

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Community Referendum Bill 1998

TABLE OF PROVISIONS

Section

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Multiple proposals sponsored by the same committee

PART II—LEGISLATIVE PROPOSALS

Division 1—Gaining community support

5. Establishment of sponsoring committee
6. Submission of initiating request
7. Approval of initiating request
8. Registration of proposal
9. Form of popular request
10. Submission of popular request
11. Requirements of popular request
12. Cancellation of registration on cessation of committee

TABLE OF PROVISIONS—continued

Section

Division 2—Proposed laws

- 13 Preparation of proposed laws
- 14 Attorney-General's certificate
- 15 Presentation to Assembly
- 16. Failure to prepare proposed law
- 17 Amendments
- 18. Submission to referendum
- 19 Assembly may refer proposed law to referendum
- 20 Chief Minister's estimates of costs or savings
- 21 Auditor-General's report
- 22. Publication of estimates and reports
- 23. Special community consultation days

PART III—REFERENDUMS

- 24. Arguments for and against proposals
- 25 Dissemination of Chief Minister's estimates
- 26 Appointment of scrutineers
- 27 Form of ballot paper
- 28. Recounts
- 29. Result of referendum
- 30 Declaration of result of referendum

PART IV—ENACTMENT OF LAWS

- 31. Enactment of proposed law

PART V—OFFENCES

- 32 Harassment
- 33. Misrepresenting sponsoring committee
- 34. Misrepresentation

PART VI—ADMINISTRATIVE PROVISIONS

Division 1—Review

- 35 Review of decisions

Division 2—Sponsoring committees

- 36 Changes in membership
- 37. Procedures
- 38 Cessation of existence
- 39 Contact officer
- 40. Vacancy in office of contact officer
- 41 Notice of contact officer's appointment or change of address

Division 3—Register

- 42 Register

Community Referendum No. , 1998

TABLE OF PROVISIONS—continued

Section

PART VII—MISCELLANEOUS

- 43.** Substantial compliance with some time requirements sufficient
44. Regulations

SCHEDULE 1

NOTICE OF REGISTRATION OF LEGISLATIVE PROPOSAL

SCHEDULE 2

POPULAR REQUEST

SCHEDULE 3

BALLOT PAPERS FOR REFERENDUM

1998
THE LEGISLATIVE ASSEMBLY
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(Attorney-General)

Community Referendum Bill 1998

A BILL

FOR

**An Act to enable the people of the Territory to
initiate and vote on legislative proposals**

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

1. Short title

5 This Act may be cited as the *Community Referendum Act 1998*.

2. Commencement

This Act commences on the day on which it is notified in the *Gazette*.

3. Interpretation

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

10 “approved form” means a form approved by the Commissioner by
notice in the *Gazette*;

“Auditor-General” means the Auditor-General under the *Auditor-General Act 1996*;

“community consultation day” means—

5 (a) a day on which a general election of members of the Legislative Assembly is held; or

(b) a special community consultation day;

and, where polling is suspended and resumed, includes a day on which polling is resumed;

10 “contact officer”, in relation to a sponsoring committee, means the person named in the last notice lodged with the Commissioner under section 5 or 41;

“establishment notice” means a notice under subsection 5 (2);

“initiating request” means a request submitted under section 6;

15 “legislative proposal” means a proposal for a law of the Territory in relation to any matter in respect of which the Assembly has power to make laws, other than a law—

(a) to appropriate public money of the Territory;

(b) to provide that—

20 (i) a specified amount of money;

(ii) not more than a specified amount of money;

(iii) a specified proportion of an amount of money;

(iv) not less than a specified proportion of an amount of money;

25 being public money of the Territory, is to be spent for a specified purpose or program; or

(c) that prohibits the expenditure of any public money of the Territory for a specified purpose or program;

“Machinery Provisions Act” means the *Referendum (Machinery Provisions) Act 1994*;

30 “popular request” means a request under section 9;

“public money of the Territory” means revenues, loans and other moneys received by the Territory;

“qualified legislative proposal” means a proposal that is a qualified legislative proposal under section 11;

35 “Register” means the Register of Legislative Proposals and Proposed Laws kept under section 42;

“registered legislative proposal” means a legislative proposal registered under section 8, being a proposal the registration of which has not been cancelled;

“review statement” has the same meaning as in the Electoral Act;

“special community consultation day” means a day that is a special community consultation day by virtue of section 23;

5 “sponsoring committee”, in relation to a legislative proposal or a proposed law that gives effect to the objects of a legislative proposal, means the committee that comes into existence in accordance with section 5.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Machinery Provisions Act.

10 **4. Multiple proposals sponsored by the same committee**

Where a group of electors becomes established under section 5 as a sponsoring committee in respect of a legislative proposal and, at the same or a later time, the Commissioner accepts under that section the lodgment of an establishment notice by or on behalf of that group in respect of another
15 legislative proposal, the group of electors shall be taken, for the purposes of this Act, to be a separate sponsoring committee in respect of each legislative proposal.

PART II—LEGISLATIVE PROPOSALS

Division 1—Gaining community support

20 **5. Establishment of sponsoring committee**

(1) Not less than 2 or more than 10 electors proposing to present an initiating request may, by unanimous resolution, agree to form themselves into the sponsoring committee in respect of the legislative proposal that it is intended be the subject of the request.

25 (2) For the purposes of this Act, a sponsoring committee comes into existence when the Commissioner accepts the lodgment, by or on behalf of a group of electors referred to in subsection (1), of a notice in the approved form that contains—

30 (a) a statement that the persons named in the notice have agreed to form themselves into a sponsoring committee for the purposes of this Act in respect of the legislative proposal described in the notice;

(b) the names and addresses of those persons;

(c) their signatures;

35 (d) the name of the contact officer for the committee; and

(e) a description, in no more than 100 words, of the main objects sought to be achieved by the legislative proposal.

(3) Where the Commissioner is satisfied that—

- (a) a document submitted for the purposes of subsection (2) complies with that subsection; and
 - (b) the objects sought to be achieved by the proposal are capable of implementation by legislation of the Territory;
- 5 he or she shall accept the lodgment of the establishment notice by publishing in the *Gazette* a notice of its acceptance.
- (4) A notice published under subsection (3) shall include—
- (a) a copy of the description of the legislative proposal set out in the establishment notice; and
 - 10 (b) the name and address of the contact officer.
- (5) If the Commissioner does not accept the lodgment of a document under subsection (3), he or she shall give to the person who has submitted it a review statement about the decision to refuse to accept it.
- (6) A failure to comply with subsection (5) does not affect the validity of
- 15 a decision referred to in that subsection.

6. Submission of initiating request

A contact officer may, on behalf of the sponsoring committee by which he or she has been appointed, submit to the Commissioner a request that seeks registration of a legislative proposal described in the establishment

20 notice lodged by the sponsoring committee.

7. Approval of initiating request

- (1) The Commissioner shall approve an initiating request if satisfied that—
- 25 (a) it relates to the legislative proposal referred to in the establishment notice lodged by the sponsoring committee on behalf of which the request has been lodged;
 - (b) there is set out on each page of the document that constitutes the request—
 - 30 (i) the description of the legislative proposal in the terms set out in the establishment notice; and
 - (ii) the name and address of each member of the sponsoring committee; and
 - (c) it contains—
 - 35 (i) the full names, addresses and dates of birth of not less than 1000 electors who have signed the request; and
 - (ii) the date on which each elector signed the request.

(2) For the purposes of paragraph (1) (c), the Commissioner may be satisfied that not less than 1000 signatories to an initiating request are

electors if, having checked a sample of not less than 200 signatories chosen at random and having applied an appropriate statistical method to the sample, the Commissioner is satisfied that it is reasonable to conclude that not less than 1000 signatories are electors.

- 5 (3) For the purposes of this section, a person shall be taken to be an elector if he or she was an elector when he or she signed the initiating request.

- (4) Where, after being requested to approve an initiating request, the Commissioner decides not to do so, he or she shall give to the applicant a
10 review statement about the decision.

8. Registration of proposal

Upon approving an initiating request, the Commissioner shall—

- (a) register the legislative proposal in the terms set out in the request;
and
15 (b) publish in the *Gazette* a notice in accordance with Schedule 1.

9. Form of popular request

- An elector may address to the Commissioner a request, substantially in accordance with Schedule 2, that the people of the Territory be permitted to determine by referendum whether the law of the Territory should be
20 altered in accordance with a registered legislative proposal specified in the popular request.

10. Submission of popular request

- (1) A popular request shall be submitted within 6 months after the date of the publication in the *Gazette* of the notice of registration of the relevant
25 registered legislative proposal under paragraph 8 (b).

- (2) A popular request submitted after the expiry of the period referred to in subsection (1) shall be disregarded for the purposes of this Division.

11. Requirements of popular request

- (1) The Commissioner, on being satisfied that the popular requests
30 received in respect of a registered legislative proposal bear the signatures of not less than the required number of electors, shall, as soon as practicable, publish in the *Gazette* a notice stating that—

- (a) the registered legislative proposal specified in the notice has been supported by the required number of electors; and
35 (b) a proposed law that gives effect to the objects of the registered legislative proposal may, in accordance with this Act and the Machinery Provisions Act, be put to a referendum.

(2) The Commissioner, on being satisfied that the popular requests received in respect of a registered legislative proposal specified in a notice published under subsection (1) bear the signatures of not less than twice the required number of electors, shall, as soon as practicable, publish in the *Gazette* a further notice stating that—

- (a) the registered legislative proposal specified in the notice has been supported by twice the required number of electors; and
- (b) the proposal is a qualified legislative proposal

(3) The Commissioner may be satisfied for the purposes of subsection (1) or (2) if, having checked a sample of not less than 1000 signatories chosen at random and having applied an appropriate statistical method to the sample, he or she is satisfied that it is reasonable to conclude that the number of signatories to the popular requests who are electors would be not less than the required number or twice the required number, as the case requires.

(4) The Commissioner shall notify in writing the contact officer of the relevant sponsoring committee of the publication of a notice under subsection (1) or (2).

(5) Where the Commissioner is not satisfied that the popular requests received in respect of a registered legislative proposal in accordance with this Division amount to the required number, the Commissioner shall—

- (a) cancel the registration of the legislative proposal;
- (b) publish in the *Gazette* notice of the cancellation; and
- (c) give a review statement about the publication to the person who last held the office of contact officer of the relevant sponsoring committee.

(6) In this section—

“popular request” does not include a request that is required to be disregarded for the purposes of this Division;

“required number” means 5% of the number of electors who were eligible to vote at the general election of members of the Legislative Assembly that was last held before the expiry of the period of 6 months referred to in section 10.

(7) For the purposes of this section, a person shall be taken to be an elector if he or she was an elector when he or she signed the popular request.

12. Cancellation of registration on cessation of committee

(1) The Commissioner shall cancel the registration of a registered legislative proposal if, before a copy of a proposed law that gives effect to the objects of the proposal is given to the Speaker under subsection 15 (1),

the Commissioner is satisfied that the relevant sponsoring committee has ceased to exist.

(2) For the purposes of subsection (1), the Commissioner may be satisfied that a sponsoring committee has ceased to exist if he or she has given to the contact officer a written notice of his or her intention to cancel the registration of the relevant registered proposal under subsection (1) and—

(a) no response has been received within 1 month of the date of the notice; or

(b) from the response received it is reasonable to conclude that the committee has ceased to exist.

(3) Where the Commissioner decides to cancel a registration under subsection (1), he or she shall give a review statement about the decision to the person who appears to him or her to be the person who last held the office of contact officer of the relevant sponsoring committee.

Division 2—Proposed laws

13. Preparation of proposed laws

(1) Where a notice in relation to a popular request has been published under subsection 11 (1), the sponsoring committee in respect of the relevant registered legislative proposal may prepare a proposed law that gives effect to the objects of that proposal.

(2) On written application made by a sponsoring committee through its contact officer, the Attorney-General shall make available to the committee the services of a public servant in order to enable the committee to prepare a proposed law.

14. Attorney-General's certificate

(1) Where a sponsoring committee has prepared a proposed law, its contact officer may apply in writing to the Attorney-General for a certificate that the proposed law is consistent with the registered legislative proposal sponsored by that committee and is suitable for presentation to the electors on a community consultation day.

(2) The Attorney-General shall not give a certificate under this section unless he or she is satisfied that the proposed law—

(a) is consistent with the objects of the registered legislative proposal; and

(b) is in a form that is suitable for presentation to the Legislative Assembly.

15. Presentation to Assembly

(1) Where the Attorney-General gives a certificate under section 14, the contact officer of the sponsoring committee for the relevant proposed law may give the certificate and a copy of the proposed law to the Speaker.

5 (2) The Speaker shall—

(a) lay the certificate and the copy of the proposed law before the Legislative Assembly on the first sitting day after receiving them;

(b) notify the Commissioner of the laying and give him or her a copy of the certificate and the proposed law; and

10 (c) give a copy of the proposed law to the Chief Minister and request him or her to prepare and publish estimates of costs in accordance with section 20.

16. Failure to prepare proposed law

15 Where a copy of a proposed law that gives effect to the objects of a registered legislative proposal is not laid before the Legislative Assembly under subsection 15 (2) before the holding of the general election of members of the Assembly that next occurs after the publication of the notice under subsection 11 (1) that relates to the proposal, the registration of the proposal is, by force of this section, cancelled.

20 **17. Amendments**

(1) A reference in this section to a proposed law shall be read as a reference to a proposed law a copy of which has been laid before the Legislative Assembly under subsection 15 (2).

25 (2) A sponsoring committee may prepare an amendment to a proposed law.

(3) On written application made by a sponsoring committee through its contact officer, the Attorney-General shall make available to the committee the services of a public servant in order to enable the committee to prepare an amendment to a proposed law.

30 (4) Where a sponsoring committee has prepared an amendment to a proposed law, its contact officer may apply in writing to the Attorney-General for a certificate under section 14 and, where such an application is made—

35 (a) any certificate previously issued under that section in respect of the proposed law ceases to have effect; and

(b) that section applies in relation to the application as if the references in that section to the proposed law were references to the proposed law as affected by the amendment.

(5) Where the Speaker receives, on or before the last day for making amendments, from the contact officer of the relevant sponsoring committee, a copy of an amendment to a proposed law and the Attorney-General's certificate in relation to the proposed law as affected by the amendment, the Speaker shall—

- (a) lay the certificate and the copy of the amendment before the Legislative Assembly on the first sitting day after receiving them;
- (b) notify the Commissioner of the laying and give him or her a copy of the certificate and the amendment; and
- (c) give a copy of the amendment to the Chief Minister and request him or her to prepare and publish estimates of costs in accordance with section 20 in relation to the proposed law as affected by the amendment.

(6) A proposed law is amended when a copy of the amendment is laid before the Legislative Assembly under subsection (5).

(7) Where a proposed law has been amended under this section—

- (a) any reference in this Act to the proposed law shall be read as a reference to the proposed law as so amended; and
- (b) in any reprint or reproduction of such a proposed law, the proposed law shall be reprinted or reproduced as so amended.

(8) In this section—

“last day for making amendments”, in relation to a proposed law, means the 31 May that last occurs before the community consultation day on which the referendum for the proposed law is to be held.

18. Submission to referendum

(1) Subject to subsection (2), the Commissioner shall submit a proposed law a copy of which has been laid before the Legislative Assembly under subsection 15 (2) to a referendum of electors on the first community consultation day that occurs after the expiry of the period of 4 months after the laying.

(2) The Commissioner shall not submit a proposed law to referendum if, before the holding of the referendum, he or she receives from the Attorney-General written advice that the Legislative Assembly has enacted a law that gives effect to the objects of the proposed law.

19. Assembly may refer proposed law to referendum

(1) This section applies to a proposed law, other than a proposed law a copy of which has been laid before the Legislative Assembly under subsection 15 (2).

(2) The Legislative Assembly may, before deciding whether or not to enact a proposed law to which this section applies, resolve to refer it to a referendum of electors.

5 (3) Where the Legislative Assembly passes a resolution in accordance with subsection (2), the Speaker shall—

(a) notify the Commissioner in writing of the decision and give him or her a copy of the proposed law; and

10 (b) give a copy of the proposed law to the Chief Minister and request him or her to prepare and publish estimates of costs in accordance with section 20.

(4) Subject to subsection (5), the Commissioner shall submit a proposed law that has been the subject of a resolution under subsection (2) to a referendum of electors on the first community consultation day that occurs after the expiry of the period of 4 months after the passing of the resolution.

15 (5) The Commissioner shall not submit a proposed law to which this section applies to a referendum if, before the holding of the referendum—

(a) the Legislative Assembly rescinds the relevant resolution; or

20 (b) the Commissioner receives from the Attorney-General written advice that the Legislative Assembly has enacted a law that gives effect to the objects of the proposed law.

20. Chief Minister's estimates of costs or savings

25 (1) As soon as practicable after receiving from the Speaker a notification under paragraph 15 (2) (c), 17 (5) (c) or 19 (3) (b), the Chief Minister shall prepare and publish in the *Gazette* an estimate in accordance with this section of the reasonable costs or savings to the Territory of the implementation of the proposed law.

(2) In this section, a reference to costs or savings shall be read as a reference to—

30 (a) the net costs or savings that are of capital or a capital nature; and

(b) the net annual operating costs or savings.

(3) In making an estimate under this section the Chief Minister—

(a) shall assume that the proposed law will commence on 1 July next following receipt of the notification from the Speaker; and

35 (b) shall estimate the costs of, or savings in, the implementation of the proposed law during the financial year commencing on that date and each of the 2 next following financial years.

(4) Where the Chief Minister deems it advisable to do so for the purpose of better informing the community, he or she may prepare and publish

estimates in the form of a statement of the highest and lowest reasonably estimated amounts of a cost or saving.

5 (5) The Chief Minister shall prepare, in relation to a calculation of estimates under this section, a statement of the material assumptions made and of the reasons for the conclusions reached.

(6) The Chief Minister shall give a copy of the estimates and statements prepared under this section to the Auditor-General.

21. Auditor-General's report

10 (1) The Auditor-General shall prepare a report, in accordance with this section, on the estimates and statements prepared under section 20 and give it to the Chief Minister.

(2) In a report prepared under this section the Auditor-General shall state whether or not in his or her view—

- 15 (a) the estimates present a fair view of the reasonable costs or savings to the Territory of the implementation of the relevant proposed law;
- (b) the estimates are based on reasonable assumptions;
- (c) all matters that should reasonably be taken into account in the calculation of the estimates have been considered; and
- 20 (d) the procedures and methods used in the calculation of the estimates are appropriate.

22. Publication of estimates and reports

The Chief Minister shall cause to be published in the *Gazette* an estimate and statements prepared under section 20 and the relevant report under section 21.

23. Special community consultation days

25 (1) This section applies where, during the period of 12 months ending on 31 May in a calendar year, other than an election year, a copy of a qualified proposed law has been laid before the Legislative Assembly under subsection 15 (2).

30 (2) Subject to subsections (4) and (5), a special community consultation day is a day specified by the Commissioner under subsection (3).

(3) Where this section applies, the Commissioner shall, as soon as practicable after the end of the period referred to in subsection (1), by notice in the *Gazette*, specify the next following third Saturday in October to be a
35 special community consultation day.

(4) Where, after the publication of a notice under subsection (3) but before the occurrence of the day specified in that notice, a notice is published in the *Commonwealth Gazette* specifying a day for the holding of an

extraordinary election, the day specified under subsection (3) thereupon ceases to be a special community consultation day.

(5) Where—

- (a) the Commissioner has published a notice under subsection (3);
- 5 (b) a writ is issued under Part XIII of the *Commonwealth Electoral Act 1918* of the Commonwealth for an election of Senators for the Territory or for a general election for the House of Representatives; and
- 10 (c) the date for the polling in respect of the election is the day specified in the notice published by the Commissioner;

by virtue of this section, that day ceases to be a special community consultation day and, in lieu thereof, the first Saturday in December next following is specified as the next community consultation day.

(6) In this section—

- 15 “election year” means the calendar year in which an ordinary election of the Legislative Assembly is required to be held under section 100 of the Electoral Act;
- “extraordinary election” means an election of members of the Legislative Assembly held under section 16 or 48 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth;
- 20 “qualified proposed law” means a proposed law that gives effect to the objects of a qualified legislative proposal.

PART III—REFERENDUMS

24. Arguments for and against proposals

- 25 (1) Within 2 months after the laying of a proposed law before the Legislative Assembly under subsection 15 (2), the sponsoring committee may prepare and, through its contact officer, give to the Commissioner, an argument in favour of the proposed law consisting of not more than 2,000 words.
- 30 (2) Within 2 months after a resolution by the Legislative Assembly under subsection 19 (2) to refer a proposed law to a referendum, a member of the Legislative Assembly may give to the Commissioner an argument in favour of the proposed law that consists of not more than 2,000 words and has been authorised by a majority of the members of the Assembly who voted in
- 35 favour of the resolution.
- (3) Before the expiry of the period referred to in subsection (1) or (2), as the case requires, a member of the Legislative Assembly may give to the Commissioner an argument against the proposed law that consists of not

more than 2,000 words and has been authorised by a majority of the members of the Assembly who—

- (a) in the case of a proposed law referred to in subsection (1)—are against the proposed law; or
- 5 (b) in the case of a proposed law referred to in subsection (2)—voted against the resolution to refer the law to a referendum.

(4) Where, after the receipt by the Commissioner of an argument in relation to a proposed law, the proposed law is amended in accordance with section 17, a revised argument may be given to the Commissioner in
10 accordance with this section in relation to the proposed law as amended by the contact officer of the sponsoring committee or a member, as the case requires.

(5) Where the Commissioner receives a revised argument under subsection (4), the original argument shall be disregarded for the purposes
15 of this Act and the Machinery Provisions Act.

(6) For the purposes of the application of section 8 of the Machinery Provisions Act in relation to a referendum for which this Act provides—

- (a) subsection (2) of that section does not apply; and
- 20 (b) an argument given to the Commissioner under this section shall be taken to be an authorised statement for the purposes of that section.

25. Dissemination of Chief Minister's estimates

The Commissioner shall, not later than 14 days before the relevant community consultation day, cause to be posted, as nearly as practicable—

- (a) to each elector; or
- 25 (b) to each household in the Territory;

a copy of each notice published in the *Gazette* under section 22 that relates to a proposed law that is to be the subject of a referendum to be held on that day.

26. Appointment of scrutineers

30 Each of the following may appoint a scrutineer or scrutineers to represent it during the polling or scrutiny for a referendum, or both:

- (a) a political party that, on the 31 May that last occurred before the community consultation day on which the referendum is held—
 - (i) was registered under the Electoral Act; and
 - 35 (ii) was represented by at least 1 member in the Legislative Assembly;
- (b) where a proposed law gives effect to the objects of a registered legislative proposal—the relevant sponsoring committee.

27. Form of ballot paper

(1) The ballot paper to be used in a referendum shall be in accordance with—

- 5 (a) Form 1 in Schedule 3 where only 1 question is to be put to the electors; and
- (b) Form 2 in Schedule 3 where more than 1 question is to be put to the electors.

(2) Where 2 or more referendums are held on the same day, the ballot papers for each referendum may be printed on 1 piece of paper.

10 (3) The regulations may—

- (a) specify the headings or directions to be printed or endorsed on ballot papers to be used for declaration voting; and
- (b) provide for—
 - 15 (i) the form of a ballot paper to be altered as specified in the regulations; or
 - (ii) a form set out in the regulations to be used in place of the form of a ballot paper.

20 (4) Where such regulations are in force, a reference in this Act to a ballot paper shall be read as a reference to a ballot paper in the form ascertained in accordance with the regulations.

(5) For the purposes of the scrutiny of a referendum—

- (a) where a tick has been marked in, or adjacent to, the box set out on a ballot paper for the marking of the elector's preference, it shall be read as a "yes";
- 25 (b) a cross marked on a ballot paper shall not be taken to record a vote; and
- (c) any writing on a ballot paper other than a "yes", "no" or a tick shall be disregarded unless it renders the elector's intention unclear.

28. Recounts

30 For the purposes of paragraph 14 (3) (c) of the Machinery Provisions Act the following may request a recount of referendum ballot papers:

- (a) a political party that satisfies paragraph 26 (a);
- 35 (b) where paragraph 26 (b) applies—the relevant sponsoring committee;
- (c) an MLA.

29. Result of referendum

Subject to any decision of the Court of Disputed Elections, a proposed law that has been put to a referendum is approved if more than one-half of the formal votes cast at that referendum are in favour of it.

5 **30. Declaration of result of referendum**

(1) Where 2 or more referendums are held on a community consultation day, the results of all the referendums shall, so far as practicable, be declared by notices published in the same issue of the *Gazette*.

10 (2) The Commissioner shall, as soon as practicable, give to the Speaker a copy of a notice published under paragraph 14 (4) (b) of the Machinery Provisions Act.

(3) The Speaker shall, on the first sitting day of the Legislative Assembly after receiving a copy of a notice under paragraph 14 (4) (b) of the Machinery Provisions Act, lay it before the Legislative Assembly.

15 **PART IV—ENACTMENT OF LAWS**

31. Enactment of proposed law

(1) As soon as practicable after the end of the period within which an application disputing the validity of a referendum may be made, the Commissioner shall notify the Speaker in writing whether any such
20 application has been made.

(2) If an application disputing the validity of a referendum has been made, the Commissioner shall notify the Speaker in writing when it is finally disposed of.

(3) For the purposes of subsection (2), an application is to be taken to be
25 finally disposed of when—

(a) it is withdrawn; or

(b) it is dealt with by the Court of Disputed Elections.

(4) The Speaker shall, on the first sitting day of the Legislative Assembly after receiving a notification under subsection (1) or (2), lay it
30 before the Legislative Assembly.

(5) Subject to this section and, where relevant, any decision of the Court of Disputed Elections, where a proposed law has been approved at a referendum, the Chief Minister shall, on the next sitting day after the laying by the Speaker of a notification—

35 (a) under subsection (1) that no application to dispute the validity of the referendum has been made; or

(b) under subsection (2);

as the case requires, present the proposed law to the Legislative Assembly.

(6) This subsection applies where more than 1 proposed law has been approved on the same community consultation day and the Chief Minister is satisfied that—

- 5 (a) 2 or more of the proposed laws are inconsistent with each other; or
 (b) 1 of those proposed laws is partly inconsistent with another proposed law.

(7) Where subsection (6) applies, the Chief Minister shall present under subsection (5)—

- 10 (a) any independent proposed law; and
 (b) the inconsistent or partly inconsistent proposed law that has been supported by the greatest or greater number of votes.

(8) Where paragraph (6) (a) applies, subsection (5) does not apply to any proposed law that is inconsistent with the proposed law in respect of
15 which a motion may be moved by virtue of paragraph (7) (b).

(9) Where—

- (a) paragraph (6) (b) applies;
 (b) the partly inconsistent proposed law is not a proposed law that may be presented by virtue of paragraph (7) (b);
20 (c) the proposed law is partly inconsistent with a proposed law that may be presented by virtue of paragraph (7) (b) or this subsection; and
 (d) the Chief Minister is satisfied that if the part of the proposed law by virtue of which it is partly inconsistent were excised, the
25 proposed law, on enactment, would still—
 (i) be capable of effective operation; and
 (ii) achieve its primary objects;

subsection (5) applies in respect of the partly inconsistent proposed law as if the inconsistent part were not part of it.

30 (10) Where more than 1 proposed law is partly inconsistent with a law that may be presented by virtue of paragraph (7) (b), subsection (9)—

- (a) applies first to the proposed law that has been supported by the greatest or greater number of votes and then to any others in succession; and
35 (b) as so applying, a reference in paragraph (9) (c) to a proposed law that may be presented by virtue of subsection (9) shall be read as a reference to that proposed law after the excision of the inconsistent part.

(11) Subsection (5) does not apply in respect of a partly inconsistent proposed law unless that proposed law may be presented by virtue of paragraph (7) (b) or subsection (9).

(12) Where—

- 5 (a) 4 or more laws have been approved at a referendum;
 (b) subsection (6) applies; and
 (c) there are 2 or more groups of inconsistent laws;

paragraph (7) (b) and subsections (8), (9), (10) and (11) apply in relation to each group independently.

10 (13) For the purposes of this section—

- (a) proposed laws shall be taken to be inconsistent with each other where, if both or all were enacted, they would be incapable of operating concurrently;
 (b) a proposed law shall be taken to be partly inconsistent with another
15 proposed law if it contains a part that, if both proposed laws were enacted, would be incapable of operating concurrently with the other law or any part of it;
 (c) a proposed law is an independent proposed law if it is not a proposed law referred to in paragraph (a) or (b); and
20 (d) a reference to a group of inconsistent laws shall be read as a reference to a group of proposed laws in which every law is inconsistent or partly inconsistent with at least 1 other proposed law in the group.

PART V—OFFENCES

25 32. Harassment

A person shall not intimidate or cause violence to another person for the purpose of inducing the other person to—

- (a) sign; or
 (b) refuse to sign;

30 an initiating request or a popular request.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

33. Misrepresenting sponsoring committee

35 A person shall not, without reasonable excuse, publish, or seek another person's signature to, a document that is represented to be, or be part of, an initiating request or a popular request, if there is not set out on the document the name and address of each member of the sponsoring committee.

Penalty: 50 penalty units.

34. Misrepresentation

5 (1) A person shall not, for the purpose of obtaining another person's signature to a document, falsely represent that the document is, or is part of, an initiating request or a popular request.

(2) A person shall not, for the purpose of inducing another person—

(a) to sign an initiating request; or

(b) to address a popular request to the Commissioner;

10 falsely represent to the other person the nature or main objects of the relevant legislative proposal.

(3) A person shall not falsely represent that a legislative proposal, or a form of words that resembles a legislative proposal, is a registered proposal.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

PART VI—ADMINISTRATIVE PROVISIONS

15

Division 1—Review

35. Review of decisions

(1) This section applies to the following decisions:

(a) a decision to refuse to accept the lodgment of a document under subsection 5 (3);

20 (b) a decision not to approve an initiating request under section 7;

(c) a decision to cancel the registration of a legislative proposal under paragraph 11 (5) (a);

(d) a decision to cancel the registration of a registered legislative proposal under section 12.

25 (2) Part XV of the Electoral Act applies to a decision to which this section applies as if it were a reviewable decision for the purposes of that Act.

Division 2—Sponsoring committees

36. Changes in membership

30 (1) A member of a sponsoring committee ceases to be a member if he or she—

(a) resigns his or her membership by notice in writing delivered to the contact officer; or

(b) ceases to be an elector.

(2) Where the membership of a sponsoring committee changes by virtue of the death of a member or by virtue of subsection (1), the contact officer shall, within 1 month after becoming aware of that fact, lodge with the Commissioner a written advice of the change in the approved form.

- 5 (3) A contact officer shall not, without reasonable excuse, fail to comply with subsection (2).

Penalty: 5 penalty units.

(4) A sponsoring committee that consists of not more than 9 members may agree to admit 1 other elector to membership.

- 10 (5) Where a sponsoring committee makes a decision under subsection (4), its contact officer shall lodge with the Commissioner a notice in the approved form that contains—

(a) the name and address of the person who has agreed to be admitted to the committee; and

- 15 (b) his or her signature.

Penalty: 5 penalty units.

(6) A person who has agreed to be admitted to the committee becomes a member upon the lodgment of the relevant notice under subsection (5).

- 20 (7) The performance of a function by a sponsoring committee is not affected by reason only that—

(a) a member of the committee had not been a member before or at the commencement of the performance of that function; or

- 25 (b) a person who is not a member of the committee had been a member before or at the commencement of the performance of that function.

37. Procedures

Subject to this Act, the procedures of a sponsoring committee shall be as the committee determines.

38. Cessation of existence

- 30 (1) A sponsoring committee ceases to exist if—

(a) it resolves to dissolve itself;

(b) it has only 1 member;

(c) it has no members; or

(d) the registration of the relevant legislative proposal is cancelled.

- 35 (2) Where a sponsoring committee ceases to exist by virtue of paragraph (1) (a), (b) or (c), the person who was the contact officer at the time of the cessation shall notify the Commissioner in writing of the

cessation of the existence of the committee within 1 month after the cessation.

Penalty: 5 penalty units.

39. Contact officer

5 (1) Subject to this Part, a sponsoring committee shall have a contact officer.

(2) A person is not eligible to be appointed contact officer for a sponsoring committee unless he or she is a member of the committee.

10 (3) It shall be presumed, for the purposes of this Act, that any action taken by a contact officer is taken with the authority of the relevant sponsoring committee.

40. Vacancy in office of contact officer

(1) A sponsoring committee may remove its contact officer from office.

15 (2) The office of the contact officer of a sponsoring committee shall be taken to be vacant if the contact officer—

(a) is removed from office pursuant to subsection (1);

(b) resigns from office; or

(c) ceases to be a member of the committee.

20 (3) Where a vacancy occurs in the office of the contact officer, the sponsoring committee shall, within 14 days after the occurrence of the vacancy, appoint 1 of its members to fill it.

25 (4) If a sponsoring committee fails, without reasonable cause, to comply with subsection (3), each member of the committee is, subject to subsection (5), guilty of an offence punishable, on conviction, by a fine not exceeding 2 penalty units.

(5) A member of a committee is not guilty of an offence against subsection (4) if he or she satisfies the court that he or she—

(a) made reasonable efforts to endeavour to have the committee comply with subsection (3); or

30 (b) had reasonable cause for not participating in the affairs of the committee during the relevant period of time.

41. Notice of contact officer's appointment or change of address

35 (1) A person who is appointed to be the contact officer of a sponsoring committee after the occurrence of a vacancy in that office shall, not later than 1 month after being appointed, lodge with the Commissioner a notice in the

approved form signed by a majority of the members of the committee, advising—

- (a) of the reason for the occurrence of the vacancy; and
- (b) of his or her appointment to fill it.

- 5 (2) A contact officer who changes his or her address shall, before or within 1 month after the change, notify the Commissioner of the change.

Penalty: 2 penalty units.

Division 3—Register

42. Register

- 10 (1) The Commissioner shall keep, in such form as he or she deems fit, a register, called the Register of Legislative Proposals and Proposed Laws, of—

- (a) registered legislative proposals; and
- (b) proposed laws that are to be put to referendum.

- 15 (2) The Register shall contain the following particulars in relation to a registered legislative proposal:

- (a) the terms of the proposal;
- (b) the name and address of the contact officer and each other member of the sponsoring committee;
- 20 (c) the date and number of the *Gazette* in which the notice under paragraph 8 (b) is published;
- (d) where the sponsoring committee ceases to exist, the date and cause of the cessation.

- 25 (3) The Commissioner shall allocate to each registered legislative proposal a number, in a consecutive series commencing with the number 1, and shall enter that number in the Register.

(4) Where the Commissioner publishes a notice under subsection 11 (1), he or she shall enter in the Register—

- (a) the name and number of the relevant *Gazette*; and
- 30 (b) where subsection 11 (2) applies—an annotation that the registered legislative proposal is a qualified proposal.

(5) Where the registration of a legislative proposal is cancelled, the Commissioner shall enter in the Register—

- (a) a notification to that effect;
- 35 (b) the date of the cancellation; and
- (c) the cause of the cancellation.

(6) Upon receiving from the Speaker notification of the laying before the Legislative Assembly of a proposed law under subsection 15 (2) or of the passing of a resolution in relation to a proposed law by the Assembly under section 19, the Commissioner shall make in the Register an annotation of—

- 5 (a) the long and short titles of the proposed law;
 (b) the date of receipt of the notification from the Speaker;
 (c) the date of the relevant certificate of the Attorney-General or of the passing of the relevant resolution of the Assembly, as the case requires; and
10 (d) where the proposed law gives effect to a registered legislative proposal—such other information as is necessary to identify the proposal.

(7) As soon as it is practicable to do so, the Commissioner shall enter in the Register, in relation to each proposed law—

- 15 (a) the community consultation day on which the referendum is to be held;
 (b) the result of the referendum; and
 (c) the number of votes in favour of the proposed law and the number of votes opposed to the proposed law that have been cast.

20 (8) Upon receiving from the Speaker notification of the laying before the Legislative Assembly under section 17 of an amendment to a proposed law, the Commissioner shall make in the Register an annotation of—

- (a) any changes to a title of the proposed law effected by the amendment; and
25 (b) the date of receipt of the notification from the Speaker.

(9) Where a proposed law is not submitted to referendum by reason of the operation of subsection 18 (2) or 19 (5), the Commissioner shall make in the Register an appropriate annotation.

30 (10) The Commissioner shall enter in the Register any prescribed particulars or matters.

(11) A person may inspect the Register at the office of the Commissioner at any time when that office is open to the public.

PART VII—MISCELLANEOUS

43. Substantial compliance with some time requirements sufficient

Where, by this Act, the Speaker or the Chief Minister is required to discharge a duty on a specified day, and it is impracticable to discharge it on

that day, the requirement shall be taken to be satisfied if the duty is discharged as soon as practicable.

44. Regulations

The Executive may make regulations for the purposes of this Act.

SCHEDULE 1

Section 8

NOTICE OF REGISTRATION OF LEGISLATIVE PROPOSAL

Community Referendum Act 1998

I, (1) , Electoral Commissioner, hereby give notice that the following legislative proposal has been registered in pursuance of section 8 of the *Community Referendum Act 1998*.

Registered Legislative Proposal No (2)

(3)

If, within 6 months after the date on which this notice is published in the *Gazette*, I receive a request signed by not less than 5% of electors requesting that the registered legislative proposal set out above be put to a referendum, the provisions of the *Community Referendum Act 1998* may require me to arrange for a referendum to be held on a community consultation day

(Signed)

Electoral Commissioner

Notes

- (1) *Insert name of Commissioner.*
 - (2) *Insert registration number of legislative proposal.*
 - (3) *Insert text of registered legislative proposal.*
-

SCHEDULE 2

Section 9

POPULAR REQUEST

Community Referendum Act 1998

I believe that at the next practicable community consultation day the people of the Australian Capital Territory should be permitted to determine whether registered legislative proposal No. (1), a copy of which is set out below, should become part of the law of the Territory.

Registered legislative proposal.

(2)

The members of the sponsoring committee of this proposal are.

(3)

Full name	Address	Date of birth	Signature of elector	Date of signature
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(1) *Insert registration number of legislative proposal.*

(2) *Insert text of registered legislative proposal.*

(3) *Insert the full name and address of each member of the sponsoring committee.*

SCHEDULE 3

Section 27

BALLOT PAPERS FOR REFERENDUM

FORM 1

Australian Capital Territory

Referendum Ballot Paper

Write YES or NO

in the box below

to show whether you approve

the proposed law

[Here set out long title of the proposed law]

Do you approve the proposed law?

Write "YES" or "NO"

SCHEDULE 3—continued

FORM 2

Australian Capital Territory

Referendum Ballot Paper

Write YES or NO

in the boxes below

to show whether you approve

the proposed laws

[Here set out long title of the first proposed law]

Do you approve the proposed law?

Write "YES" or "NO"

[Here set out long title of the second proposed law] ?

Do you approve the proposed law?

Write "YES" or "NO"

Note

If more than 2 proposed laws are to be put to a referendum, Form 2 should be modified as required.

NOTE

Penalty units

See section 33AA of the *Interpretation Act 1967*.