

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

5

(As presented)

10

(Mr Stevenson)

15

Voice of the Electorate Bill 1993 [No. 2]

20

TABLE OF PROVISIONS

25

PART 1 - PRELIMINARY

Section

30

1. Short title

35

PART 2 - DEFINITION OF WORDS USED

2. Definitions

40

PART 3 - HOW ELECTORS CAUSE A REFERENDUM

45

3. General description and objects of this Act

50

PART 4 - THE FIRST STAGE OF THE ELECTORS' BILL - REGISTRATION

55

4. Particulars required in an Electors' Bill
5. Particulars allowable in support of an Electors' Bill
6. Electors' Bill Committee - how appointed
7. Registration of Electors' Bill by Electoral Commissioner
8. Copy of Electors' Bill to be available for inspection and sale
9. How an Electors' Bill may be changed after registration
10. When Electors' Bill registration is to be cancelled

PART 5 - THE SECOND STAGE OF THE ELECTORS' BILL - QUALIFICATION

- 5 11. Appointment of Electors' Bill Representatives
12. Appointment of local electoral officials
13. Which electoral rolls are to be used
14. Electors' Bill signatories - particulars required
15. Obligations of Electors' Bill Representatives
16. Counting of Electors' Bill signatures and scrutiny
10 17. Closing date for Electors' Bill signatures
18. Number of signatories required to qualify an Electors' Bill to initiate a referendum
19. Electoral Commissioner to determine whether Electors' Bill qualifies
20. Certificate of qualification of Electors' Bill

15

PART 6 - DRAFTING AND TABLING OF ELECTORS' BILL

- 20 21. Drafting of Electors' Bill for an Act
22. Speaker to table qualified Electors' Bill in the Legislative Assembly
23. Drafting of ballot papers

25

PART 7 - HOLDING OF REFERENDUMS

24. Date of referendum
30 25. Vote taken in compliance with Electoral Act
26. Electors' Bill - approval at referendum and notification

35

PART 8 - LIMITATION ON REFERENDUMS

27. Matters excluded from referendums
28. Electors' Bill may seek a referendum on single subject-matter only
40 29. Adopting of Electors' Bill by Legislature before referendum

PART 9 - MISCELLANEOUS

45

30. Supreme Court to deal with matters
31. Electoral Commissioner may give directions
32. Offences relating to Electors' Bills
50 33. Disclosure of financial contributions
34. Public moneys not to be used to influence voters
35. Proceedings for offences
36. Approved forms
37. Commencement
55 38. Regulations

60

5

1993

10

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

15

20

(As presented)

25

(Mr Stevenson)

30

Voice of the Electorate Bill 1993 [N0. 2]

35

A BILL

40

FOR

An Act to enable electors to introduce, amend or repeal laws
by direct vote at binding referendums.

45

50

55

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

5

PART 1 - PRELIMINARY

1. Short title

10 This Act may be cited as the *Voice of the Electorate Act 1993*.

15

PART 2 - DEFINITIONS OF WORDS USED

2. Definitions

In this Act:

20

- "ACT" means the Australian Capital Territory.
- "Chief Minister" means the Chief Minister for the purposes of the *Australian Capital Territory (Self-Government Act) 1988* of the Commonwealth.
- 25 • "Electoral Commissioner" means the Electoral Commissioner for the ACT.
- "Electors" means electors qualified to vote for the election of Members of the Legislative Assembly for the ACT.
- 30 • "Electors' Bill" means a document by which electors of the ACT call for the introduction of a new law or the repeal or amendment of an existing law of the Australian Capital Territory, by means of a referendum held under this Act. An Electors' Bill includes a provision or subject-matter referred to in it.
- 35 • "Electors' Bill committee" and "committee" mean a quorum of the signatories to an Electors' Bill who are appointed under this Act as members of the committee in respect of the Electors' Bill.
- 40 • "Gazette" means the official publication for Government and legal notices for the ACT; called the "Government Gazette".
- "law" means a law of the ACT, and includes an order made by a Minister of the Legislative Assembly for the ACT.
- 45 • "Legislative Assembly" means the Legislative Assembly for the Australian Capital Territory.
- "notice" - when given by a committee - means a notice in writing delivered to the Electoral Commissioner signed by a quorum of the committee, unless otherwise provided.
- 50 • "proposed law" means and includes provisions or subject-matter of an Electors' Bill as drafted by the Parliamentary Counsel for introduction of a new law or the amendment or repeal of an existing law for submission to a referendum of the electors of the ACT.
- 55 • "qualified Electors' Bill" means a registered Electors' Bill which has been signed by the required number of electors to qualify the submission of provisions or subject-matter contained in it to a referendum of the electors of the ACT.

- "referendum" means a referendum initiated by electors of the ACT on a proposed law.
- 5 • "registered Electors' Bill" means an Electors' Bill which has been signed by not less than 400 electors and which otherwise complies with and has been registered under this Act by the Electoral Commissioner.
- "signatory" means a person who signs an Electors' Bill.
- 10 • "Speaker" means the Speaker of the Legislative Assembly for the ACT.

15 PART 3 - HOW ELECTORS CAUSE A REFERENDUM

3. General description and objects of this Act

- 20 (1) This Act confirms the right of electors to put forward an Electors' Bill requiring that a referendum be held on the subject-matter of the Electors' Bill. The Electors' Bill may be to introduce new laws, or amend or repeal existing laws.
- (2) An Electors' Bill has three main stages:
 - 25 (a) The collection of the signatures of at least 400 electors within three months to indicate reasonable public support for the Electors' Bill, to enable it to be registered.
 - 30 (b) The collection of the required number of electors' signatures in a majority of electorates and of the ACT overall. This qualifies the Electors' Bill for submission to a referendum.
 - 35 (c) Approval or disapproval of proposed laws at a referendum by the electors.

40 PART 4 - THE FIRST STAGE OF THE ELECTORS' BILL - REGISTRATION

4. Particulars required in an Electors' Bill

- 45 (1) An Electors' Bill shall be addressed to the Electoral Commissioner requesting that a referendum be held on the subject-matter of the Electors' Bill.
- (2) An Electors' Bill shall have a title and contain a plain English description (in not more than 150 words) of the law which the Electors' Bill seeks to introduce, amend or repeal. If the Electors' Bill seeks to amend a law, the description shall also specify the provisions of the law it seeks to amend.

5. Particulars allowable in support of an Electors' Bill

- 55 An Electors' Bill may be accompanied by written material in its support. Such material may include detailed provisions of the law which the Electors' Bill seeks to introduce, amend or repeal, and may include a draft Bill.

6. **Electors' Bill Committee - how appointed**

- 5 (1) An elector may sign a notice of nomination indicating his or her preparedness to be appointed as a member of an Electors' Bill committee. The notice must accompany a copy of the Electors' Bill or a document which sets out the proposed title and description of the Electors' Bill
- 10 (2) The Electors' Bill committee shall consist of 12 signatories to the notice of nomination appointed by at least 100 electors. No person shall be a signatory to his or her own notice of appointment.
- (3) The notices of nomination and appointment shall be delivered to the Electoral Commissioner at the same time as the Electors' Bill.
- 15 (4) The committee may by notice appoint a signatory to the Electors' Bill to replace a member who has resigned, become incapacitated or has died. The committee shall deliver a copy of the notice to the Electoral Commissioner.
- 20 (5) After registration of the Electors' Bill a quorum of the committee shall be nine members.
- 25 (6) A members of the committee may be removed or replaced by notice in writing delivered to the Electoral Commissioner signed by not less than 75% of the signatories to the notice of appointment referred to in sub-section (1). Such removal or replacement shall take effect upon delivery of the notification to the Commissioner.

7. **Registration of Electors' Bill by Electoral Commissioner**

- 30 (1) Upon receipt of an Electors' Bill the Electoral Commissioner shall issue to the committee a written receipt which shall set out:
- 35 (a) the title of the Electors' Bill;
- (b) the description of the Electors' Bill;
- (c) any written material in support of the Electors' Bill;
- 40 (d) the date of receipt;
- (e) the signature by or on behalf of the Commissioner;
- 45 (f) the official stamp of the Electoral Office.
- The receipt shall be attached to a copy of the Electors' Bill which has been certified as a true copy by or on behalf of the Commissioner and delivered to the person delivering the Electors' Bill.
- 50 (2) Within 14 days (or such longer time as the committee may in writing provide) after the committee delivers an Electors' Bill to the Electoral Commissioner, the Commissioner shall register the Electors' Bill unless the Commissioner on reasonable grounds is satisfied that:
- 55 (a) the Electors' Bill has been signed by less than 400 electors; or

- 5
- (b) the required number of signatories have not signed the Electors' Bill within the three month period before the date of delivery of the Electors' Bill to the Commissioner; or
- (c) the Electors' Bill fails to comply with sections 4, 5, 6, and 7 of this Act.
- 10 (3) The committee shall cause a notice of the title, description and the date of registration of the Electors' Bill to be published in the *Gazette* at the cost of the committee.
- (4) The committee is not required to pay any Government costs with respect to an Electors' Bill or a referendum.
- 15 (5) The Electoral Commissioner may refuse to register an Electors' Bill if:
- (a) it deals with two or more subject-matters which are not directly or indirectly related; or
- 20 (b) it names a person and affects the person's rights or liabilities (other than in the person's capacity as a public official); or
- (c) it names a person and provides for the person's appointment to or removal from public office; or
- 25 (d) the proposed law is not within the powers of the Legislative Assembly.
- (6) At any time prior to registration the Commissioner may request the committee to make such changes to the title and description of the Electors' Bill and written material in support which the Commissioner considers will enable it to comply with subsection (5).
- 30 (7) The committee may upon request of the Commissioner make changes to the Electors' Bill which shall take effect upon delivery of a notice setting out such changes.
- 35 (8) The committee may, by notice at any time before registration of an Electors' Bill, withdraw a provision or subject-matter of an Electors' Bill, any written material in support, or withdraw the Electors' Bill.
- 40 (9) If the Electoral Commissioner proposes not to register an Electors' Bill, the Commissioner shall notify the committee in writing within 14 days of the delivery of the Electors' Bill to the Commissioner, or within such longer time as the committee may provide. The notice shall specify the reasons, with respect to any provision or matter because of which the Electoral Commissioner
- 45 proposes not to register the Electors' Bill.

8. Copy of Electors' Bill to be available for inspection and sale

- 50 (1) Promptly after registration, copies of the Electors' Bill and any written material in support, together with any changes subsequently notified to the Commissioner, shall be made available for public inspection at the office of the Electoral Commissioner and any local electoral official.
- 55 (2) The Electoral Commissioner shall make copies of the Electors' Bill and any written material in support available for sale at cost.

- (3) Anyone may arrange the printing of copies of the Electors' Bill and any written material in support for distribution and sale.

5 9. How an Electors' Bill may be changed after registration

- (1) After an Electors' Bill is registered and before it becomes a qualified Electors' Bill, the committee may change the title and support material deposited with the Electors' Bill, but not the description of the Electors' Bill.
- 10 (2) Where the written material in support includes a draft Bill, the committee may make changes to the draft Bill, provided the changes do not conflict with the Electors' Bill description.
- 15 (3) Any such change shall be made by notice to the Electoral Commissioner.
- (4) The committee shall cause a copy of the particulars of any such change to be published in the *Gazette* at the cost of the committee.

20 10. When Electors' Bill registration is to be cancelled

- (1) The Electoral Commissioner shall cancel the registration of an Electors' Bill if:
- 25 (a) the Electors' Bill is withdrawn by the committee under section 29 of this Act; or
- (b) the Electors' Bill fails to become a qualified Electors' Bill within the time prescribed in section 17.
- 30 (2) Cancellation of registration shall terminate any further proceedings on the Electors' Bill under this Act.

35 **PART 5 - THE SECOND STAGE OF THE ELECTORS' BILL -
QUALIFICATION**

40 11. Appointment of Electors' Bill Representatives

- (1) The committee may, by notice signed by 2 members of the committee, appoint any number of electors as Electors' Bill Representatives, for the purpose of obtaining signatures to the Electoral Bill.
- 45 (2) The committee shall deliver to the Electors' Bill Representative a certificate of authorisation. The certificate is not valid until the appointee has completed the declaration on the certificate in the presence of a member of the committee or a person referred to in sub-section (5). A copy shall be delivered to the Electoral Commissioner or relevant local electoral official.
- 50 (3) The certificate of authorisation shall state the title of the Electors' Bill, the name and date of appointment of the Electors' Bill Representative, and the address of the Electors' Bill Representative or of an appointing member of the committee.
- 55 (4) A person who has been appointed as an Electors' Bill Representative may sign as a witness to such signatures as have been, either before or after his or her

appointment, made in his or her presence, and those signatures may thereupon be counted as signatories to the Electors' Bill.

5 (5) Electors' Bill signatures and Electors' Bill Representative declarations may also be witnessed by:

(a) a local electoral official or Clerk of the Magistrates Court of an Australian State or Territory;

10 (b) a Justice of the Peace or Commissioner for Affidavits of any Australian State or Territory or New Zealand or the United Kingdom;

(c) an Australian consular officer, or a person approved by that officer;

15 (d) a member of the Australian armed forces outside Australia;

(e) a registrar of a court outside Australia.

20 None of these witnesses have any responsibility other than to satisfy themselves as to the identity of the signatory.

12. Appointment of local electoral officials

25 The Electoral Commissioner may appoint local electoral officials to administer the process of Electors' Bill qualification.

13. Which electoral rolls are to be used

30 To determine who is eligible to sign an Electors' Bill, to become a committee member, or an Electors' Bill Representative, copies of printed or published ACT or Commonwealth electoral rolls or other matter evidencing enrolment for the ACT and supplementary rolls shall be used.

35

14. Electors' Bill signatories - particulars required

40 The following particulars of signatories are required on an Electors' Bill:

(a) full name;

(b) address;

45 (c) signature;

(d) date the Electors' Bill is signed;

50 15. Obligations of Electors' Bill Representatives

(1) In connection with carrying out any obligation under this Act, an Electors' Bill Representative shall produce on request a copy of that representative's authorisation form.

55

(2) Before a person signs an Electors' Bill, the Electors' Bill Representative shall give the person an opportunity to read the title and description of the Electors' Bill or shall read the title and description to the person.

- 5
- (3) The Electors' Bill Representative shall:
- (a) ensure that the relevant particulars of the person signing the Electors' Bill are completed;
- (b) at the end of each month:
- 10 (i) rule through all uncompleted spaces on signed Electors' Bills; and
- (ii) complete all information and declarations required to be provided and made; and
- 15 (iii) return the signed Electors' Bills to the local electoral official.

16. Counting of Electors' Bill signatures and scrutiny

- 20 (1) The Electoral Commissioner shall give the committee reasonable notice of the appointed time and place of any count or recount of Electors' Bill signatures. If such notice is not given, the committee may require a recount.
- 25 (2) Members of the committee are authorised as scrutineers.
- (3) A member of the committee may appoint scrutineers who may scrutinise the count or recount of signatories to Electors' Bills. The Commissioner or local electoral official may, on request of an elector, appoint the elector as a scrutineer at the count or recount of signatories to an Electors' Bill. Such appointment may not be unreasonably withheld.
- 30 (4) A person, before exercising any role as a scrutineer, shall sign a declaration of non-disclosure of the particulars of any signatory to any Electors' Bill to be scrutinised, other than for the administrative purposes of this Act.
- 35 (5) The provisions for the scrutiny of votes in the *Commonwealth Electoral Act 1918* apply with such adaptations as may be necessary to the scrutiny of the count or recount of signatories to Electors' Bills.
- 40 (6) The Electoral Commissioner and local electoral officials may make due inquiries as to whether signatories are electors.
- (7) If the Electoral Commissioner or a local electoral official determines on reasonable grounds that a signature is not the signature of an elector, the signature shall not be counted.
- 45 (8) For the purpose of marking off electors' signatures on a copy of the electoral roll held by the committee, an Electors' Bill Representative or committee member may peruse copies of those Electors' Bill signature sheets delivered directly to the Electoral Commissioner.
- 50 (9) The Electoral Commissioner shall make the following arrangements for the count of signatories to an Electors' Bill:
- 55 (a) For signatories to be counted, they shall sign the Electors' Bill before the closing date for signatures set out in section 17. Only Electors' Bill signatures delivered to the Electoral Commissioner or local electoral official not later than two months after the closing date shall be counted.

- 5 (b) When the Electoral Commissioner or local electoral officials receive signed Electors' Bills they are to deposit them in a locked and secure metal box or safe until the count for the month.
- 10 (c) The number of signatories to Electors' Bills returned to the Electoral Commissioner or local electoral officials shall be counted as soon as practicable after the end of each month of the currency of the Electors' Bill.
- 15 (d) Once counted, signed Electors' Bills shall be kept in batches according to each relevant month and deposited in a locked and secure metal box or safe.
- 20 (e) The names of signatories to Electors' Bills that have been counted shall be marked off on a copy of the electoral roll kept by the Electoral Commissioner or local electoral official. A name marked off may only be counted once.
- 25 (f) If an Electors' Bill received by the Electoral Commissioner or a local electoral official contains the signature of an elector for another electoral district, particulars shall be given to the local electoral official for that district for inclusion in that other official's count.
- 30 (g) The Electoral Commissioner or local electoral official shall issue a certificate containing particulars of the count of each batch of signed Electors' Bills. The certificate shall be kept with each batch. A local electoral official who issues a certificate shall deliver a copy to the Electoral Commissioner and shall keep a copy for public inspection at the office of the official.
- 35 (h) The Electoral Commissioner or local electoral officials may recount a batch and shall do so at the reasonable request of a scrutineer. The relevant certificate of the count shall be amended as necessary.
- 40 (i) The Electoral Commissioner may at any time require counted batches of Electors' Bills to be delivered to the Electoral Commissioner.

40 **17. Closing date for Electors' Bill signatures**

A signature to an Electors' Bill made later than 18 months after the end of the month in which the Electors' Bill was registered shall not be counted.

45 **18. Number of signatories required to qualify an Electors' Bill to initiate a referendum**

- 50 (1) An Electors' Bill does not qualify for submission to a referendum unless the number of electors who have duly signed the Electors' Bill constitutes:
 - 55 (a) at least 2% of the number of enrolled electors (provided that the Electors' Bill shall be signed by at least 5,000 electors); and
 - (b) at least 2% of the electors enrolled in each of a majority of electoral divisions (provided that the Electors' Bill shall be signed by at least 1,500 electors in each of a majority of electoral divisions).

- 5
- (2) If the number of electors who sign an Electors' Bill is at least 5% of the number of enrolled electors (provided that the Electors' Bill shall be signed by at least 10,000 electors and by at least 1,500 electors in each of a majority of electoral divisions), then the referendum shall be held within 3 months after qualification.

10

19. Electoral Commissioner to determine whether Electors' Bill qualifies

- 15
- (1) The Electoral Commissioner shall determine whether an Electors' Bill has qualified in accordance with section 18 as soon as the committee advises the Commissioner that the required evidence is available.
- (2) The certificates of the Electoral Commissioner or local electoral officials shall be evidence of the number of electors who have signed the Electors' Bill.
- 20
- (3) Where 2 or more Electors' Bills deal with the same or substantially the same subject-matter, the signatories to those Electors' Bills shall be taken to be signatories to an Electors' Bill which deals with that subject-matter, for the purpose of determining whether that subject-matter qualifies for submission to a referendum. A signatory to those Electors' Bill shall be counted only once.

25

20. Certificate of Qualification of Electors' Bill

- 30
- (1) When the Electoral Commissioner determines that an Electors' Bill or subject-matter of an Electors' Bill qualifies for submission to a referendum, the Commissioner shall publish a copy of the certificate of qualification in the next available issue of the *Gazette*.
- (2) The Commissioner shall number each qualified Electors' Bill in order of qualification beginning with the number 1 for each term of the Legislative Assembly.
- 35
- (3) Upon qualification of an Electors' Bill, the Electoral Commissioner shall deliver to the Speaker and the Parliamentary Counsel a copy of the certificate of qualification, the Electors' Bill and any written material in support accompanying the Electors' Bill.

40

PART 6 - DRAFTING AND TABLING OF ELECTORS' BILL

45

21. Drafting of Electors' Bill for an Act

- 50
- (1) The Parliamentary Counsel shall prepare a draft of the law proposed by a qualified Electors' Bill in accordance with the description given in the Electors' Bill. The draft shall be prepared in consultation with the committee and in accordance with their instructions.
- (2) The Parliamentary Counsel shall take into consideration a draft Bill (if any) presented to the Parliamentary Counsel by the committee.
- 55
- (3) The Parliamentary Counsel shall deliver a draft proposed law to the Electoral Commissioner and the Speaker as soon as practicable after the Electors' Bill qualifies. This shall be done in time for the referendum on the Electors' Bill to be held within the time required by this Act.

- 5
- (4) The Parliamentary Counsel may, before the Electors' Bill qualifies, make arrangements with the Electoral Commissioner to obtain copies of the registered Electors' Bill and any written material deposited with the Electoral Commissioner.
- (5) The Parliamentary Counsel's draft shall include such transitional, machinery and ancillary provisions as are required for the proper operation of the proposed law and for purposes consequent thereon or incidental thereto.
- 10 (6) The Parliamentary Counsel's draft proposed law shall take into account any requirement to submit more than one question at a referendum on the subject-matter of the Electors' Bill.
- 15 (7) The committee may amend the Parliamentary Counsel's draft proposed law by consulting with and then instructing the Parliamentary Counsel.

22. **Speaker to table qualified Electors' Bill in the Legislative Assembly**

- 20 (1) The Parliamentary Counsel shall deliver to the Speaker the Parliamentary Counsel's draft proposed law as approved by the committee.
- (2) The Speaker shall table a copy of the certificate of qualification and the approved Parliamentary Counsel's draft proposed law on the next day on which the Legislative Assembly sits.
- 25

23. **Drafting of ballot papers**

- 30 (1) If one or more Electors' Bills deal with subject-matters and provisions which are related, the questions to be asked at referendum may be placed on the one ballot paper.
- 35 (2) The committee or the Parliamentary Counsel or the Electoral Commissioner may require referendum questions relating to the one Electors' Bill to be placed on a ballot paper on which no other questions are asked.
- (3) The presentation and instructions on the ballot paper shall be prepared by the Electoral Commissioner upon consultation with the Parliamentary Counsel and in accordance with the instructions of the committee.
- 40 (4) The questions on a ballot paper shall be presented in the order in which the Electors' Bills qualify, unless the respective committees agree to a different order.
- 45 (5) The Electoral Commissioner shall ensure that ballot papers and all forms and advisory materials used in connection with a referendum shall state clearly and prominently the words "This is a binding referendum".
- 50 (6) The presentation of questions on the ballot paper shall provide for preferential voting with respect to provisions, matter or subject-matter of proposed laws which are related, where the committee or committees so require by notice to the Commissioner.
- 55

PART 7 - HOLDING OF REFERENDUMS

24. Date of referendum

- 5 (1) A referendum on a proposed law may, subject to this section, be held at any time after the Electors' Bill becomes a qualified Electors' Bill.
- (2) The referendum shall be held on the earliest of the following dates:
- 10 (a) the polling day for the next general election of members of the Legislative Assembly or the next referendum of electors of the ACT under this Act or under any other Act; but
- 15 (b) if the Electors' Bill qualifies within 21 days before the date specified in subsection (a), then polling day shall be on the next available date when a referendum may be held;
- (c) one or more days which the Electoral Commissioner may determine in each year, beginning on the 1st January;
- 20 (d) the date determined by the Electoral Commissioner for the holding of a referendum where the Electors' Bill satisfies the requirements of section 18 (2).

25 25. Vote taken in compliance with Electoral Act

- (1) The vote at a referendum shall be taken in accordance with the *Commonwealth Electoral Act 1918* with necessary adaptations, and in accordance with this Act and the instructions as indicated on the ballot paper.
- 30 (2) At a referendum an elector may:
- (a) approve a question by writing "Yes", "1" or a "✓" beside the question or in the box beside the question;
- 35 (b) disapprove a question by writing "No" beside the question or in the box beside the question.
- (3) Where the ballot paper indicates alternative questions, an elector may indicate preferences, including equal preferences, by numbering the answers to the questions in the order of the elector's preferences.
- 40 (4) An elector shall not be required to approve or disapprove any question with respect to a proposed law shown on the ballot paper.
- 45

26. Electors' Bill - approval at referendum and notification

- 50 (1) A proposed law is approved by the electors at a referendum if a majority of the electors voting at the referendum approve the proposed law.
- (2) Where electors at the same referendum approve laws, provisions of which are inconsistent, the provisions of the law receiving the highest affirmative vote are to prevail, to the extent of any inconsistency.
- 55 (3) A "Yes", a "1" or a "✓" shall be counted as a first preference.

- 5 (4) Further preferences shall be counted in the order of the numbers 2,3,4 and so on in the manner that preferences are counted under the *Commonwealth Electoral Act 1918*.
- 5 (5) A vote and a preference, including an equal preference, shall be counted where the intention of the elector is clear.
- 10 (6) Where a proposed law has been approved by the electors, the Chief Minister or another person authorised by enactment to do so, shall notify the approved law in the *Gazette*.
- 15 (7) Where a proposed law has been approved by a majority of the electors voting, but who are less than a majority of the electors who received ballot papers at the referendum poll or election poll (if the referendum is held at the same time at an election), the Chief Minister or another person authorised by enactment to do so, shall not notify the approved law in the *Gazette* unless the Legislative Assembly recommends that the approved law be so notified.
- 20 (8) The approved law shall take effect on the day of the notification or, if the approved law otherwise provides, as so provided.

PART 8 - LIMITATION ON REFERENDUMS

25 **27. Matters excluded from referendums**

A referendum on a proposed law may not be held under this Act if the proposed law:

- 30 (a) affects the rights or liabilities of a named individual (other than in the person's capacity as a public official); or
- (b) names an individual and provides for his or her appointment to any public office or for the removal of any such person from office; or
- 35 (c) is not within the power of the Legislative Assembly; or
- (d) proposes the disallowance of the Appropriation Bill for the ordinary purposes of government. However, a referendum may be held with respect to any item of expenditure or proposed item of expenditure of the Government of the ACT.
- 40

28. Electors' Bill may seek a referendum on single subject-matter only

- 45 (1) A referendum may not be held on a proposed law which deals with two or more subject-matters unless those matters are directly or indirectly related.
- (2) Nothing in this section prevents referendums being held on the same day as referendums sought by other Electors' Bills under this Act or referendums originating under any other Act.
- 50

29. Adopting of Electors' Bill by Legislature before referendum

- 55 (1) If, after an Electors' Bill becomes a qualified Electors' Bill and before a referendum is held on the proposed law, the Legislature enacts the proposed law, or a law which has substantially the same effect as the proposed law, or which relates to the proposed law, the committee may by notice:

- 5
- (a) withdraw the proposed law from referendum or postpone the referendum of a proposed law to the next referendum; or
- 10
- (b) amend or withdraw in whole or in part a provision or subject-matter of the Parliamentary Counsel's draft proposed law.
- (2) Except with the consent of the Commissioner, the committee shall not take any such action within 21 days before the date of the referendum.

15

PART 9 - MISCELLANEOUS

15

30. Supreme Court to deal with matters

- 20
- (1) The Supreme Court of the ACT has jurisdiction to deal with any matter, or with any objection by a member of the committee or by any other person, and to determine any of the following matters:
- 25
- (a) Any matter relating to changes made to an Electors' Bill, including:
- (i) changes to the Electors' Bill or its title;
- (ii) changes to the description as set out in the Electors' Bill;
- (iii) changes to any written material in support.
- 30
- (b) Withdrawal in part or in full, postponement in part or in full, or amendment of an Electors' Bill or the Parliamentary Counsel's draft proposed law.
- 35
- (c) Whether an Electors' Bill contravenes any provision of this Act.
- (d) Any delay by the Electoral Commissioner, Parliamentary Counsel or other official in performing a duty imposed by this Act.
- 40
- (e) The refusal of the Electoral Commissioner to register an Electors' Bill.
- (f) Any questions to be presented on the ballot paper and the wording, presentation and order of those questions.
- 45
- (g) Application to shorten any time limit otherwise applying.
- (h) Whether an Electors' Bill is a qualified Electors' Bill.
- 50
- (2) The Court may disallow in whole or in part any action taken by the committee and the action or matter disallowed shall be thereupon taken not to have happened or not to have been made by the committee.
- 55
- (3) For the purposes of dealing with any application or objection, the Supreme Court may make any necessary order. This includes an order to permit or disallow a proposed change or withdrawal in relation to the whole or any part of the subject-matter or matters of the Electors' Bill.

- (4) A member of the committee and an elector who object have the right to be heard in person without fee. No award of costs may be made except where the Court dismisses an application or objection as frivolous or vexatious.

5

31. Electoral Commissioner may give directions

If the Electoral Commissioner or a returning officer has reasonable cause to believe that a breach of this Act may occur, the Commissioner or the returning officer may issue a direction ordering the restraint of a breach of this Act.

10

32. Offences relating to Electors' Bills

15

- (1) A person who signs another person's name to an Electors' Bill or who knowingly signs the same Electors' Bill more than once is guilty of an offence.

20

- (2) A person who gives or offers or promises to give any money or other benefit to a person to sign or not sign an Electors' Bill is guilty of an offence.

- (3) A person who, without reasonable excuse, hinders or obstructs a person from collecting signatures for an Electors' Bill is guilty of an offence.

25

- (4) A person who knowingly misrepresents an Electors' Bill in order to influence a person to sign or not sign an Electors' Bill is guilty of an offence.

- (5) A person who represents himself or herself as an Electors' Bill Representative when the person is not an Electors' Bill Representative is guilty of an offence.

30

- (6) A person who uses or makes available to any person any particulars with respect to an Electors' Bill or generally obtained from an Electors' Bill about a signatory to an Electors' Bill for a purpose that is not connected with the administration of this Act is guilty of an offence.

35

- (7) A person who signs an Electors' Bill, knowing that at the time he or she is not enrolled as an elector, is guilty of an offence.

40

- (8) A person who threatens, offers or suggests any violence, injury, damage, loss or disadvantage to any elector or any other person in order to influence an elector to sign or not sign an Electors' Bill is guilty of an offence.

45

- (9) A person who causes or arranges to cause any violence, injury, damage, loss or disadvantage to an elector or any other person in order to influence an elector to sign or not sign an Electors' Bill is guilty of an offence.

50

- (10) A person who prints, publishes or distributes any advertisement or document containing a representation of a ballot paper, or any representation appearing to represent a ballot paper, containing directions likely to mislead is guilty of an offence.

55

- (11) A person who prints, publishes or distributes any untrue or incorrect statement likely to mislead an elector in relation to voting at a referendum is guilty of an offence.

- (12) A person who contravenes a lawful direction of the Commissioner or of a returning officer is guilty of an offence.

- 5 (13) A person who discloses any particulars by which a signatory to an Electors' Bill may be personally identified (except for the administrative purposes of this Act) is guilty of an offence.
- 10 (14) Every act or omission which would be punishable by law if the same had occurred in connection with the holding of an election, shall be held to constitute the like offence if the same occurs in connection with a referendum. The penalties applicable under the *Electoral Act 1992* apply to such offences under that Act.
- 15 (15) A person who fails to comply with the provisions of this Act is guilty of an offence.
- 20 (16) Where a body contravenes any provision of this Act or the regulations, each director or any other officer of that body shall be deemed to have contravened the same provision. This applies whether the body is incorporated or not and irrespective of whether the contravention is by act or omission, unless that person satisfies the Court that:
- 25 (a) the body contravened the provision without the knowledge of that person; or
- (b) that person was not in a position to influence the conduct of the body in relation to its contravention of the provision; or
- 30 (c) that person, being in such a position, used all due diligence to prevent the contravention of the provision by the body.
- 35 (17) A person may be proceeded against and convicted under a provision of this Act whether or not the body referred to in sub-section (16) has been proceeded against or convicted under that provision.
- 40 (18) The Court may order a person found guilty of an offence, whether or not the Court records a conviction, and whether or not the Court imposes a penalty, to pay costs with respect to any expense which the committee, Electors' Bill Representatives and the Electoral Commissioner have incurred or may reasonably incur as a consequence of the offence.
- 45 (19) The Court may order a person found guilty of an offence to pay the costs of a fresh Electors' Bill or fresh poll as may be appropriate or necessary. If requested by the Court, the Electoral Commissioner shall notify whether a fresh Electors' Bill or poll is appropriate or necessary in respect of any particular electoral division or divisions affected by the offence.
- (20) The Court may order exemplary damages to be paid to the committee in respect of an offence committed under this Act.

The maximum penalty for an offence under this section is \$20,000.

50 **33. Disclosure of financial contributions**

- 55 (1) The committee shall disclose to the Electoral Commissioner financial contributions, goods or services supplied totalling more than \$50 which the committee has received from any individual or corporation whether within or outside the ACT in connection with any Electors' Bill.

- (2) These particulars shall be supplied in writing to the Commissioner at the end of every month except during the month preceding a referendum poll when particulars shall be delivered weekly.

5 The maximum penalty for an offence under this section is \$20,000.

34. Public moneys not to be used to influence voters

10 Public moneys shall not be used to pay for or to reimburse expenditure on publicity which may influence support for or against an Electors' Bill or a referendum under this Act.

15 35. Proceedings for offences

Proceedings for an offence against this Act shall be dealt with by a Magistrates Court.

20 36. Approved forms

(1) The forms in the schedule may be used with such adaptations as may be appropriate.

25 (2) The Electoral Commissioner may approve forms not inconsistent with this Act for use under this Act.

30 37. Commencement

(1) Sections 1, 3 and 37 commence on the day on which this Act is notified in the *Gazette*.

35 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

40 (3) If a provision referred to in sub-section (2) has not commenced before the end of the period of two months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this sub-section, shall commence on the first day after the end of that period.

38. Regulations

45 (1) The Minister administering the electoral laws of the ACT may make regulations not inconsistent with this Act for or with respect to any matter that is required or permitted by this Act to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

50 (2) The regulations may create an offence punishable by a penalty not exceeding \$500.

Voice of the Electorate Act 1993

Form 1

Certificate of Receipt for Electors' Bill

I hereby certify that on _____ (date) I received an Electors'

Bill entitled: _____

from _____ (name)

carrying the following description:

Signature _____
signed by person receiving Electors' Bill

Name _____

Date _____

Capacity* _____
* Electoral Commissioner or appointed officer

Stamp of Electoral Office:

Note: On completion of this certificate of receipt, attach it to a certified true copy of the Electors' Bill and deliver it to the person who delivered the Electors' Bill.

Voice of the Electorate Act 1993

Form 2 (A)

Electors' Bill

Electoral District: _____ Closing date: _____

Title of Electors' Bill (insert full title):

Description (insert full text of description not exceeding 150 words):

If you require that a referendum be held to determine whether the above becomes law, you may complete and sign this form before an Electors' Bill Representative or other approved person under section 11 (5), who will witness your signature.

Electors' Signatures in Support of this Electors' Bill

To: The Electoral Commissioner for the Australian Capital Territory

We, the undersigned electors, require that the above law or measure be submitted to a referendum of the electors for their approval or disapproval.

Date	SURNAME	Given names	Address as enrolled	Signature

N.B. Attach supplementary signature sheets, Form 2 (B), as necessary.

The above persons signed this form in my presence: _____
signature of Electors' Bill Representative

Print full name _____

Voice of the Electorate Act 1993

Form 3

Certificate of Authorisation

Electors' Bill Title

hereby appoint (name) _____

of _____

Ph. _____ post code _____

to act as an Electors' Bill Representative for the above titled Electors' Bill.

Signed _____ Name (print) _____
(Electors' Bill Committee member)

Address _____

Signed _____ Name (print) _____
(Electors' Bill Committee member)

Address _____

DECLARATION

I, (name) _____ the above named appointee do hereby declare that I will carry out my duties as an Electors' Bill Representative in accordance with the *Voice of the Electorate Act 1993*.

Signed _____ Date _____
(Electors' Bill Representative)

I certify that the above named Electors' Bill Representative signed the above Declaration

before me this _____ day of _____ 19____.

Signed _____ Capacity _____
(witness to signature) J.P., Commissioner for Affidavits, etc.

- Note:
1. The original of this form is to be sent to the Electoral Commissioner on completion.
 2. A signed copy is to be retained by the committee.
 3. A signed copy is to be given to the Representative to be produced on request.

Voice of the Electorate Act 1993

Form 4

Notice of Appointment to the Electors' Bill Committee

Title of Electors' Bill (insert full title):

NOMINATION

I, twelve persons who are also signatories to the above titled Electors' Bill, have this _____ day of _____ 199__ agreed to act as members of the Electors' Bill Committee and to carry out our duties in accordance with the requirements of the *Voice of the Electorate Act 1993*.

No	SURNAME	Given names	Address as enrolled	Signature
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

APPOINTMENT

I, the following 100 (one hundred) signatories to the above titled Electors' Bill, nominate and hereby appoint the above twelve persons to be members of the Electors' Bill Committee.

No	SURNAME	Given names	Address as enrolled	Signature
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Note: Use additional sheets of this Form 4 until 100 signatures are obtained. All sheets must be attached to the above titled Electors' Bill when submitted to the ACT Electoral Commissioner for registration.

Voice of the Electorate Act 1993

Form 5

Certificate of Qualification of Electors' Bill

Qualified Electors' Bill No. _____

Title of Electors' Bill:

Description (set out subject-matter in full)

I CERTIFY that the required number of signatures of electors have been obtained for the presentation of the Electors' Bill* to referendum of the electors of the ACT.

ACT Electoral Commissioner

Date

* subject-matter of Electors' Bill (set out subject-matter in full).