

Australian Capital Territory

Health Professions Boards (Elections) Act 1980

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About this republication

The republished law

This is a republication of the *Health Professions Boards (Elections) Act 1980* effective 31 January 1998 to 8 December 1998.

Kinds of republications

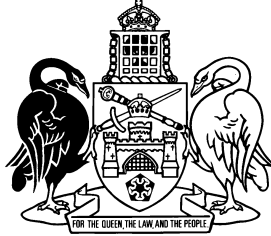
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- authorised republications to which the *Legislation Act 2001* applies
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Editorial changes

The *Legislation (Republication) Act 1996*, part 3, division 2 authorised the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation (Republication) Act 1996*, s 14 and s 16). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.



Australian Capital Territory

HEALTH PROFESSIONS BOARDS (ELECTIONS) ACT 1980

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

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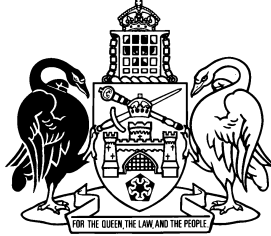
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**PROCEDURE FOR COUNTING VOTES—1 CANDIDATE
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HEALTH PROFESSIONS BOARDS (ELECTIONS) ACT 1980

An Act relating to the election of members of certain professional registration boards

PART I—PRELIMINARY

1. Short title

This Act may be cited as the *Health Professions Boards (Elections) Act 1980*.¹

2. Application of provisions

The provisions of this Act shall not apply to, or in relation to, the election of members of a Board until the date fixed by the Minister, by notice in the *Gazette*, as the date on and after which the provisions of this Act are to apply to, and in relation to, the election of members of that Board.

3. Interpretation

In this Act, unless the contrary intention appears—

“Board” means—

- (aa) the Chiropractors and Osteopaths Board;
- (a) the Dental Board;
- (b) the Medical Board;
- (c) the Nurses Board;

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- (d) the Optometrists Board;
- (e) the Pharmacy Board;
- (f) the Physiotherapists Board; or
- (g) the Veterinary Surgeons Board;

“Chairperson”, in relation to an election held for the purposes of a prescribed Act, means the Chairperson of the Board established under that Act, or if for any reason the Chairperson is unable to act, the Deputy Chairperson of that Board;

“Chiropractors and Osteopaths Act” means the *Chiropractors and Osteopaths Act 1983*;

“Dental Board” means the Dental Board established by the Dentists Act;

“Dentists Act” means the *Dentists Act 1931*;

“election” means an election held for the purposes of—

- (aa) the Chiropractors and Osteopaths Act;
- (a) the Dentists Act;
- (b) the Medical Practitioners Act;
- (c) the Nurses Act;
- (d) the Optometrists Act;
- (e) the Pharmacy Act;
- (f) the Physiotherapists Act; or
- (g) the Veterinary Surgeons Act;

“Medical Board” means the Medical Board established by the Medical Practitioners Act;

“Medical Practitioners Act” means the *Medical Practitioners Act 1930*;

“Nurses Act” means the *Nurses Act 1988*;

“Nurses Board” means the Nurses Board established under the Nurses Act;

“Optometrists Act” means the *Optometrists Act 1956*;

“Optometrists Board” means the Optometrists Board constituted under the Optometrists Act;

“Pharmacy Act” means the *Pharmacy Act 1931*;

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“Pharmacy Board” means the Pharmacy Board established by the Pharmacy Act;

“Physiotherapists Act” means the *Physiotherapists Act 1977*;

“Physiotherapists Board” means the Physiotherapists Board constituted under the Physiotherapists Act;

“prescribed Act” means the Chiropractors and Osteopaths Act, the Dentists Act, the Medical Practitioners Act, the Nurses Act, the Optometrists Act, the Pharmacy Act, the Physiotherapists Act or the Veterinary Surgeons Act, as the case requires;

“Register” means—

- (aa) in relation to an election held for the purposes of the Chiropractors and Osteopaths Act—the Register of Chiropractors or the Register of Osteopaths kept under that Act;
- (a) in relation to an election held for the purposes of the Dentists Act—the Register of Dentists kept under that Act;
- (b) in relation to an election held for the purposes of the Medical Practitioners Act—the Register of Medical Practitioners kept under that Act;
- (c) in relation to an election held for the purposes of the Nurses Act—the Register of Nurses kept under that Act;
- (d) in relation to an election held for the purposes of the Optometrists Act—the Register of Optometrists kept under that Act;
- (e) in relation to an election held for the purposes of the Pharmacy Act—the Register of Pharmacists kept under that Act;
- (f) in relation to an election held for the purposes of the Physiotherapists Act—the Register of Physiotherapists kept under that Act; and
- (g) in relation to an election held for the purposes of the Veterinary Surgeons Act—the Register of Veterinary Surgeons kept under that Act;

“registered address”, in relation to a person who is a registered practitioner for the purposes of an election, means—

- (a) the address of the person shown in the Register applicable to that election; or

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- (b) where more than 1 address in respect of the person is shown in the Register—any of those addresses;

“registered practitioner” means—

- (aa) in relation to an election held for the purposes of the Chiropractors and Osteopaths Act—a person registered as a chiropractor or osteopath under that Act;
- (a) in relation to an election held for the purposes of the Dentists Act—a person registered as a dentist under that Act;
- (b) in relation to an election held for the purposes of the Medical Practitioners Act—a person registered under that Act;
- (c) in relation to an election held for the purposes of the Nurses Act—a person registered under that Act;
- (d) in relation to an election held for the purposes of the Optometrists Act—a person registered under that Act;
- (e) in relation to an election held for the purposes of the Pharmacy Act—a person registered under that Act;
- (f) in relation to an election held for the purposes of the Physiotherapists Act—a person registered under that Act; and
- (g) in relation to an election held for the purposes of the Veterinary Surgeons Act—a person registered under that Act;

“Veterinary Surgeons Act” means the *Veterinary Surgeons Act 1965*;

“Veterinary Surgeons Board” means the Veterinary Surgeons Board constituted under the Veterinary Surgeons Act.

4. Returning Officer

The Electoral Commissioner shall appoint a person to be the Returning Officer for the purposes of an election.

PART II—COMMENCEMENT OF ELECTORAL PROCESS

5. Dates to be fixed for purposes of elections

(1) For the purposes of an election, the Chairperson for that election shall, by instrument in writing, fix—

- (a) the date that is to be the date after which candidates may be nominated for election;

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- (b) the date that is to be the last date on which candidates for election may be nominated, being a date not earlier than 21 days after the date referred to in paragraph (a);
 - (c) the date that is to be the last date on which voting-papers may be issued, being a date not later than 21 days before the date referred to in paragraph (d); and
 - (d) the date that is to be the date for the close of the poll, being a date not earlier than 70 days and not later than 90 days after the date referred to in paragraph (a).
- (2) The poll closes at 12 o'clock noon on the date fixed for the purpose of paragraph (1) (d).
- (3) Forthwith after the instrument referred to in subsection (1) has been prepared for the purposes of an election, the Chairperson for that election shall forward a copy of the instrument to the Returning Officer.

6. List of registered practitioners

- (1) Forthwith after the date fixed for the purpose of paragraph 5 (1) (a) in relation to an election, the Chairperson for that election shall prepare and deliver to the Returning Officer a list, certified by the Chairperson to be correct, showing the names and registered addresses of persons who, on that date, were registered practitioners for the purposes of the election.
- (2) A copy of the list delivered to the Returning Officer under subsection (1) in connection with an election shall be open for public inspection at the office of the Returning Officer without fee during his or her ordinary business hours until the voting-papers and envelopes relating to the election have been destroyed in pursuance of section 28.

7. Registered practitioners to be notified of dates

Upon receipt of the list delivered to him or her under section 6, the Returning Officer shall either—

- (a) send by post to each person whose name appears on the list, at the address shown in the list, a notice in writing informing that person of the dates fixed for the purposes of paragraphs 5 (1) (b), (c) and (d); or
- (b) cause a notification specifying the dates fixed for the purposes of paragraphs 5 (1) (b), (c) and (d) to be published in a newspaper circulating in the Territory.

PART III—NOMINATIONS

8. Nominations

(1) A nomination of a candidate for election shall be in accordance with Form 1 in Schedule 1 and shall be signed by—

- (a) the candidate; and
- (b) not less than 2 other persons.

(2) A nomination of a candidate for election is not valid unless it—

- (a) contains a statement by the persons referred to in paragraph (1) (b) that they were, on the date fixed for the purpose of paragraph 5 (1) (a) in relation to the election to which the nomination relates, registered practitioners for the purposes of that election;
- (b) contains a declaration by the candidate that he or she is eligible to be nominated as a candidate at the election to which the nomination relates; and
- (c) is delivered to the Returning Officer after the date fixed for the purpose of paragraph 5 (1) (a) and before 12 o'clock noon on the date fixed for the purpose of paragraph 5 (1) (b).

(3) A person is eligible to be nominated as a candidate at an election—

- (aa) where the election is an election being held for the purposes of the Chiropractors and Osteopaths Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a chiropractor or osteopath in that State or Territory;
- (a) where the election is an election being held for the purposes of the Dentists Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a dentist in that State or Territory;
- (b) where the election is an election being held for the purposes of the Medical Practitioners Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a medical practitioner in that State or Territory;
- (c) where the election is an election being held for the purposes of the Nurses Act—if he or she is a registered nurse and was, at all times

during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a general nurse, a midwife or a mental health nurse in that State or Territory;

- (d) where the election is an election being held for the purposes of the Optometrists Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as an optometrist in that State or Territory;
- (e) where the election is an election being held for the purposes of the Pharmacy Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a pharmacist in that State or Territory;
- (f) where the election is an election being held for the purposes of the Physiotherapists Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a physiotherapist in that State or Territory; and
- (g) where the election is an election being held for the purposes of the Veterinary Surgeons Act—if that person was, at all times during the period of 3 years immediately preceding the date fixed for the purpose of paragraph 5 (1) (a) in relation to that election, entitled, under the law of a State or Territory, to practise as a veterinary surgeon in that State or Territory.

9. Correction of defective nominations

(1) Where the Returning Officer finds a nomination of a candidate delivered to him or her in accordance with subsection 8 (2) to be defective, the Returning Officer shall, before rejecting the nomination, return it to the candidate at the candidate's registered address together with a notice—

- (a) indicating the nature of the defect; and
- (b) informing the candidate that the defect may be remedied and the nomination returned to the Returning Officer so as to reach him or her not later than—
 - (i) the date fixed for the purpose of paragraph 5 (1) (b); or

- (ii) where that date occurs earlier than 7 days after the receipt by the candidate of the notice—7 days after the date of receipt of the notice.

(2) Where a nomination is duly remedied and returned to the Returning Officer in accordance with subsection (1), the nomination shall, notwithstanding subsection 8 (2), be valid.

10. Withdrawal of nomination

(1) A candidate may withdraw his or her consent to his or her nomination, at any time before the date fixed for the purpose of paragraph 5 (1) (b), by lodging with the Returning Officer a notice of withdrawal signed by the candidate and witnessed by a Justice of the Peace or a Commissioner for Declarations.

(2) Where a candidate withdraws his or her consent to his or her nomination, the candidate shall, before the date fixed for the purpose of paragraph 5 (1) (b), notify each nominator, in writing, of his or her withdrawal.

11. Declaration of nominations

As soon as practicable after the date fixed for the purpose of paragraph 5 (1) (b) in relation to an election, the Returning Officer shall, by notice in the *Gazette*, declare the name and registered address of each candidate.

12. Proceedings on nomination day

(1) If the number of candidates nominated in respect of an election does not exceed the number of candidates required to be elected, the Returning Officer shall—

- (a) by notice in the *Gazette*, declare the candidate or candidates nominated duty required to be elected; and
- (b) by notice in writing, inform the Chairperson for that election of the person or persons so elected.

(2) If the number of candidates nominated in respect of an election exceeds the number of candidates required to be elected, the Returning Officer shall proceed to take a poll to decide the election.

(3) If no candidate is nominated in respect of an election or returned as elected, the election shall be deemed to have wholly failed and another election shall be held.

PART IV—VOTING

13. Persons eligible to vote

A person who was, on the date fixed for the purpose of paragraph 5 (1) (a) in relation to an election, a registered practitioner for the purposes of that election is eligible to vote at the election.

14. Number of votes

Each person eligible to vote at an election is entitled to 1 vote only at the election.

15. Distribution of voting-papers

(1) Where, in relation to an election, a poll is, in accordance with subsection 12 (2), required to be taken, the Returning Officer shall, on or before the date fixed for the purpose of paragraph 5 (1) (c), send to each registered practitioner whose name appears on the list prepared under section 6 in connection with that election, at the address of the registered practitioner shown in the list—

- (a) a voting-paper;
- (b) a voting-paper envelope; and
- (c) an envelope addressed to the Returning Officer.

(2) The Returning Officer shall ensure that the voting-paper and envelopes to be sent to a registered practitioner under subsection (1) are enclosed in a covering envelope which is fastened and addressed to the registered practitioner.

16. Voting-papers and envelopes

(1) A voting-paper shall—

- (a) be in accordance with Form 2 in Schedule 1; and
- (b) contain the names of the candidates which shall be set out on the voting-paper in an order determined by the Returning Officer by lot.

(2) The Returning Officer shall initial each voting-paper before despatching it under section 15.

(3) A voting-paper envelope shall have printed on it a form of declaration in accordance with Form 3 in Schedule 1.

(4) An envelope referred to in paragraph 15 (1) (c) shall bear on its exterior surface endorsements to indicate to the Returning Officer—

- (a) the election to which the envelope relates; and

- (b) the purpose for which the envelope is intended to be used.

17. Replacement of voting-papers

(1) If, before the date fixed for the purpose of paragraph 5 (1) (d) in relation to an election, a person eligible to vote at the election makes and delivers to the Returning Officer a statement in writing—

- (a) setting out his or her full name and registered address;
- (b) stating that he or she has not received a voting-paper or voting-paper envelope or that a voting-paper or voting-paper envelope received by him or her has been lost or destroyed; and
- (c) stating that he or she has not already voted at the election;

the Returning Officer shall deliver to the person a voting-paper or voting-paper envelope, or a further voting-paper or voting-paper envelope, as the case may be.

(2) If, before the date fixed for the purpose of paragraph 5 (1) (d) in relation to an election, a person eligible to vote at the election—

- (a) makes and delivers to the Returning Officer a statement in writing—
 - (i) setting out his or her full name and registered address; and
 - (ii) stating that a voting-paper or voting-paper envelope received by him or her has, by mistake or accident, been spoilt; and
- (b) remits to the Returning Officer the spoilt voting-paper or voting-paper envelope;

the Returning Officer shall deliver to the person a further voting-paper or voting-paper envelope, as the case may be, and cancel the spoilt voting-paper or voting-paper envelope.

18. Manner of voting

(1) A voter shall indicate his or her preference, or the order of his or her preference, on the voting-paper—

- (a) where 1 candidate only is required to be elected—by placing the number 1 in the square opposite the name of the candidate for whom he or she wishes to vote as his or her first preference or, if he or she so desires, by placing a series of consecutive numbers, beginning with the number 1, in the squares opposite the names of all, or some only, of the candidates so as to indicate the order of his or her preference for them, 1 number being placed in the square opposite the name of each such candidate; and

- (b) in any other case—by placing a series of consecutive numbers, beginning with the number 1, in the squares opposite the names of all, or some only, of the candidates, being not less in number than the number of candidates required to be elected, so as to indicate the order of his or her preference for them, 1 number being placed in the square opposite the name of each such candidate.
- (2) After marking the voting-paper, the voter shall—
- (a) fold the voting-paper so as to conceal the way in which he or she has marked the voting-paper, place it in the voting-paper envelope and seal that envelope;
 - (b) complete and sign the declaration printed on the voting-paper envelope, place that envelope in the envelope addressed to the Returning Officer and seal that last-mentioned envelope; and
 - (c) send or deliver to the Returning Officer the envelope addressed to the Returning Officer so as to reach him or her not later than 12 o'clock noon on the date fixed for the close of the poll.

PART V—SCRUTINY

19. Ballot-box

- (1) The Returning Officer shall, in respect of each election—
- (a) keep in his or her custody a locked and sealed ballot-box on which shall be endorsed such words as are necessary to indicate the election for which the ballot-box is to be used; and
 - (b) place, unopened, and keep in the ballot-box until the scrutiny all envelopes bearing the endorsements referred to in subsection 16 (4) that are received by him or her before the close of the poll.
- (2) The Returning Officer shall not admit to the scrutiny any envelopes bearing the endorsements referred to in subsection 16 (4) that are received by him or her after the close of the poll but shall place those envelopes unopened in a parcel, seal the parcel, endorse on it such words as are necessary to indicate the contents of the parcel and the election to which the parcel relates and add his or her signature and the date.

20. Appointment of scrutineers

- (1) A candidate at an election may appoint 1 scrutineer to represent him or her at the scrutiny.
- (2) The appointment of a scrutineer under subsection (1)—

- (a) shall be made by notice in writing signed by the candidate or by telegram;
 - (b) shall be addressed to the Returning Officer and given to him or her, or sent so as to reach him or her, not later than 12 o'clock noon on the date fixed for the close of the poll; and
 - (c) shall set out the name and address of the scrutineer.
- (3) All the proceedings at the scrutiny, and at any recount of voting-papers conducted in pursuance of section 26, shall be open to the inspection of the scrutineers.

21. Scrutiny of votes and declarations

Forthwith after the close of a poll the Returning Officer shall, in the presence of such scrutineers as attend—

- (a) open the ballot-box referred to in subsection 19 (1) and take out the envelopes contained in it;
- (b) open the envelopes bearing the endorsements referred to in subsection 16 (4) and take out the voting-paper envelopes;
- (c) place the envelopes opened under paragraph (b) in a parcel, seal the parcel, endorse on it such words as are necessary to indicate the contents of the parcel and the election to which the parcel relates and add his or her signature and the date;
- (d) without opening the voting-paper envelopes, examine each envelope and—
 - (i) if he or she is satisfied that the declaration on the envelope has been effectively completed and signed by a person whose name appears on the list delivered to the Returning Officer under section 6, being a person who has not already voted in the poll—place a mark against the person's name on the list and accept the voting-paper contained in that envelope for further scrutiny; and
 - (ii) if he or she is not so satisfied—reject the voting-paper without opening the envelope;
- (e) place the envelopes containing voting-papers rejected under paragraph (d) in a parcel, seal the parcel, endorse on it such words as are necessary to indicate the contents of the parcel and the election to which the parcel relates and add his or her signature and the date;
- (f) place the envelopes containing voting-papers accepted for further scrutiny on a table before him or her with the declaration on each

envelope facing downwards, and then, without further examining the declaration or permitting any other person to do so, withdraw from each envelope the voting-paper contained in it and, without unfolding or inspecting the voting-paper or permitting any other person to do so, forthwith place the voting-paper in a locked and sealed ballot-box; and

- (g) place the envelopes from which voting-papers have been withdrawn in a parcel, seal the parcel, endorse on it such words as are necessary to indicate the contents of the parcel and the election to which the parcel relates and add his or her signature and the date.

22. Counting of votes

(1) In an election at which 1 candidate only is to be elected, the result of the election shall be determined in accordance with the procedure set out in Schedule 2.

(2) In an election at which more than 1 candidate is to be elected, the result of the election shall be determined in accordance with the procedure set out in Schedule 3.

23. Retention of voting-papers

After the scrutiny conducted in respect of an election has been completed, the Returning Officer shall—

- (a) place in separate parcels voting-papers rejected as informal and voting-papers not rejected as informal; and
- (b) endorse on each parcel such words as are necessary to indicate the contents of the parcel and the election to which the parcel relates and add his or her signature and the date.

24. Informal voting-papers

A voting-paper is informal if—

- (a) it is not initialled by the Returning Officer;
- (b) it has no vote marked on it;
- (c) it does not indicate, in accordance with the directions on the voting-paper—
 - (i) where 1 candidate only is to be elected—the voter's first preference for a candidate; or

- (ii) where more than 1 candidate is to be elected—the order of the voter's preference for at least such number of the candidates as is equal to the number of candidates to be elected;
- (d) it is so imperfectly marked that the intention of the voter is not clear;
or
- (e) it has upon it any mark or writing by which the voter can be identified.

25. Publication and notification of result of election

(1) Forthwith after the completion of the scrutiny conducted in respect of an election, the Returning Officer shall—

- (a) by notice in the *Gazette*, declare the successful candidate or candidates, as the case may be, duly elected; and
- (b) by notice in writing, inform the Chairperson for that election of the candidate or candidates, as the case may be, so elected.

(2) A notice published in the *Gazette* under subsection (1) in relation to an election is, subject to this Act, conclusive evidence of the result of the election.

26. Request for recount of votes

(1) At any time before notification of the result of an election is published in the *Gazette* the Returning Officer may, if he or she thinks fit, either on the request in writing of a candidate stating the reasons for the request or of the Returning Officer's own motion, recount the voting-papers received in connection with the election.

(2) Where the Returning Officer, upon a request being made to him or her by a candidate, refuses to conduct a recount of the voting-papers, the candidate may, by notice in writing, appeal to the Electoral Commissioner against the refusal and the Electoral Commissioner may, as he or she thinks fit, either direct the Returning Officer to conduct a recount of the voting-papers or refuse to direct a recount.

(3) Where the Electoral Commissioner, upon a request being made to him or her by a candidate, refuses to direct a recount of the voting-papers, the candidate may apply to the Administrative Appeals Tribunal for a review of the decision of the Electoral Commissioner.

27. Conduct of recount

(1) The Returning Officer, in conducting a recount, shall have the same powers as if the recount were the scrutiny and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of a voting-paper.

(2) The Returning Officer, in conducting a recount, may, and at the request of a scrutineer shall, reserve a voting-paper for the decision of the Electoral Commissioner.

(3) The Electoral Commissioner shall decide whether a voting-paper reserved for his or her decision in pursuance of subsection (2) shall be allowed and admitted or disallowed and rejected.

28. Destruction of papers

At the expiration of 6 months after—

- (a) publication of the result of an election; or
- (b) where an election is disputed—the determination of the petition;

the Returning Officer shall authorise the destruction of—

- (c) the voting-papers and envelopes contained in the parcels referred to in subsection 19 (2) and paragraph 21 (e);
- (d) the envelopes contained in the parcels referred to in paragraphs 21 (c) and (g); and
- (e) the voting-papers contained in the parcels referred to in section 23.

29. Intruders

A person shall not, without reasonable excuse—

- (a) wilfully intrude into a room in which an examination of papers relating to an election is being conducted; or
- (b) refuse or fail to leave the room when requested to do so by the Returning Officer.

Penalty: \$100.

PART VI—DISPUTED ELECTIONS

30. Petition to dispute election

(1) A candidate at an election may, by petition addressed to the Supreme Court, dispute the validity of the election.

(2) A candidate is not entitled to dispute an election—

- (a) because of a defect in the title, or a lack of title, of the person who acted as the Returning Officer;

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- (b) because of an error or defect in form in an instrument, notice, statement or other document made under or in pursuance of this Act, or purporting to have been so made; or
 - (c) because any act or thing done in connection with the election was not done at or within the prescribed time.
- (3) A petition disputing an election shall—
 - (a) set out clearly and fully the facts relied on to invalidate the election;
 - (b) be signed by the petitioner; and
 - (c) be filed in the Registry of the Supreme Court within 21 days after the date on which the notice referred to in paragraph 12 (1) (a) or 25 (1) (a), as the case may be, is published in the *Gazette*.
- (4) A petitioner shall, within 7 days after filing the petition, cause a copy of the petition to be served on the person, or each of the persons, as the case may be, elected as a result of the disputed election.
- (5) Jurisdiction to hear and determine petitions under this section is vested in the Supreme Court.

31. Procedure relating to hearing of petitions

In hearing a petition, the Supreme Court—

- (a) is not bound by the laws of evidence;
- (b) shall afford the petitioner, a person elected at the election, the Returning Officer and such other persons as the Court considers should be given opportunity to do so, opportunity to give evidence and make submissions at the hearing; and
- (c) shall not admit the evidence of any witness that he or she was not permitted to vote in the election unless the witness satisfies the Court—
 - (i) that he or she claimed to vote in the election pursuant to this Act; and
 - (ii) that he or she complied with the requirements of this Act relating to voting in so far as he or she was permitted so to do.

32. Powers of Court

- (1) For the purpose of determining a petition, the powers of the Supreme Court shall include the following:
 - (a) to inquire into the identity of voters at the election and whether their votes were improperly admitted or rejected;

Health Professions Boards (Elections) Act 1980

- (b) to grant to any party to a petition leave to inspect the list referred to in section 6 and other documents used at or in connection with the election, and to take extracts from that list or those documents;
- (c) to declare that a candidate who was returned as elected was not duly elected;
- (d) to declare as duly elected a candidate who was not returned as elected;
- (e) to declare the election absolutely void;
- (f) to dismiss or uphold the petition in whole or in part.

(2) In inquiring into the identity of voters at an election and whether their votes were improperly admitted or rejected, the Court shall not enquire into the correctness of the list prepared under section 6 in connection with that election.

33. Effect of decision of Court

(1) A decision of the Supreme Court under section 32 has effect as provided by this section.

(2) If a candidate who was returned as elected is declared not to have been duly elected, he or she ceases to hold office as a member of the relevant Board.

(3) If a candidate who was not returned as elected is declared to have been duly elected, he or she shall become a member of the relevant Board.

(4) If the election is declared absolutely void, a new election shall be held in accordance with this Act.

34. Effect of illegalities or irregularities at election

(1) On the hearing of a petition the Supreme Court shall not declare an election void or declare that a person returned as elected was not duly elected—

- (a) on the ground of any illegal practice committed by any person other than a candidate and without the knowledge or authority of the candidate; or
- (b) on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption;

unless the Court is satisfied that the result of the election was likely to be affected and that it is just that the election should be declared void or that the candidate returned as elected should be declared not to be duly elected.

(2) On the hearing of a petition, the Supreme Court shall not declare an election void—

- (a) on account of a delay in taking votes or giving or publishing a notice;
or
- (b) on account of the absence, error or omission of any person;

if the Court is satisfied that the delay, absence, error or omission did not affect the result of the election.

PART VII—MISCELLANEOUS

35. Untrue statements

A person shall not knowingly make a false statement in a declaration or statement made for the purpose of this Act.

Penalty: \$100.

36. Duty of witness

A person shall not witness the signature of another person to a declaration made for the purpose of this Act unless the person acting as witness—

- (a) has attained the age of 18 years;
- (b) has satisfied himself or herself as to the identity of the person making the declaration;
- (c) has seen the person sign the declaration in the person's own handwriting; and
- (d) knows, or has satisfied himself or herself by inquiry from the person making the declaration or otherwise, that the statements contained in the declaration are true.

Penalty: \$100.

37. Marks on voting-papers

(1) Subject to subsection (2), a person shall not mark or write on a voting-paper.

Penalty: \$100.

(2) This section does not apply in relation to—

- (a) the initialling of a voting-paper by the Returning Officer under subsection 16 (2); or
- (b) the marking, by a registered practitioner, of a voting-paper sent to him or her under subsection 15 (1).

38. Offences in connection with voting

A person shall not—

- (a) impersonate another person for the purpose of securing a voting-paper or of voting at an election;
- (b) intentionally destroy or deface a voting-paper;
- (c) vote more than once at an election; or
- (d) vote at an election unless he or she is eligible to vote at the election.

Penalty: \$100.

Health Professions Boards (Elections) Act 1980

SCHEDULE 1

FORM 1

Section 8

HEALTH PROFESSIONS BOARDS (ELECTIONS) ACT

NOMINATION FOR ELECTION OF MEMBER

- OF THE
- (a) CHIROPRACTORS AND OSTEOPATHS BOARD
 - (a) DENTAL BOARD
 - (a) MEDICAL BOARD
 - (a) NURSES BOARD
 - (a) OPTOMETRISTS BOARD
 - (a) PHARMACY BOARD
 - (a) PHYSIOTHERAPISTS BOARD
 - (a) VETERINARY SURGEONS BOARD

To the Returning Officer

We, the undersigned, being persons who were, on *(date fixed for purpose of paragraph 5 (1) (a))* registered practitioners for the purposes of the forthcoming election, hereby nominate the following person as a candidate for election as a member of the Board.

Full name of candidate:

Registered address of candidate:

| Full name and registered address of nominator | Signature of nominator | Date of signature |
|--|---------------------------|----------------------|
| 1. | | |
| 2. | | |

CONSENT AND DECLARATION OF PERSON NOMINATED

I, _____ of *(registered address)* _____, the person nominated for election above, consent to act, if elected, and declare that I am eligible under the above-mentioned Act to be nominated as a candidate at the forthcoming election.

Dated this _____ day of _____ 19 ____.

Signature of candidate:

Signature of witness:

Health Professions Boards (Elections) Act 1980

SCHEDULE 1—continued

NOTE—Sections 35 and 36 of the *Health Professions Boards (Elections) Act 1980* read as follows:

“35. A person shall not knowingly make a false statement in a declaration or statement made for the purpose of this Act.

Penalty: \$100.

“36. A person shall not witness the signature of another person to a declaration made for the purpose of this Act unless the person acting as witness—

- (a) has attained the age of 18 years;
- (b) has satisfied himself or herself as to the identity of the person making the declaration;
- (c) has seen the person sign the declaration in the person’s own handwriting; and
- (d) knows, or has satisfied himself or herself by inquiry from the person making the declaration or otherwise, that the statements contained in the declaration are true.

Penalty: \$100.”.

- (a) Whichever is applicable

FORM 2

Subsection 16 (1)

| |
|-------------------------------------|
| Initials of Returning Officer |
|-------------------------------------|

HEALTH PROFESSIONS BOARDS (ELECTIONS) ACT

VOTING-PAPER

ELECTION OF *(here insert number of members to be elected)* MEMBERS

- | | |
|--------|--|
| OF THE | (a) CHIROPRACTORS AND OSTEOPATHS BOARD |
| | (a) DENTAL BOARD |
| | (a) MEDICAL BOARD |
| | (a) NURSES BOARD |
| | (a) OPTOMETRISTS BOARD |
| | (a) PHARMACY BOARD |
| | (a) PHYSIOTHERAPISTS BOARD |
| | (a) VETERINARY SURGEONS BOARD |

DIRECTIONS TO VOTER

- (b) 1. Mark your vote on this voting-paper by placing the number 1 in the square opposite the name of the candidate for whom you wish to vote as your first preference.

Health Professions Boards (Elections) Act 1980

SCHEDULE 1—continued

(c) 1. Mark your vote on this voting-paper by placing (*here insert “the numbers 1 and 2” where 2 candidates to be elected, “the numbers 1, 2 and 3” where 3 candidates to be elected and “the numbers 1, 2, 3 and 4” where 4 candidates to be elected*) in the squares opposite the names of (*here insert number that represents the number of candidates to be elected*) of the candidates so as to indicate the order of your preference for them.

2. If you so desire, you may indicate the order of your preference for all or some of the remaining candidates by placing (*here insert “the numbers 2, 3 and 4” where 1 candidate only to be elected, “the numbers 3, 4 and 5” where 2 candidates to be elected, “the numbers 4, 5 and 6” where 3 candidates to be elected and “the numbers 5, 6 and 7” where 4 candidates to be elected*) (and so on, should you so desire) in the squares opposite the names of those candidates.

CANDIDATES

☐ (d)

☐ (d)

☐ (d)

☐ (d)

FURTHER DIRECTIONS TO VOTER

After marking your vote, fold the voting-paper so as to conceal your vote, place it in the voting-paper envelope and seal that envelope. Then complete and sign the declaration printed on the voting-paper envelope, place that envelope in the envelope addressed to the Returning Officer and seal that last-mentioned envelope. Then send or deliver to the Returning Officer the envelope addressed to the Returning Officer so as to reach the Returning Officer not later than 12 o'clock noon on the day of

19 .

- (a) Whichever is applicable
- (b) Include this direction where 1 candidate only to be elected
- (c) Include this direction where more than 1 candidate to be elected
- (d) Full names of candidates to be set out opposite squares

Health Professions Boards (Elections) Act 1980

SCHEDULE 1—continued

FORM 3

Subsection 16 (3)

HEALTH PROFESSIONS BOARDS (ELECTIONS) ACT

DECLARATION BY VOTER

I, _____ of _____ (*registered address*),
declare that I am eligible under the above-mentioned Act to vote at the election of a member (*or of*
members) of the

- (a) Chiropractors and Osteopaths Board
- (a) Dental Board
- (a) Medical Board
- (a) Nurses Board
- (a) Optometrists Board
- (a) Pharmacy Board
- (a) Physiotherapists Board
- (a) Veterinary Surgeons Board

, the poll for which election closes on
19 ____, and that I have not previously voted at the election.

Signed before me this _____ Signature of voter
day of _____ 19 ____.

Signature of witness:

Address of witness:

NOTE—Sections 35 and 36 of the *Health Professions Boards (Elections) Act 1980* read as follows:

“35. A person shall not knowingly make a false statement in a declaration or statement made for the purpose of this Act.

Penalty: \$100.

“36. A person shall not witness the signature of another person to a declaration made for the purpose of this Act unless the person acting as witness—

- (a) has attained the age of 18 years;
- (b) has satisfied himself or herself as to the identity of the person making the declaration;
- (c) has seen the person sign the declaration in the person’s own handwriting; and
- (d) knows, or has satisfied himself or herself by inquiry from the person making the declaration or otherwise, that the statements contained in the declaration are true.

Penalty: \$100.”.

- (a) Whichever is applicable

Health Professions Boards (Elections) Act 1980

SCHEDULE 2

Subsection 22 (1)

Procedure for counting votes—1 candidate only to be elected

1. In this Schedule, “absolute majority of votes” means a number of votes greater than one-half of the total number of voting-papers other than informal voting-papers.
2. The Returning Officer shall open the ballot-box containing the voting-papers and, in the presence of such scrutineers as attend, count the first preference votes given for each candidate on such of the voting-papers as are not rejected as informal.
3. The candidate who has received the greatest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.
4. If no candidate has received an absolute majority of first preference votes, the Returning Officer shall proceed with the counting of votes as follows:
 - (a) the candidate who has received the least number of first preference votes shall be excluded and each voting-paper counted to that candidate on which is recorded a second preference vote for another candidate shall be counted to that other candidate;
 - (b) if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the least number of votes, and counting each of that candidate’s voting-papers on which is recorded a second, or next consecutive, preference vote for an unexcluded candidate, shall be repeated until—
 - (i) one candidate has received an absolute majority of votes; or
 - (ii) all of the candidates, except one, have been excluded from the count;
 - (c) the candidate who has received an absolute majority of votes, or who has not been excluded from the count, as the case may be, shall be elected.
5. Where, on any count, 2 or more candidates have the same number of votes and it is necessary to exclude 1 of them—
 - (a) the candidate who was lowest on the poll at the last count at which they had an unequal number of votes shall be excluded; or
 - (b) if the candidates had an equal number of votes at all preceding counts or if there was no preceding count—the Returning Officer shall decide by lot which candidate is to be excluded.
6. Where, on any count, a voting-paper does not show a number indicating the voter’s next preference opposite the name of a candidate who has not already been excluded, the voting-paper shall be set aside as exhausted.

Health Professions Boards (Elections) Act 1980

SCHEDULE 3

Subsection 22 (2)

Procedure for counting votes—more than 1 candidate to be elected

1. The Returning Officer shall open the ballot-box containing the voting-papers and, in the presence of such scrutineers as attend, count the first preference votes given for each candidate on such of the voting-papers as are not rejected as informal.

2. The Returning Officer shall then determine a quota by dividing the total number of first preference votes by a number that is equal to 1 more than the number of candidates required to be elected and by increasing the quotient so obtained, disregarding any remainder, by 1.

3. A candidate who has received a number of first preference votes equal to or greater than the quota shall be elected.

4. Where the number of first preference votes received by a candidate is equal to the quota, the voting-papers on which those votes are recorded shall be set aside as finally dealt with.

5. Where the number of first preference votes received by a candidate is in excess of the quota, that candidate's surplus votes shall, unless all vacancies have been filled, be transferred to the unelected candidates next in the order of the voters' preferences as follows:

- (a) the voting-papers on which a first preference vote is recorded for the elected candidate shall be re-examined and the number of second preference votes, or next consecutive preferences, as the case may be, recorded on those voting-papers for each unelected candidate shall be counted;
- (b) the number of surplus votes of the elected candidate shall be divided by the total number of first preference votes received by the elected candidate and the resulting fraction shall be the transfer value;
- (c) the number of second or other preference votes determined under paragraph (a) for each unelected candidate shall be multiplied by the transfer value determined under paragraph (b);
- (d) the resulting number, disregarding any fractional remainder, shall be transferred to each unelected candidate and added to the number of first preference votes received by the unelected candidate.

6. (1) Where, by reason of a transfer effected in pursuance of clause 5, the number of votes received by a candidate is raised up to or above the quota, the candidate shall be elected.

(2) Notwithstanding that the number of votes received by a candidate is, by virtue of a transfer effected in pursuance of clause 5, raised up to the quota, the transfer shall be completed by transferring to the candidate all the votes to which the candidate is entitled from that transfer but no votes of any other candidate shall be transferred to him or her.

(3) Where, by reason of a transfer effected in pursuance of clause 5, the number of votes received by a candidate is raised up to, but not above, the quota, the voting-papers on which those votes are recorded shall be set aside as finally dealt with.

(4) Where, by reason of a transfer effected in pursuance of clause 5, the number of votes received by a candidate is raised above the quota, the candidate's surplus votes shall be transferred to the unelected candidates next in the order of the voters' preferences as follows:

- (a) the voting-papers on which are recorded the votes received by the elected candidate in the last transfer shall be re-examined and the number of third preference votes, or next consecutive preferences, as the case may be, recorded on those voting-papers for each unelected candidate shall be counted;

Health Professions Boards (Elections) Act 1980

SCHEDULE 3—continued

- (b) the number of surplus votes of the elected candidate shall be divided by the total number of voting-papers referred to in paragraph (a) and the resulting fraction shall be the transfer value;
- (c) the number of third or other preference votes determined under paragraph (a) for each unelected candidate shall be multiplied by the transfer value determined under paragraph (b);
- (d) the resulting number, disregarding any fractional remainder, shall be transferred to each unelected candidate and added to the number of votes previously received by him or her.

7. (1) Where, after the first preference votes have been counted and all surplus votes, if any, have been transferred in accordance with clauses 5 and 6—

- (a) no candidate has received a number of votes equal to the quota; or
- (b) the number of candidates elected is less than the number of candidates required to be elected;

the candidate who is lowest on the poll shall be excluded and all the votes received by that candidate shall be transferred, in the manner referred to in clause 5, to the remaining unelected candidates next in the order of the voters' preferences.

(2) For the purpose of effecting a transfer in pursuance of subclause (1)—

- (a) the first preference votes received by a candidate excluded under that subclause shall be transferred first, the transfer value of each such vote being 1;
- (b) the other votes of the candidate shall then be dealt with in the order of the transfers in which, and at the transfer value at which, the candidate received them; and
- (c) each of the transfers referred to in paragraphs (a) and (b) shall, for all purposes, be taken to be a separate transfer.

8. (1) Where, by reason of a transfer effected in pursuance of clause 7, the number of votes received by a candidate is raised up to or above the quota, the candidate shall be elected.

(2) Notwithstanding that the number of votes received by a candidate is, by virtue of a transfer effected in pursuance of clause 7, raised up to the quota, the transfer shall be completed by transferring to the candidate all the votes to which the candidate is entitled from that transfer but no other votes shall be transferred to him or her.

(3) Where, by reason of a transfer effected in pursuance of clause 7, the number of votes received by a candidate is raised up to, but not above, the quota, the voting-papers on which those votes are recorded shall be set aside as finally dealt with.

(4) Where, by reason of a transfer effected in pursuance of clause 7, the number of votes received by a candidate is raised above the quota, the surplus votes—

- (a) shall be transferred to the candidates next in the order of the voters' preferences in the manner referred to in subclause 6 (4);
- (b) shall not be dealt with until all the votes of the excluded candidate have been transferred; and
- (c) shall be dealt with before any other candidate is excluded.

9. The same process of excluding the candidate lowest on the poll and transferring his or her votes to other candidates shall be repeated until all the candidates, except the number required to be elected, have been excluded and the candidates then remaining who have not already been elected, shall then be elected.

Health Professions Boards (Elections) Act 1980

SCHEDULE 3—continued

10. (1) Where, on the counting of first preference votes or on any transfer, more than 1 candidate has a surplus, the largest surplus shall be dealt with first, followed by the next largest surplus, and so on.

(2) Notwithstanding subclause (1), if a candidate receives a surplus at a count or transfer previous to that at which another candidate receives a surplus, the surplus of the first-mentioned candidate shall be dealt with first.

(3) Where the surplus votes of 2 or more candidates are equal, the surplus votes shall be dealt with as follows:

- (a) the surplus of the candidate who was highest on the poll at the count or transfer at which the candidates last had an unequal number of votes shall be dealt with first;
- (b) if the candidates had an equal number of votes at all preceding counts or transfers or if there was no preceding count or transfer—the Returning Officer shall decide by lot which surplus shall be dealt with first.

11. Where 2 or more candidates have the same number of votes and it is necessary to exclude 1 of them—

- (a) the candidate who was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be excluded; or
- (b) if the candidates had an equal number of votes at all preceding counts or transfers or if there was no preceding count or transfer—the Returning Officer shall decide by lot which candidate is to be excluded.

12. For the purpose of determining which candidate is next in the order of the voter's preference, a candidate who has been elected or excluded shall not be considered and the order of the voter's preference shall be determined as if the name of the last-mentioned candidate were not on the voting-paper.

13. Where, on a transfer, a voting-paper does not show a number indicating the voter's next preference opposite the name of a candidate who has not already been elected or excluded, the voting-paper shall be set aside as exhausted.

Health Professions Boards (Elections) Act 1980

NOTES

1. The *Health Professions Boards (Elections) Act 1980* as shown in this reprint comprises Act No. 45, 1980 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

2. The *Legislation (Republication) Act 1996* (No. 51, 1996) authorises the Parliamentary Counsel in preparing a law for republication, to make certain editorial and other formal amendments in accordance with current legislative drafting practice. Those amendments make no change in the law. Amendments made pursuant to that Act do not appear in the Table of Amendments but details may be obtained on request from the Parliamentary Counsel's Office.

Table 1

Table of Ordinances

| Ordinance | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|--|---|--|
| <i>Health Professions Boards (Elections) Ordinance 1980</i> | 45, 1980 | 23 Dec 1980 | 23 Dec 1980 | |
| <i>Health Professions Boards (Elections) Ordinance 1981</i> | 54, 1981 | 9 Dec 1981 | 9 Dec 1981 | — |
| <i>Health Professions Boards (Elections) (Amendment) Ordinance 1986</i> | 67, 1986 | 24 Oct 1986 | 27 Oct 1986 (see <i>Gazette</i> 1986, No. S537) | S. 10 |
| <i>Health Professions Boards (Elections) (Amendment) Ordinance 1988</i> | 60, 1988 | 7 Sept 1988 | 5 Dec 1988 (see <i>Gazette</i> 1988, No. S369) | — |
| <i>Self-Government (Consequential Amendments) Ordinance 1989</i> | 38, 1989 | 10 May 1989 | Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164) | — |

Self-Government day 11 May 1989

Health Professions Boards (Elections) Act 1980

NOTES—continued

Table 2

Table of Acts

| Act | Number and year | Date of notification in <i>Gazette</i> | Date of commencement | Application, saving or transitional provisions |
|---|-----------------|--|---|--|
| (Reprinted as at 30 June 1991) | | | | |
| <i>Self-Government (Consequential Amendments) Act 1991</i> | 53, 1991 | 2 Oct 1991 | 2 Oct 1991 | — |
| <i>Administrative Appeals (Consequential Amendments) Act 1994</i> | 60, 1994 | 11 Oct 1994 | Ss. 1 and 2: 11 Oct 1994 Remainder: 14 Nov 1994 (see s. 2 (2) and <i>Gazette</i> 1994, No. S250) | — |
| <i>Health Legislation (Consequential Amendments) Act 1994</i> | 88, 1994 | 15 Dec 1994 | Ss. 1-3: 15 Dec 1994 Remainder: 15 June 1995 | — |
| <i>Health Professions Boards (Elections) (Amendment) Act 1997</i> | 106, 1997 | 24 Dec 1997 | 24 Dec 1997 | — |

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|-----------------|---|
| S. 3 | am. No. 67, 1986; No. 60, 1988; Act No. 88, 1994 |
| S. 4 | am. No. 67, 1986 |
| Ss. 5-7 | am. Act No. 88, 1994 |
| S. 8 | am. No. 67, 1986; No. 60, 1988; Act No. 88, 1994; No. 106, 1997 |
| Ss. 9, 10..... | am. Act No. 88, 1994 |
| S. 12 | am. Act No. 88, 1994 |
| Ss. 17-21 | am. Act No. 88, 1994 |
| S. 23 | am. Act No. 88, 1994 |
| S. 25 | am. Act No. 88, 1994 |
| S. 26 | am. No. 67, 1986; No. 38, 1989; Acts Nos. 60 and 88, 1994 |
| S. 27 | am. No. 67, 1986; Act No. 88, 1994 |
| S. 31 | am. Act No. 88, 1994 |
| S. 33 | am. Act No. 88, 1994 |
| Ss. 36-38 | am. Act No. 88, 1994 |
| S. 39 | rep. Act No. 53, 1991 |

Health Professions Boards (Elections) Act 1980

NOTES—continued

Table of Amendments—continued

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

| Provision | How affected |
|----------------------|--|
| Schedule 1 | am. No. 67, 1986; No. 60, 1988; Act No. 88, 1994 |
| Schedules 2, 3 | am. No. 54, 1981; Act No. 88, 1994 |

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