

# AUSTRALIAN CAPITAL TERRITORY

## Regulations 1979 No. 9

### Regulations under the *House of Assembly Ordinance 1936*<sup>1</sup>

I, ROBERT JAMES ELLICOTT, the Minister of State for the Capital Territory, hereby make the following Regulations under the *House of Assembly Ordinance 1936*.

Dated this twenty-third day of April 1979.

R. ELLICOTT

Minister of State for the Capital Territory

### AMENDMENTS OF THE LEGISLATIVE ASSEMBLY (ELECTION) REGULATIONS<sup>2</sup>

- |                       |   |
|-----------------------|---|
| Principal Regulations | 1. In these Regulations, "Principal Regulations" means the Legislative Assembly (Election) Regulations.   |
| Citation              | 2. Regulation 1 of the Principal Regulations is amended by omitting "Legislative" and substituting "House of".  |
| Repeal                | 3. Regulation 2 of the Principal Regulations is repealed.   |
| Interpretation        | 4. Regulation 3 of the Principal Regulations is amended—  |
|                       | (a) by omitting from sub-regulation (1) the definition of "Ordinance" and substituting the following definition:  |
|                       | " 'the Ordinance' means the <i>House of Assembly Ordinance 1936</i> ;"; and   |
|                       | (b) by adding at the end thereof the following sub-regulation:  |
|                       | "(3) A reference in these Regulations to an elector or a person qualified to be an elector of the Commonwealth shall be read as a reference to a person whose name appears on a Roll of electors for a State, on a Roll of electors for the Northern Territory or on a Roll of electors for a Division or a person entitled to be enrolled on such a Roll." |

**5. Regulation 4 of the Principal Regulations is amended—**

- (a) by omitting “sections 77” and substituting “sections 76, 77”; and
- (b) by omitting “sub-sections (2) and (4) of section 85” and substituting “sub-sections (2), (2A) and (4) of section 85”.

Provisions of Commonwealth Electoral Act that do not apply

**6. Regulation 4A of the Principal Regulations is amended—**

- (a) by omitting paragraph (1) (a) and substituting the following paragraph:

“(a) section 5 shall be read as if—

- (i) the definitions of ‘Candidate’, ‘Division’, ‘Elector’, ‘Officer’, ‘Returning Officer’, ‘Roll’ and ‘Sub-division’ were omitted;

- (ii) the definition of ‘Registrar’ were omitted and the following definition substituted:

‘Registrar’ means the Electoral Registrar for a Division and includes the Returning Officer for that Division acting as Registrar;”;

Modifications of the Commonwealth Electoral Act in its application to Assembly elections

- (b) by omitting from paragraph (1) (c) “seven” and substituting “ten”;
- (c) by omitting from paragraph (1) (d) “seven” and substituting “ten”;
- (d) by omitting paragraph (2) (h);
- (e) by omitting from paragraph (2) (m) “and” (last occurring); and
- (f) by omitting paragraph (2) (n) and substituting the following paragraphs:
  - “(n) a reference to a Roll is a reference to a Roll within the meaning of the Ordinance; and
  - (o) a reference to an officer shall be read as including a reference to the Chief Electoral Officer, the Returning Officer, and any Assistant Returning Officer, the Registrar, and any presiding officer, assistant presiding officer, poll clerk and doorkeeper.”.

**7. Regulation 6 of the Principal Regulations is repealed and the following regulation substituted:**

“6. (1) The Chief Electoral Officer may appoint a person to be an Assistant Returning Officer for a portion of a Division.

Assistant Returning Officers

“(2) A person appointed to be an Assistant Returning Officer for a portion of a Division may, subject to the control of the Returning Officer, perform the functions, and exercise the powers, of the Returning Officer in, or in relation to, that portion.

“(3) A reference in these Regulations or in the Commonwealth Electoral Act, in its application to an election, to the performance of a function or the exercise of a power by a Returning Officer shall be read as including a reference to the performance of the function or the exercise of the power by an Assistant Returning Officer by virtue of sub-regulation (2).”.

Form of  
nomination

**8.** Regulation 29 of the Principal Regulations is amended—

- (a) by omitting from paragraph (1) (b) “20 persons” and substituting “6 persons”; and
- (b) by omitting sub-regulation (4) and substituting the following sub-regulation:

“(4) The deposit made by, or on behalf of, a candidate in accordance with sub-regulation (3) shall be retained until after the election and shall then be forfeited to the Commonwealth unless—

- (a) the candidate is elected;
- (b) the total number of votes cast in favour of the candidate as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election; or
- (c) where the name of the candidate is included in a group in pursuance of section 72A of the Commonwealth Electoral Act, in its application to the election, the average number of votes polled by the candidates included in the group as first preferences is more than one-tenth of the average number of first preference votes polled by the successful candidates in the election.”.

Poll to be  
taken if more  
than 9  
candidates

**9.** Regulation 31 of the Principal Regulations is amended by omitting from paragraph (a) “and poll clerks” and substituting “, poll clerks and doorkeepers”.

**10.** Regulation 35 of the Principal Regulations is repealed and the following regulation substituted:

Certified list  
of voters

“35. The certified list of voters to be used by the Presiding Officer at a polling place shall be a copy of the Roll for the Division for which the polling place was appointed certified by the Returning Officer for the Division.”.

Postal voting

**11.** Regulation 36 of the Principal Regulations is amended by inserting after sub-regulation (2) the following sub-regulations:

“(2A) An application for a postal vote certificate and postal ballot-paper—

- (a) shall be made after the tenth day prior to the giving of the direction under regulation 25 in relation to the election; and

- (b) may be made to the Returning Officer for either of the Divisions.

“(2B) An application for a postal vote certificate and postal ballot-paper shall be deemed not to have been duly made if it reaches the officer to whom it is made later than 6 o’clock in the afternoon of the day immediately preceding polling day.”.

**12.** Regulation 39 of the Principal Regulations is repealed and the following regulation substituted:

“39. (1) A ballot-paper shall not be delivered to a voter at a polling place unless the ballot-paper has been initialled by the presiding officer presiding at the polling place. Ballot-papers to be initialled

“(2) The presiding officer presiding at a polling place shall keep an exact account of all ballot-papers provided for use at that polling place.

“(3) For the purpose of sub-regulation (1), the initials of a presiding officer shall be placed on the back of a ballot-paper in such a position as to be easily seen when the ballot-paper is folded for the purposes of regulation 48.”.

**13.** Regulation 43 of the Principal Regulations is amended—

- (a) by omitting “The polling shall” and substituting “Subject to sub-regulation (2), the polling shall ”; and Conduct of poll  
 (b) by adding at the end thereof the following sub-regulation:

“(2) The requirement of paragraph (1) (d) does not apply where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken.”.

**14.** Regulation 45 of the Principal Regulations is repealed and the following regulation substituted:

“45. (1) The presiding officer—

- (a) shall put to every person claiming to vote the following questions: Questions to be put to voter

- (i) Have you already voted either here or elsewhere at this election?
- (ii) Is your real place of living within the Division of (*name of the Division in respect of which the elector claims to vote*)?
- (iii) (*if the last preceding question is answered in the negative*)—Was your real place of living at any time within the last three months within the Division of (*name of Division in respect of which the elector claims to vote*)?; and

(b) may, and, at the request of a scrutineer, shall, also put all or any of the following questions:

- (i) Are you the person whose name appears as (*name under which the person claims to vote*) on the certified list of voters?
- (ii) Are you of the full age of 18 years?
- (iii) Are you a British subject?
- (iv) Are you qualified to vote?

“(2) If any person claiming to vote—

- (a) refuses to answer fully a question put to him in pursuance of sub-regulation (1);
- (b) does not answer the question set out in sub-paragraph (1) (a) (i) absolutely in the negative when the question is put to him; or
- (c) does not answer the question set out in sub-paragraph (1) (a) (ii) absolutely in the affirmative when the question is put to him or, if he answers that question in the negative, does not answer the question set out in sub-paragraph (1) (a) (iii) absolutely in the affirmative when the question is put to him,

his claim to vote shall be rejected.

“(3) A person’s answer to a question put to him in pursuance of sub-regulation (1) is conclusive and the matter shall not be further inquired into during the polling.

“(4) In this regulation, ‘real place of living’ includes the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of living thereat.”.

Objection to  
ballot-paper

**15.** Regulation 56 of the Principal Regulations is amended by adding at the end of sub-regulation (1) “, and shall mark his initials on the ballot-paper”.

Informal  
ballot-paper

**16.** Regulation 57 of the Principal Regulations is amended by omitting from paragraph (1) (a) “proper officer” and substituting “presiding officer”.

**17.** Regulation 59 of the Principal Regulations is repealed and the following regulation substituted:

Scrutiny

“59. Subject to these Regulations, the scrutiny of ballot-papers shall be conducted in the following manner:

- (a) Each Assistant Returning Officer shall, in the presence of a presiding officer or poll clerk and such authorized scrutineers as may attend—
  - (i) open all ballot-boxes received from polling places within or for that portion of the Division for which he was appointed;

- (ii) reject all informal ballot-papers and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
  - (iii) count the first preference votes given for each candidate on all unrejected ballot-papers;
  - (iv) make out and sign a statement (which may be countersigned by the presiding officer or poll clerk who is present and by such scrutineers as are present and wish to countersign the statement) setting out the number of first preference votes given for each candidate and the number of informal ballot-papers;
  - (v) place in a separate parcel all the ballot-papers which have been rejected as informal;
  - (vi) transmit to the Returning Officer for the Division particulars of—
    - (A) the number of first preference votes given for each candidate; and
    - (B) the total number of ballot-papers rejected as informal;
  - (vii) seal up the parcels and endorse on each parcel a description of the contents thereof, and permit any scrutineers present who desire to do so to countersign the endorsement; and
  - (viii) transmit the parcels to the Returning Officer for the Division with the least possible delay, together with the statement made out for the purpose of sub-paragraph (iv).
- (b) The Returning Officer for a Division shall open all ballot-boxes received from polling places within or for that Division that have not been opened by an Assistant Returning Officer and shall conduct the scrutiny of the ballot-papers contained therein in the manner, as far as applicable, set out in paragraph (a).
- (c) The Returning Officer for a Division shall, in the manner prescribed by the Commonwealth Electoral Act, in its application to an election, and these Regulations, examine, count and deal with—
- (i) all postal ballot-papers; and
  - (ii) all ballot-papers used for voting in pursuance of regulation 52.
- (d) The Returning Officer for a Division—
- (i) shall open the sealed parcels of ballot-papers received from the Assistant Returning Officers for the Division and make a fresh scrutiny of the ballot-papers contained in the parcels;

- (ii) shall, for the purpose of the scrutiny referred to in subparagraph (i), have the same powers as if the fresh scrutiny were the original scrutiny;
- (iii) may reverse any decision made by an Assistant Returning Officer in relation to the original scrutiny;
- (iv) shall arrange the unrejected ballot-papers so scrutinized by him, together with the ballot-papers scrutinized by him for the purposes of paragraphs (b) and (c), under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and
- (v) shall count the first preference votes given for each candidate on such ballot-papers and shall make out and sign a statement setting out—
  - (A) the number of first preference votes given for each candidate; and
  - (B) the total number of ballot-papers rejected as informal.”.

Amendments  
of the  
Schedule

18. (1) The Schedule to the Principal Regulations is amended by omitting Form 6 and substituting the following form:

FORM 6

Regulation 36

AUSTRALIAN CAPITAL TERRITORY

House of Assembly (Election) Regulations

APPLICATION FOR POSTAL VOTE CERTIFICATE AND POSTAL  
BALLOT-PAPER

To the Returning Officer for the Division of  
Capital Territory.

in the Australian

Surname	Christian or Given Names (in full)	Place of Living shown on Roll	Occupation shown on Roll
I,			

hereby apply for a postal vote certificate and postal ballot-paper to enable me to vote by post at the next forthcoming election.

I, declare—

- (1) That I am an elector enrolled on the Roll of Electors for the Division of in the Australian Capital Territory.
- (2) That my real place of living is, or at some time within three months immediately preceding the polling day for the election to which this application relates was, in the above-mentioned Division.
- (3) That the ground on which I apply to vote by post is—
  - (a) That I will not, throughout the hours of polling on polling day, be within the Australian Capital Territory or, if I will be within that Territory, I will not be within 8 kilometres by the nearest practicable route of any polling booth open in the above-mentioned Division.
  - (b) That I will, throughout the hours of polling on polling day, be travelling under conditions that will preclude me from voting at any polling booth open in the above-mentioned Division;
  - (c) That I am seriously ill or infirm and, by reason of such illness or infirmity, will be precluded from attending at any polling booth open in the above-mentioned Division to vote.
  - (d) That I will, by approaching maternity, be precluded from attending at any polling booth open in the above-mentioned Division to vote.
  - (e) That I am, by reason of my membership of a religious order or my religious beliefs, precluded—
    - (i) from attending at a polling booth; or
    - (ii) from voting throughout the hours of polling on polling day or throughout the greater part of those hours.

\*The address at which the postal vote certificate and postal ballot-paper may be posted to me is as follows:

\*Strike out if not appropriate

(Signature of elector in his own handwriting)

Signed by the elector in his own handwriting in my presence.

(Signature of witness† in his own handwriting and address of witness)

(†An elector whose name appears on a Roll for the Australian Capital Territory, for a State, or for the Northern Territory or, where the applicant is outside Australia, an officer of the Naval, Military or Air Forces of Australia or of some other part of the Queen's dominions, a person employed in the Public Service of the Commonwealth, a Territory or a part of the Queen's dominions or a Justice of the Peace for, or a minister of religion or medical practitioner resident in, a Territory or a part of the Queen's dominions.)

Dated at the day of 19 .

(2) The Schedule to the Principal Regulations is amended—

- (a) by omitting "*Legislative Assembly (Election) Regulations*" (wherever occurring) and substituting "*House of Assembly (Election) Regulations*";
- (b) by omitting from Form 7 "in respect of" and substituting "in respect of the Division of (*name of Division*) at";
- (c) by omitting from Form 7 "Returning Officer" and substituting "Returning Officer for the Division of (*name of Division*)";
- (d) by inserting "Division of (*name of Division*)" in Form 8 after "POSTAL BALLOT-PAPER";



- (e) by omitting from Form 8—  
“bearing your postal vote certificate (duly signed and witnessed), fasten the envelope and post it to the Returning Officer so that he will receive it before 8 o’clock in the evening of the day fixed for the close of the poll, namely, the day of , 19 .”  
and substituting—  
“addressed to the Returning Officer and fasten the envelope.”.
- (f) by inserting “Division of (*name of Division*)” in Form 9 after “BALLOT-PAPER”;
- (g) by omitting from Form 14 “For the Australian Capital Territory”;
- (h) by omitting from Form 14 paragraph (b) and substituting the following paragraph:  
“(b) complete and sign the form in the presence of a witness who is an elector or a person qualified to be an elector;”;
- (i) by omitting from Form 15 all words from and including “being a person” to and including “on such a Roll” and substituting—  
“being an elector or a person qualified to be an elector of the Commonwealth”;
- (j) by omitting from Form 17 all words from and including “being a person” to and including “on such a Roll” and substituting—  
“being an elector or a person qualified to be an elector of the Commonwealth”; and
- (k) by omitting from Form 17 “Ten dollars” and substituting “Four dollars”.

Schedule of amendments

19. The Principal Regulations are amended as set out in the Schedule.

SCHEDULE		Regulation 19
Provision amended	Amendment	
Regulation 25 . . . . .	Omit sub-regulation (1A)	
Paragraph 31 (c) . . . . .	Omit “certified copies of the Roll”, substitute “certified lists of voters”	
Sub-regulation 46 (1) . . . . .	Omit “certified copy of the Roll” (wherever occurring), substitute “certified list of voters”	
Regulation 47 . . . . .	Omit “certified copy of the Roll if his name is on that certified copy”, substitute “certified list of voters if his name is on that list”	
Sub-regulation 52 (1) . . . . .	Omit “certified copy of the Roll” (wherever occurring), substitute “certified list of voters”	
Sub-regulation 52 (1A) . . . . .	Omit “certified copy of the Roll”, substitute “certified list of voters”	
The Schedule—Form 4 . . . . .	Omit “Australian Capital Territory Legislative Assembly”, substitute “Australian Capital Territory House of Assembly”	

## SCHEDULE—continued

Provision amended	Amendment
The Schedule—Form 5 . . . .	(a) Omit "Australian Capital Territory Legislative Assembly" (wherever occurring), substitute "Australian Capital Territory House of Assembly"
	(b) Omit "Legislative Assembly Ordinance 1936-1938", substitute "House of Assembly Ordinance 1936"
	(c) Omit "twenty persons", substitute "six persons"
The Schedule—Form 7 . . . .	(a) Omit "Australian Capital Territory Legislative Assembly", substitute "Australian Capital Territory House of Assembly"
	(b) Omit "CERTIFICATE OF WITNESS", substitute "CERTIFICATE OF AUTHORIZED WITNESS"
	(c) Omit "Signature of Witness", substitute "Signature of Authorized Witness"
The Schedule—Form 8 . . . .	Omit "LEGISLATIVE", substitute "HOUSE OF"
The Schedule—Form 9 . . . .	Omit "LEGISLATIVE", substitute "HOUSE OF"
The Schedule—Form 10 . . . .	(a) Omit "LEGISLATIVE ASSEMBLY (ELECTION) REGULATIONS", substitute "HOUSE OF ASSEMBLY (ELECTION) REGULATIONS"
	(b) Omit "CERTIFIED COPY OF THE ROLL" from the heading to the form, substitute "CERTIFIED LIST OF VOTERS"
	(c) Omit "Certified Copy of the Roll" from paragraph 3, substitute "Certified List of Voters"
The Schedule—Form 10A . . . .	(a) Omit "LEGISLATIVE ASSEMBLY (ELECTION) REGULATIONS" from the heading to the form, substitute "HOUSE OF ASSEMBLY (ELECTION) REGULATIONS"
	(b) Omit "Legislative Assembly (Election) Regulations" from paragraph 1, substitute "House of Assembly (Election) Regulations"
	(c) Omit "Australian Capital Territory Legislative Assembly", substitute "House of Assembly"
	(d) Omit "certified copy of the Roll" (wherever occurring), substitute "certified list of voters"
The Schedule—Form 12 . . . .	Omit "Australian Capital Territory Legislative Assembly", substitute "Australian Capital Territory House of Assembly"
The Schedule—Form 13 . . . .	(a) Omit "Legislative Assembly Ordinance 1936-1961", substitute "House of Assembly Ordinance 1936"
	(b) Omit "AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY" from the heading to the form, substitute "AUSTRALIAN CAPITAL TERRITORY HOUSE OF ASSEMBLY"
	(c) Omit "Australian Capital Territory Legislative Assembly for the Australian Capital Territory", substitute "Australian Capital Territory House of Assembly"
The Schedule—Form 14 . . . .	(a) Omit "Legislative Assembly Ordinance 1936-1961", substitute "House of Assembly Ordinance 1936"
	(b) Omit "Australian Capital Territory Legislative Assembly for the Australian Capital Territory", substitute "Australian Capital Territory House of Assembly"
The Schedule—Form 15 . . . .	Omit "Australian Capital Territory Legislative Assembly for the Australian Capital Territory", substitute "Australian Capital Territory House of Assembly"
The Schedule—Form 16 . . . .	Omit "Australian Capital Territory Legislative Assembly for the Australian Capital Territory", substitute "Australian Capital Territory House of Assembly"
The Schedule—Form 17 . . . .	Omit "Australian Capital Territory Legislative Assembly for the Australian Capital Territory", substitute "Australian Capital Territory House of Assembly"

**NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 24 April 1979.
2. Regulations notified in the *Gazette* on 8 June 1939 as amended by Regulations 1941 No. 5; 1951 No. 2; 1953 No. 7; 1955 No. 2; 1957 No. 6; 1959 Nos. 9 and 10; 1961 No. 10; 1962 No. 1; 1964 No. 2; 1967 No. 8; 1974 Nos. 10, 14, 15 and 20; 1977 No. 23; and 1979 No. 1.