

1993

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

Presented, 1993

(Mr Stevenson)

Voice of the Electorate Bill 1993

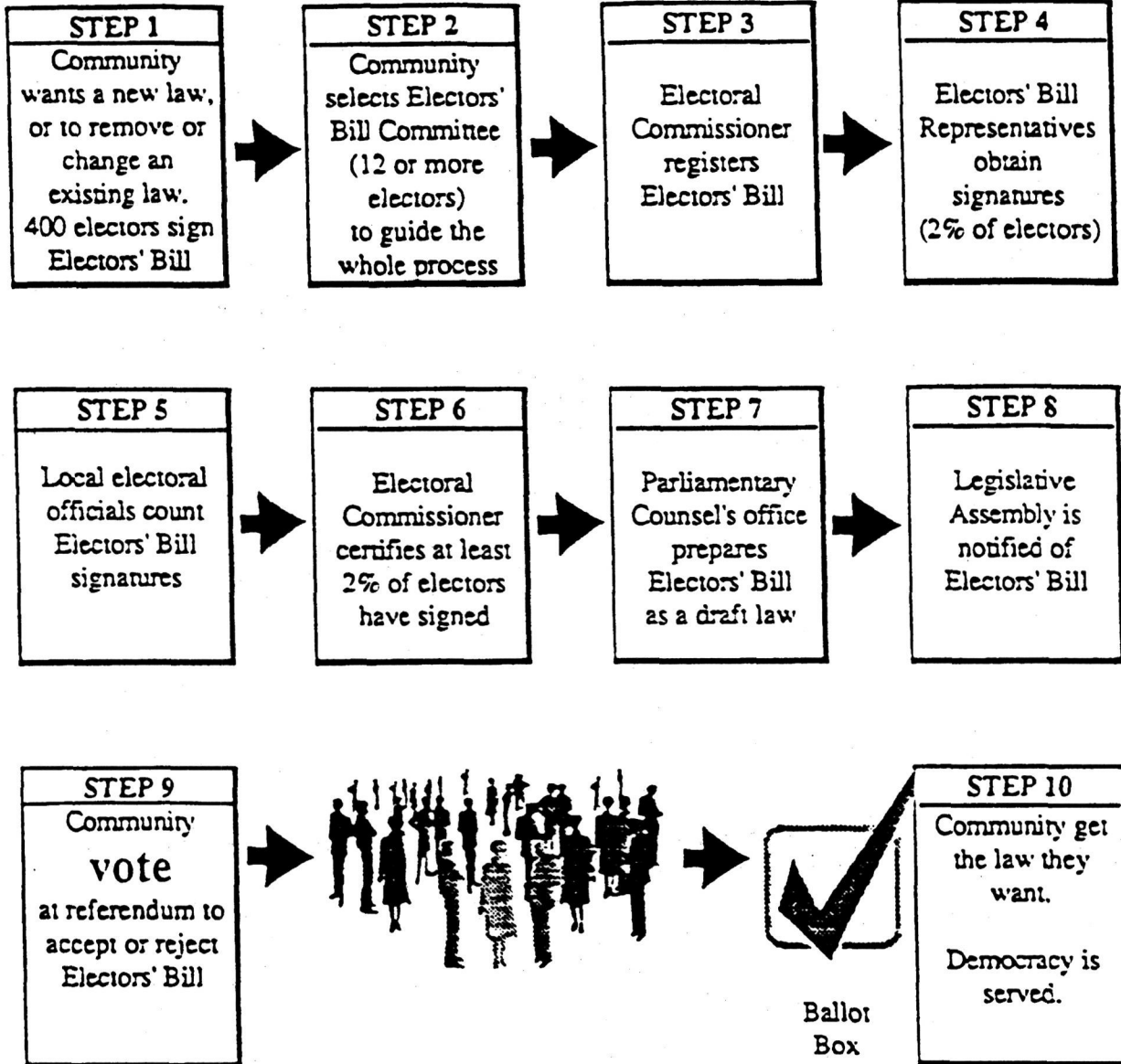
A BILL

FOR

**An Act to enable electors to introduce, amend or repeal laws
by direct vote at Binding Referendums.**

How The People Get Their Voice Heard and the Law They Want

BY VOTE!



Voice Of The Electorate Bill

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

(As presented)

Voice of the Electorate Bill 1993

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

PART 1 - PRELIMINARY

1. Short title

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

PART 2 - DEFINITIONS OF WORDS USED

Explanatory Note

This Act has been written with the objective of clarity, simplicity and legal precision. "Explanatory Notes" are provided to illustrate how certain provisions work, but do not form part of the legal provisions of this Act.

For the reader's convenience, where defined words first appear in the text, they are in bold type.

2. Definitions

In this Act:

- "ACT" means the Australian Capital Territory.
- "amend" means a change made in an existing or proposed law which clarifies, adds to, or deletes part of that law.
- "Binding Referendum" means a referendum, the result of which is binding upon the ACT Legislative Assembly and is required to be enacted into law.
- "Bill" means the draft document of a law proposed for enactment.
- "Chief Minister" means the Chief Minister for the purposes of the *Australian Capital Territory (Self-Government Act) 1988* of the Commonwealth.
- "Court" means the Supreme Court of the Australian Capital Territory with respect to the matters referred to in Section 31, and otherwise means the Magistrates Court.

- "duly" means in a correct, suitable or appropriate manner or time: properly done.
- "Electoral Act" means the Electoral Act 1992 of the Australian Capital Territory.
- "Electoral Commissioner" means the person responsible under the Electoral Act 1992 for conducting elections and other electoral matters within the Australian Capital Territory.
- "electoral roll" means a list of the names of all the people who are enrolled to vote in the Australian Capital Territory.
- "electors" mean Australian citizens eighteen years and over who are eligible to vote for the election of Members of the Legislative Assembly and who are enrolled on the electoral roll.
- "Electors' Bill" means a document originating within the general electorate calling 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 Binding Referendum.
- "Electors' Bill Committee" (hereinafter called the 'Committee') means those signatories to an Electors' Bill who are nominated and appointed [under Section 6 (1) or (2) of this Act] to guide the Electors' Bill through to a Binding Referendum.
- "Electors' Bill Representative" means a person authorised to seek and witness signatures to an Electors' Bill.
- "Gazette" means the official publication for Government and legal notices; called 'The Government Gazette'. It is published by the Australian Capital Territory Government.
- "law" includes Acts of Parliament of the Legislative Assembly, regulations, administrative orders, by-laws, rules, and any other subordinate legislation whatsoever within the legislative competence of the ACT Legislative Assembly.
- "Local Electoral Official" means a person appointed by the Electoral Commissioner to administer the processing of registered Electors' Bills.
- "Parliamentary Counsel" means the lawyer appointed within the Attorney-General's Department to prepare the legal draft for Electors' Bills. The term can also mean the Counsel's office or staff.
- "qualified Electors' Bill" means a registered Electors' Bill which has been signed by at least two per cent of electors and has received a Certificate of Qualification from the Electoral Commissioner. It must also have been signed by at least two per cent of those electors who are enrolled in each of a majority of electoral districts and of the ACT overall.

- "referendum" means the submission of an issue or subject-matter in question form to the electors for their vote at a binding referendum.
- "registered Electors' Bill" means an Electors' Bill which has been signed by not less than 400 (four hundred) electors and which otherwise complies with and has been registered under this Act by the Electoral Commissioner.
- "scrutineer" means a person authorised under Section 16 (2) to inspect the counting of signatures to an Electors' Bill to ensure that public officials are performing that duty correctly.
- "signatory" is a person who signs an Electors' Bill.
- "Speaker" means the Member of Parliament who is responsible for the conduct and proceedings of meetings of the Legislative Assembly of the ACT.

PART 3 - HOW ELECTORS CAUSE A BINDING REFERENDUM

3. General description and objects of this Act

- (1) Electors have the right to put forward an Electors' Bill requiring that a **Binding Referendum** be held on the subject-matter of the Electors' Bill. The Electors' Bill may be to introduce new legislation, or amend or repeal existing legislation.
- (2) An Electors' Bill has three main stages:
 - (a) the collection of at least 400 (four hundred) electors' signatures within three months to show reasonable public support for the Electors' Bill and to have it registered by the Electoral Commissioner.
 - (b) the collection of at least two per cent of electors' signatures in a majority of electorates and of the ACT overall. This qualifies the Electors' Bill and a Binding Referendum must be held.
 - (c) a Binding Referendum determines the approval or rejection of the Electors' Bill. If approved by the majority of the electors who vote at the referendum, the requirements of the Electors' Bill are binding upon the legislature and must become law; hence the term "Binding Referendum."

Explanatory Note - Section 3.

The word "Bill" in the term "Electors' Bill" has been selected for several reasons, some historical. *The Oxford English Dictionary of Historical Principles* includes the following definitions of "bill":

"a written list - 1605"
"a petition - 1728"

"a list of persons - 1830"
"a Bill for an Act"

and also informs us that (since 1512) "*private bills are still introduced in the form of petitions.*" Thus the definition of "Bill" embraces all the major features employed in an Electors' Bill:

1. Electors produce a bill for an Act
2. Electors place their signatures on a list
3. The list of signatures acts as a petition to the Electoral Commissioner requiring that a Binding Referendum be held.

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

4. Details required in an Electors' Bill

- (1)** An Electors' Bill is to be addressed to the Electoral Commissioner requesting that a Binding Referendum be held on the subject-matter of the Electors' Bill.
- (2)** An Electors' Bill must 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 must also specify which sections of the Act are to be amended and what amendments are proposed. The description must be reasonably informative and broadly define the subject-matter of the Electors' Bill without being ambiguous or misleading.

5. Details allowable in support of an Electors' Bill

- (1)** An Electors' Bill may be accompanied by written material in its support. Such material may include:
 - (a)** detailed provisions of the law which the Electors' Bill seeks to introduce or amend; or
 - (b)** a draft Bill. If a draft Bill accompanies the Electors' Bill, it must retain the intent and purpose set out in general terms in the description of the Electors' Bill.

6. Electors' Bill Committee - chosen to guide the Binding Referendum process

Explanatory Note

The Committee represents the electors in dealings with government with respect to the progress of an Electors' Bill. It may amend or withdraw an Electors' Bill in whole or in part prior to the Binding Referendum [see Sections 7 (6), 21 (7) and 29 (1)]. It must ensure that the draft of the Electors' Bill is true to the purpose of the description as far as practicable. For these reasons, the Committee members should be chosen with care.

- (1)** When an Electors' Bill is delivered to the Electoral Commissioner for registration, it must be accompanied by a Notice of Appointment [Form 4] which lists the names of 12 (twelve) persons who have signed the Electors' Bill and have agreed to be members of the Electors' Bill Committee. The Notice of Appointment is to be signed by at least 100 (one hundred) signatories to the Electors' Bill. No Committee member may be a signatory to their own Notice of Appointment.

- (2) A signatory to an Electors' Bill may, by Notice of Appointment signed by at least nine members of the Committee, be appointed to replace a member who has resigned, become incapacitated or died.
- (3) After registration of the Electors' Bill a quorum of the Committee is nine members.

7. Registration of Electors' Bill by Electoral Commissioner

- (1) Upon receipt of an Electors' Bill the Electoral Commissioner is required to issue to the Committee a Certificate of Receipt [Form 1] which shall contain:
 - (a) the title of the Electors' Bill;
 - (b) the description of the Electors' Bill;
 - (c) the date of receipt;
 - (d) the signature of the Electoral Commissioner or other Electoral Office official as appointed;
 - (e) 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 the Electoral Office and handed to the person delivering the Electors' Bill.

- (2) Within 14 (fourteen) days after the Committee delivers an Electors' Bill to the Electoral Commissioner, the Commissioner is required to register the Electors' Bill if:
 - (a) the Commissioner is satisfied that the Electors' Bill has been signed by not less than 400 (four hundred) electors; and
 - (b) the required number of signatories have signed the Electors' Bill within a three month period before the date of delivery of the Electors' Bill to the Electoral Commissioner; and
 - (c) the Commissioner is satisfied that the Electors' Bill otherwise complies with Sections 4, 5, 6, and 7 of this Act.
- (3) When the Electoral Commissioner registers an Electors' Bill, the Committee is required to publish in the next available *Gazette*, a notice of the title of that Electors' Bill, the date of registration and the description as set out in the Electors' Bill.
- (4) The Committee is not required to pay any Government costs incurred in processing the Electors' Bill through to Binding Referendum.
- (5) To enable the Electors' Bill to be registered, the Electoral Commissioner may request the Committee to make changes to the Electors' Bill description and/or title which the Commissioner considers will remedy contraventions to sub-section (7) (a) to (e) below.

- (6) Any change to an Electors' Bill may be brought about by the withdrawal of the Electors' Bill and the delivery of a new Electors' Bill signed by the required number of electors. A change may also be made by the Committee if authorised by at least nine members and notified in writing to the Electoral Commissioner to enable the Electors' Bill to be registered.
 - (7) 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;
 - (b) it names a person and affects their rights or liabilities (other than in the person's capacity as a public official);
 - (c) it names a person and provides for their appointment to or removal from public office;
 - (d) the action called for by the Electors' Bill is outside the competence of the ACT Legislative Assembly;
 - (e) it clearly contravenes the Rule of Law.
 - (8) If the Electoral Commissioner decides not to register an Electors' Bill, the Commissioner is required to notify the Committee in writing within 14 (fourteen) days of the decision being taken. Such notice shall include every legal reason for that decision and specify the relevant or relied upon Sections.
 - (9) If the Electoral Commissioner fails to notify the Committee of a decision in writing to either register or reject the Electors' Bill within 30 (thirty) days of its delivery, the Electors' Bill shall be deemed to have been duly registered and the Committee shall place a notice in the *Gazette* to that effect.
- 8. Copy of Electors' Bill to be available for inspection and sale**
- (1) Promptly after registration, copies of the Electors' Bill and any accompanying support material, together with any changes subsequently notified to the Commissioner, are to be made available for public inspection at the office of the Electoral Commissioner.
 - (2) The Electoral Commissioner is to make copies of the Electors' Bill and any supporting material available for sale at cost.
 - (3) Anyone may arrange the printing of copies of the Electors' Bill and any supporting material for distribution and/or sale, the only limitation being a requirement of non disclosure of the identities of signatories [see Section 16 (3) and 32 (13)].
- 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 or accompanying support material, but not the description of the Electors' Bill.

- (2) Where the support material includes a draft Bill, the Committee may make changes to the draft Bill, provided the changes do not conflict with the intent of the Electors' Bill description.
- (3) Any such change is to be made by written notice to the Electoral Commissioner signed by at least nine members of the Committee.
- (4) The Committee is required to publish in the next available *Gazette*, notice and details of any such change and shall send a copy of the published *Gazette* notice to the Commissioner who is to issue a receipt to the Committee.

10. When Electors' Bill registration is to be cancelled

- (1) The Electoral Commissioner is to cancel the registration of an Electors' Bill if:
 - (a) the Electors' Bill is withdrawn by the Committee under Section 29 of this Act;
 - (b) the Electors' Bill fails to become a qualified Electors' Bill within the time allowed.
- (2) Cancellation of registration terminates any further proceedings on the Electors' Bill under this Act.

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

11. Appointment of Electors' Bill Representatives

Explanatory Note

After registration of the Electors' Bill, the ongoing collection of signatures is managed by appointed Electors' Bill Representatives.

- (1) The Committee may appoint any number of electors as Electors' Bill Representatives as detailed in sub-section (3).
- (2) The duties of an Electors' Bill Representative are:
 - (a) to present the Electors' Bill to electors;
 - (b) to collect and witness Electors' Bill signatures on standard forms [Forms 2 (A) and 2 (B)];

- (c) to return completed Electors' Bills to the Electoral Commissioner or appropriate Local Electoral Official.
- (3) Before appointment as an Electors' Bill Representative, an elector must sign an authorisation [Form 3]. The appointment must be made by two Committee members who sign the authorisation. The Electors' Bill Representative must then sign the form before a Justice of the Peace or other person referred to in sub-section (6). A copy of the signed authorisation shall be sent to the Electoral Commissioner.
- (4) The authorisation [Form 3] is to be used to identify Electors' Bill Representatives as necessary.
- (5) Electors' Bill Representatives after appointment can witness signatures including those that they have previously collected.
- (6) 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;
 - (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;
 - (d) a member of the Australian armed forces outside Australia;
 - (e) a Registrar of a Court outside Australia.

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

- (7) For the purpose of marking off electors' signatures on a copy of the electoral roll held by the Committee, an Electors' Bill Representative may peruse copies of those Electors' Bill signature sheets delivered directly to the Electoral Commissioner.

12. Appointment of Local Electoral Officials

The Electoral Commissioner may appoint Local Electoral Officials to administer the process of Electors' Bill qualification.

13. Which electoral rolls are to be used

To determine who is eligible to sign an Electors' Bill, to become a Committee Member, or an Electors' Bill Representative, copies of the last printed or published ACT or Commonwealth electoral rolls and supplementary rolls are to be used.

14. Electors' Bill signatories - particulars required

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

- (a) their full name;
- (b) their address. If their address is different from that shown on the electoral roll, both addresses are to be recorded;
- (c) their signature;
- (d) the date they sign the Electors' Bill;
- (e) the electoral district they are enrolled in;
- (f) any further information necessary to identify their name on the relevant electoral roll for the Electors' Bill;
- (g) such other information as is required on the standard Electors' Bill form.

15. Obligations of Electors' Bill Representatives relating to collection of signatures

- (1) An Electors' Bill Representative is to produce a copy of their authorisation [Form 3] on request.
- (2) Before a person signs an Electors' Bill, the Electors' Bill Representative must give the person an opportunity to read the description of the Electors' Bill or must read the description to the person.
- (3) The Electors' Bill Representative must ensure that:
 - (a) all the relevant particulars of the person signing the Electors' Bill are completed;
 - (b) where an elector claims to be recently registered and is not yet listed on the relevant electoral roll, the elector should sign an Electors' Bill signature sheet on which is written "newly enrolled electors";
 - (c) at the end of each month, all signed Electors' Bills signature sheets are returned to the Electoral Commissioner or relevant Local Electoral Official;
 - (d) before Electors' Bill signature sheets are returned, all incompletd spaces for electors' particulars must be ruled through and all necessary declarations made and other required information provided.

16. Counting of Electors' Bill signatures

- (1) The Electoral Commissioner is to ensure that the Committee is given reasonable notice of the appointed time and place of any count or recount of Electors' Bill signatures so that scrutineers can attend. Failure to give reasonable notice renders the count or recount invalid.
- (2) Members of the Committee are authorised as scrutineers. The Electoral Commissioner or a Local Electoral Official may approve any other elector to scrutineer and may not unreasonably withhold such approval.
- (3) Each scrutineer is to sign a declaration that they will not disclose the particulars of any elector who has signed an Electors' Bill, other than for the administrative purposes of this Act.
- (4) At any count or recount, the Electoral Commissioner may exclude scrutineers only if there are already sufficient scrutineers present to ensure a closely supervised count or recount and that more scrutineers being present would physically impede electoral officials in the conduct of their duties.
- (5) Powers vested in the Electoral Commissioner under the Electoral Act 1992 to control the counting and scrutiny of votes at an election also apply to the counting and scrutiny of votes at a Binding Referendum under this Act. These powers are to apply to the extent that the provisions of the Electoral Act 1992 are not inconsistent with this Act.
- (6) Neither the Electoral Commissioner nor a Local Electoral Official is required to check the validity of all the signatures to an Electors' Bill, but 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 is not to be counted.
- (8) The Electoral Commissioner is to make the following arrangements for the count of signatories to an Electors' Bill:
 - (a) for signatories to be counted, they must 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 are to be counted.
 - (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.
 - (c) the number of signatories to Electors' Bills returned to the Electoral Commissioner or Local Electoral Officials are to be counted as soon as practicable after the end of each month of the currency of the Electors' Bill.
 - (d) once counted, signed Electors' Bills are to be kept in batches according to each relevant month and deposited in a locked and secure metal box or safe.
 - (e) the names of signatories to Electors' Bills that have been counted are to 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.

- (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 are to be given to the Local Electoral Official for that district for inclusion in that other Official's count.
- (g) the Electoral Commissioner or Local Electoral Officials may recount a batch and are required to do so at the request of a scrutineer. The relevant certificate of the count is to be amended if necessary.
- (h) the Electoral Commissioner or Local Electoral Official is to issue a certificate containing particulars of the count of each batch of signed Electors' Bills. The certificate is to be kept with each batch and a copy sent to the Electoral Commissioner and another copy kept for public inspection at the office of the official.
- (i) the Electoral Commissioner may at any time require counted batches of Electors' Bills to be forwarded to the Electoral Commissioner.

17. Closing date for Electors' Bill signatures

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

18. Number of signatories required to qualify an Electors' Bill to initiate a Binding Referendum

- (1) An Electors' Bill does not qualify for submission to a Binding Referendum unless the number of electors who have duly signed the Electors' Bill constitutes:
 - (a) at least two per cent of the total number of enrolled electors ; and
 - (b) at least two per cent of the electors enrolled in each of the majority of electoral districts.
- (2) If the number of electors who sign a qualified Electors' Bill is at least five per cent of the number of valid votes cast at the last election of the ACT, then the Binding Referendum must be held within three months after qualification.

19. Electoral Commissioner to determine whether Electors' Bill qualifies

- (1) The Electoral Commissioner is required to determine whether an Electors' Bill has qualified in accordance with Section 18 as soon as the required evidence is available.

- (2) In order to do this, account must be taken of the following:
 - (a) the certificates of the Electoral Commissioner or Local Electoral Officials, which are evidence of the number of electors who have signed the Electors' Bill.
 - (b) where different Electors' Bills deal with the same or substantially the same subject-matter, signatories to those Electors' Bills are to be aggregated for the purposes of determining whether a Binding Referendum should be held.

20. Certificate of Qualification of Electors' Bill

- (1) When the Electoral Commissioner determines that an Electors' Bill qualifies for submission to a Binding Referendum, the Commissioner is required to publish a copy of the Certificate of Qualification [Form 5] in the next available issue of the *Gazette*.
- (2) The Commissioner is to number each qualified Electors' Bill in order of qualification beginning with the number one for each Parliamentary term.
- (3) Upon qualification of an Electors' Bill, the Electoral Commissioner is required to deliver to the Speaker and the Parliamentary Counsel a copy of the Certificate of Qualification and any supporting material accompanying the Electors' Bill.

PART 6 - THE THIRD STAGE OF THE ELECTORS' BILL - THE BINDING REFERENDUM

21. Drafting of Electors' Bill for an Act

- (1) The Parliamentary Counsel is required to prepare a legislative draft of the subject-matter of the Electors' Bill in accordance with the intent and description given in the qualified Electors' Bill. The legislative draft is to be expeditiously prepared in consultation with the Committee and in accordance with their instructions.
- (2) The Parliamentary Counsel is required to take into consideration a draft Bill (if any) presented to the Parliamentary Counsel by the Committee.
- (3) The Parliamentary Counsel is required to deliver a legislative draft of the Electors' Bill to the Electoral Commissioner and the Speaker as soon as practicable after the Electors' Bill qualifies. This must be done in time for the Binding Referendum on the Electors' Bill to be held within the time required by this Act.

- (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 supporting material deposited with the Electoral Commissioner.
- (5) The Parliamentary Counsel's draft is to include such transitional, machinery and ancillary provisions as the proper operation of the Electors' Bill would require. The draft is also to include allowances for incidental and consequential matters.
- (6) The Parliamentary Counsel's draft bill is to take into account any requirement to submit more than one question at Binding Referendum on the subject-matter of the Electors' Bill.
- (7) The Committee may amend the Parliamentary Counsel's draft of the Electors' Bill by consulting with and then instructing the Parliamentary Counsel. This capacity for amendment has a time limit as set out in Section 24 (3).

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

- (1) The Parliamentary Counsel must deliver to the Speaker the Parliamentary Counsel's draft of the Electors' Bill as approved by the Committee.
- (2) The Speaker is required to table a copy of the Certificate of Qualification and the approved Parliamentary Counsel's draft of the Electors' Bill on the next sitting day.

23. Drafting of ballot papers

- (1) If two 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.
- (2) Any of the Committees, the Parliamentary Counsel or the Electoral Commissioner may require referendum questions relating to the one Electors' Bill to be placed on a separate ballot paper.
- (3) The Committee, after consultation with the Electoral Commissioner and the Parliamentary Counsel, shall determine the wording, presentation and order of the questions on the ballot paper.
- (4) The Electoral Commissioner, after consultation with the Committee shall determine the instructions on the ballot paper.
- (5) The Electoral Commissioner is to ensure that:
 - (a) ballot papers used for Binding Referendums must state clearly and prominently the words "This is a Binding Referendum";
 - (b) on all forms and advisory materials used in connection with a Binding Referendum, where the word "referendum" is used to mean a "Binding Referendum", the term: "Binding" must precede it.

Explanatory Note - sub-section (6)

The term "preferential voting" means that an elector may vote, not just for one proposal on the ballot paper, but for other related proposals in order of the elector's personal choice or preference. After counting all preferences (whether first, second, etc) the proposal which receives the highest number of votes becomes law.

- (6) The Committee may, by written notice, require the Electoral Commissioner to provide for preferential voting with respect to related subject-matter of Electors' Bills.

PART 7 - HOLDING OF BINDING REFERENDUMS

24. Date of Binding Referendum

- (1) A Binding Referendum on an Electors' Bill may, subject to this Section, be held at any time after the Electors' Bill becomes a qualified Electors' Bill.
- (2) The Binding Referendum must be held on the earliest of the following dates:
- (a) polling day for the next general election of members of the Legislative Assembly of the ACT or the next Binding Referendum of electors of the ACT under this Act or a referendum of the ACT under any other Act; but
 - (b) if the Electors' Bill became a qualified Electors' Bill less than 21 (twenty-one) days before that day, then the Binding Referendum is to be held on polling day for the next following general election of the ACT or Binding Referendum of the ACT.
- (3) An Electors' Bill may not be withdrawn or amended less than 21 (twenty-one) days before the poll unless authorised by an order of the Supreme Court.

25. Vote taken in compliance with Electoral Act

The vote at a Binding Referendum on an Electors' Bill is to be taken under and in accordance with this Act and the Electoral Act 1992.

26. Electors' Bill - Approval at Binding Referendum and enactment

- (1) A question is approved by the electors at a Binding referendum if a majority of the electors voting at the referendum vote in favour of the question.

- (2) Where electors at the same Binding 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.
- (3) No lack of formality disqualifies an Electors' Bill or vote which otherwise complies with the requirements of this Act.
- (4) In the determination of approval of questions submitted at referendum, preferences (if any) are to be taken into account.
- (5) Upon approval of an Electors' Bill by the electors at a Binding Referendum, the Electoral Commissioner shall present the approved Electors' Bill to the Chief Minister for assent and the Chief Minister shall assent to the approved law.

PART 8 - LIMITATION ON BINDING REFERENDUMS

27. Matters excluded from Binding Referendums

A Binding Referendum on an Electors' Bill may not be held under this Act if the Electors' Bill:

- (a) names an individual and affects their rights or liabilities (other than in the person's capacity as a public official); or
- (b) names an individual and provides for their appointment to any public office or for the removal of any such person from office; or
- (c) calls for an action that is outside the competence of the ACT Legislative Assembly;
- (d) clearly contravenes the Rule of Law.

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

- (1) A Binding Referendum may not be held on an Electors' Bill which deals with two or more subject-matters unless those matters are directly or indirectly related.
- (2) Nothing in this Section prevents Binding Referendums being held on the same day as referendums sought by other Electors' Bills under this Act or referendums originating under any other Act.

29. Adopting of Electors' Bill by Legislature before Binding Referendum

- (1) After an Electors' Bill has qualified and before a Binding Referendum is held, if the Legislative Assembly enacts provisions of the Electors' Bill (or an Act which has substantially the same effect as provisions of the Electors' Bill) the Committee may (by notice in writing to the Electoral Commissioner signed by at least nine members of the Committee) withdraw in whole or in part any subject-matter of the Electors' Bill or of the Parliamentary Counsel's draft of the Electors' Bill from a Binding Referendum.
- (2) No withdrawal may be made less than 21 (twenty-one) days before the poll unless approved by an order of the Supreme Court.

PART 9 - MISCELLANEOUS

30. How provisions of law approved by Binding Referendum may be changed

- (1) In this Section "amend" includes "repeal".
- (2) Where a law is approved at a Binding Referendum, any provision of that law may be amended by referendum approving the amendment in accordance with the provisions of this Act, but otherwise a provision of that law may be amended in any of the following circumstances as the approved Bill may provide for in any one or more of the following ways:
 - (a) Any provision of the law expressed to be unamendable except by referendum is not amendable except by a referendum initiated by the electors under this Act or initiated by an Act of the Legislative Assembly.
 - (b) Any provision of the law expressed to be unamendable except by a specified number of Members of the Legislative Assembly is unamendable unless that specified number of Members of the Legislative Assembly pass a Bill for an amending Act which becomes law.
 - (c) Any provision of the law expressed to be unamendable unless a specified period of time has elapsed from its approval by Binding Referendum or until a specified date, may be amended thereafter by the Assembly by an ordinary or specified majority of Members approving a Bill which becomes law.
 - (d) Any provision of the law expressed to be unamendable except provided the intent and purpose is fully retained and not impaired, may be amended only if the effect of the amending law has that effect, and subject to any other provision of the law approved by Binding Referendum.
- (3) Provisions of subsequent enactments not created under this Act nor in accordance with the requirements of the law approved at Binding Referendum are invalid to the extent that such provisions are inconsistent with a law approved at Binding Referendum.

31. Supreme Court to deal with matters

- (1)** The Supreme Court has jurisdiction to deal with any objection by a member of the Committee or by any other person and to determine any of the following matters:
 - (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 the support material accompanying the Electors' Bill.
 - (b)** withdrawal in part or in full or postponement in part or in full of an Electors' Bill prior to a Binding Referendum.
 - (c)** whether any 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.
 - (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.
 - (g)** application to shorten any time limit otherwise applying.
 - (h)** whether an Electors' Bill is a qualified Electors' Bill.
- (2)** The Court may disallow in whole or in part any action taken by the Committee and the action or matter disallowed is thereupon taken not to have happened or not to have been made by the Committee.
- (3)** For the purposes of dealing with any 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)** Members of the Committee or an elector who objects have the right to be heard in person. No award of costs is to be made except where the Court dismisses an objection as frivolous or vexatious.

32. Offences relating to Electors' Bills

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

- (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.
- (2)** A person who gives or offers or promises to give any money or other material 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.
- (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 themselves as an Electors' Bill Representative when the person is not an Electors' Bill Representative is guilty of an offence.
- (6) A person who uses or makes available to any person any particulars 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.
- (7) A person who signs an Electors' Bill, knowing that at that time they are not enrolled as an elector, is guilty of an offence.
- (8) A person who threatens, offers or suggests any violence, injury, punishment, 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.
- (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.
- (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.
- (11) A person who prints, publishes or distributes any untrue or incorrect statement likely to mislead an elector in relation to voting at a Binding Referendum is guilty of an offence.
- (12) The Electoral Commissioner or a Returning Officer may issue a direction ordering the restraint of a breach of this Act. Contravening a proper direction issued in this way makes a person guilty of an offence.
- (13) No person shall disclose any particulars by which a signatory to an Electors' Bill may be personally identified except for the administrative purposes of this Act.
- (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 Binding Referendum poll. The penalties applicable under other enactments apply to such offences to the extent that there is no conflict with this Act.
- (15) A person who fails to comply with the provisions of this Act is guilty of an offence.
- (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:
 - (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
 - (c) that person, being in such a position, used all due diligence to prevent the contravention of the provision by the body.
- (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.
- (18) The Court may order a person found guilty of an offence, whether or not a conviction is recorded, to pay costs to remedy any expense which the Committee, Electors' Bill Representatives or the Electoral Commissioner have incurred or may reasonably incur as a consequence of the offence.
- (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 is required to 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.

Explanatory Note - sub-section (20)

"exemplary" means an award of damages sufficient to serve as a deterrent to other offences.

- (20) The Court may order exemplary damages to be paid to the Committee in respect of an offence committed under this Act.
- (21) A person who fails to comply with the written request of the Electoral Commissioner issued under this Section is guilty of an offence.

33. Disclosure of financial contributions

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

- (1) A person must disclose to the Electoral Commissioner financial contributions, goods or services supplied totalling more than \$50 (fifty dollars) they have made or received in connection with any Electors' Bill under this Act or which may influence an elector with reference to a Binding Referendum in connection with any Electors' Bill under this Act. Compliance with this Section includes disclosure of details of disbursements of the funds involved to an extent which makes clear the purposes for which the monies have been used.
- (2) These particulars must be supplied in writing to the Commissioner at the end of every month except during the last month preceding a referendum poll when particulars must be supplied daily.

34. Public money not to be used to influence voters

Public money is not to be used to pay for or to reimburse expenditure on publicity to influence public support for or against an Electors' Bill or Binding Referendum under this Act.

35. Proceedings for offences

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

36. Approved forms

The Electoral Commissioner may approve forms for use under this Act other than those forms at the back of this Act.

37. Commencement

- (1) Sections 1, 3 and 37 commence on the day on which this Act is notified in the *Gazette*.
- (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.
- (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, commences on the first day after the end of that period.

38. Regulations

- (1) The Minister administering the Electoral Act 1992 may make Regulations 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. Such regulations must not be inconsistent with this Act.
- (2) Any offence created by the regulations may carry a penalty as determined by the regulations, provided the penalty is not more than five hundred dollars.

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 a registered Electors' Bill Representative or other approved person [Section 11 (6)] 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 Binding 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

Electors' Bill Representative Authorisation

1. Appointment

We the undersigned members of the Electors' Bill Committee for the Electors' Bill entitled:

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 _____

2. 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 of Members to the Electors' Bill Committee

Title of Electors' Bill (insert full title):

NOMINATION

We, 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

We, 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 (insert full text of description)

I CERTIFY that the required number of signatures of electors have been obtained for the presentation of this Electors' Bill to Binding Referendum.

ACT Electoral Commissioner

Date