

REFERENDUM (SELF-GOVERNMENT) ORDINANCE 1978

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AUSTRALIAN CAPITAL TERRITORY

407

No. 32 of 1978

AN ORDINANCE

Relating to the conduct of a referendum to ascertain the preference of electors of the Australian Capital Territory in relation to certain proposals concerning the government of the Territory

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated this nineteenth day of October 1978.

ZELMAN COWEN
Governor-General

By His Excellency's Command,

R. ELLICOTT
Minister of State for the Capital Territory

REFERENDUM (SELF-GOVERNMENT) ORDINANCE 1978

PART I—PRELIMINARY

1. This Ordinance may be cited as the *Referendum (Self-government) Ordinance 1978*.^{*} Short title

2. (1) In this Ordinance, unless the contrary intention appears— Interpretation

“Australian Capital Territory Representation Regulations” means the Australian Capital Territory Representation Regulations as in force from time to time under the *Australian Capital Territory Representation (House of Representatives) Act 1973*;

“Chief Australian Electoral Officer” means the person occupying, or acting in, the office of the Chief Australian Electoral Officer under the *Australian Electoral Office Act 1973*;

^{*} Notified in the *Commonwealth of Australia Gazette* on 20 October 1978.

“ direction ” means a direction under section 7;

“ Division ” has the same meaning as in the Australian Capital Territory Representation Regulations;

“ elector ” has the same meaning as in the Australian Capital Territory Representation Regulations;

“ Electoral and Referendum Regulations ” means the Electoral and Referendum Regulations as in force from time to time under the Act and the *Referendum (Constitution Alteration) Act 1906*;

“ officer ” includes the Chief Australian Electoral Officer and a Returning Officer, an Assistant Returning Officer, a Presiding Officer, an Assistant Presiding Officer, a Poll Clerk and a Doorkeeper appointed under this Ordinance;

“ Presiding Officer ” means a Presiding Officer appointed by a Returning Officer under section 9 to preside at a polling place;

“ referendum ” means the referendum conducted for the purposes of this Ordinance;

“ Returning Officer ” means the Returning Officer for a Division appointed under section 5;

“ Roll ” means the Roll of electors for a Division compiled in pursuance of the Australian Capital Territory Representation Regulations;

“ the Act ” means the *Commonwealth Electoral Act 1918*.

(2) A reference in this Ordinance to a form by number shall be read as a reference to the form so numbered in Schedule 2.

(3) A form in Schedule 2 shall be completed in accordance with the directions contained in the form.

Application
of Commonwealth
Electoral
Act and
Electoral
and
Referendum
Regulations

3. (1) The provisions of the Act specified in Part I of Schedule 1 shall, subject to this Ordinance and so far as they are applicable, apply to and in relation to the referendum as if the referendum were an election within the meaning of that Act.

(2) The provisions of the Electoral and Referendum Regulations specified in Part II of Schedule 1 shall, subject to this Ordinance and so far as they are applicable, apply to and in relation to the referendum as if the referendum were a referendum within the meaning of those Regulations.

(3) Subject to this Ordinance, the provisions of Division 3 of Part III of the Electoral and Referendum Regulations shall, so far as they are applicable and to the extent required for the purposes of regulations 49, 71 and 72 of those Regulations in their application to and in relation to a referendum, apply to and in relation to the referendum as if the referendum were a referendum within the meaning of those Regulations.

(4) Where a form is specified or referred to in a regulation that applies to and in relation to the referendum by virtue of sub-section (2), the Chief Australian Electoral Officer shall make such modifications (if any) to the form as he considers to be necessary for the purposes of the referendum, and the form as so modified shall be deemed to be the form so specified or referred to in the regulations.

4. (1) In the application of the provisions of the Act to and in relation to the referendum as provided by section 3—

(a) section 85 shall be read as if—

- (i) paragraphs (1) (e) and (2) (ab) were omitted;
- (ii) all words in paragraph (2) (c) after “ Divisional Returning Officer ” were omitted and the words “ for either of the Divisions ” were substituted; and
- (iii) sub-section (2A) were omitted and the following sub-section substituted:

“ (2A) An application shall be deemed not to have been duly made if it reaches the officer to whom it is made after 6 o'clock in the afternoon of the day immediately preceding polling day.”;

(b) section 91 shall be read as if “, other than such electors who are electors by virtue of section thirty-nine A of this Act ” were omitted from sub-section (1);

(c) section 92 shall be read as if sub-section (2) were omitted and the following sub-section substituted:

“ (2) Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted or delivered in accordance with paragraph (1) (e) or (1) (f), would not reach the Returning Officer for the Division in respect of which the voter claims to vote before the close of the poll, the envelope in which the ballot-paper is enclosed may be addressed to, and posted or delivered to, the Returning Officer for the other Division or may be delivered on polling day to any Assistant Returning Officer or presiding officer.”;

(d) section 96 shall be read as if—

- (i) the words “ up to the end of the period of ten days immediately succeeding the close of the poll by him, or received up to the close of the poll by any other

How
Common-
wealth
Electoral
Act and
Electoral
and
Referendum
Regulations
are to be
applied

Divisional Returning Officer or any Assistant Returning Officer or presiding officer in pursuance of sub-section (2) of section ninety-two of this Act," were omitted and the words "by him or any other Returning Officer or by any Assistant Returning Officer or presiding officer up to the close of the poll," were substituted; and

(ii) paragraph (ba) were omitted;

(e) section 121 shall be read as if—

(i) the reference in sub-paragraph (1) (a) (i) to the Registrar for a Subdivision were a reference to the Electoral Registrar for a Division appointed under the Australian Capital Territory Representation Regulations; and

(ii) all of the words from and including the words "in connexion with the scrutiny" to the end of the sub-section were omitted from sub-section (5);

(f) section 164 shall be read as if—

(i) "for the election of a member of the Senate, or of the House of Representatives, or" were omitted from sub-section (1);

(ii) "any candidate, or political party, or" were omitted from sub-section (1);

(iii) "any candidate, or political party, or" were omitted from sub-section (2);

(iv) "for the election of a member of the Senate, or of the House of Representatives, or" were omitted from sub-section (2); and

(v) "any candidate, or political party, or" were omitted from sub-section (3);

(g) section 164A shall be read as if—

(i) "for the election of a member of the Senate or of the House of Representatives, or" were omitted from sub-section (1);

(ii) "any candidate, political party or" were omitted from sub-section (1); and

(iii) "any candidate, political party or" were omitted from sub-section (3);

(h) section 164B shall be read as if—

(i) "candidate or", wherever it occurs in sub-section (3), were omitted;

(ii) "name of the candidate, or the names of the candidates, or the name of the party, concerned" were

omitted from paragraph (3) (a) and “ name of the party ” substituted; and

(iii) “ or the Territory ” were added at the end of the definition of “ electoral matter ” in sub-section (4); and

(j) section 194A shall be read as if the reference to the Court were a reference to the Supreme Court in the exercise of jurisdiction vested in it by section 29 of this Ordinance.

(2) In the application of the provisions of the Electoral and Referendum Regulations to and in relation to the referendum as provided by section 3—

(a) regulation 78 shall be read as if the words “ Subject to such directions as are issued by the Chief Electoral Officer, the ” were omitted from sub-regulation (1) and the word “ The ” substituted; and

(b) Division 7 of Part III shall be read as if a reference to the Commonwealth Electoral Officer were a reference to the Chief Australian Electoral Officer.

(3) In the application of a provision of the Act or of the Electoral and Referendum Regulations to and in relation to the referendum as provided by section 3—

(a) a reference to a Divisional Returning Officer, Returning Officer or Assistant Returning Officer shall be read as a reference to a Returning Officer appointed under section 5 of this Ordinance;

(b) a reference to an elector shall be read as a reference to an elector for the purposes of this Ordinance;

(c) a reference to a State, other than a reference in section 91B of the Act, shall be read as a reference to the Territory;

(d) a reference to a Division or a Subdivision shall be read as a reference to a Division;

(e) a reference to a Roll shall be read as a reference to the Roll of electors for a Division prepared under the Australian Capital Territory Representation Regulations;

(f) a reference to an officer shall be read as a reference to a person who is an officer for the purposes of this Ordinance;

(g) a reference to a writ shall be read as a reference to a direction;

(h) a reference to the issue of a writ shall be read as a reference to the giving of a direction under section 7;

(i) a reference to the return of a writ for the taking of a referendum shall be read as a reference to the giving to the Minister of the copy referred to in paragraph 25 (a);

(j) a reference to a poll shall be read as a reference to the taking of the votes of electors for the purposes of the referendum;

- (k) a reference to a prescribed polling place for a Subdivision shall be read as a reference to a polling place appointed for a Division under the Australian Capital Territory Representation Regulations;
 - (l) a reference to a polling day shall be read as a reference to the day appointed for the purpose of paragraph 7 (2) (b);
 - (m) a reference to any kind of election or a referendum shall be read as a reference to the referendum;
 - (n) a reference to a scrutineer shall be read as a reference to a scrutineer appointed under section 16 of this Ordinance;
 - (o) a reference to electoral matter or to electoral papers shall be read as a reference to corresponding matter or papers in relation to the referendum;
 - (p) a reference to a ballot-paper, ballot-box, certified list of voters or other thing shall be read as a reference to a ballot-paper, ballot-box, certified list of voters or corresponding thing in relation to the referendum;
 - (q) a reference to a presiding officer, an assistant presiding officer, a poll clerk or a doorkeeper shall be read as a reference to a Presiding Officer, an Assistant Presiding Officer, a Poll Clerk or a Doorkeeper appointed under section 9 of this Ordinance;
 - (r) a reference to the Court of Disputed Returns shall be read as a reference to the Supreme Court; and
 - (s) a reference to "this Act", "the Act", "the regulations" or "these Regulations" shall be read as a reference to the provisions of the Act or of the Electoral and Referendum Regulations, as the case may be, that are applicable to the referendum.
- (4) For the purposes of the application of the Act or of the Electoral and Referendum Regulations to and in relation to the referendum as provided by section 3—
- (a) the ballot-papers to be used, under Part XII and sections 121 and 121A of the Act in its application to the referendum shall be in accordance with the forms provided by this Ordinance;
 - (b) a ballot-paper used for the purposes of a referendum shall only be rejected as informal for the reasons specified in this Ordinance or in the Act or the Electoral and Referendum Regulations as applied by this Ordinance; and
 - (c) the vote of an elector shall be marked on his ballot-paper in the manner directed by this Ordinance or by the Electoral and Referendum Regulations as applied by this Ordinance and the ballot-paper shall be folded so as to conceal the vote marked on the ballot-paper.

(5) In the application of the provisions of the Act or of the Electoral and Referendum Regulations as provided by section 3, those provisions are—

- (a) to the extent to which they are inconsistent with this Ordinance, modified and adapted accordingly; and
- (b) further modified as prescribed.

PART II—ADMINISTRATION

5. (1) The Chief Australian Electoral Officer shall appoint a Returning Officer for each Division in relation to the referendum. Returning Officers

(2) A Returning Officer shall, in respect of the referendum—

- (a) make the necessary arrangements for the taking of votes of the electors in his Division; and
- (b) give effect in his Division to the provisions of this Ordinance and the Act and the Electoral and Referendum Regulations so far as they are applicable to the referendum.

(3) A person is not eligible to be appointed under this section unless—

- (a) he is a Returning Officer within the meaning of the Australian Capital Territory Representation Regulations; or
- (b) he is a person performing the duties of such a Returning Officer in pursuance of an appointment under section 11 of the Act in its application in the Territory.

6. (1) The Chief Australian Electoral Officer may appoint a person to be an Assistant Returning Officer for a portion of a Division for the purposes of this Ordinance. Assistant Returning Officers

(2) A person appointed to be an Assistant Returning Officer for a portion of a Division in pursuance of sub-section (1) may, subject to the control of the Returning Officer, perform the functions and exercise the powers of the Returning Officer under this Ordinance in or in relation to that portion of the Division.

(3) A reference in this Ordinance or in the Act or in the Electoral and Referendum Regulations, in their respective application to the referendum, to the performance of a function, or the exercise of a power, by a Returning Officer shall be read as including a reference to the performance of the function, or the exercise of the power, by an Assistant Returning Officer by virtue of sub-section (2).

PART III—HOLDING OF REFERENDUM

7. (1) The Minister may, by instrument in writing, direct the Chief Australian Electoral Officer to conduct a referendum for the purpose of ascertaining the preference of the electors in relation to proposals relating to the peace, order and good government of the Territory. Minister's direction

(2) The Minister shall, in an instrument for the purpose of sub-section (1)—

- (a) specify the proposals to be put to the electors; and
- (b) appoint a day, being a Saturday, for the taking of the votes of the electors on those proposals.

Action by
Chief
Australian
Electoral
Officer
upon receipt
of direction

8. Where the Minister has given a direction, the Chief Australian Electoral Officer shall, not later than 28 days before the day appointed under sub-section 7 (2), cause to be published in the *Gazette*—

- (a) the proposals to be put to the electors at the referendum;
- (b) the date of the referendum; and
- (c) a statement that the Chief Australian Electoral Officer is required by this Ordinance to notify in the *Gazette*, not later than 28 days after the date of the referendum, the result of the referendum.

Action by
Returning
Officers
to give effect
to direction

9. (1) Where the Minister has given a direction, each Returning Officer shall, subject to this Ordinance and to the directions of the Chief Australian Electoral Officer, make all necessary arrangements for taking the poll at the referendum and, in particular, shall—

- (a) appoint a Presiding Officer to preside at each polling place and all necessary Assistant Presiding Officers, Poll Clerks and Doorkeepers;
- (b) provide and furnish proper polling booths and ballot-boxes; and
- (c) provide ballot-papers and all necessary certified lists of voters.

(2) A person under the age of 18 years shall not be appointed to be a Presiding Officer or an Assistant Presiding Officer.

Entitlement
to vote

10. (1) Subject to sub-section (2), at the referendum only those electors whose names—

- (a) are on a Roll at 6 o'clock in the afternoon of the day upon which the direction is issued with respect to the holding of the referendum; or
- (b) are placed on a Roll after that time in pursuance of a claim for enrolment received before that time,

are entitled to vote.

(2) Where, on polling day, the address shown in the Roll as the address of an elector is an address in the Jervis Bay Territory, the elector is not entitled to vote at the referendum.

(3) Nothing in this section entitles a person to vote in the referendum if he is disqualified from voting at an election of senators or of a member of the House of Representatives for a Division.

PART IV—VOTING AT THE REFERENDUM

11. Subject to this Ordinance, the voting at the referendum shall be taken throughout the Territory on the day appointed by the Minister in the direction.

Voting
to be on day
appointed
by Minister

12. (1) The polling places appointed under regulation 41 of the Australian Capital Territory Representation Regulations for a Division (other than polling places situated within the Jervis Bay Territory) and which have not been abolished are the polling places for the purposes of the referendum.

Polling
places

(2) An elector is entitled to vote at any polling place for the Division of which he is an elector.

13. Each elector shall vote only once at the referendum.

Elector
to have
one vote only

14. The voting at the referendum shall be by ballot and an elector shall mark his vote on his ballot-paper by writing the number 1 in the square opposite the proposal for which he votes as his first preference, the number 2 in the square opposite the proposal for which he votes as his second preference and the number 3 in the square opposite the proposal for which he votes as his third preference.

Method
of voting

15. (1) Subject to this section, the ballot-papers to be used for the purposes of the referendum shall be in accordance with Form 1.

Forms of
ballot-paper

(2) A ballot-paper used for voting in pursuance of section 91A, 121 or 121A of the Act in its application to and in relation to the referendum shall be in accordance with Form 1 but with the word and figures "Section 91A", "Section 121" or "Section 121A", as the case requires, written on the ballot-paper.

(3) A postal ballot-paper to be used for the purposes of the referendum shall be in accordance with Form 2.

16. The Governor-General or a person authorized by him for the purpose may appoint persons to be scrutineers at a polling place or at a place at which the scrutiny is to be conducted.

Appointment
of
scrutineers

PART V—SCRUTINY

17. The result of the referendum shall be ascertained by scrutiny.

Result to be
ascertained
by scrutiny

18. The scrutiny shall be conducted in accordance with the following provisions:

Conduct
of scrutiny

(a) it shall commence as soon as practicable after the closing of the poll;

- (b) any scrutineer duly appointed in pursuance of section 16 in relation to the place at which the scrutiny is to be conducted and any person approved by the officer conducting the scrutiny may be present;
- (c) the proceedings at the scrutiny shall be open to the inspection of persons referred to in paragraph (b);
- (d) the scrutiny may be adjourned from time to time as necessary until the counting of the votes is completed.

**Action
at scrutiny**

19. (1) At the scrutiny—

- (a) the Returning Officer or an Assistant Returning Officer shall open the ballot-boxes and shall take the ballot-papers in the ballot-boxes out of the ballot-boxes;
- (b) the ballot-papers shall be examined and either allowed or rejected;
- (c) all informal ballot-papers shall be rejected and their number recorded;
- (d) the first preference votes given for each proposal on the allowed ballot-papers shall be counted and a record of them taken;
- (e) on completion of the counting the ballot-papers shall be made up into sealed parcels; and
- (f) after completion of the scrutiny of the contents of the ballot-boxes, the Returning Officer in each Division shall make out and sign a statement setting out—
 - (i) the number of first preference votes given for each proposal; and
 - (ii) the number of ballot-papers rejected as informal.

(2) Subject to sub-section (3), ballot-papers used for voting in pursuance of Part XII of the Act shall be dealt with as required by that Part and the provisions of Division 2 of Part III of the Electoral and Referendum Regulations.

(3) Ballot-papers used for voting in pursuance of section 91A of the Act shall be dealt with as required by the provisions of Division 4 of Part III of the Electoral and Referendum Regulations.

(4) Ballot-papers used for voting in pursuance of sections 121 and 121A of the Act shall be dealt with as required by the provisions of Division 4 of Part III of the Electoral and Referendum Regulations.

(5) A reference in this section to a provision or part of the Act or of the Electoral and Referendum Regulations shall be read as a reference to that provision or part in its application to and in relation to the referendum.

20. (1) Where a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper “admitted” or “rejected” according to his decision to admit or reject the ballot-paper. Action on objection to ballot-papers

(2) Nothing in this section prevents the officer conducting the scrutiny from rejecting a ballot-paper as being informal although it is not objected to by a scrutineer.

21. (1) Subject to this section, a ballot-paper is informal if—

Informal ballot-papers

- (a) it is not authenticated by the initials of a Presiding Officer or by an official mark as prescribed by regulation 98 of the Electoral and Referendum Regulations;
- (b) it does not indicate the voter's first preference for one of the proposals and his second preference for another of the proposals; or
- (c) it has on it a mark or writing (not authorized by this Ordinance or the Electoral and Referendum Regulations) by which, in the opinion of the Returning Officer, the voter can be identified.

(2) Paragraph (1) (c) does not apply to a mark or writing placed on the ballot-paper by an officer, notwithstanding that the placing of the mark or writing on the ballot-paper is in contravention of this Ordinance.

(3) In addition to the grounds prescribed by sub-section (1), a postal ballot-paper is informal—

- (a) on the grounds prescribed by Part XII of the Act; or
- (b) if it is not contained in the envelope bearing the declaration of the elector.

(4) In addition to the grounds prescribed by sub-section (1), a ballot-paper used for voting in pursuance of section 91A, 121 or 121A of the Act is informal if it is not contained in the envelope bearing the declaration of the elector.

(5) A ballot-paper is not informal for a reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear.

(6) Except as authorized by this Ordinance or the Electoral and Referendum Regulations, an officer shall not place on a ballot-paper a mark or writing that would enable a person to identify the voter.

Penalty: \$20.

(7) A reference in this section to a provision or part of the Act or of the Electoral and Referendum Regulations shall be read as a reference to that provision or part in its application to and in relation to the referendum.

Recount

22. (1) The Chief Australian Electoral Officer, at any time before he gives a copy of a statement to the Minister in accordance with section 25, may, if he thinks fit, and shall, if so required by the Minister, direct a recount of ballot-papers used at the referendum and the ballot-papers shall be recounted accordingly.

(2) The officer conducting a recount has the same powers as if the recount were the scrutiny and may reverse a decision, in relation to the scrutiny, as to the allowance, admission, disallowance or rejection of a ballot-paper.

Reservation
of disputed
ballot-papers

23. (1) At a recount, the officer conducting the recount may, and at the request of a scrutineer shall, reserve a ballot-paper for the decision of the Chief Australian Electoral Officer.

(2) The Chief Australian Electoral Officer shall decide whether a ballot-paper reserved for his decision in pursuance of this section is to be—

- (a) allowed and admitted; or
- (b) disallowed and rejected.

(3) Where the validity or result of the referendum is disputed under Part VII, the Supreme Court may consider any ballot-paper reserved for the decision of the Chief Australian Electoral Officer but, unless the Court is satisfied that a recount is justified, shall not order a recount of the whole or a part of the ballot-papers in connection with the referendum.

PART VI—STATEMENTS AS TO RESULT OF REFERENDUM

Ascertain-
ment of
result of
referendum

24. (1) As soon as practicable after the close of the poll, the Returning Officer for a Division shall—

- (a) make out and sign a statement setting out, in respect of the Division—
 - (i) the number of first preference votes given for each proposal; and
 - (ii) the number of ballot-papers rejected as informal; and
- (b) forward to the Chief Australian Electoral Officer—
 - (i) the statement prepared for the purpose of paragraph (a); and
 - (ii) the sealed parcels made up for the purpose of paragraph 19 (1) (e).

(2) From the statements forwarded to him for the purpose of subsection (1), the Chief Australian Electoral Officer shall ascertain the total number of first preference votes for each proposal submitted to the electors at the referendum.

(3) If the first preference votes for one of the proposals submitted to the electors constitute an absolute majority of first preference votes cast in the referendum, the Chief Australian Electoral Officer shall make out and sign a statement setting out—

- (a) the number of first preference votes given for each proposal;
and
- (b) the number of ballot-papers rejected as informal.

(4) If, from the statements forwarded for the purpose of sub-section (1), it appears that none of the proposals submitted to the electors at the referendum has received an absolute majority of first preference votes, the Chief Australian Electoral Officer or a person appointed by him—

- (a) shall open the sealed parcels of ballot-papers forwarded to him for the purpose of sub-section (1);
- (b) shall make a fresh scrutiny of the ballot-papers contained in the parcels and, for the purpose of that scrutiny, shall have the same powers as if it were the original scrutiny, and may reverse any decision given by a Returning Officer or Assistant Returning Officer in relation to the original scrutiny;
- (c) from the result of the fresh scrutiny conducted by him, shall ascertain the total number of first preference votes given for each proposal and the number of informal ballot-papers;
- (d) if, following that fresh scrutiny, none of the proposals has received an absolute majority of first preference votes, the proposal that has received the fewest first preference votes shall be excluded, and each ballot-paper bearing a first preference vote for that proposal shall be counted to the proposal next in order of the voter's preference; and
- (e) shall make out and sign a statement setting out—
 - (i) the number of first preference votes given for each proposal;
 - (ii) the number of votes counted to each proposal after the taking of the action specified in paragraph (d); and
 - (iii) the number of ballot-papers rejected as informal.

(5) If, after the fresh scrutiny referred to in paragraph (4) (b) has been conducted, two proposals have an equal number of first preference votes, being a number of votes less than the number of first preference votes given for another proposal—

- (a) the person conducting the scrutiny shall, by means of the drawing of lots, select one of the two first-mentioned proposals for the purpose of this paragraph;
- (b) the proposal so selected shall, for the purpose of paragraph (4) (d), be taken to have received the fewest first preference votes; and

- (c) sub-section (4) shall have effect as if the proposal so selected had received the fewest first preference votes.

(6) For the purposes of this section, an absolute majority of votes is a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers.

(7) If a fresh scrutiny of the votes at the referendum is conducted in pursuance of sub-section (4), any scrutineer who was entitled to be present at the original scrutiny may be present at the fresh scrutiny.

(8) The Chief Australian Electoral Officer shall not appoint a person for the purpose of sub-section (4) unless the person is—

- (a) an Officer within the meaning of the *Australian Electoral Office Act 1973*; or
- (b) a member of the staff referred to in sub-section 15 (1) of that Act.

Chief
Australian
Electoral
Officer
to notify
Minister
of result

25. The Chief Australian Electoral Officer shall, before the expiration of the period of 28 days after the date of the referendum—

- (a) give to the Minister a copy of the statement prepared for the purpose of sub-section 24 (3) or 24 (4), as the case may be; and
- (b) cause a copy of that statement to be published in the *Gazette*.

PART VII—DISPUTED REFERENDUM

Interpretation

26. In this Part, a reference to the result of the referendum is a reference to the result of the referendum as notified in the *Gazette* in accordance with section 25.

Disputing
validity of
referendum
or of result

27. The validity or result of the referendum may be disputed by petition addressed to the Supreme Court.

Requisites
of petition

28. A petition disputing the validity of the referendum or the result of the referendum shall—

- (a) set out the facts relied upon to invalidate the referendum or the result of the referendum;
- (b) ask for the relief to which the petitioner claims to be entitled;
- (c) be signed by an elector; and
- (d) be filed in the Registry of the Supreme Court within 40 days after the date of the publication in the *Gazette* of the copy referred to in section 25.

29. Jurisdiction to hear and determine petitions under this Part is vested in the Supreme Court. Jurisdiction of Supreme Court

30. The Supreme Court may, on the application of the Commonwealth, order it to be joined as a party petitioning or responding as the case may be. Joinder of parties

31. (1) At the time of the filing of a petition, the petitioner shall deposit with the Registrar of the Supreme Court the sum of \$100 as security for costs. Procedure on petition

(2) Subject to this Ordinance, the procedure in relation to a petition disputing the referendum or the result of the referendum is as prescribed by Rules of Court or, if no procedure is so prescribed, as directed by the Supreme Court.

32. The Supreme Court shall inquire whether or not a petition under this Part is duly signed and, so far as Rolls and voting are concerned, may inquire into the identity of persons and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of any Roll. Inquiries by Supreme Court

33. (1) The referendum or the result of the referendum shall not be avoided on account of— Immaterial errors not to vitiate referendum

- (a) a delay by the Chief Australian Electoral Officer in complying with section 25; or
- (b) subject to sub-section (2), the absence or error of, or omission by, an officer that did not affect the result of the referendum.

(2) Where an elector was, on account of the absence or error of, or omission by, an officer, prevented from voting at the referendum, the Supreme Court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did, or did not, affect the result of the referendum, admit any evidence of the way in which the elector intended to vote in the referendum.

PART VIII—REFERENDUM OFFENCES

34. The provisions of this Part shall not be construed as limiting the application of the provisions of Part XVII of the Act that are applicable to the referendum. How this Part is to be construed

35. Where a direction has been notified in the *Gazette*, a person shall not, with a view to influencing the vote of an elector, supply to the elector before the completion of polling in the referendum— Supply of food, drink, &c.

- (a) food, drink or entertainment; or
- (b) any kind of transport.

Penalty: \$400 or imprisonment for 1 year.

Bribery

36. A person shall not give, confer or procure or promise or offer to give, confer or procure money or other property or benefit of any kind to, upon or for an elector or another person—

- (a) in order to influence the elector in his vote in the referendum;
- (b) in order to induce the elector to refrain from voting in the referendum; or
- (c) in order to induce the elector to support or oppose a proposal to be put at the referendum.

Penalty: \$400 or imprisonment for 1 year.

Receipt
of bribe by
elector

37. An elector shall not ask for, receive or obtain money or other property or benefit of any kind for himself or another person upon the understanding that—

- (a) his vote in the referendum will be influenced as a result or given in a particular manner;
- (b) he will refrain from voting in the referendum; or
- (c) he will support or oppose a proposal to be put at the referendum.

Penalty: \$400 or imprisonment for 1 year.

Undue
influence

38. A person shall not—

- (a) threaten an elector or another person with injury of any kind—
 - (i) in order to influence the elector in his vote in the referendum;
 - (ii) in order to induce the elector to refrain from voting in the referendum; or
 - (iii) in order to induce the elector to support or oppose a proposal to be put at the referendum; or
- (b) in any way injure an elector or another person for or on account of such a vote, refraining from voting, support or opposition.

Penalty: \$400 or imprisonment for 1 year.

Advertise-
ments, &c.,
relating to
referendum

39. (1) An advertisement, handbill or pamphlet that relates to the referendum and is intended or calculated to affect the result of the referendum shall have printed at the end of it the name and address of the person authorizing it.

(2) Such an advertisement (other than an advertisement in a newspaper), handbill or pamphlet, if printed, shall, in addition, have printed on it the name and place of business of the printer who printed it.

(3) A person shall not print or publish or authorize the printing or publication of an advertisement, handbill or pamphlet that does not meet the requirements of this section.

Penalty: \$200.

40. A person shall not—

- (a) print, publish or distribute an advertisement or other document containing a representation of a ballot-paper, or a representation apparently intended to represent a ballot-paper, and having on it directions intended or likely to mislead or improperly interfere with an elector in the casting of his vote at the referendum; or
- (b) print, publish or distribute an advertisement or other document containing an untrue or incorrect statement intended or likely to mislead or improperly interfere with an elector in the casting of his vote at the referendum.

Misleading
advertisements, &c.

Penalty: \$200.

41. (1) This section applies to a lawful public meeting held in relation to the referendum between the date of the direction for the holding of the referendum and the time of the closing of the poll for the referendum.

Misconduct
at public
meeting

(2) A person shall not, at a public meeting to which this section applies, act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held.

Penalty: \$10.

PART IX—MISCELLANEOUS

42. (1) Subject to sub-section (2), the ballot-papers, certified lists of voters and declarations used in connection with the referendum shall be preserved as required by Division 8 of Part III of the Electoral and Referendum Regulations in its application to and in relation to the referendum until the result of the referendum can be no longer questioned, when they shall be destroyed.

Preservation
of
ballot-papers,
&c.

(2) The ballot-papers, certified lists of voters and declarations used in connection with the referendum shall be preserved for a period of at least 6 months from the date of the publication in the *Gazette* of the copy referred to in section 25.

43. (1) The Minister may cause to be prepared a statement for the purpose of this sub-section setting out any matter relating to the nature or effect of any of the proposals to be submitted to the electors at the referendum.

Statement
regarding
proposal

(2) The Minister shall cause a copy of a statement prepared for the purpose of sub-section (1) to be published in the *Gazette*.

(3) Nothing in section 171 of the Act, in its application to the referendum, applies in relation to the exhibition, in any place (including a polling booth), of a copy of a statement prepared for the purpose of sub-section (1).

(4) Where a proposal to be submitted to the electors at the referendum refers to a statement or document, a Returning Officer shall include a copy of that statement or document with each postal ballot-paper that he posts or delivers to an elector.

Regulations

44. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters that are required or permitted by this Ordinance to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

SCHEDULE 1

Section 3

PART 1

PROVISIONS OF THE COMMONWEALTH ELECTORAL ACT APPLYING TO THE REFERENDUM

- Part XII (other than sub-section 89 (2)).
- Part XIII (other than sub-sections 98 (1) and (3), sections 104, 105, 105A, 105B, 106, 108, 112, 113, paragraph 117 (1) (c) and sections 123, 124 and 128).
- Part XVII (other than sections 156 to 162 [inclusive]).
- Section 194A.

PART II

Section 3

PROVISIONS OF THE ELECTORAL AND REFERENDUM REGULATIONS APPLYING TO THE REFERENDUM

- Part III (other than regulations 33, 35, 36, 42, 50 to 66 [inclusive], 68, 74 and 75, sub-regulation 78 (3), and regulations 86 to 91 [inclusive]).
- Regulation 98.

SCHEDULE 2

Section 15

FORM 1

AUSTRALIAN CAPITAL TERRITORY
Referendum (Self-government) Ordinance 1978
BALLOT-PAPER

SUBMISSION TO THE ELECTORS OF PROPOSALS RELATING TO THE
PEACE, ORDER AND GOOD GOVERNMENT OF THE
AUSTRALIAN CAPITAL TERRITORY

Directions: Mark your vote on this ballot-paper by placing the numbers “1, 2 and 3” in the squares respectively opposite the proposals so as to indicate the order of your preference for them.

The proposals —
(here set out the proposals to be put to the electors)

.....

☐

.....

☐

.....

☐

FORM 2

Section 15

AUSTRALIAN CAPITAL TERRITORY
Referendum (Self-government) Ordinance 1978
POSTAL BALLOT-PAPER

SUBMISSION TO THE ELECTORS OF PROPOSALS RELATING TO THE
PEACE, ORDER AND GOOD GOVERNMENT OF THE
AUSTRALIAN CAPITAL TERRITORY

- Directions:*
- (1) Do not mark your vote on this ballot-paper before you have exhibited it (unmarked) to an authorized witness referred to in section 91B of the *Commonwealth Electoral Act 1918* in its application to and in relation to a referendum.

SCHEDULE 2—continued

FORM 2—continued

- (2) Mark your vote on this ballot-paper by placing the numbers "1, 2 and 3" in the squares respectively opposite the proposals so as to indicate the order of your preference for them; fold the ballot-paper, enclose it in the envelope addressed to the Returning Officer and fasten the envelope.

The proposals—

(here set out the proposals to be put to the electors)

..... ☐

..... ☐

..... ☐