquiries by Tribunal**

- (1) The Tribunal shall inquire whether or not the requirements of sections 108 and 109 have been complied with and, so far as voting is concerned, may inquire into the identity of persons and whether their votes were improperly admitted or rejected, and whether the result of the polling was correctly ascertained, but the Tribunal shall not inquire into the correctness of a roll and shall take the roll to be conclusive evidence that the persons enrolled were, at the time of the issue of the writ, entitled to be enrolled.
- (2) The qualification of a person enrolled shall not be questioned and an election shall not be declared void on the ground that a person

whose name appears on the roll for a division, and who has voted as an elector for the division, was not qualified to be enrolled or to continue to be enrolled as an elector for that division.

**114 Exercise of powers**

(1) The Tribunal shall not exercise the power referred to in section 112(1)(h) or (j):

- (a) on the ground of an action which occurred without the knowledge of the candidate declared elected at an election; or
- (b) subject to section 115, on the ground of the commission of an offence against this Act by the candidate declared elected at an election,

unless it is satisfied:

- (c) that the result of the election was likely to have been affected by that action or the commission of the offence; and
- (d) that it is just that the Tribunal exercise that power.

(2) The Tribunal shall not:

- (a) in determining whether the actions of an officer affected the results of an election, admit evidence of the manner in which a person, who was wrongly prevented from voting at an election by an officer, would have voted; or
- (b) admit evidence from a person referred to in paragraph (a) unless the person satisfies the Tribunal that he or she was wrongly prevented from voting.

**115 Declaration of non-election**

(1) The Tribunal shall, where it finds that a candidate returned as elected has, in respect of the election at which he was elected, committed or attempted to commit an offence involving bribery or corruption, declare that that candidate was not duly elected.

(2) A finding under subsection (1) of the Tribunal shall not bar or prejudice a prosecution for an offence against a law in force in the Territory.

**116 Reporting of offences**

Where the Tribunal finds that a person has committed an offence against this Act, the Master shall, as soon as practicable, report that finding to the Attorney-General, the Director of Public Prosecutions and the Minister.

**117 Tribunal may have regard to certain rejected ballot-papers**

In making its decision on a petition, the Tribunal may:

- (a) have regard to ballot-papers used for voting under Part 8 rejected at the determination if satisfied that the votes marked on the ballot-papers were recorded before the close of the poll; and
- (b) have regard to any ballot-paper for voting under section 53 or 72 rejected at the determination if of the opinion that the ballot-papers should not have been rejected.

**118 Immaterial errors not to vitiate election**

An election shall not be voided on account of a delay in the declaration of nominations, the polling or the return of the writ.

**119 No appeal**

An appeal or other proceedings shall not lie from or in relation to a decision of the Tribunal.

**120 Clerk of Legislative Assembly to receive copy of petition and decision**

The Master shall:

- (a) as soon as practicable after the issue of a petition; and
- (b) after the determination of the petition,

forward to the Clerk of the Legislative Assembly a copy of the petition and a copy of the order of the Tribunal made after the determination.

**121 Representation at hearing**

- (1) A party to proceedings under this Part shall not, except by consent of all parties, or by leave of the Tribunal, be represented by an agent or legal practitioner.

- (2) Without derogating from subsection (1), no more than one agent or legal practitioner may appear at the same time on behalf of a party to the proceedings under this Part.

## **122 Costs**

- (1) The Tribunal may award such costs as it thinks fit in proceedings under this Part.
- (2) A security paid in accordance with section 108(4) shall:
- (a) be returned to the person who paid the security where:
    - (i) no order as to costs is made; or
    - (ii) costs are awarded to the person who paid the security; or
  - (b) be applied toward the costs of the person to whom they are awarded, other than the person referred to in paragraph (a).
- (3) Costs ordered to be paid under this section by the Tribunal may be recovered as if the order of the Tribunal were a judgment of the Supreme Court, and that order shall be entered as a judgment of the Supreme Court and shall be enforced accordingly.

## **123 Issue of writs where necessary**

The Administrator shall issue such writs as are necessary to hold a supplementary election if the Tribunal declares an election void.

## **Division 2 Qualifications and vacancies**

### **124 Reference of question as to qualification or vacancy**

- (1) The Legislative Assembly may, by resolution, refer a question relating to:
- (a) the qualification of a member of the Legislative Assembly to be such a member; or
  - (b) a vacancy in the Legislative Assembly,
- to the Tribunal.

- (2) The Speaker of the Legislative Assembly shall, on a resolution being made under subsection (1), transmit to the Tribunal:
  - (a) a copy of the question referred by resolution, certified under his or her hand; and
  - (b) such documents or other material in the possession of the Legislative Assembly relating to the question referred.
- (3) The Tribunal shall hear and determine a question referred to it under subsection (1).

**125 Parties to reference**

The Tribunal may:

- (a) grant leave to a person interested to appear before it on the determination of a question referred under this Division; and
- (b) order service of a copy of the question referred on such persons as the Tribunal thinks fit.

**126 Powers of Tribunal**

The Tribunal, on the hearing of a question referred under this Division:

- (a) shall be open to the public;
- (b) has the powers referred to in section 112; and
- (c) has power to declare that:
  - (i) a person was not qualified to be a member of the Legislative Assembly; and
  - (ii) there exists a vacancy in the number of members of the Legislative Assembly.

**127 Order to be sent to Legislative Assembly**

The Master shall deliver to the Speaker of the Legislative Assembly a copy of an order or declaration made by the Tribunal following the determination of a question referred under this Division.

**128 Application of certain sections**

Sections 119 and 121 apply to and in relation to proceedings under this Division.

**129 Rules of Tribunal**

The Judges who are appointed under section 32(1) of the *Supreme Court Act* and are not additional Judges, or a majority of those Judges, may make rules, not inconsistent with this Act, for:

- (a) regulating the practice and procedure of the Tribunal;
- (b) conferring on the Tribunal additional powers necessary or convenient for carrying out its functions; and
- (c) making any other provision that is necessary or convenient for carrying into effect the provisions of this Part relating to the Tribunal.

**Part 13 Miscellaneous****130 Averments**

The averments of the prosecutor contained in an information or complaint relating to an offence against this Act are evidence of the matters so averred.

**131 Regulatory offences**

An offence of contravening or failing to comply with section 44(5), 50(10), 51, 58(2), 62, 65, 76(2) or 101 is a regulatory offence.

**132 Prosecutions not to be brought after 12 months**

Notwithstanding any other law in force in the Territory, a prosecution for an offence against this Act or the Regulations shall not be brought where 12 months have elapsed from the date of the commission of the offence.

**133 Number of members of Legislative Assembly**

For the purposes of the next ensuing general election, and all subsequent elections, of members of the Legislative Assembly after the commencement of this Act, the Legislative Assembly shall consist of 25 members.



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**134 Disclosure of information**

A person who is or has been an officer shall not, except for the purposes of this Act, disclose any document or information that he or she has received while acting or purporting to act in accordance with his or her duty as an officer.

Penalty: \$2,000 or imprisonment for 2 years.

**135 Protection of officers**

An action or proceeding, civil or criminal, does not lie against a person who is or has been an officer for or in respect of an act or thing done in good faith by such a person in his or her capacity as an officer.

**136 Destruction of ballot-papers**

(1) The Chief Electoral Officer shall preserve:

- (a) all ballot-papers;
- (b) all certified lists of voters; and
- (c) all declarations,

used at an election for not less than 6 months after the date of the return of the writ.

(2) Subject to any directions of the Tribunal, the Chief Electoral Officer shall destroy all ballot-papers, lists and declarations referred to in subsection (1) at such time, being not later than 12 months, after the date of the return of the writ, as he or she thinks fit.

**137 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Part 14            Repeal and transitional**

### **138            Electoral divisions continued**

The divisions into which the Territory was divided immediately before the commencement of this Act continue, with the same boundaries and names, as divisions into which it is divided for the purposes of this Act, until changed in accordance with this Act.

### **139            Continuation of officers, &c.**

- (1) The persons holding the various offices or having the various powers and functions under the *Electoral Act* as in force immediately before the commencement of this Act shall continue to hold those offices and have those powers and functions under this Act as if appointed to those offices, or those powers were conferred or functions imposed, under this Act.
- (2) All delegations, authorities and arrangements made under or in pursuance of the *Electoral Act* and in force immediately before the commencement of this Act shall continue to have effect as if made under or in pursuance of this Act but may be revoked or amended under or in pursuance of this Act.

### **140            Continuation of rolls, &c.**

The rolls of electors and the various registers kept under or in pursuance of the *Electoral Act* as in force immediately before the commencement of this Act shall continue after that commencement as the rolls of electors and equivalent registers under this Act but may be amended or revised under or in pursuance of this Act.

### **141            Saving of Regulations**

The Regulations made under the *Electoral Act* and in force immediately before the commencement of this Act shall continue in force as Regulations under this Act but may be repealed or amended as if they were made under this Act.

### **142            Repeal**

The Acts specified in Schedule 2 are repealed.

## Schedule 1

### THE NORTHERN TERRITORY OF AUSTRALIA

#### *Electoral Act*

#### WRIT FOR AN ELECTION

TO

the Chief Electoral Officer

I order you to cause an election to be held according to law for one member of the Legislative Assembly of the Northern Territory of Australia for the division of \_\_\_\_\_, and fix:

- (a) the \_\_\_\_\_ day of \_\_\_\_\_, to be nomination day,
- (b) the \_\_\_\_\_ day of \_\_\_\_\_, to be polling day, and
- (c) the \_\_\_\_\_ day of \_\_\_\_\_, to be the last day on

which this writ may be returned.

Given under my Hand and the Public Seal of the Northern Territory of Australia on the \_\_\_\_\_ day of \_\_\_\_\_, .

Administrator

## Schedule 2

section 142

### Acts Repealed

<i>Electoral Act 1979</i>	(No. 3 of 1980)
<i>Electoral Act (No. 2) 1979</i>	(No. 146 of 1979)
<i>Electoral Act 1980</i>	(No. 19 of 1980)
<i>Electoral Amendment Act 1982</i>	(No. 73 of 1982)
<i>Electoral Amendment Act Amendment Act 1983</i>	(No. 36 of 1983)
<i>Electoral (Criminal Code) Amendment Act Amendment Act 1983</i>	(No. 60 of 1983)
<i>Electoral Amendment Act Amendment Act 1988</i>	(No. 29 of 1988)
<i>Electoral Amendment Act 1990</i>	(No. 42 of 1990)

## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
app = appendix  
bl = by-law  
ch = Chapter  
cl = clause  
div = Division  
exp = expires/expired  
f = forms  
Gaz = Gazette  
hdg = heading  
ins = inserted  
lt = long title  
nc = not commenced

od = order  
om = omitted  
pt = Part  
r = regulation/rule  
rem = remainder  
renum = renumbered  
rep = repealed  
s = section  
sch = Schedule  
sdiv = Subdivision  
SL = Subordinate Legislation  
sub = substituted

### 2 LIST OF LEGISLATION

***Northern Territory Electoral Act 1995 (Act No. 37, 1995)***

Assent date	12 September 1995
Commenced	7 August 1996 (Gaz G32, 7 August 1996, p 3)