

REGULATIONS 1962. No. 1.*

Repeal.

1. Regulations 1961, No. 12 are repealed.

**Modifications
of the
Commonwealth
Electoral Act
in its
application
to Advisory
Council
Elections.**

2. Regulation 4A of the Advisory Council Election Regulations is amended—

(a) by omitting from paragraph (k) of sub-regulation (2.) the word “and”;

(b) by omitting paragraph (l) of sub-regulation (2.) and inserting in its stead the following paragraphs:—

* Made under the *Advisory Council Ordinance 1936-1961* on 12th February, 1962; notified in the *Commonwealth Gazette* and commenced on 22nd February, 1962.

- (l) a reference to a candidate in Part XVII. shall be read as including a reference to any person who, within three months before the day of an election, announces himself as a candidate for election as a member of the Council;
- (m) a reference to an elector shall be read as a reference to a person whose name appears on the Roll; and
- (n) a reference to an officer shall be read as including a reference to the Chief Electoral Officer and any Assistant Returning Officer, Registrar, Presiding Officer, Assistant Presiding Officer, Poll Clerk and Doorkeeper.”; and

(c) by adding at the end thereof the following sub-regulation:—

“ (3.) The Commonwealth Electoral Act in its application to an election is, to the extent to which it is inconsistent with these Regulations, modified and adapted accordingly.”.

3. After regulation 65 of the Advisory Council Election Regulations the following regulations are inserted:—

“ 66.—(1.) The list of the names and descriptions of the electors who did not vote at an election that is required to be prepared by the Returning Officer under the provisions of section 128A of the Commonwealth Electoral Act in its application to an election may be certified in accordance with Form 13. Compulsory voting.

“ (2.) The notice to be sent to each elector whose name appears on the list shall be in accordance with Form 14 and shall be posted within three months after the close of the election.

“ (3.) The form for the reply of the elector may be in accordance with Form 15.

“ 66A.—(1.) Where—

(a) a notice under sub-section (4.) of section 128A of the Commonwealth Electoral Act in its application to an election has, whether before or after the commencement of this regulation, been sent to an elector; and

(b) the elector states in his reply to the notice a reason for his failure to vote that, in the opinion of the Returning Officer, is not a valid and sufficient reason for that failure,

Electors to have option of being dealt with by Chief Electoral Officer or by a Court.

the Returning Officer shall notify the elector, in accordance with Form 16, of his opinion and inform the elector that the elector has the option of having the matter dealt with by the Chief Electoral Officer or by a Court of summary jurisdiction.

“ (2.) If an elector desires the matter to be dealt with by the Chief Electoral Officer and is prepared to abide by the decision of that officer, he shall notify the Returning Officer in accordance with Form 17 and shall deposit with the Returning Officer the sum of Ten shillings.

“(3.) Upon the receipt from an elector who has failed to vote of a notification in accordance with Form 17 and of the required deposit, the Returning Officer shall transmit the notification, together with the elector’s reply stating his reason for having failed to vote, to the Chief Electoral Officer.

“(4.) The Chief Electoral Officer shall consider all the facts and, if satisfied that the elector concerned has failed to vote at the election without a valid and sufficient reason for that failure, may make an order imposing upon the elector a fine of not less than Ten shillings or more than Two pounds, and notify the Returning Officer accordingly.

“(5.) Where the Chief Electoral Officer decides not to make an order imposing a fine on the elector he shall notify the Returning Officer accordingly.

“(6.) The Returning Officer shall—

- (a) if a fine is imposed—appropriate the deposit in payment or part payment of the fine and notify the elector of the fine and the appropriation of his deposit in payment or part payment of the fine; or
- (b) if a fine is not imposed—notify the elector accordingly and return his deposit.

Proceedings in
a Court.

“66B. Subject to the directions of the Chief Electoral Officer, the Returning Officer shall—

- (a) if he is satisfied that there has, whether before or after the commencement of this regulation, been a contravention by an elector of paragraph (a) of sub-section (12.) of section 128A of the Commonwealth Electoral Act in its application to an election and the elector has not within the time allowed consented to the matter being dealt with by the Chief Electoral Officer and deposited the sum of Ten shillings in accordance with sub-regulation (2.) of the last preceding regulation; or
- (b) if he is satisfied that there has, whether before or after the commencement of this regulation, been a contravention by an elector of paragraph (b) or (c) of sub-section (12.) of section 128A of the Commonwealth Electoral Act in its application to an election,

forthwith cause proceedings to be taken against the elector in a Court of summary jurisdiction.

Court to
consider
elector’s
reply.

“66C.—(1.) In any proceedings which are instituted in a Court of summary jurisdiction pursuant to paragraph (a) of the last preceding regulation, the Returning Officer shall bring to the notice of the Court the elector’s reply, if any, stating his reason for having failed to vote.

“(2.) The Court shall, at the hearing, whether the defendant is present or not, consider the contents of the reply as if it were given in evidence before the Court.

“(3.) A copy of this regulation and of the last preceding regulation shall be served with the summons.

“66D.—(1.) In any proceedings in a Court of summary jurisdiction against an elector for a contravention of paragraph (b) of sub-section (12.) of section 128A of the Commonwealth Electoral Act in its application to an election, there shall be served on the defendant a notice stating that the defendant may attend the Court and answer the charge in person or may, at any time not less than three days before the date fixed for the hearing, lodge with or send by post to the Returning Officer a statutory declaration setting out any matter that he desires to set out in answer to the charge and that any statutory declaration so lodged or posted will, unless the Returning Officer withdraws the charge, be sent to the Court for consideration of the matter set out in the declaration as if it were given in evidence before the Court, subject to any evidence in reply adduced by the Returning Officer.

Proceedings where elector has failed to reply.

“ (2.) Where a statutory declaration is received by the Returning Officer in pursuance of the last preceding sub-regulation, he shall, unless he withdraws the charge, bring the declaration to the notice of the Court.

“ (3.) The Court shall, at the hearing, whether the defendant is present or not, consider the statutory declaration as if the matter set out in the declaration were given in evidence before it.”.

4. Form 6 in the Schedule to the Advisory Council Election Regulations is amended— The Schedule—
Form 6.

(a) by omitting the words—

“ Signature of
Witness* }
(In his own handwriting.)”,

and inserting in their stead the words—

“ *Signature of
witness in
own handwriting.* } ”

(An elector whose name appears on the Roll for a State, for the Australian Capital Territory or for the Northern Territory of Australia.)”; and

(b) by omitting the words—

“* The witness must be an elector of the Territory or of the Commonwealth.”.

5. After Form 12 in the Schedule to the Advisory Council Election Regulations the following forms are added:— The Schedule—
Forms 13-17.

FORM 13.

Regulation 66 (1.).

AUSTRALIAN CAPITAL TERRITORY.
Advisory Council Ordinance 1936-1961.
Advisory Council Election Regulations.

LIST OF THE NAMES AND DESCRIPTIONS OF THE ELECTORS ENROLLED FOR THE AUSTRALIAN CAPITAL TERRITORY WHO DID NOT VOTE AT THE ELECTION OF MEMBERS OF THE ADVISORY COUNCIL FOR THE AUSTRALIAN CAPITAL TERRITORY HELD ON THE DAY OF . . . 19 . . .

ADVISORY COUNCIL ORDINANCE—

I, _____, of _____, Returning Officer for the Australian Capital Territory, do solemnly and sincerely declare that the names and descriptions on the attached print of the Roll for the Australian Capital Territory, other than the names and descriptions that appear opposite to the numbers in the first column of the print that are struck out, constitute the list of the names and descriptions of the electors enrolled for the said Territory who did not vote at the election of members of the Advisory Council for the Australian Capital Territory held on _____ the _____, 19____, and that the said list was prepared by me pursuant to sub-section (2.) of section 128A of the Commonwealth Electoral Act in its application to the election of members of the Council.

And I make this solemn declaration by virtue of the *Statutory Declarations Act 1959*, and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

Returning Officer for the Australian Capital Territory.

Declared at _____, the _____ day of _____, 19____.

Before me,

(a)
(b)

(a) Signature of person before whom the declaration is made.

(b) Here insert title of person before whom the declaration is made.

FORM 14.

Regulation 62 (2.).

AUSTRALIAN CAPITAL TERRITORY.

Advisory Council Ordinance 1936-1961.

Advisory Council Election Regulations.

No. on roll.

NOTIFICATION TO ELECTOR WHO APPEARS TO HAVE FAILED TO VOTE.

To the elector whose name and address appear on the back hereof.

You are notified that you appear to have failed to vote at the election of members of the Advisory Council for the Australian Capital Territory held on _____ the _____, and you are hereby called upon, in pursuance of section 128A of the Commonwealth Electoral Act in its application to the election of members of the Council, to give a valid, truthful and sufficient reason why you have failed so to vote.

You are required to—

- (a) state in the form at the foot of this notice the true reason why you failed so to vote;
- (b) complete and sign the form in the presence of a witness;
- (c) fold the form so that the address "Returning Officer for the Australian Capital Territory" shall be visible and post it so as to reach me on or before the*

Returning Officer for the Australian Capital Territory.

(Address.)

Date _____, 19____.

* Not being less than twenty-one days after the posting of this notice.

FORM 15.

Regulation 66 (3.).

FORM OF DECLARATION TO BE COMPLETED AND RETURNED TO THE RETURNING OFFICER.

I, _____, do hereby declare that the following is the true reason why I _____ failed to vote at the election of members of the Advisory Council for the Australian Capital Territory held on _____, the _____ day of _____, 19____.

(Signature of elector.)

I, the undersigned, being an elector whose name appears on the Roll for a State, for the Australian Capital Territory or for the Northern Territory of Australia, certify that I have seen the above-named elector sign the above declaration.

(Signature of witness in own handwriting.)

(Occupation.)

(Address.)

Date , 19 .

* Here set out the precise and true reason for having failed to vote.

FORM 16.

Regulation 66A (1.).

COMMONWEALTH OF AUSTRALIA.

Advisory Council Election Regulations.

No. on roll.

NOTIFICATION TO ELECTOR WHOSE REASON FOR FAILING TO VOTE IS HELD NOT TO BE VALID AND SUFFICIENT.

To—

You are hereby notified—

- (1) that the reason given by you in your declaration dated the , 19 , is not, in my opinion, a valid and sufficient reason for your failure to vote at the election of members of the Advisory Council for the Australian Capital Territory held on the ; and
- (2) that you have the option of having the matter dealt with by the Chief Electoral Officer (thus avoiding costs of Court) or by a Court of summary jurisdiction.

If you desire to have the matter dealt with by the Chief Electoral Officer, you should fill in and sign, in the presence of a witness, the form of consent at the foot hereof and send or deliver it to me so as to reach me not later than the

, together with the sum of Ten shillings to be appropriated in payment or part payment of the fine, if any, that the Chief Electoral Officer may impose upon you.

In the event of the form and deposit not reaching me on or before the date set out in the preceding paragraph, it will be taken that you desire to have the matter dealt with by a Court of summary jurisdiction.

Returning Officer for the Australian Capital Territory.

(Address.)

Date , 19 .

FORM 17.

Regulation 66A (2.).

FORM OF CONSENT TO BE USED BY AN ELECTOR WHO DESIRES TO HAVE HIS CASE DEALT WITH BY THE CHIEF ELECTORAL OFFICER.

To the Returning Officer for the Australian Capital Territory.

I, , of , enrolled as an elector on the roll for the Australian Capital Territory, having failed to vote at the election of members of the Advisory Council for the Australian Capital Territory held on , the day of , 19 , and having been notified by you that the reason given by me for such failure to vote is not, in your opinion, a valid and sufficient reason for such failure, do hereby notify you that I consent to have the matter dealt with by the Chief Electoral Officer and to abide by his decision.

ADVISORY COUNCIL ORDINANCE—

I enclose herewith the sum of Ten shillings and I agree that the said sum may be appropriated in payment or part payment of any fine (not exceeding Two pounds) that the Chief Electoral Officer may impose upon me.

(Signature of elector.)

I, the undersigned, being an elector whose name appears on the Roll for a State, for the Australian Capital Territory or for the Northern Territory of Australia, certify that I have seen the above-named elector sign the above form.

(Signature of witness in own handwriting.)

(Occupation.)

(Address.)

Date

, 19 .

