

THE NORTHERN TERRITORY OF AUSTRALIA

ELECTORAL ACT

No. 3 of 1980

TABLE OF PROVISIONS

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Definitions

PART II - ADMINISTRATION

4. Chief Electoral Officer
5. Power of delegation
6. Divisional Returning Officer
7. Assistant Returning Officer
8. Officer becoming candidate

PART III - ELECTORAL DIVISIONS

Division 1 - Distribution Committee

9. Distribution Committee
10. Remuneration of members
11. Termination of office

Division 2 - Divisions

12. Notice of proposed distribution
13. Suggestions, &c., relating to divisions
14. Matters to be considered in distribution
15. Publication of map
16. Objections, &c., to map
17. Report of Distribution Committee to Minister
18. Declaration of divisions
19. Offence to influence a member

PART IV - ROLLS

20. Roll of electors
21. Form of rolls
22. Preparation of new rolls
23. Emendations of new rolls
24. Printing of rolls
25. Availability of rolls
26. Persons to furnish information

PART V - ENROLMENT

Division 1 - Claims for Enrolment

- 27. Persons qualified to vote
- 28. Claim deemed to have been made in certain circumstances
- 29. Transfer of enrolment
- 30. Method of making a claim
- 31. Acceptance of claim
- 32. Alteration of rolls

Division 2 - Objections

- 33. Names on roll may be objected to
- 34. Notice of objection
- 35. Answer to objection
- 36. Determination of objection

Division 3 - Application for an Order

- 37. Application to Court of Summary Jurisdiction
- 38. Form of application
- 39. Powers of Court
- 40. Court may hear and determine application
- 41. Certified copy of order to be sent to Chief Electoral Officer

PART VI - WRITS FOR ELECTIONS

- 42. One member from a division
- 43. Form of writ for election
- 44. Writ for election to be addressed to Divisional Returning Officer
- 45. Limitation of dates
- 46. Endorsement of writ

PART VII - NOMINATIONS

- 47. Persons must be nominated
- 48. Mode of nomination
- 49. Deposit to be returned in certain cases
- 50. Withdrawal of consent
- 51. Declaration of nomination
- 52. Declaration of one candidate only
- 53. Failure of election
- 54. Issue of writ for failed election

PART VIII - VOTING BY POST

- 55. Application for postal ballot-paper
- 56. Duty of witnesses
- 57. Issue of ballot-papers

58. Possession of applications
59. Numbering of applications
60. Divisional Returning Officer to notify issue
of postal ballot-papers
61. Directions for postal voting
62. Voting on postal ballot-papers
63. Disclosure of information

PART IX - POLLING

64. Minister to appoint polling places
65. No licensed premises to be used
66. Separate voting compartments
67. Ballot-boxes
68. Ballot-papers
69. Representatives at polling
70. Persons present at polling
71. Polling
72. Electors shall vote
73. Person may vote only once
74. Name to be on roll
75. Persons claiming to vote to give names and
other particulars
76. Record of objections
77. Ballot-papers to be initialled
78. Vote to be marked in private
79. Assistance of certain persons
80. Vote of person whose name is not on
certified list
81. Method of voting
82. Spoilt ballot-papers
83. Adjournment of polling
84. Marking of ballot-papers
85. Impersonation of elector
86. Employee wishing to vote

PART X - DETERMINATION OF RESULTS OF POLLING

87. Definition
88. Determination
89. Candidate's representative at determination
90. Proceedings at determination
91. Conduct of determination
92. Objections by candidate's representatives
93. Determination of first preference votes
94. Declaration of election
95. Reconducting a determination
96. Disregarding certain votes
97. Re-count
98. Applicable provisions for re-count
99. Referral of questions
100. Public declaration of result

PART XI - RETURN OF WRIT

- 101. Return of writ
- 102. Extension of time

PART XII - OFFENCES

- 103. Offers to induce
- 104. Threats of violence
- 105. Exemption of public policy statements
- 106. Printing of advertisements
- 107. Heading of advertisements
- 108. Articles to be signed
- 109. Display of posters over certain size prohibited
- 110. Removal of prohibited electoral posters
- 111. Untrue statements in forms
- 112. Signature to papers
- 113. Witnesses to papers
- 114. Prohibition of canvassing near polling booths
- 115. Making unauthorized marks
- 116. Forged documents
- 117. Defamation of candidates
- 118. Publication of matter regarding candidates

PART XIII - DISPUTED ELECTIONS

Division 1 - Jurisdiction of Supreme Court

- 119. Jurisdiction of Supreme Court
- 120. Application by originating summons
- 121. Deposit as security for costs
- 122. Persons to be served
- 123. Open court
- 124. Powers of Court
- 125. Exercise of powers
- 126. Declaration of non-election
- 127. Reporting of offences
- 128. No appeal
- 129. Clerk of Legislative Assembly to receive copy of summons and order
- 130. Representation at hearing
- 131. Costs
- 132. Issue of writs where necessary

Division 2 - Qualifications and Vacancies

- 133. Reference of question as to qualification or vacancy
- 134. Parties to a reference
- 135. Powers of Court
- 136. Order to be sent to Legislative Assembly
- 137. Application of certain sections

PART XIV - MISCELLANEOUS

- 138. Averments
- 139. Disclosure of information
- 140. Protection of officers
- 141. Destruction of ballot-papers
- 142. Regulations

PART XV - TRANSITIONAL

- 143. Electoral districts to continue
- 144. Failure to enrol not an offence in certain circumstances

SCHEDULE

THE NORTHERN TERRITORY OF AUSTRALIA

No. 3 of 1980

AN ACT

To regulate elections of the Legislative Assembly

[Assented to 7 January 1980]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

- | | |
|----------------------------------------------------------------------------------------------------------------------------|--------------|
| 1. This Act may be cited as the <u>Electoral Act 1979</u> . | Short title |
| 2. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> . | Commencement |
| 3.(1) In this Act, unless the contrary intention appears - | Definitions |
| "assistant officer" means a person appointed as an assistant officer under section 64(4)(c); | |
| "Assistant Returning Officer" means a person appointed as an Assistant Returning Officer under section 7(1); | |
| "authorized witness" means a person who is an elector or, where - | |
| (a) an application for a postal ballot-paper is signed; or | |
| (b) a vote on a postal ballot-paper is recorded, | |
| outside the Territory, a person who is - | |
| (c) an officer of the naval, military or air forces of the Commonwealth or of some other part of the Queen's dominions; or | |

Electoral

- (d) a Justice of the Peace, Commissioner for Oaths, Commissioner for Affidavits, Commissioner for Declarations or Notary Public, appointed under a law of the Commonwealth or of a Territory or State;
- "ballot-paper" includes a postal ballot-paper;
- "candidate's representative" means a person appointed as a candidate's representative under section 69(1);
- "certified list of voters" means a list referred to in section 64(5);
- "Chief Electoral Officer" means the person appointed as Chief Electoral Officer under section 4;
- "claimant" means a person who has made a claim for enrolment or transfer of enrolment, as the case requires;
- "Court of Summary Jurisdiction" means a Court of Summary Jurisdiction within the meaning of the Justices Act;
- "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 9;
- "division" means an electoral division for the election of a member of the Legislative Assembly;
- "Divisional Returning Officer" means a person appointed as Divisional Returning Officer for a division under section 6(1);
- "election" means an election of a member of the Legislative Assembly;
- "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;
- "mobile polling team" means a mobile polling team authorized under section 64(1)(b);
- "mobile polling team leader" means a person appointed as a mobile polling team leader under section 64(4)(b);

Electoral

"nomination", in relation to an election, means a nomination in accordance with section 48;

"nomination day" means the date fixed by a writ as the date for the nomination of candidates;

"nominee" means a person who has been nominated in accordance with Part VII;

"officer" means Chief Electoral Officer, Divisional Returning Officer, Assistant Returning Officer, presiding officer or an assistant officer;

"polling day" means the date fixed by a writ as the date of polling day;

"polling place" means a place appointed as a polling place under section 64(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 during the period that the notice is displayed; and

(b) the area designated by a notice erected by a mobile polling team leader during the period that the notice is displayed;

"presiding officer" means a person appointed as a presiding officer of a polling place under section 64(4)(a) and includes a mobile polling team leader appointed under section 64(4)(b);

"prisoner" means a person who has been convicted of and is presently under sentence for an offence other than an offence against section 24, 24AA, 24AB, 24C, 24D, 25, 26 or 27 of the Crimes Act 1914 of the Commonwealth;

"representative" means a person appointed as a representative under section 89(1);

"roll" means a roll of electors under this Act;

"Surveyor-General" means the Surveyor-General within the meaning of the Licensed Surveyors Act;

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

(2) A ballot-paper is informal for the purposes of this Act if -

(a) it is not initialled by an officer or is not otherwise authenticated by an official mark as prescribed;

Electoral

- (b) it has no vote indicated on it or it does not indicate the elector's first preference for one candidate and his other preferences for all the remaining candidates except -
- (i) where the voter has indicated his first preference for one candidate and his 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 deemed that the voter's preference for that candidate is his last and that accordingly he has indicated the order of his preference for all the candidates; or
 - (ii) where there are 2 candidates only and the voter has indicated his vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank, the voter shall be deemed to have indicated the order of his preference for both the candidates; or
- (c) it has on it any mark or writing, by which, in the opinion of the Divisional Returning Officer, the voter can be identified.

PART II - ADMINISTRATION

Chief
Electoral
Officer

4.(1) The Administrator shall, within 3 months after the date of commencement of this Act, by notice in the Gazette, appoint a person to be the Chief Electoral Officer.

(2) 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.

Power of
delegation

5.(1) The Chief Electoral Officer may, either generally or in relation to a matter or class of matters, by instrument in writing, delegate to a person all or any of his powers under this Act, except this power of delegation.

(2) A power delegated under sub-section (1) may be exercised by the delegate in accordance with the instrument of delegation.

(3) A delegation under sub-section (1) is revocable at will and does not prevent the exercise of a power or function by the Chief Electoral Officer.

Divisional
Returning
Officer

6.(1) The Chief Electoral Officer may, by notice in the Gazette, appoint a Divisional Returning Officer for a division.

Electoral

(2) A Divisional Returning Officer shall comply with the directions of the Chief Electoral Officer when exercising the powers or performing the duties conferred or imposed on a Divisional Returning Officer by this Act.

7.(1) Subject to sub-section (2), the Chief Electoral Officer may appoint a person to be an Assistant Returning Officer for a division or a portion of a division.

Assistant
Returning
Officer

(2) An Assistant Returning Officer shall not be appointed for a portion of a division for which less than 100 electors are enrolled.

(3) An Assistant Returning Officer may, subject to the directions of the Divisional Returning Officer for the division in respect of which he is appointed, exercise the powers and perform the duties of that Divisional Returning Officer, except those powers and duties relating to postal voting.

8.(1) An officer vacates his office if he becomes a candidate.

Officer
becoming
candidate

(2) No candidate or spouse (including a de facto spouse) of a candidate shall be appointed an officer.

(3) No infant shall be appointed an officer.

PART III - ELECTORAL DIVISIONS

Division 1 - Distribution Committee

9.(1) For the purposes of this Act, there shall be a Distribution Committee constituted in accordance with this section.

Distribution
Committee

(2) The Distribution Committee shall be constituted by -

- (a) the Chief Electoral Officer;
- (b) the Surveyor-General; and
- (c) a person appointed under sub-section (3).

(3) The Administrator may, by notice in the Gazette, appoint a person to be a member of the Distribution Committee.

(4) A member of the Distribution Committee appointed under sub-section (3) shall be the Chairman of the Distribution Committee.

Electoral

(5) At all meetings of the Distribution Committee the Chairman, if present, shall preside, and in his absence the members of the Distribution Committee shall appoint one of their number to preside, and at all such meetings 2 members of the Distribution Committee shall be a quorum.

Remuneration
of members

10. A member of the Distribution Committee shall be paid such fees and allowances, and at such rates, as may be determined by the Administrator.

Termination
of office

11.(1) The Administrator shall remove a member of the Distribution Committee appointed under section 9(3) from office if the member -

- (a) is, in the opinion of the Administrator, guilty of misbehaviour or incompetence;
- (b) becomes permanently incapable of performing his duties; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit.

(2) A member of the Distribution Committee appointed under section 9(3) may resign his office by writing under his hand delivered to the Administrator.

Division 2 - Divisions

Notice of
proposed
distribution

12. The Administrator may, by notice in the Gazette, direct the Distribution Committee to divide or redivide the Territory into proposed electoral divisions.

Suggestions,
&c., relating
to divisions

13.(1) The Distribution Committee shall comply with a direction of the Administrator under section 12.

(2) For the purposes of a distribution of the Territory into proposed divisions, the Distribution Committee shall, by notice in the Gazette -

- (a) invite suggestions in writing relating to the distribution of the Territory into proposed divisions 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 Distribution Committee under paragraph (a) to be lodged with it within 14 days after the expiration of the period referred to in that paragraph.

Electoral

(3) Immediately after the expiration of the period referred to in sub-section (2)(a), the Distribution Committee shall make available for public inspection for a period of 14 days, at the office of the Chief Electoral Officer, copies of suggestions lodged with the Distribution Committee under that sub-section.

14. When making a distribution of the Territory into proposed divisions, the Distribution Committee shall -

Matters to be considered in distribution

- (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 the 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. Before reporting on the distribution of the Territory into proposed divisions, the Distribution Committee shall -

Publication of map

- (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 Distribution Committee, in each proposed division; and

Electoral

(b) by notice in the Gazette, invite public attention to the proposed distribution shown on the map referred to in paragraph (a).

Objections,
&c., to map

16.(1) A person may lodge suggestions or objections in writing relating to a distribution of the Territory into proposed divisions with the Distribution Committee not later than 30 days after the date of the notice referred to in section 15(b).

(2) The Distribution Committee may, after consideration of suggestions and objections lodged with it under sub-section (1), amend the map showing the boundaries of the proposed divisions which has been exhibited under section 15.

Report of
Distribution
Committee to
Minister

17.(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;

(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 Distribution Committee, showing the boundaries of each proposed division; and

(b) copies of suggestions, comments or objections lodged with the Distribution Committee under sections 13(2) and 16(1).

(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 sub-section (1)(b).

Declaration
of divisions

18.(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) A distribution approved under sub-section (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) If the Legislative Assembly passes a resolution disapproving a distribution of the Territory into proposed divisions tabled in accordance with

Electoral

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 on an alternative distribution of the Territory into proposed divisions.

(4) The Distribution Committee -

(a) shall comply with a direction given to it under sub-section (3); and

(b) may, in its discretion, comply with that direction as if it were a direction from the Administrator given under section 12.

19. No person shall seek to influence a member of the Distribution Committee in the exercise of its powers and the performance of its functions, other than in accordance with this Part.

Offence to influence a member

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

PART IV - ROLLS

20. 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 he is appointed.

Roll of electors

21.(1) Rolls shall set out the surname, given names, sex, occupation, place of residence, postal address and such other particulars as may be prescribed in relation to each elector.

Form of rolls

(2) Rolls shall include the matters referred to in sub-section (1) with respect to -

(a) all persons who are qualified in accordance with section 27(1) to vote at an election and whose names are on the Roll kept under the Northern Territory Electoral Regulations from time to time in force under the Northern Territory Representation Act 1922 of the Commonwealth and the Commonwealth Electoral Act 1918 of the Commonwealth; and

(b) all persons who are qualified in accordance with section 27(1) to vote at an election and whose claims for enrolment have been accepted under Part V.

(3) A Divisional Returning Officer may amend or add any matter to a roll, in any manner not inconsistent with this Act.

22.(1) A Divisional Returning Officer shall prepare a new roll for the division for which he is appointed whenever so directed by the Administrator by notice in the Gazette.

Preparation of new rolls

Electoral

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

Emendations
of new rolls

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

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

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

Printing of
rolls

24.(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 may direct.

Availability
of rolls

25. 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 may appoint, on payment of the prescribed fee.

Persons to
furnish
information

26.(1) The Chief Electoral Officer may require a person to furnish such information as he may require in relation to the preparation, maintenance or revision of a roll as is specified in the requirement.

(2) No person shall contravene or fail to comply with a requirement of the Chief Electoral Officer made under sub-section (1).

Penalty: \$200.

PART V - ENROLMENT

Division 1 - Claims for Enrolment

Persons

27.(1) Subject to this section -

Electoral

- (a) all persons who are, under Part V of the Northern Territory Electoral Regulations, from time to time in force under the Northern Territory Representation Act 1922 of the Commonwealth and the Commonwealth Electoral Act 1918 of the Commonwealth, qualified to vote at an election of a member for the Northern Territory of the House of Representatives in the Parliament of the Commonwealth; and

qualified
to vote

- (b) all prisoners,

are qualified to vote at an election.

(2) Subject to section 28, a person qualified to vote at an election who has lived continuously in a division for one month shall, within 21 days of the expiration of that period, make a claim for enrolment.

(3) A person who contravenes or fails to comply with sub-section (2) is guilty of an offence.

Penalty: \$100.

(4) It is a defence to a prosecution under this section that a contravention or failure to comply with sub-section (2) is not the consequence of the failure by the defendant to post or deliver a claim for enrolment to the Divisional Returning Officer for the division for which he is required to make a claim.

(5) Notwithstanding anything contained in this Act -

- (a) a member of the Legislative Assembly may, if he so desires, have his name placed upon and retained upon the roll for the division which he represents instead of upon the roll for the division in which he lives; and
- (b) a member of the Legislative Assembly whose name is enrolled in accordance with the provisions of this sub-section may vote as an elector of the division in respect of which he is so enrolled.

28.(1) A person whose name is on, or who has made a claim for enrolment or for transfer of enrolment on, the Roll kept under the Northern Territory Electoral Regulations from time to time in force under the Northern Territory Representation Act 1922 of the Commonwealth and the Commonwealth Electoral Act 1918 of the Commonwealth shall be deemed to have complied with section 27(2) or 29(1), as the case may be.

Claim deemed
to have been
made in
certain
circumstances

(2) An enrolment or claim for enrolment or for transfer of enrolment of a description referred to in sub-section (1) shall be subject to the provisions of this Part only in relation to a roll kept under this Act.

Electoral

Transfer of
enrolment

29.(1) A person who is qualified in accordance with section 27(1) to vote at an election and changes -

- (a) his place of living from one address in the division for which he is enrolled to another address in that division or to an address in another division; or
- (b) his name,

shall, within 21 days after the date of making that change, make a claim for transfer of enrolment.

(2) A person who contravenes or fails to comply with sub-section (1) is guilty of an offence.

Penalty: \$100.

(3) It is a defence to a prosecution under this section that a contravention or failure to comply with sub-section (1) is not the consequence of the failure by the defendant to post or deliver a claim for transfer of enrolment to the Divisional Returning Officer for the division for which he is required to make a claim.

Method of
making a
claim

30.(1) A claim for enrolment or transfer of enrolment shall -

- (a) be in the prescribed form;
- (b) state whether the claimant is enrolled in any other division;
- (c) be signed by the claimant;
- (d) be witnessed by a person who is qualified to vote at an election; and
- (e) be posted or delivered to the Divisional Returning Officer for the division in respect of which the claim is made.

(2) The person witnessing a claim for enrolment or transfer of enrolment shall, before he affixes his signature to that claim, satisfy himself that the statements contained in the claim are true.

Penalty: \$1,000.

Acceptance of
claim

31.(1) On receipt of a claim for enrolment or transfer of enrolment, a Divisional Returning Officer shall -

- (a) note on the claim the date of its receipt; and
- (b) if satisfied that the claimant is entitled to be enrolled -

Electoral

- (i) enter on the roll kept by him the name of the claimant and the particulars relating to him;
- (ii) notify the claimant that he has been enrolled; and
- (iii) if the claimant states in his claim that he is enrolled in another division, notify the Divisional Returning Officer for that other division.

(2) A Divisional Returning Officer who receives a notification in accordance with sub-section (1)(b)(iii) shall remove the name of and the particulars relating to the elector from the roll kept by him.

(3) A Divisional Returning Officer who is not satisfied that a claimant is entitled to be enrolled shall -

- (a) reject the claim for enrolment or transfer of enrolment of the claimant; and
- (b) notify the claimant of that rejection.

32.(1) A Divisional Returning Officer may alter a roll kept by him for the purpose of -

Alteration
of rolls

- (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) The Divisional Returning Officer for a division may alter the name, address or occupation of an elector on the roll for the division, in accordance with the written application of that elector, if the Divisional Returning Officer is satisfied that the alteration is necessary to make the roll accurate.

(3) A Divisional Returning Officer shall not alter a roll kept by him in pursuance of a claim for enrolment or transfer of enrolment which is received by him after 6 p.m. on the day of the issue of the writ for an election until after the close of polling at that election.

Division 2 - Objections

33.(1) A person may object to the inclusion of any name on a roll.

Names on roll
may be
objected to

- (2) An objection shall -
 - (a) be in writing;
 - (b) set out the grounds of objection;

Electoral

(c) subject to paragraph (d), be lodged with the Divisional Returning Officer for the division in which the person objected to is enrolled; and

(d) if the objection is made by a Divisional Returning Officer, be lodged with the Chief Electoral Officer.

(3) An objection on the ground that a person does not live in the division for which he is enrolled is not a good objection unless it alleges that -

(a) the person objected to does not live in the division; and

(b) the person has not lived in that division for a period of at least one month immediately preceding the date of the lodging of the objection.

(4) An objection on the ground that a person does not live in the division for which he is enrolled by reason that the person is a prisoner, is not a good objection.

(5) Where an objection is lodged by a person other than an officer, the sum of \$5 shall be lodged with the objection and that sum shall be forfeited to the Territory if the objection is dismissed.

Notice of
objection

34.(1) Subject to sub-section (3), where an objection is made by or lodged with a Divisional Returning Officer, he shall, as soon as is practicable after making or receiving the objection, serve notice of the objection on the person whose name was objected to.

(2) A notice referred to in sub-section (1) shall be in the prescribed form and may be served by post to the address of the person objected to, if that address is known to the Divisional Returning Officer, or if it is not known to the Divisional Returning Officer, then to the address appearing on the roll.

(3) Where the Divisional Returning Officer is satisfied that the ground for objection stated in an objection is not a good ground for objection, he may dismiss that objection, in which case no notice of objection need be served on the person whose name was objected to.

Answer to
objection

35.(1) A person whose name is objected to may, orally or in writing, answer that objection within 30 days after service of the notice referred to in section 34.

Electoral

(2) An answer referred to in sub-section (1) shall be made to or lodged with the Divisional Returning Officer who served notice under section 34(1) on the person whose name was objected to.

36.(1) At the expiration of the period referred to in section 35(1), the Chief Electoral Officer or the Divisional Returning Officer, as the case may be, with whom the objection was lodged shall determine the objection by -

Determination
of objection

- (a) in the case of an objection lodged with the Chief Electoral Officer - directing the Divisional Returning Officer by whom the objection was lodged to remove the name of the person objected to from the roll on which that person is enrolled;
- (b) in the case of an objection lodged with a Divisional Returning Officer - removing the name of the person objected to from the roll on which that person is enrolled; or
- (c) dismissing the objection.

(2) The name of a person objected to shall not be removed from a roll under sub-section (1) after the issue of a writ for an election and before the close of polling at that election.

(3) Where an objection has been made and -

- (a) a Divisional Returning Officer, under sub-section (1)(a) or (b), removes the name of a person from a roll; or
- (b) the Chief Electoral Officer, under sub-section (1)(c), or a Divisional Returning Officer, under section 34(3) or sub-section (1)(c), dismisses the objection,

the Divisional Returning Officer or the Chief Electoral Officer, as the case may be, shall notify the person by whom the objection was made and the person whose name was objected to, if that person has answered the objection within the period referred to in section 35(1), accordingly.

Division 3 - Application for an Order

37.(1) A claimant who receives notification under section 31(3) of rejection of his claim for enrolment or transfer of enrolment or a person who receives notification under section 36(3) that his name has been removed from a roll may, within 30 days after the receipt of the notification, apply to a Court of Summary Jurisdiction for an order directing his name to be placed on the roll specified in the application.

Application
to Court of
Summary
Jurisdiction

Electoral

(2) A person, other than an officer, who made an objection which was dismissed under section 34(3) or 36, may, within 30 days after the receipt of notification under section 36(3) of that dismissal, apply to a Court of Summary Jurisdiction for an order sustaining the objection.

Form of
application

38.(1) A person who intends to make an application under this Division shall, not less than 7 days before making the application, serve notice of the application in the prescribed form on -

- (a) where applicable, the person who made an objection or the person objected to, as the case may be; and
- (b) the Chief Electoral Officer or the Divisional Returning Officer who -
 - (i) rejected a claim for enrolment or transfer of enrolment under section 31(3);
 - (ii) dismissed an objection under section 34(3); or
 - (iii) made a determination under section 36 in respect of an objection.

(2) A person served with notice under sub-section (1) may appear as a party to an application under this Division.

Powers of
Court

39. A Court of Summary Jurisdiction has, in relation to an application under this Division, all the powers given to it under Part IV of the Justices Act.

Court may
hear and
determine
application

40.(1) A Court of Summary Jurisdiction may -

- (a) hear and determine an application under this Division; and
- (b) make such order as it thinks fit as to the costs of the application.

(2) Costs ordered by a court to be paid under sub-section (1) may be recovered in the same manner as costs of any other proceedings before that court.

Certified copy
of order to
be sent to
Chief Elect-
oral Officer

41.(1) The Clerk of the Court of Summary Jurisdiction which hears an application under this Division shall furnish the Chief Electoral Officer with a certified copy of the order of the Court.

Electoral

(2) On receiving a certified copy of an order in accordance with sub-section (1), the Chief Electoral Officer shall direct the Divisional Returning Officer for the division in respect of which the person objected to was enrolled, or in respect of which a claim for enrolment or transfer of enrolment was made, to make such amendments to the roll as are necessary to give effect to the order.

PART VI - WRITS FOR ELECTIONS

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

One member
from a division

43.(1) Writs for the election of members of the Legislative Assembly shall be issued by the Administrator.

Form of writ
for election

(2) A writ may be in accordance with the Schedule 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 shall be deemed to have been issued at 6.00 p.m. on the day on which it was issued.

44. A writ for the election of a member of the Legislative Assembly shall be addressed to the Divisional Returning Officer for the division for which the election is to be held.

Writ for
election to
be addressed
to Divisional
Returning
Officer

45. In respect of an election -

Limitation
of dates

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

46. A Divisional Returning Officer shall, on receiving a writ -

Endorsement
of writ

- (a) endorse on it the date of its receipt; and

Electoral

- (b) advertise its receipt and particulars in a newspaper circulating in the division for which the election is to be held.

PART VII - NOMINATIONS

Persons must
be nominated

47. No person shall be elected as a member of the Legislative Assembly unless he is nominated in accordance with this Part.

Mode of
nomination

48.(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 for which the candidate is nominating;
- (d) contain a statement that the nominee consents 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;
- (f) be accompanied by a photograph of the nominee in the prescribed form;
- (g) be accompanied by the sum of \$200 in cash or a banker's cheque of that amount; and
- (h) be signed by the nominee.

(2) A nomination may be lodged -

- (a) with the Divisional Returning Officer for the division for which the nominee is nominating after the date of the issue of the writ for the election and before 12 noon on nomination day; or
- (b) with a person authorized in writing to receive nomination forms by the Divisional Returning Officer referred to in paragraph (a) after the date of the issue of the writ for the election and not less than 24 hours before 12 noon on nomination day.

Electoral

(3) A person who receives a nomination form under sub-section (2)(b) shall forthwith telegraph the particulars of the nomination to the Divisional Returning Officer referred to in sub-section (2)(a) and shall, as soon as practicable, post or deliver the nomination form, the photograph referred to in section 48(1)(f) and the sum of \$200 referred to in section 48(1)(g) to that Divisional Returning Officer.

(4) A nomination shall not be valid unless it or telegraphic particulars of it reaches the Divisional Returning Officer for the division for which the nominee is nominating before 12 noon on nomination day.

49. After an election, and subject to this Act, the sum of \$200 referred to in section 48(1)(g) shall be returned to a candidate or to some person authorized by him in writing to receive it, if -

Deposit to
be returned
in certain
cases

- (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 more than one-fifth 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.

50.(1) A nominee may withdraw his consent referred to in section 48(1)(d) by lodging a notice of withdrawal of consent in the prescribed form -

Withdrawal
of consent

- (a) with the Divisional Returning Officer for the division for which he has been nominated before 12 noon on nomination day; or
- (b) with a person authorized in writing to receive notices of withdrawal of consent by the Divisional Returning Officer referred to in paragraph (a) not less than 24 hours before 12 noon on nomination day.

(2) A person who receives a notice of withdrawal of consent in accordance with sub-section (1)(b) shall forthwith telegraph particulars of the withdrawal of consent to the Divisional Returning Officer referred to in sub-section (1)(a) and shall, as soon as practicable, post or deliver the notice of withdrawal of consent to that Divisional Returning Officer.

(3) The sum of \$200 referred to in section 48(1)(g) shall be returned to a nominee who withdraws his consent under sub-section (1).

Electoral

Declaration
of nomination

51. The Divisional Returning Officer for the division for which an election is to be held shall, at his office, at 12 noon on nomination day -

- (a) publicly produce all nomination forms, other than the form of a nominee who has withdrawn his consent in accordance with section 50(1), lodged with him; and
- (b) publicly exhibit particulars of all nomination forms, other than particulars of the nomination form of a nominee who has withdrawn his consent in accordance with section 50(1), lodged with a person in accordance with section 48(2)(b),

and declare the names and addresses of all candidates nominated.

Declaration
of one
candidate only

52. Where one candidate only is declared in accordance with section 51, the Divisional Returning Officer shall declare that candidate duly elected.

Failure of
election

53.(1) An election shall be deemed to have failed if -

- (a) no nomination is declared under section 51;
- (b) a candidate dies before polling day; or
- (c) no candidate is returned as elected.

(2) Where an election has failed, the sum of \$200 referred to in section 48(1)(g) lodged by a candidate shall be returned -

- (a) to the candidate or to some person authorized by him in writing to receive it; or
- (b) in the case of a candidate who died before polling day - to his personal representative.

Issue of writ
for failed
election

54.(1) Where an election has failed, the Administrator shall, as soon as is reasonably practicable, issue a new writ for an election.

(2) For the purposes of an election held pursuant to a writ issued under sub-section (1), the roll shall be the roll prepared for the election which failed.

PART VIII - VOTING BY POST

Application
for postal
ballot-paper

55.(1) An elector who -

- (a) will not, throughout the hours of polling on polling day, be within the Territory;

Electoral

- (b) will, throughout the hours of polling on polling day, be travelling under such conditions as will preclude him 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) is, by reason of his membership of a religious order or his 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; or
- (e) will not, by reason of being a prisoner, be able to attend at a polling place,

may apply for a postal ballot-paper.

(2) An application for a postal ballot-paper shall -

- (a) be in the prescribed form;
- (b) contain a declaration by the applicant setting out the grounds on which he applies for a postal ballot-paper;
- (c) be signed by the applicant in the presence of an authorized witness; and
- (d) be made after the tenth day prior to the date of the issue of the writ for the election; and
- (e) be lodged with a Divisional Returning Officer.

(3) No person shall sign an application for a postal ballot-paper as applicant which contains a false statement.

Penalty: \$1,000.

(4) No person shall unlawfully induce or persuade an elector to make an application for a postal ballot-paper.

Penalty: \$1,000.

Electoral

Duty of witnesses

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

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

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

Issue of ballot-papers

57.(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, he 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 is enrolled; and
- (b) one postal ballot-paper in the prescribed form.

(2) Sub-section (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.

(3) A Divisional Returning Officer shall, as soon as is practicable after nomination day, deliver or post to any elector whose place of residence as appears on the roll for the division for which he is Divisional Returning Officer is not within 20 kilometres, by the shortest practicable route of a polling place -

- (a) one postal vote certificate printed on an envelope addressed to the Divisional Returning Officer for the division in which the elector is enrolled; and
- (b) one postal ballot-paper in the prescribed form.

Possession of applications

58.(1) All applications for postal ballot-papers received by a Divisional Returning Officer shall be endorsed by him 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 is the Divisional Returning Officer, be kept by him; or

Electoral

- (b) if they relate to another division, be sent by him, 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 office, at all convenient times during office hours, all applications for postal ballot-papers relating to the division for which he is the Divisional Returning Officer, for 14 days from and including the third day after polling day.

59. A Divisional Returning Officer shall -

Numbering
of applica-
tions

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

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

Divisional
Returning
Officer to
notify issue
of postal
ballot-papers

- (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 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.

61.(1) Postal voting shall be carried out substantially in accordance with this section.

Directions
for postal
voting

(2) A postal vote may be cast at any time before 6.00 p.m. on polling day.

(3) An elector shall show his postal ballot-paper (unmarked) and postal vote certificate to an authorized witness.

(4) An elector shall, in the presence of the authorized witness, sign his name on the postal vote certificate.

Electoral

(5) The authorized witness shall sign his name on the postal vote certificate and shall add the title under which he acts as an authorized witness and the date and time.

(6) Subject to this section, an elector shall, in the presence of the authorized witness but so that the authorized witness cannot see the vote -

(a) mark his 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 that envelope.

(7) If an elector is so physically incapacitated that he is unable to mark his vote on the postal ballot-paper without assistance or is illiterate, the authorized 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 that envelope.

(8) Section 79(2) to (5) inclusive, with such alterations as the circumstances may require, applies to and in relation to an elector to whom sub-section (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 sub-section (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 sub-section (6) or (7), as the case may be, and before the close of polling, cause the envelope referred to in that sub-section to be posted or delivered to a Divisional Returning Officer or to be delivered to a presiding officer, who shall deal with the envelope in the manner provided by this Act.

(10) No 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 fail to post or deliver the envelope forthwith.

Penalty: \$1,000.

Electoral

(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 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 that envelope; and
- (c) as soon as is practicable, send that envelope to the Divisional Returning Officer referred to in paragraph (b).

62.(1) No person other than -

- (a) an elector to whom a postal ballot-paper has been issued; or
- (b) a person acting in pursuance of section 61(7),

shall mark a vote on a postal ballot-paper.

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

(2) No person, other than the Divisional Returning Officer for the division in respect of which a postal ballot-paper has been issued, shall open an envelope in which a postal ballot-paper has been placed pursuant to section 61(6) or (7).

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

(3) No person shall receive or take possession of a postal ballot-paper otherwise than in accordance with this Act.

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

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

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

PART IX - POLLING

64.(1) The Minister may, by notice in writing, for the purposes of an election -

Voting on
postal
ballot-papers

Disclosure
of inform-
ation

Minister to
appoint

Electoral

polling
places

(a) appoint such places as he thinks fit to be polling places for a division or portion of a division; and

(b) authorize the use of mobile polling teams in a division or portion of a division.

(2) Where the Minister authorizes the use of mobile polling teams, he may, in the notice referred to in sub-section (1), specify the places at which and, notwithstanding the date fixed by the writ for the election as polling day and the provisions of section 75(4), the dates and hours during which a mobile polling team may be used for the purposes of an election.

(3) The Minister shall take such steps as he considers necessary or convenient to give public notice of the location of polling places appointed under sub-section (1)(a) and, where he authorizes the use of mobile polling teams, particulars of the authorization and the places, dates and hours referred to in sub-section (2).

(4) The Chief Electoral Officer shall make all necessary arrangements for taking a poll and, in particular, shall -

(a) appoint a presiding officer to preside at each polling place;

(b) where the use of mobile polling teams has been authorized under sub-section (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 thinks fit for a polling place or, where the use of mobile polling teams has been authorized under sub-section (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 is Divisional Returning Officer, certified under his hand, to all presiding officers appointed for polling places in that 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 that polling place.

Electoral

(7) A presiding officer may appoint a substitute to perform his duties during his temporary absence, and such substitute may, while so acting, exercise all the powers of the presiding officer, and shall, in the exercise of those powers, be deemed to be the presiding officer.

65. No part of premises licensed within the meaning of the Liquor Act shall be used for the purposes of a polling place.

No licensed premises to be used

66.(1) A polling place shall have separate polling booths constructed so as to screen the voters from observation while they mark their ballot-papers.

Separate voting compartments

(2) The presiding officer of a polling place shall ensure that in each polling booth, a photograph is displayed next to each candidate's name of each candidate for the division for which the polling place has been appointed.

(3) No person, other than an officer, shall exhibit in a polling booth a card or paper having on it any directions or instructions with respect to voting.

Penalty: \$1,000.

67. A polling place in 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.

Ballot-boxes

68. Ballot-papers shall -

Ballot-papers

(a) be in the prescribed form; and

(b) 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

Electoral

- (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.

Representatives
at polling

69.(1) Subject to sub-section (2), a candidate may appoint such persons as he thinks fit to be his representatives at each polling place in the division for which that candidate is a candidate.

(2) The number of appointments with respect to a polling place by a candidate under sub-section (1) shall not exceed half the total number of officers conducting and assisting with the conduct of polling at that polling place.

(3) An appointment under sub-section (1) shall be made by notice in writing or by telegram -

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

Persons
present at
polling

70. No person other than -

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

shall enter or remain in a polling place except by the permission of the presiding officer of that polling place.

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

Polling

71.(1) Subject to this Act, polling at a polling place shall be conducted in such manner as the Chief Electoral Officer may determine.

Electoral

(2) The presiding officer of a polling place shall -

- (a) before any vote is taken, exhibit the ballot-box empty and shall then securely fasten its cover;
- (b) subject to sub-section (3), at the close of the poll, in the presence of any candidates' representatives who may be 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 sub-section (2)(b).

72. Subject to this Act, no elector shall fail to vote at an election without a valid and sufficient reason for such failure.

Electors shall vote

Penalty: \$100.

73. Subject to section 95(4) no person shall vote more than once at any election or general election.

Person may vote only once

Penalty: \$1,000.

74. 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 that person wishes to vote.

Name to be on roll

75.(1) Subject to this Part, an officer shall issue a ballot-paper to a person if -

Persons claiming to vote to give names and other particulars

- (a) the person states his full name and such other particulars as may be necessary to identify the person as a person whose name appears on a roll; and
- (b) the person has answered the following questions in the absolute affirmative:
 - (i) "Is this the first time you have voted either here or elsewhere in this election?";

Electoral

(ii) "Was your real place of living at any time within the last 3 months within the division of (here state the name of the division in which the elector claims to be enrolled)?"

(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 questions referred to in sub-section (1), to a person who claims to vote under the provisions of section 80(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 or a British subject?";

(c) "Are you qualified to vote?"

(3) No person shall fail to truthfully answer all questions put to him under this Part.

Penalty: \$500.

(4) A ballot-paper shall only be issued under this Part between the hours of 8.00 a.m. and 6.00 p.m. on polling day.

Record of objections

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

Ballot-papers to be initialled

77.(1) An officer shall not issue a ballot-paper to a person unless he 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.

(2) An officer shall keep a record of the number of initialled ballot-papers issued by him.

(3) An officer shall, immediately on 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.

Vote to be marked in private

78. Subject to section 79, 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 vote on the ballot-paper in accordance with this Act;

Electoral

- (b) having complied with paragraph (a), fold the ballot-paper so as to conceal his vote and clearly show the initials of an officer referred to in section 77(1);
- (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.

79.(1) If a voter satisfies the presiding officer of a polling place that he is so physically incapacitated that he is unable to vote without assistance or is illiterate, the presiding officer shall, or shall direct an officer to -

Assistance
of certain
persons

- (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 his instructions for marking his ballot-paper to the presiding officer or an officer under sub-section (1); or
- (b) to verify that his ballot-paper will be marked in accordance with his 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
- (d) to be present while the ballot-paper of the voter is marked, folded and deposited in accordance with sub-section (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 sub-section (2) presents to an officer referred to in sub-section (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

Electoral

preference for them, and that 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 sub-section (2) applies, by a person appointed by the voter,

shall be guilty of an offence.

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

(5) A person, appointed under sub-section (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 shall be guilty of an offence.

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

(6) A candidate's representative or a person, appointed under sub-section (2) by a voter, shall not disclose to any person anything relating to the vote of any voter voting under this section.

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

(7) Nothing in this Act shall prevent a candidate's representative from being present, if he so desires, while the ballot-paper of a voter is marked, folded and deposited in accordance with this section.

Vote of
person whose
name is not
on certified
list

80.(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 a division if the person makes a declaration in the prescribed form that -

- (a) he has complied with Part V or that he has complied with Part VI of the Northern Territory Electoral Regulations from time to time in force under the Northern Territory Representation Act 1922 of the Commonwealth and the Commonwealth Electoral Act 1918 of the Commonwealth;
- (b) to the best of his knowledge, no objection has been upheld in relation to the inclusion of his name on a roll; and

Electoral

(c) he is not qualified for enrolment in a division other than the division for which he 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 77(3) or who has been issued with a postal ballot-paper if the person makes a declaration in the prescribed form that he 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 that person makes a declaration in the prescribed form that he is enrolled in another division and that he has not already voted at that election.

81.(1) Where a person is issued with a ballot-paper under the provisions of section 80, he shall mark and fold his ballot-paper in the manner prescribed in section 78(a) and (b) and return it so folded to the presiding officer for the polling place.

Method of
voting

(2) A presiding officer who receives a ballot-paper in accordance with sub-section (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 80(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.

(3) A person who is authorized to open a ballot-box shall, without opening the envelope referred to in sub-section (2), transmit it to the Divisional Returning Officer for the division in respect of which the person referred to in sub-section (1) claims that he is entitled to vote.

82. 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, the presiding officer may, on receiving the spoilt ballot-paper, cancel the spoilt ballot-paper and issue to that person a new ballot-paper.

Spoilt
ballot-
papers

Electoral

Adjournment
of polling

83.(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) force majeure,

and shall take such steps as he may consider necessary or convenient to give public notice of any such 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 may consider necessary or convenient to give public notice of that adjournment as soon as is practicable.

(3) Where polling at an election is adjourned in accordance with sub-section (1) or (2), those persons only who, in accordance with this Act, are entitled to vote in that election and who have not already voted, shall be entitled to vote at the adjourned polling.

Marking of
ballot-papers

84.(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 votes as his 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 preference until a number is placed against the names of all candidates appearing on the ballot-paper.

(2) Subject to this Act, no person shall mark a vote on a ballot-paper other than a ballot-paper issued to that person.

Penalty: \$500.

Impersonation
of elector

85.(1) No person shall falsely impersonate any person to secure a ballot-paper to which the impersonator is not entitled.

Penalty: \$500.

(2) Subject to this Act, no person shall wilfully destroy or deface any nomination paper or ballot-paper.

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

Electoral

(3) No person shall fraudulently put a ballot-paper or other paper into a ballot-box.

Penalty: \$500.

(4) No person shall 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, no person shall wilfully take a ballot-paper out of a polling place.

Penalty: \$200.

(6) No person shall misconduct himself or fail to obey the lawful directions of the presiding officer in any polling place.

Penalty: \$200.

(7) No person shall supply ballot-papers without authority.

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

(8) No person shall 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, no person shall wear or display an emblem, poster, representation or other identification of a candidate or a political party in a polling place.

Penalty: \$200.

(10) No person, other than an officer conducting a determination of the results of a poll, shall open a ballot-box.

Penalty: Imprisonment for 5 years.

86.(1) Subject to sub-section (2), where an employer notifies his employer that he desires leave of absence to enable him 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 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.

Employee
wishing to
vote

Electoral

(2) No employee shall, under pretence that he intends to vote at an election, but without the bona fide intention of so doing, obtain leave of absence under this section.

Penalty: \$100.

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

PART X - DETERMINATION OF RESULTS
OF POLLING

Definition 87. For the purposes of this Part, "officer" means a Divisional Returning Officer or an Assistant Returning Officer.

Determination 88. The results of a poll shall be ascertained in accordance with this Part.

Candidate's representative at determination 89.(1) Subject to sub-section (2), a candidate may appoint such persons as he thinks fit to be his representatives at a place at which the results of a poll are determined.

(2) The number of appointments by a candidate under sub-section (1) shall not exceed half the total number of officers conducting and assisting with a determination of the results of a poll.

(3) An appointment under sub-section (1) shall be made by notice in writing or by telegram -

- (a) addressed to the officer conducting the determination of the results of the poll;
- (b) signed by the candidate, or bearing his name; and
- (c) stating the name and address of the representative.

Proceedings at determination 90.(1) 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 representatives.

Electoral

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

91.(1) An officer conducting a determination of the results of a poll shall -

Conduct of
determination

- (a) open the ballot-boxes under his control;
- (b) notwithstanding paragraphs (c) to (f) inclusive, if he 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 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 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;
- (j) seal up the parcels referred to in paragraphs (c) and (h) and endorse on each parcel a statement of the contents; and

Electoral

(k) if he 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 representative may sign -

(a) a statement referred to in sub-section (1)(f); and

(b) any parcels referred to in sub-section (1)(h).

(3) The Divisional Returning Officer for the division in respect of which the votes on ballot-papers, used for voting under the provisions of Part VIII or section 80, are cast, shall, in the prescribed manner, examine, count and deal with those ballot-papers.

Objections
by candidate's
representatives

92.(1) A 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 sub-section (1) by admitting or rejecting the ballot-paper which is the subject of the objection as a formal ballot-paper and shall mark the ballot-paper "admitted" or "rejected" according to his decision.

(3) Nothing in this section shall prevent the officer conducting a determination of the results of a poll from rejecting any 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 the provisions of Part VIII or section 80.

Determination
of first
preference
votes

93. A Divisional Returning Officer shall, from the statements made under section 91 and the result of the scrutiny of the votes counted by him, determine the number of first preference votes cast in respect of each candidate for the division in respect of which he is Divisional Returning Officer.

Electoral

94. Subject to this Act, the candidate who receives more than 50 per cent of the first preference votes determined in accordance with section 93 shall be declared by the Divisional Returning Officer for the division in respect of which he is appointed to be returned as elected.

Declaration
of election

95.(1) If no declaration can be made in accordance with section 94, a Divisional Returning Officer shall -

Reconducting
a determination

- (a) open all parcels containing ballot-papers; and
- (b) subject to sub-section (2), continue the determination of the results of the poll in accordance with section 91.

(2) For the purposes of sub-section (1), a Divisional Returning Officer shall -

- (a) subject to paragraph (b) exclude from further consideration the candidate in respect of whom the lowest number of highest preference votes was cast;
- (b) if there are 2 or more candidates with that lowest number, decide by lottery which candidate or candidates shall be excluded from further consideration; and
- (c) count the ballot-papers cast in favour of the candidate referred to in paragraph (a) in favour of the candidate who received the next highest preference vote on those ballot-papers.

(3) Subject to sub-section (4), a Divisional Returning Officer shall continue to perform the actions referred to in sub-sections (1) and (2) until one candidate has more than 50 per cent of the formal votes cast at the election.

(4) Where all preference votes have been counted and 2 or more candidates have equally the highest number of formal votes cast, the Chief Electoral Officer shall have and exercise a casting vote.

(5) The candidate ascertained in accordance with sub-section (3) and (4), if applicable, shall be declared by the Divisional Returning Officer for the division in respect of which he is appointed to be returned as elected.

(6) A Divisional Returning Officer shall, on completing a determination of the results of a poll -

Electoral

- (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 representatives present, if they desire, to sign each parcel.

Disregarding
certain votes

96. The Chief Electoral Officer may authorize a Divisional Returning Officer to declare a candidate to be elected if he is satisfied that any ballot-papers which -

- (a) have not been received by the Divisional Returning Officer; 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.

Re-count

97.(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 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 sub-section (1)(a) shall contain a statement of the reasons for the request.

Applicable
provisions
for re-count

98. The provisions of this Part shall apply 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.

Referral
of questions

99.(1) The Divisional Returning Officer conducting a re-count under section 97 shall, if so required by a representative, refer any question relating to the formal or informal nature of a ballot-paper to the Chief Electoral Officer.

Electoral

(2) The Chief Electoral Officer shall decide any question referred for his decision under sub-section (1).

100. A Divisional Returning 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.

Public
declaration
of result

PART XI - RETURN OF WRIT

101. A Divisional Returning Officer shall, after declaring a candidate returned as elected -

Return of
writ

- (a) by writing under his hand, endorse on the writ for the election the name of the candidate;
- (b) return the writ to the Administrator; and
- (c) deliver a copy of the writ to the Chief Electoral Officer.

102.(1) Subject to sub-section (2), the Administrator may, by notice in the Gazette, within 20 days before or after polling day -

Extension
of time

(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 any difficulty that may arise in the election.

(2) No polling day shall 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 sub-section (1) in the division to which the extension relates.

PART XII - OFFENCES

103. A person who -

Offers to
induce

- (a) promises, offers or suggests valuable consideration, advantage, recompense, reward or benefit for or on account of, or to induce -

Electoral

- (i) a candidature or withdrawal of candidature;
 - (ii) a vote or omission to vote;
 - (iii) support of or opposition to a candidate; or
 - (iv) a promise of withdrawal, vote, omission, support, opposition, enrolment or refraining from enrolment referred to in sub-paragraphs (i) to (iii) inclusive; or
- (b) promises, offers or suggests valuable consideration, advantage, recompense, reward or benefit for the performance of an act referred to in paragraph (a),

is guilty of an offence.

Penalty: \$10,000 or imprisonment for 5 years.

Threats of
violence

104. A person who -

- (a) threatens, offers or suggests any violence, injury, punishment, damage, loss or disadvantage for or on account of or to induce -
- (i) a candidature or withdrawal of candidature;
 - (ii) a vote or omission to vote;
 - (iii) support of or opposition to a candidate; or
 - (iv) a promise of a withdrawal, vote, omission, support or opposition referred to in sub-paragraphs (i), (ii) or (iii); or
- (b) uses, causes, inflicts or procures violence, injury, punishment, damage, loss or disadvantage for or on account of a candidature, withdrawal, vote, omission, support, opposition, enrolment or refraining from enrolment referred to in paragraph (a),

is guilty of an offence.

Penalty: \$10,000 or imprisonment for 5 years.

Exemption of
public policy
statements

105. Notwithstanding anything contained in this Act, no declaration of public policy or promise of public action shall be construed as an offence.

Electoral

106. No person shall -

Printing of
advertisements

- (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 of the printer 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 authorizing 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 any directions intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of his 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 his vote; or
- (e) wilfully inform an elector that he is not enrolled, or that he is not enrolled for a particular division, where he is enrolled, or is enrolled for that division, as the case may be.

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

107. 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 newspaper containing -

Heading of
advertisements

- (a) matter intended or calculated to affect the result of an election; or

Electoral

(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.

Articles to
be signed

108.(1) Subject to sub-section (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.

(2) Subject to sub-section (3), a newspaper editor or proprietor who permits, in a newspaper which he edits or owns, the contravention or failure to comply with sub-section (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 any candidate, or political party, or the issues being submitted to the electors.

Display of
posters over
certain size
prohibited

109.(1) No person shall post up or exhibit, or permit or cause to be posted up or exhibited, on any building, vehicle, vessel, hoarding or place, whether or not it is a public place on land, water or in the air -

(a) a poster which contains matter intended or calculated to affect the result of an election, the area of which is more than 7,800 square centimetres; or

Electoral

- (b) a poster referred to in paragraph (a) in combination with another poster if the aggregate area of those posters exceeds 7,800 square centimetres.

Penalty: \$500.

(2) No person shall write, draw or depict any matter intended or calculated to affect the result of an election, directly on any roadway, footpath, building, vessel, hoarding or place, whether or not it is a public place on land, water or in the air.

Penalty: \$500.

(3) Sub-sections (1) and (2) shall apply in relation to an election whether or not the writ for that election has been issued.

(4) Nothing in this section shall prohibit -

- (a) the posting up, exhibiting, writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate, or the names of the candidates, or the name of the party, concerned; or
- (b) the projection, by means of a cinematograph or other similar apparatus, of matter referred to in sub-section (2) onto a screen in a public theatre, hall or premises used for public entertainment.

110.(1) A person authorized in writing in that behalf by the Chief Electoral Officer or by a Divisional Returning Officer may -

Removal of
prohibited
electoral
posters

- (a) remove a poster which appears to have been posted up or exhibited in contravention of section 109(1)(a) or (b); or
- (b) obliterate matter which appears to have been written, drawn or depicted in contravention of section 109(2).

(2) No person shall obstruct or hinder a person in the exercise or attempted exercise of a power, or in the discharge or attempted discharge of a duty, conferred or imposed upon him by this section.

Penalty: \$1,000.

Electoral

(3) A person referred to in sub-section (1) may enter onto any land in order to discharge the duty conferred on him by that sub-section.

Untrue
statements
in forms

111. No person shall make an untrue statement or supply false information to an officer for the purposes of the preparation, maintenance and revision of rolls.

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

Signature
to papers

112.(1) Where a person who is required by this Act to sign a document is unable to sign his name in writing and instead makes his mark as his signature, the mark shall be deemed to be his personal signature, if, subject to sub-section (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 sub-section (1) makes an application for a postal ballot-paper or completes a postal vote certificate, a reference in sub-section (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) No person shall make the signature of any other person on a document required by this Act to be signed by the other person.

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

Witnesses
to papers

113.(1) No person shall -

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

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

Electoral

(2) No candidate shall sign his name as witness on a document required by this Act to be witnessed.

Penalty: \$100.

114. Subject to this Act, no person shall during any polling hours on polling day or a day to which polling is adjourned, within 10 metres of the entrance of a polling place -

Prohibition
of canvass-
ing near
polling
booths

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

Penalty: \$1,000.

115.(1) No person shall, without lawful authority, proof of which authority lies on him -

Making un-
authorized
marks

- (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 possession any paper bearing a mark referred to in paragraph (a); or
- (c) make, use or have in his 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 him, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, a mark referred to in sub-section (1)(a), shall be 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 him, shall be forfeited to the Territory, and may without warrant be seized by

Electoral

any member of the Police Force of the Territory and destroyed or dealt with in such manner as the Commissioner of Police thinks fit.

Forged documents

116. No person shall forge or utter, knowing it to be forged, a document required by this Act.

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

Defamation of candidates

117.(1) No person shall make or publish a false or defamatory statement in relation to the personal character or conduct of a candidate for election as a member of the Legislative Assembly.

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

(2) It shall be a defence to a prosecution for an offence against sub-section (1) if the defendant proves that he had reasonable grounds for believing and did in fact believe the statement made or published by him to be true.

Publication of matter regarding candidates

118.(1) No person shall 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 authority lies on that 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 sub-section (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 shall be guilty of an offence against sub-section (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 shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf of or with the support of the person or body of persons.

Electoral

(4) Nothing in this section shall apply to or in relation to an announcement or publication made or authorized by a bona fide political party or by a bona fide branch of such a party respecting a candidate who, by public announcement, has declared his candidature on behalf of or in the interests of that party.

PART XIII - DISPUTED ELECTIONS

Division 1 - Jurisdiction of Supreme Court

119.(1) The Supreme Court has jurisdiction to hear and determine an application under this Part relating to the validity of an election.

Jurisdiction of Supreme Court

(2) A single judge of the Supreme Court may exercise the jurisdiction referred to in sub-section (1).

120.(1) Any person may apply to the Supreme Court in relation to the validity of an election.

Application by originating summons

(2) An application referred to in sub-section (1) shall be instituted by originating summons.

(3) An originating summons under this Part shall not be filed in the Supreme Court after the expiration of 21 days after the day fixed for the return of the writ for an election.

121. A person to be issued with an originating summons under this Part shall, before the issue of the summons, deposit with the Master the sum of \$500 as security for costs.

Deposit as security for costs

122. An originating summons issued under this Part shall be served on -

Persons to be served

(a) the Chief Electoral Officer; and

(b) the candidate, if any, returned as elected at the election,

who shall be parties to proceedings under this Part.

123. The Supreme Court shall, when exercising the jurisdiction conferred by this Part -

Open Court

(a) sit in open court; and

(b) not be bound by the rules of evidence.

124. The powers of the Supreme Court when exercising the jurisdiction conferred by this Part shall include power -

Powers of Court

Electoral

- (a) to declare that a person who was returned as elected was not duly elected;
- (b) to declare any candidate duly elected who was not returned as elected; and
- (c) to declare an election void.

Exercise
of powers

125.(1) The Supreme Court shall not exercise the power referred to in section 124(a) or (b) -

- (a) on the ground of any action which occurred without the knowledge of the candidate declared elected at an election; or
- (b) subject to section 126, 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 that offence; and
- (d) that it is just that the Court exercise that power.

(2) The Supreme Court 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;
- (b) admit any evidence from a person referred to in paragraph (a) unless the person satisfies the Court that he was wrongly prevented from voting; or
- (c) inquire into the correctness of a roll.

Declaration
of non-
election

126.(1) The Supreme Court shall, if 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 referred to in section 103 or 104 or an offence involving bribery or corruption, declare that that candidate was not duly elected.

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

Electoral

127. Where the Supreme Court finds that any person has committed an offence against this Act, the Master shall, as soon as is practicable, report that finding to the Attorney-General and the Minister.

Reporting
of offences

128. No appeal or other proceedings shall lie from or in relation to a decision of the Supreme Court exercising jurisdiction in accordance with this Part.

No appeal

129. The Master of the Supreme Court shall -

(a) as soon as is practicable after the issue of a summons under this Part; and

Clerk of
Legislative
Assembly to
receive copy
of summons
and order

(b) after the trial of a summons issued under this Part,

forward to the Clerk of the Legislative Assembly a copy of the summons referred to in paragraph (a) and a copy of the order of the Supreme Court made after the trial referred to in paragraph (b).

130.(1) No party to an action under this Part shall, except by consent of all parties, or by leave of the Court, be represented by an agent or legal practitioner.

Representation
at hearing

(2) In no case shall more than one agent or legal practitioner appear at the same time on behalf of a party for an action under this Part.

131.(1) The Supreme Court may award such costs as it thinks fit in an action under this Part.

Costs

(2) A deposit paid in accordance with section 121 shall -

(a) be returned to the person who paid the deposit if -

(i) no order as to costs is made; or

(ii) costs are awarded to the person who paid the deposit; 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 may be recovered in the same manner as costs of any other proceedings before the Supreme Court.

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

Issue of
writs where
necessary

Electoral

Division 2 - Qualifications and Vacancies

Reference of
question as
to qualific-
ation or
vacancy

133.(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 Supreme Court.

(2) The Speaker of the Legislative Assembly shall, on a resolution being made under sub-section (1), transmit to the Supreme Court -

(a) a copy of the question referred by resolution, certified under his hand; and

(b) such documents or other material in the possession of the Legislative Assembly relating to the question referred.

(3) The Supreme Court has jurisdiction to hear and determine any question referred to it under sub-section (1).

Parties to
a reference

134. The Court may -

(a) grant leave to any 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 Court thinks fit.

Powers of
Court

135. The Supreme Court shall, on the hearing of a question referred under this Division -

(a) sit in open court;

(b) have the powers referred to in section 124; and

(c) have power to declare that -

(i) a person was not qualified to be a member of the Legislative Assembly;

(ii) a person was not capable of being elected or sitting as a member of the Legislative Assembly; and

(iii) there exists a vacancy in the number of members of the Legislative Assembly.

Electoral

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

Order to be sent to Legislative Assembly

137. Sections 128 and 130 apply to and in relation to proceedings under this Division.

Application of certain sections

PART XIV - MISCELLANEOUS

138. 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.

Averments

139. 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 has received while acting in accordance with his duty as an officer.

Disclosure of information

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

140. 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 capacity as an officer.

Protection of officers

141. The Chief Electoral Officer shall preserve -

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

Destruction of ballot-papers

used at an election until 6 months after the date of the return of the writ, at which time he shall arrange for their destruction.

142. The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that this Act requires or permits to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations

PART XV - TRANSITIONAL

143. Notwithstanding the repeal of the Northern Territory (Administration) Act 1910 of the Commonwealth effected by section 3 of the Northern Territory (Self-Government) Act 1978 of the Commonwealth, a reference in this Act to divisions or electoral divisions shall, until the names and boundaries of divisions are declared by the Administrator under section 18(1) and subject to section 18(2), be read as a reference to the electoral districts, the names and boundaries of which

Electoral districts to continue

Electoral

were prescribed by the Northern Territory Electoral Districts Regulations in force under the Northern Territory (Administration) Act 1910 of the Commonwealth, into which the Territory was divided immediately before 1 July 1978.

Failure to
enrol not
an offence
in certain
circumstances

144.(1) Subject to sub-section (2), notwithstanding sections 27(3) and 29(2), a person who -

- (a) is qualified under section 27(1) to vote at an election;
- (b) is not required by regulation 25 of the Northern Territory Electoral Regulations from time to time in force under the Northern Territory Representation Act 1922 of the Commonwealth and the Commonwealth Electoral Act 1918 of the Commonwealth to have his name placed on a Roll kept under those Regulations;
- (c) is not enrolled; and
- (d) contravenes or fails to comply with section 27(2) or 29(1),

is not guilty of an offence.

(2) Sub-section (1) shall cease to have effect in relation to a person at 6.00 p.m. on the day of the issue of the writ for the first election, after the commencement of this Act, for the division in respect of which that person is required by this Act to be enrolled.

Electoral

SCHEDULE

THE NORTHERN TERRITORY OF AUSTRALIA

Electoral Act

TO

the Divisional Returning Officer for the division of
in the Northern Territory of
Australia.

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 , 19 to be nomination day,
- (b) the day of , 19 to be polling day, and
- (c) the day of , 19 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 , 19

Administrator

By His Honour's Command

