



# Referendums Act 1997

Reprinted as in force on 11 August 2006

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This Act is reprinted as at 11 August 2006. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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## Queensland

# Referendums Act 1997

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	7
2	Dictionary . . . . .	7
3	Function of the commission . . . . .	7
<b>Part 2</b>	<b>Writ for a referendum</b>	
4	Writ for a referendum . . . . .	8
5	Writ by Governor . . . . .	8
6	Form and content of writs . . . . .	8
7	Attachment to writ . . . . .	9
8	Commission to publish writ and prepare for referendum . . . . .	9
9	Governor's powers for referendum . . . . .	10
<b>Part 3</b>	<b>Statements of arguments</b>	
10	Purpose of part . . . . .	10
11	When must an argument in favour of or against the Bill or question be published . . . . .	11
12	How an argument for or against the Bill or question is distributed or published . . . . .	12
13	More than 1 referendum on the same day . . . . .	12
14	Limitation on expenditure by State . . . . .	13
<b>Part 4</b>	<b>Voting and conduct of referendums</b>	
<b>Division 1</b>	<b>Arrangements for referendums</b>	
15	Setting up and operating polling booths . . . . .	13
16	Kinds of polling booths . . . . .	14
17	Adjournment of poll at polling booth . . . . .	16
18	Supply of ballot papers and electoral rolls . . . . .	16
19	Scrutineers . . . . .	17
20	Correction of errors . . . . .	18

---

<b>Division 2</b>	<b>Who may vote at a referendum</b>	
21	Who may vote. . . . .	18
<b>Division 3</b>	<b>How voting takes place at a referendum</b>	
<b>Subdivision 1</b>	<b>Ordinary voting</b>	
22	Procedure for voting. . . . .	20
23	Help to enable electors to vote at polling booths . . . . .	21
24	Help to enable electors to vote at hospitals . . . . .	22
<b>Subdivision 2</b>	<b>Declaration voting</b>	
25	Who may make a declaration vote . . . . .	23
26	Who must make a declaration vote . . . . .	24
27	Ways in which an elector may make a declaration vote . . . . .	25
28	Making a declaration vote at a polling booth . . . . .	25
29	Making a declaration vote at a commission office . . . . .	26
30	Making a declaration vote using posted referendum papers . . . . .	28
31	Electoral visitor voting. . . . .	29
32	Making a declaration vote in cases of uncertain identity . . . . .	30
<b>Subdivision 3</b>	<b>Marking of ballot papers</b>	
33	How electors must vote . . . . .	31
34	Formal and informal ballot papers . . . . .	32
<b>Division 4</b>	<b>Counting of votes</b>	
35	Votes to be counted in accordance with division . . . . .	33
36	Preliminary processing of declaration envelopes and ballot papers . . . . .	33
37	Preliminary and official counting of votes . . . . .	34
38	Preliminary counting of ordinary votes . . . . .	35
39	Official counting of votes . . . . .	36
40	Objections by scrutineers . . . . .	37
41	Recounting of votes . . . . .	37
<b>Division 5</b>	<b>Notifying the results of a referendum</b>	
42	Notifying the results of a referendum . . . . .	38
43	Return of writ for referendum . . . . .	38
44	Notice of failure to vote . . . . .	39
45	Payments for failure to vote . . . . .	40
46	Storage of ballot papers and declaration envelopes . . . . .	41
<b>Part 5</b>	<b>Disputed returns</b>	
<b>Division 1</b>	<b>Disputing referendums</b>	
47	Referendum may be disputed under this part . . . . .	41

---

48	Who may dispute the referendum . . . . .	41
49	Requirements for an application to be effective . . . . .	42
50	Copies of application to be given to clerk of the Parliament and commission . . . . .	42
51	Application to court for order relating to documents etc. . . . .	43
52	Parties to application . . . . .	43
53	How application is to be dealt with by court . . . . .	43
54	Application for dismissal of application disputing referendum . . .	44
55	Powers of the court. . . . .	44
56	Restrictions on certain orders . . . . .	45
57	Restriction on certain evidence and inquiries. . . . .	45
58	Referendum not to be disputed because of minor defects or errors . . . . .	46
59	Copy of final court orders to be sent to clerk of Parliament . . . . .	46
60	Costs . . . . .	46
61	Decisions and orders to be final etc. . . . .	47
62	Right of commission to have access to documents . . . . .	47
<b>Division 2</b>	<b>Appeals</b>	
62A	Appeal to Court of Appeal on question of law . . . . .	47
62B	Time for appealing . . . . .	47
62C	Commission is a party to appeal . . . . .	47
62D	How appeal is dealt with by Court of Appeal . . . . .	47
62E	Application for dismissal of appeal . . . . .	48
62F	Copy of final court orders to be sent to Clerk of Parliament. . . . .	48
62G	Right of commission to have access to documents . . . . .	48
<b>Part 6</b>	<b>Enforcement</b>	
<b>Division 1</b>	<b>Offences in general</b>	
63	Attempts taken to be offences . . . . .	49
68	Improperly influencing commission . . . . .	49
69	Interfering with referendum right or duty. . . . .	49
71	Wilful neglect etc. by commission staff. . . . .	49
<b>Division 2</b>	<b>Offences relating to referendum advertising</b>	
72	Author of referendum matter must be named. . . . .	50
73	Headline to general referendum matter advertisements . . . . .	50
74	Misleading electors. . . . .	51
<b>Division 3</b>	<b>Offences relating to voting etc.</b>	
75	Failure to vote etc. . . . .	51

---

76	Leave to vote . . . . .	53
77	Canvassing etc. in or near polling places . . . . .	53
78	Interrupting voting etc. . . . .	54
80	Displaying referendum statements in certain places . . . . .	55
82	Offences relating to ballot papers . . . . .	55
83	Failure to post, fax or deliver documents for someone else . . . . .	56
84	Secrecy of voting . . . . .	56
85	Breaking seals on parcels . . . . .	57
86	Duty of witness to signing of declaration voting papers . . . . .	57
<b>Division 4</b>	<b>Injunctions</b>	
87	Injunctions . . . . .	57
<b>Part 7</b>	<b>Referendum held in conjunction with election under Electoral Act 1992</b>	
88	Extension of time . . . . .	59
89	Cut-off date for electoral rolls for an election and a referendum. . . . .	60
90	Pre-poll voting—making a declaration vote at a commission office . . . . .	60
91	Use of ballot boxes, polling booths and electoral rolls . . . . .	60
92	Mobile polling booths . . . . .	61
93	Opening of ballot boxes . . . . .	61
94	Applications, declarations, ballot papers and references . . . . .	61
95	Record of ordinary voters . . . . .	62
96	Adjournment at both referendum and election . . . . .	62
<b>Part 7A</b>	<b>Returns by broadcasters and publishers</b>	
96A	Returns by broadcasters . . . . .	62
96B	Returns by publishers. . . . .	64
96C	Combined returns. . . . .	65
96D	Inspection and supply of copies of returns. . . . .	65
<b>Part 8</b>	<b>Miscellaneous</b>	
97	How things are to be given to commission. . . . .	66
98	How things are to be signed. . . . .	66
99	Advertising of office addresses etc. . . . .	66
100	Regulation-making power. . . . .	66
101	Transitional provision—petition disputing referendum . . . . .	67
<b>Schedule 1</b>	<b>Referendum forms</b> . . . . .	68
<b>Schedule 3</b>	<b>Dictionary</b> . . . . .	75

**Endnotes**

1	Index to endnotes . . . . .	79
2	Date to which amendments incorporated . . . . .	79
3	Key . . . . .	79
4	Table of reprints . . . . .	80
5	List of legislation . . . . .	80
6	List of annotations . . . . .	81



# Referendums Act 1997

[as amended by all amendments that commenced on or before 11 August 2006]

**An Act to provide for the conduct of a referendum, and for other purposes**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Referendums Act 1997*.

### 2 Dictionary

The dictionary in schedule 3 defines particular words used in this Act.

### 3 Function of the commission

The commission has the continuing function of making appropriate administrative arrangements for the conduct of referendums.<sup>1</sup>

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<sup>1</sup> *Electoral Act 1992*, section 8(1)(h) provides for further functions to be conferred on the commission by another Act.

## **Part 2                      Writ for a referendum**

### **4            Writ for a referendum**

- (1) The commission must conduct a referendum if the Governor issues a writ for a referendum to the commission under section 5.<sup>2</sup>
- (2) The commission must conduct the referendum in accordance with the writ and this Act.

### **5            Writ by Governor**

The Governor may issue a writ for a referendum if—

- (a) a Bill is to be submitted to the electors; or
- (b) the Legislative Assembly has resolved that a question be submitted to the electors.

### **6            Form and content of writs**

- (1) A writ must be issued—
  - (a) for a referendum to submit a Bill to the electors—in form 1; or
  - (b) for a referendum to submit a question to the electors—in form 2.
- (2) A writ must state the following—
  - (a) the day of its issue;
  - (b) the cut-off day for electoral rolls for the referendum, which must be not less than 5 days, or more than 7 days, after its issue;
  - (c) the polling day for the referendum, which must be a Saturday not less than 26 days, or more than 70 days, after its issue;
  - (d) the return day for the writ, which must be not more than 91 days after its issue.

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2      Section 5 (Writ by Governor)

- (3) For deciding the cut-off day, polling day or return day, that day and the day of issue of the writ are both to be included in any number of days specified in subsection (2)(b) to (d).
- (4) Subsection (3) applies despite the *Acts Interpretation Act 1954*, section 38.
- (5) Subsection (2)(c) applies subject to another Act<sup>3</sup> that has specific provision for the time for taking a poll for a particular referendum.

## **7 Attachment to writ**

There must be attached to the writ—

- (a) for a referendum to submit a Bill to the electors—a copy of the Bill; or
- (b) for a referendum to submit a question to the electors—a statement of the question.

## **8 Commission to publish writ and prepare for referendum**

On receiving a writ, the commission must—

- (a) publish a copy of the writ in the gazette; and
- (b) advertise the days stated in the writ in other ways the commissioner considers appropriate; and
- (c) give a copy of the writ and the attached Bill or statement of the question to the returning officer of each electoral district; and
- (d) make available for inspection by anyone, without fee, a copy of the writ and the text of the attached Bill or question at offices of the commission and anywhere else the commission considers appropriate; and
- (e) make appropriate arrangements for the conduct of the referendum.

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<sup>3</sup> See, for example, the *Constitution Act 1867*, section 53 and the *Constitution Act Amendment Act 1934*, section 3.

## 9 Governor's powers for referendum

- (1) The Governor may by gazette notice—
- (a) substitute a later day for a day stated under section 6(2) in the writ for a referendum, either generally or for a stated electoral district; or
  - (b) provide for anything to be done to overcome any difficulty that might otherwise affect the referendum.

*Example of subsection (1)(a)—*

If a writ for a referendum has issued and a writ for an election subsequently issues, the dates mentioned in section 6(2) may be extended to enable the polling day for the referendum and for the election to coincide.

- (2) A gazette notice substituting a cut-off day for electoral rolls or return day for the writ may be published before, on or after the cut-off day or return day stated in the writ.
- (3) A gazette notice substituting a polling day for a referendum—
  - (a) must be published before the polling day stated in the writ; and
  - (b) must not substitute a day for the polling day that is more than 21 days after the polling day stated in the writ.

## Part 3 Statements of arguments

### 10 Purpose of part

This part provides mainly for the way arguments in favour of or against a Bill or question that is to be submitted to electors at a referendum (the *Bill* or *question*) are authorised by members and distributed or published by the commission.

**11 When must an argument in favour of or against the Bill or question be published**

- (1) An argument in favour of or against the Bill must be distributed or published by the commission under section 12<sup>4</sup> if the argument is—
  - (a) not more than 1000 words; and
  - (b) authorised by—
    - (i) for an argument in favour of the Bill—a majority of the members who voted for the Bill and wish to forward the argument to the commission; or
    - (ii) for an argument against the Bill—a majority of the members who voted against the Bill and wish to forward the argument to the commission; and
  - (c) forwarded to the commission by members within 4 weeks after the passage of the Bill.
- (2) An argument in favour of or against the question must be distributed or published by the commission under section 12 if the Legislative Assembly resolves that the question be submitted to the electors and the argument is—
  - (a) not more than 1000 words; and
  - (b) authorised by—
    - (i) for an argument in favour of a ‘yes’ answer to the question—a majority of the members who voted in favour of the ‘yes’ answer and wish to forward the argument to the commission; or
    - (ii) for an argument in favour of a ‘no’ answer to the question—a majority of the members who voted against the ‘yes’ answer and wish to forward the argument to the commission.
  - (c) forwarded to the commission by members within 4 weeks after the Assembly’s resolution.

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4 Section 12 (How an argument for or against the Bill or question is distributed or published)

**12 How an argument for or against the Bill or question is distributed or published**

- (1) If—
  - (a) an argument is forwarded to the commission under section 11;<sup>5</sup> and
  - (b) a majority of the members who authorised the argument ask the commission to post the argument to each elector;the commission must, not later than 14 days before the polling day for the referendum, print and post to each elector a pamphlet containing the argument and, if another argument was forwarded to the commission under section 11, the other argument.
- (2) If a request is not made under subsection (1), the commission must publish any argument forwarded to it under section 11 at least twice before the polling day for the referendum in at least 2 newspapers circulating throughout the State, including on the day before the polling day.
- (3) If more than 1 argument is required to be published under subsection (2), the arguments must be published in the same newspapers at the same time.
- (4) If more than 1 argument is published in the same pamphlet or newspaper, the format and printing style used must not unfairly favour 1 argument.

**13 More than 1 referendum on the same day**

- (1) This section applies if more than 1 referendum is to be held on the same day.
- (2) All arguments required to be published under section 12(1) or (2) in a pamphlet or newspapers must be published in the same pamphlet or newspapers at the same time.
- (3) An argument in favour of a particular Bill or question may be more than 1000 words if the average number of words for all arguments in favour of the Bills and questions is not more than 1000.

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<sup>5</sup> Section 11 (When must an argument in favour of or against the Bill or question be published)

- (4) An argument against a particular Bill or question may be more than 1000 words if the average number of words for all arguments against the Bills and questions is not more than 1000.
- (5) Subsections (3) and (4) have effect despite section 11(1)(a) or section 11(2)(a).

#### **14 Limitation on expenditure by State**

The State must not spend money on the presentation of arguments about Bills or questions that are to be submitted to electors at a referendum other than—

- (a) to prepare and publish a newspaper notice under section 12(2); and
- (b) to prepare, print and distribute pamphlets under section 12(1), or prepare, print and distribute the pamphlets in languages other than English; and
- (c) to enable the commission to provide other publications or information about the Bill or question; and
- (d) to provide for the salaries and allowances of members and their staff and of officers of the public service.

## **Part 4 Voting and conduct of referendums**

### **Division 1 Arrangements for referendums**

#### **15 Setting up and operating polling booths**

- (1) The commission must ensure that appropriate polling booths are established for electoral districts for referendums.
- (2) In deciding the number, kind and location of polling booths, the commission must take into account, in addition to any other relevant matters, the desirability of the booths being—

- (a) the same as polling booths for the *Electoral Act 1992*; and
  - (b) accessible to electors with disabilities.
- (3) The commission must ensure that each polling booth is provided with an adequate number of voting compartments and ballot papers.
- (4) The commission must for each referendum advertise the location and hours of opening of all polling booths in the ways the commission considers appropriate.
- (5) The commission must not—
- (a) establish a polling booth on the polling day for a referendum; or
  - (b) abolish a previously established ordinary polling booth during the period starting when the writ for a referendum is issued and ending on the polling day, unless it is necessary to do so for circumstances beyond the commission's control.
- (6) The commission must advertise the establishment and abolition of ordinary polling booths in—
- (a) the gazette; and
  - (b) the other ways the commission considers appropriate.
- (7) The commission must ensure that—
- (a) electors are allowed to enter ordinary polling booths between 8a.m. and 6p.m. on the polling day and to stay until they have voted; and
  - (b) electors mentioned in section 16(4) and (6) are allowed to enter mobile polling booths, at times decided in writing by the commission, during the period referred to in the subsections and to stay until they have voted.

## **16 Kinds of polling booths**

- (1) There are 2 kinds of polling booths—
- (a) ordinary polling booths; and
  - (b) mobile polling booths.

*Referendums Act 1997*

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- (2) An ordinary polling booth is a building or other structure, or a part of a building or other structure, that the commission arranges to be available on the polling day for a referendum to enable electors in general to vote.
- (3) A mobile polling booth is—
  - (a) an institution declared under subsection (4) to be a mobile polling booth; or
  - (b) the whole or part of a building, structure, vehicle or place made available as a mobile polling booth under subsection (6).
- (4) If the commission considers that patients, residents or inmates of an institution should be able to vote at the institution at times (decided by the commission) during the period starting 11 days before the polling day and ending at 6p.m. on the polling day, the commission may, by gazette notice, declare the institution to be a mobile polling booth for the referendum.
- (5) If the commission declares the institution to be a mobile polling booth, the person in charge of the institution must allow access by members of the commission's staff, and by patients, residents or inmates of the institution, to enable voting to take place at the referendum.
- (6) If the commission considers that an area is too remote to have enough electors to justify an ordinary polling booth, the commission may arrange for the whole or part of a building, structure, vehicle or place to be available as a mobile polling booth, at times (decided by the commission) during the period starting 11 days before the polling day and ending at 6p.m. on the polling day, for electors in the area to vote at the referendum.
- (7) The commission, a returning officer or an issuing officer may change the arrangements made under subsection (6) at any time.
- (8) If the arrangements are changed, the commission, returning officer or issuing officer must take the steps that are practical and appropriate to give public notice of the changed arrangements.

- (9) The result of the referendum is not invalidated only because an issuing officer failed to visit a mobile polling booth as arranged.

## **17 Adjournment of poll at polling booth**

- (1) A returning officer may adjourn the poll at a polling booth if the taking of the poll is, or is likely to be, interrupted or obstructed by—
- (a) storm, tempest, flood, fire or a similar happening; or
  - (b) riot or open violence.
- (2) If the poll is adjourned, the commission may fix a day (not later than 34 days after the polling day) for the taking of the adjourned poll.
- (3) The commission must give notice of the day fixed for the taking of the adjourned poll in—
- (a) the gazette; and
  - (b) the other ways the commission considers appropriate.
- (4) If an adjourned poll is held, only electors who are enrolled in the electoral district for which the polling booth is established and who have not already voted, are entitled to vote.
- (5) If a poll is adjourned under subsection (1) and the commission is satisfied that the number of votes likely to be cast at the polling booth will not affect the overall referendum result, the commission may abandon the poll at the polling booth.
- (6) The adjourned poll is taken to have been held on the polling day.

## **18 Supply of ballot papers and electoral rolls**

- (1) The commission must ensure that a sufficient number of ballot papers, and certified copies of the electoral rolls for each electoral district (as at the cut-off day for electoral rolls for a referendum), are available for the referendum at polling places.
- (2) Ballot papers must—

*Referendums Act 1997*

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- (a) be in form 3 for a referendum to submit a Bill to the electors or form 4 for a referendum to submit a question to the electors; and
  - (b) be of a material and opacity that, when folded, effectively conceals the way the elector voted; and
  - (c) be attached to a butt that—
    - (i) is not part of the ballot paper; and
    - (ii) is perforated in a way that allows the ballot paper to be easily detached from it; and
    - (iii) is numbered in a regular arithmetical sequence starting at 1; and
  - (d) contain a square opposite the words ‘YES’ and ‘NO’.
- (3) If 2 or more referendums are held on the same day, the ballot papers for each referendum must be printed on 1 piece of paper and must be in form 5.

**19 Scrutineers**

- (1) Each member may, by notice given to a member of the commission’s staff, appoint adults as scrutineers for a referendum.
- (2) Scrutineers are entitled to be present in each ordinary polling booth, each mobile polling booth, and each office staffed by an issuing officer, at times when electors are allowed to vote at the place.
- (3) Scrutineers are also entitled to be present—
  - (a) beforehand at polling places—
    - (i) to inspect ballot boxes; and
    - (ii) to examine declaration envelopes received before 6p.m. the day before the polling day; and
  - (b) afterwards at polling places and elsewhere to observe the examination of declaration envelopes and the counting of votes.

- (4) At a polling place during times when electors are allowed to vote and beforehand, each member is entitled to have 1 scrutineer present for each issuing officer at the place.
- (5) At the examination of declaration envelopes and the counting of votes, each member is entitled to have 1 scrutineer present for each member of the commission's staff at the place.
- (6) A scrutineer may—
  - (a) object to the entitlement of a person to vote at the referendum; or
  - (b) do anything else permitted by this Act.
- (7) Issuing officers at a polling place must, before voting starts, allow scrutineers to inspect the ballot boxes that are to be used for voting at the place.
- (8) Each scrutineer must carry adequate identification to show that the person is a scrutineer.
- (9) Each member is taken to be a scrutineer under this Act.

## **20 Correction of errors**

- (1) If there is a delay, error or omission in or in relation to the preparation, issue or return of any writ, it may be corrected by gazette notice by the Governor stating what is to be done.
- (2) If there is a delay, error or omission in or in relation to the preparation, issue, sending or return of any electoral roll, ballot paper or other document (apart from a writ), it may be corrected by a gazette notice by the commission stating what is to be done.

## **Division 2 Who may vote at a referendum**

### **21 Who may vote**

- (1) The following persons are the only persons who are entitled to vote at a referendum—
  - (a) persons enrolled on the electoral roll for an electoral district;

*Referendums Act 1997*

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- (b) persons who are not enrolled, but are entitled to be enrolled on the electoral roll for an electoral district because of the *Electoral Act 1992*, section 64(1)(a)(ii);
  - (c) persons whose names are not on the electoral roll for an electoral district because of official error.
- (2) A person is not entitled to vote more than once at a referendum.
- (3) Also, a person who is serving a sentence of imprisonment is not entitled to vote at a referendum.
- (4) For subsection (3), a person is serving a sentence of imprisonment only if—
  - (a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and
  - (b) the detention is attributable to the sentence of imprisonment concerned.
- (5) To enable the commission to decide the persons who are not entitled to vote because of subsection (3), the commission may ask the chief executive (corrective services) to give the commission information about persons who are serving sentences of imprisonment for offences against the law of the Commonwealth or of a State or Territory.
- (6) The chief executive (corrective services) must give the commission the information as soon as practicable after receiving the request.
- (7) Subsection (6) has effect despite the provisions of any other Act that would otherwise permit or require the chief executive (corrective services) to refuse the commission's request.

## **Division 3                    How voting takes place at a referendum**

### **Subdivision 1            Ordinary voting**

#### **22            Procedure for voting**

- (1) An elector (other than one who makes or must make a declaration vote under subdivision 2) is to vote by following the procedures stated in this section.
- (2) The elector is to enter—
  - (a) if the vote is to be taken at an ordinary polling booth—an ordinary polling booth established for the electoral district for which the elector is enrolled during ordinary voting hours; or
  - (b) if the vote is to be taken at a mobile polling booth declared for an institution or arranged for an area—the mobile polling booth during the times decided by the commission under section 15(7)(b).
- (3) In the polling booth, the elector is to request a ballot paper from an issuing officer.
- (4) If the elector has a ballot paper and declaration envelope for the referendum given to the elector under section 30<sup>6</sup> and does not intend to make a declaration vote under subdivision 2, the elector must give the ballot paper and declaration envelope to the issuing officer.
- (5) The issuing officer must issue a ballot paper to a person who asks for a ballot paper only if the issuing officer is satisfied that the person is enrolled in the electoral district.
- (6) The issuing officer may question a person requesting a ballot paper to decide whether the person is enrolled in the electoral district.
- (7) If, after asking questions under subsection (6), the issuing officer suspects that a person claiming to be a particular

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6            Section 30 (Making a declaration vote using posted referendum papers)

elector is not the elector, the issuing officer must comply with section 32.<sup>7</sup>

- (8) The issuing officer must keep a record of all persons to whom the officer issues ballot papers under this section.
- (9) The issuing officer must, if a scrutineer requests it, keep a record of an objection by the scrutineer to the entitlement of a person to vote.
- (10) On being given the ballot paper, the elector must, without delay—
  - (a) go alone to an unoccupied voting compartment in the polling booth; and
  - (b) there, in private, mark a vote on the ballot paper in accordance with section 33;<sup>8</sup> and
  - (c) fold the ballot paper to conceal the vote and put it in a ballot box in the polling booth; and
  - (d) leave the polling booth.

## **23 Help to enable electors to vote at polling booths**

- (1) If an elector satisfies an issuing officer that the elector is unable to vote without help, the elector may be accompanied in the polling booth by another person chosen by the elector.
- (2) The other person may help the elector, but only in the following ways—
  - (a) by acting as an interpreter;
  - (b) by explaining the ballot paper and the requirements of section 33 relating to its marking;
  - (c) by marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) by folding the ballot paper and putting it in the ballot box.

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7 Section 32 (Making a declaration vote in cases of uncertain identity)

8 Section 33 (How electors must vote)

*Referendums Act 1997*

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- (3) If an elector (including an elector who makes or must make a declaration vote)—
- (a) is unable to enter a polling booth because of illness, disability or advanced pregnancy; and
  - (b) is able to come to a place (the *voting place*) close to the polling booth;
- the issuing officer may perform the issuing officer's functions and the elector may vote at the voting place as if it were the polling booth.
- (4) However, the issuing officer must—
- (a) before taking any action under subsection (3), inform any scrutineers present of the proposed action; and
  - (b) allow only 1 scrutineer for each member to be present at the voting place; and
  - (c) ensure that, after the ballot paper is marked, it is—
    - (i) folded to conceal the vote; and
    - (ii) put into an envelope and sealed; and
  - (d) if the elector has made an ordinary vote—open the envelope inside the polling booth in the presence of any scrutineers and put the folded ballot paper in a ballot box.

**24 Help to enable electors to vote at hospitals**

- (1) If a polling booth is a hospital or part of a hospital, an issuing officer may visit patients in the hospital or the part of the hospital to enable them to vote.
- (2) When visiting a patient, the issuing officer must—
- (a) take to the patient—
    - (i) a ballot paper or a ballot paper and declaration envelope; and
    - (ii) a ballot box; and
    - (iii) anything else necessary to enable the patient to vote; and

- (b) if a scrutineer wishes—be accompanied by the scrutineer.
- (3) The issuing officer must ensure that, so far as reasonably practicable, section 22<sup>9</sup> is complied with when the patient votes.

## **Subdivision 2 Declaration voting**

### **25 Who may make a declaration vote**

- (1) The following electors may make a declaration vote—
  - (a) an elector who is an ordinary postal voter, under subsection (2);
  - (b) an elector who is a special postal voter;<sup>10</sup>
  - (c) an elector who is an electoral visitor voter under subsection (4).<sup>11</sup>
- (2) The following electors are ordinary postal voters for this Act—
  - (a) an elector who will not, throughout ordinary voting hours on the polling day for the referendum, be within 8km, by the nearest practicable route, of a polling booth;
  - (b) an elector who will, throughout ordinary voting hours on the polling day for the referendum, be working or travelling under conditions that prevent voting at a polling booth;
  - (c) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
  - (d) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth;

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9 Section 22 (Procedure for voting)

10 See subsection (3) and the *Electoral Act 1992*, section 105.

11 See subsection (4) and the *Electoral Act 1992*, section 105.

*Referendums Act 1997*

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- (e) an elector who will, because of membership of a religious order or because of religious beliefs, be prevented from voting at a polling booth for all, or the majority, of ordinary voting hours on the polling day for the referendum;
  - (f) an elector who a doctor has certified, in writing, is so physically incapacitated as to be incapable of signing the elector's name.
- (3) An elector is a special postal voter for this Act if the elector would be a special postal voter for an election under the *Electoral Act 1992*.
- (4) The following electors are electoral visitor voters for this Act—
- (a) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
  - (b) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth.

**26 Who must make a declaration vote**

The following electors must make a declaration vote—

- (a) an elector who wishes to vote by going on the polling day for the referendum to a polling booth that has not been established for the electoral district for which the elector is enrolled;
- (b) an elector who wishes to vote at a polling booth described in section 16(4) or (6) that is outside the electoral district for which the elector is enrolled;
- (c) an elector whose name is not on the electoral roll for an electoral district because of an official error;
- (d) an elector to whom section 21(1)(b) applies;
- (e) an elector who appears from a record made in error to have already voted in the referendum for any electoral district;

- (f) an elector who is given a ballot paper and declaration envelope under section 32.<sup>12</sup>

## **27 Ways in which an elector may make a declaration vote**

- (1) An elector who may or must make a declaration vote must do so by—
- (a) if the elector is unable to enter a polling booth because of illness, disability or advanced pregnancy—going to a place close to a polling booth and voting under section 23(3); or
  - (b) going during voting hours to a polling booth in an electoral district and following the procedures stated in section 28;<sup>13</sup> or
  - (c) going to an office staffed by an issuing officer before the polling day for the referendum and following the procedures stated in section 29;<sup>14</sup> or
  - (d) if the person is a postal voter—using the ballot paper and declaration envelope that have been posted to the elector under section 30 and following the procedures stated in section 30;<sup>15</sup> or
  - (e) if the person is an electoral visitor voter—voting before an electoral visitor following the procedures stated in section 31.<sup>16</sup>
- (2) This section is subject to section 32.<sup>17</sup>

## **28 Making a declaration vote at a polling booth**

- (1) An elector who may or must make a declaration vote may enter a polling booth during voting hours in an electoral

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12 Section 32 (Making a declaration vote in cases of uncertain identity)

13 Section 28 (Making a declaration vote at a polling booth)

14 Section 29 (Making a declaration vote at a commission office)

15 Section 30 (Making a declaration vote using posted referendum papers)

16 Section 31 (Electoral visitor voting)

17 Section 32 (Making a declaration vote in cases of uncertain identity)

district and ask for a ballot paper and declaration envelope from an issuing officer.

- (2) The issuing officer must comply with the request, unless the issuing officer is satisfied that the elector is enrolled for the electoral district for which the polling booth is established.
- (3) The issuing officer must keep a record of all persons to whom the officer gives a ballot paper and declaration envelope under this section.
- (4) The issuing officer must, if a scrutineer requests it, record on the declaration envelope an objection by the scrutineer to the right of the person to vote.
- (5) On being given the ballot paper and declaration envelope, the elector must, without delay—
  - (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
  - (b) go alone to an unoccupied voting compartment in the polling booth; and
  - (c) there, in private, mark a vote on the ballot paper in accordance with section 33;<sup>18</sup> and
  - (d) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling booth; and
  - (e) leave the polling booth.
- (6) Sections 23 and 24 apply to the making of a vote under this section in the same way, with any necessary changes, as they apply to the making of a vote under section 22.<sup>19</sup>

## **29 Making a declaration vote at a commission office**

- (1) An elector who wishes to make a declaration vote may go to an office staffed by an issuing officer no later than 6p.m. on the day before the polling day for the referendum and ask for a ballot paper and declaration envelope from the officer.

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18 Section 33 (How electors must vote)

19 Sections 22 (Procedure for voting), 23 (Help to enable electors to vote at polling booths) and 24 (Help to enable electors to vote at hospitals)

*Referendums Act 1997*

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- (2) The officer must comply with the request.
- (3) On being given the ballot paper and declaration envelope, the elector must without delay—
  - (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
  - (b) mark a vote on the ballot paper in accordance with section 33;<sup>20</sup> and
  - (c) place the ballot paper in the envelope and seal the envelope; and
  - (d) give the envelope to the officer; and
  - (e) leave the office.
- (4) The issuing officer must send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office.
- (5) Despite subsection (4), if the elector satisfies the issuing officer that the elector is unable to vote without help, a person chosen by the elector may help the elector, but only in the following ways—
  - (a) by acting as an interpreter;
  - (b) by explaining the ballot paper and the requirements of section 33 about its marking;
  - (c) by marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) by placing the ballot paper in the declaration envelope and sealing the ballot envelope;
  - (e) by giving the envelope to the officer.
- (6) A declaration vote may be made under this section no earlier than the day appointed by the commission by gazette notice.

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20 Section 33 (How electors must vote)

**30 Making a declaration vote using posted referendum papers**

- (1) An elector who is an ordinary postal voter may, by writing signed by the elector and posted, faxed or delivered (by the elector or someone else) to the commission or returning officer for the electoral district for which the elector is enrolled, ask for a ballot paper and declaration envelope.
- (2) The request must state the address to which the ballot paper and declaration envelope is to be posted, delivered or sent.
- (3) If the request is received not later than 6p.m. on the Thursday before the polling day for the referendum, the commission or returning officer must post, deliver or send a ballot paper and declaration envelope to the elector.
- (4) The commission must, as soon as practicable after the issue of the writ for a referendum, post a ballot paper and declaration envelope to each special postal voter.
- (5) Returning officers and the commission must keep a record of all ballot papers and declaration envelopes posted, delivered or sent under this section.
- (6) On receiving the ballot paper and declaration envelope, the elector must—
  - (a) sign the appropriate declaration on the declaration envelope before another elector or a person approved by the commission for this paragraph and have the other elector or person sign the envelope as witness; and
  - (b) mark a vote on the ballot paper in accordance with section 33;<sup>21</sup> and
  - (c) place the ballot paper in the envelope and seal the envelope; and
  - (d) either—
    - (i) give the envelope to a member of the commission's staff at an office of the commission before the polling day or at a polling booth on the polling day; or

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21 Section 33 (How electors must vote)

*Referendums Act 1997*

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- (ii) post or send the envelope, or give it to another person to post or send, to the commission or the returning officer.
- (7) If the elector is unable to vote without help, another person may help by doing any of the things mentioned in subsection (6)(b) to (d) for the elector.
- (8) A member of the commission's staff who is given an envelope under subsection (6)(d)(i) must—
  - (a) if it is given before the polling day—send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office; or
  - (b) if it is given on the polling day—put the envelope in a ballot box at the polling booth.

**31 Electoral visitor voting**

- (1) An elector who is an electoral visitor voter may, by writing signed by the elector and posted, faxed or delivered (by the elector or someone else) to the commission or the returning officer for the electoral district for which the elector is enrolled, ask to vote as an electoral visitor voter.
- (2) The request must state the address the electoral visitor is to visit.
- (3) If the request is received not later than 6p.m. on the Thursday before the polling day for the referendum, the commission or the returning officer must ensure that an issuing officer visits the elector to enable the person to vote.
- (4) The issuing officer must visit the elector at a reasonable hour—
  - (a) before the polling day; or
  - (b) before 6p.m. on the polling day.
- (5) When visiting the elector, the issuing officer must—
  - (a) take to the elector—
    - (i) a ballot paper; and
    - (ii) a ballot box; and

- (iii) anything else necessary to enable the elector to vote; and
  - (b) if a scrutineer wishes—be accompanied by the scrutineer.
- (6) The issuing officer must ensure, as far as practicable, section 22<sup>22</sup> is complied with when the elector votes.
- (7) The elector may ask a person to help the elector, but only in the following ways—
  - (a) by acting as an interpreter;
  - (b) by explaining the ballot paper and the requirements of section 33<sup>23</sup> about its marking;
  - (c) by marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) by folding the ballot paper and putting it in the ballot box.
- (8) The elector may make an ordinary vote or declaration vote.

### **32 Making a declaration vote in cases of uncertain identity**

- (1) If an issuing officer suspects, as mentioned in section 22(7), that a person claiming to be a particular elector is not the elector, this section applies.
- (2) The issuing officer must give the person a declaration envelope.
- (3) The declaration envelope must have on it the following questions—
  - (a) ‘Are you the same person whose name appears as [*here the issuing officer must write the name of the particular elector and the number appearing on the electoral roll for the name*]?’
  - (b) ‘Have you already voted, either here or elsewhere, at this referendum?’

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22 Section 22 (Procedure for voting)

23 Section 33 (How electors must vote)

- (4) The person must write answers to the questions on the envelope, sign the envelope and have the signature witnessed by the issuing officer.
- (5) The issuing officer must keep the envelope and tell the person that he or she is not entitled to vote, if the person does not answer the questions or answers in either or both of the following ways—
  - (a) in the negative to the question in subsection (3)(a);
  - (b) in the affirmative to the question in subsection (3)(b).
- (6) The person must then leave the polling place.
- (7) If subsection (5) does not apply, the issuing officer must give the person a ballot paper.
- (8) The person must, without delay—
  - (a) go alone to an unoccupied voting compartment at the polling place; and
  - (b) there, in private, mark a vote on the ballot paper in accordance with section 33;<sup>24</sup> and
  - (c) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling place; and
  - (d) leave the polling place.
- (9) Sections 23 and 24 apply to the making of a vote under this section in the same way, with any necessary changes, as they apply to the making of a vote under section 22.<sup>25</sup>

### **Subdivision 3      Marking of ballot papers**

#### **33      How electors must vote**

- (1) An elector must vote in accordance with subsections (2) or (3).

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24 Section 33 (How electors must vote)

25 Sections 22 (Procedure for voting), 23 (Help to enable electors to vote at polling booths) and 24 (Help to enable electors to vote at hospitals)

- (2) If the elector approves of the Bill or question submitted to electors at the referendum, the elector may—
- (a) place a tick  in the space provided opposite the word ‘YES’ in the space provided on the ballot paper; or
  - (b) write the word ‘YES’ in the square opposite the word ‘YES’ on the ballot paper; or
  - (c) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter approves of the Bill or question.
- (3) If the elector does not approve of the Bill or question, the elector may—
- (a) place a tick  in the space provided opposite the word ‘NO’ in the space provided on the ballot paper; or
  - (b) write the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or
  - (c) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter does not approve of the Bill or question.

### **34 Formal and informal ballot papers**

- (1) For a ballot paper to have effect to indicate a vote—
- (a) the ballot paper must contain writing that is in accordance with section 33;<sup>26</sup> and
  - (b) the ballot paper must not contain any writing or mark by which the elector can be identified; and
  - (c) the ballot paper must have been put into a ballot box by the elector as required by this Act; and
  - (d) if the ballot paper was put into a declaration envelope as required by this Act—the envelope must have been signed, and the signature must have been witnessed, as required by this Act.
- (2) Subsection (1)(d) does not apply to the witnessing of a signature if—

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26 Section 33 (How electors must vote)

- (a) the person required to witness the signature was a member of the commission's staff; and
  - (b) the person certifies in writing to the returning officer that the envelope was signed by the elector concerned.
- (3) If a ballot paper has effect to indicate a vote, it is a formal ballot paper.
- (4) If a ballot paper does not have effect to indicate a vote, it is an informal ballot paper.

## **Division 4                      Counting of votes**

### **35            Votes to be counted in accordance with division**

Votes in a referendum are to be counted in accordance with this division.

### **36            Preliminary processing of declaration envelopes and ballot papers**

- (1) The commission or the returning officer for each electoral district must ensure that members of the commission's staff examine all declaration envelopes received by the commission or returning officer to decide whether the ballot papers in them are to be accepted for counting.
- (2) A ballot paper must be accepted for counting only if the person examining the declaration envelope is satisfied that—
- (a) the elector concerned was entitled to vote at the referendum; and
  - (b) the declaration was signed and witnessed before the end of voting hours on the polling day for the referendum; and
  - (c) if the declaration on the envelope was witnessed by a person other than a member of the commission's staff—the signature on the envelope corresponds with the signature in the request and the requirements of section 30(6)(d) were complied with; and

*Referendums Act 1997*

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- (d) if the ballot paper is in a declaration envelope received by post—the envelope was received before 6p.m. on the 10th day after the polling day for the referendum.
- (3) If the ballot paper is accepted, the person must take it out of the envelope and, without unfolding it or allowing another person to unfold it, put it in—
  - (a) if the envelope was received by the returning officer and not sent to the commission to be dealt with under this section—a sealed ballot box; and
  - (b) if the envelope was received by the commission—a sealed ballot box in which ballot papers for the appropriate electoral district, and no other ballot papers, are placed.
- (4) If a declaration envelope received by a returning officer is for a different electoral district, it must be sent to the commission or the appropriate returning officer without being examined under this section.
- (5) If a declaration envelope is received by an office of the commission, it must be sent to the returning officer for the district for which the elector is enrolled without being examined under this section.
- (6) Members of the commission's staff must also seal up in separate parcels, and keep, all unopened envelopes and all opened envelopes.
- (7) The commission or returning officer must take reasonable steps to advise all members of the times when, and places where, declaration envelopes will be examined under this section.
- (8) In this section—  
*member* means a member of the Legislative Assembly on the day the writ for the referendum is issued.

**37 Preliminary and official counting of votes**

The commission must arrange for votes to be counted—

- (a) on the polling day for the referendum—in accordance with section 38;<sup>27</sup> and
- (b) after the polling day for the referendum—in accordance with section 39.<sup>28</sup>

### **38 Preliminary counting of ordinary votes**

- (1) As soon as practicable after the end of ordinary voting hours on the polling day for the referendum, the member of the commission's staff in charge of a polling booth must ensure the commission's staff at the polling place follow the procedures stated in subsection (2).
- (2) The staff must—
  - (a) open all ballot boxes from the polling booth; and
  - (b) identify and keep separately all declaration envelopes; and
  - (c) identify and keep separately all informal ballot papers that are not in declaration envelopes; and
  - (d) arrange all yes votes and no votes not in declaration envelopes; and
  - (e) count the yes votes, no votes and informal ballot papers; and
  - (f) prepare and sign a statement stating—
    - (i) the number of yes votes; and
    - (ii) the number of no votes; and
    - (iii) the number of informal ballot papers; and
  - (g) advise the returning officer for the appropriate electoral district of the contents of the statement; and
  - (h) when the counting is completed—
    - (i) if the poll was for 1 referendum—make up all ballot papers into separate sealed parcels for all informal ballot papers, all ballot papers containing

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27 Section 38 (Preliminary counting of ordinary votes)

28 Section 39 (Official counting of votes)

*Referendums Act 1997*

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- a yes vote, and all ballot papers containing a no vote; or
- (ii) if the poll was for more than 1 referendum—make up all ballot papers into separate sealed parcels in the way the commission directs; and
  - (i) write on each parcel a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
  - (j) send the parcels and the statements mentioned in paragraph (f) to the returning officer for the appropriate electoral district.

**39 Official counting of votes**

- (1) As soon as practicable after the polling day for the referendum, the returning officer for each electoral district must ensure that the commission's staff follow the procedures stated in this section.
- (2) Firstly, the staff must—
  - (a) open all ballot boxes for the electoral district that have not previously been opened; and
  - (b) identify all declaration envelopes and keep those for different electoral districts in separate parcels; and
  - (c) seal up each parcel of envelopes for an electoral district other than the returning officer's electoral district, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
  - (d) send the parcels to the returning officer for the appropriate electoral district.
- (3) Secondly, the staff must—
  - (a) open all sealed parcels of ballot papers sent to the returning officer under section 38;<sup>29</sup> and

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29 Section 38 (Preliminary counting of ordinary votes)

- (b) arrange all yes votes, no votes and informal ballot papers not in declaration envelopes; and
  - (c) count the yes votes, no votes and informal ballot papers.
- (4) Thirdly, the staff must—
- (a) open all ballot boxes on hand in which ballot papers from declaration envelopes have been placed under section 36(3); and
  - (b) arrange all yes votes, no votes and informal ballot papers; and
  - (c) count the yes votes, no votes and informal ballot papers; and
  - (d) reapply paragraphs (a) to (c) as more ballot papers are placed in ballot boxes under section 36(3), until there are no more ballot papers required to be placed in ballot boxes under that section.

#### **40 Objections by scrutineers**

- (1) If, while a member of the commission's staff is complying with section 38 or 39, a scrutineer objects to the staff member's treatment of a ballot paper as informal, the staff member must mark on the back of it 'formal' or 'informal' according to whether the staff member's decision is to treat it as formal or informal.
- (2) If, while a member of the commission's staff is complying with section 38 or 39, a scrutineer objects to the counting of a ballot paper as a yes vote or a no vote, the staff member must mark on the back of the relevant ballot paper whether the ballot paper has been counted as a yes vote or a no vote or rejected as informal.

#### **41 Recounting of votes**

- (1) At any time before the writ is returned to the Governor, the commission may direct the returning officer, or another member of the commission's staff, to recount some or all of the ballot papers for the referendum.

- (2) A person carrying out a recount of ballot papers must, so far as practicable, ensure the requirements of section 39<sup>30</sup> are complied with.
- (3) A returning officer or an assistant returning officer must act in accordance with any directions given by the commission.

## **Division 5                      Notifying the results of a referendum**

### **42                      Notifying the results of a referendum**

- (1) As soon as practicable after the result of the count under section 39 (including that section as applied under section 41<sup>31</sup>) for a referendum, the returning officer for the electoral district must notify the commission of—
  - (a) the total number of yes votes;
  - (b) the total number of no votes;
  - (c) the total number of informal ballot papers.
- (2) A returning officer must not delay complying with subsection (1) because ballot papers have not been received if it is clear, on the advice of the commission, the outstanding ballot papers could not possibly affect the referendum result.
- (3) However, if more than 1 referendum is held on the same day, a returning officer may delay advising the results of the counts for all referendums if, on the advice of the commission, any outstanding ballot papers could possibly affect the result of 1 or more of the referendums.

### **43                      Return of writ for referendum**

- (1) As soon as practicable after the commission has received notice under section 42(1) from the returning officers for all electoral districts and before the day for the return of the writ, the commission must comply with subsection (2).

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30 Section 39 (Official counting of votes)

31 Section 41 (Recounting of votes)

- (2) The commission must—
  - (a) on receipt of the count from each of the returning officers for a referendum, work out the total number of yes votes and no votes and write the totals on the writ; and
  - (b) write on the writ whether or not the Bill or question has been approved by a majority of the electors voting; and
  - (c) return the writ to the Governor; and
  - (d) publish in the gazette the referendum result.
- (3) Publication in the gazette of the referendum result is evidence of the referendum result.

#### **44 Notice of failure to vote**

- (1) The commission may, as soon as practicable after a referendum, send a notice to each elector who appears to have failed to vote at the referendum stating the following—
  - (a) the elector appears to have failed to vote at the referendum;
  - (b) it is an offence to fail, without a valid and sufficient reason, to vote at a referendum;
  - (c) the elector may, if the elector considers he or she has committed the offence, pay  $\frac{1}{2}$  a penalty unit (the *penalty*) to the commission by a stated day, not earlier than 21 days after the elector received the notice (the *appropriate day*);
  - (d) if the commission receives the payment by the appropriate day, no further steps will be taken against the elector about the offence;
  - (e) if the elector intends paying the penalty by the appropriate day, the elector is required—
    - (i) to sign the appropriate form for payment of the penalty; and
    - (ii) to include payment of the penalty; and
    - (iii) to give the form and payment to the commission by the appropriate day;

*Referendums Act 1997*

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- (f) if the elector does not intend paying the penalty by the appropriate day, the elector is required—
  - (i) to state, in a form included in or with the notice, whether the elector voted; and
  - (ii) if the elector failed to vote, to state in the form the reason for failing to vote; and
  - (iii) to give the form to the commission by the appropriate day.
- (2) The elector must comply with the requirements of the notice.
- (3) An elector is taken to have complied with the requirements if—
  - (a) the elector is absent or unable, because of physical incapacity, to comply with the requirements of the notice; and
  - (b) another elector who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed.
- (4) As soon as practicable after a referendum, the commission must send a notice to each person who made a declaration vote under section 26(c), but whose ballot paper was not accepted for counting under section 36(1), advising the person why the ballot paper was not accepted for counting.

**45 Payments for failure to vote**

- (1) If the commission sends a person a notice under section 44(1) for a referendum and the person makes payment to the commission under the subsection, the commission must—
  - (a) accept the payment; and
  - (b) give the person a receipt for the payment; and
  - (c) not take any proceeding against the person for failing to vote at the referendum.
- (2) In this section—

*proceeding* includes serving an infringement notice under the *State Penalties Enforcement Act 1999*.

**46 Storage of ballot papers and declaration envelopes**

- (1) The commission must keep the following material for a referendum for a period of 2 years after the return of the writ to the Governor—
  - (a) ballot papers showing a mark by an elector for the referendum;
  - (b) certified copies of electoral rolls;
  - (c) declaration envelopes.
- (2) However, the commission must comply with any order by a court, or any request by the commissioner of the police service, to hand over, allow access to or give copies of any ballot papers or declaration envelopes.

**Part 5 Disputed returns****Division 1 Disputing referendums****47 Referendum may be disputed under this part**

- (1) The result of a referendum may be disputed by an application to the Court of Disputed Returns under this division or an appeal under division 2.<sup>32</sup>
- (2) The result may not be disputed in any other way.

**48 Who may dispute the referendum**

The result of a referendum may be disputed by—

- (a) a member; or
- (b) the commission; or
- (c) an elector.

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32 Division 2 (Appeals)

**49 Requirements for an application to be effective**

- (1) For an application to have effect for this division, the requirements of this section must be complied with.
- (2) The application must—
  - (a) state the facts relied on to dispute the referendum result; and
  - (b) state the order sought from the court; and
  - (c) be signed by—
    - (i) for an application by the commission—the electoral commissioner; and
    - (ii) for an application by a member or elector—the member or elector, before a witness; and
  - (d) if paragraph (c)(ii) applies—contain the signature, occupation and address of the witness.
- (3) The person disputing the referendum result must—
  - (a) file the application with the court within 7 days after the day on which the writ for the referendum is returned as mentioned in section 43(2)(c); and
  - (b) when filing the application, deposit with the court—
    - (i) \$400; or
    - (ii) if a greater amount is prescribed under a regulation—that amount.
- (4) Subsections (1) and (2) do not, by implication, prevent the amendment of the application.

**50 Copies of application to be given to clerk of the Parliament and commission**

The staff of the Supreme Court must give a copy of the application to—

- (a) the clerk of the Parliament; and
- (b) the commission, unless the commission filed the application.

**51 Application to court for order relating to documents etc.**

- (1) The applicant may apply to the court for an order requiring the commission to give the court stated documents and other things held by the commission in relation to the referendum.
- (2) The court may make the order about the application it considers appropriate.

**52 Parties to application**

- (1) The parties to an application are the person who filed it and any respondent under this section.
- (2) The commission is a respondent to any application by another person under this division.
- (3) The court may join a member, on the member's application, as respondent under this section.

**53 How application is to be dealt with by court**

- (1) The court may conduct hearings and other proceedings in relation to the application.
- (2) The court is not bound by technicalities, legal forms or rules of evidence.
- (3) The court must deal with the application as quickly as is reasonable in the circumstances.
- (4) In giving effect to subsection (3), the court must use its best efforts to ensure that—
  - (a) the proceeding begins within 28 days after the application is filed; and
  - (b) the court's final orders are given within 14 days after the end of the proceeding.
- (5) Despite subsections (3) and (4), the court must give all parties to the proceeding at least 10 days notice before it begins the proceeding.
- (6) The rules of court of the Supreme Court may include provision, not inconsistent with this division, about the practices and procedures of the Court of Disputed Returns.

- (7) Without limiting subsection (6), the rules of court may make provision regarding the withdrawal of applications, the consequences of the death of applicants and the substitution of applicants in these circumstances.

**54 Application for dismissal of application disputing referendum**

- (1) The commission may apply to the court for an order dismissing the application disputing the referendum on the ground that there has been excessive delay by the applicant in relation to the application.
- (2) The court may make the order on the application under subsection (1) that the court considers appropriate.

**55 Powers of the court**

- (1) The court may make any order or exercise any power in relation to the application that the court considers just and equitable.
- (2) The orders may include any of the following—
- (a) an order to the effect that the referendum as conducted is invalid;
  - (b) an order to the effect that the referendum result as endorsed on the writ is invalid;
  - (c) an order to the effect that the referendum result as endorsed on the writ is reversed;
  - (d) an order to dismiss or uphold the application in whole or part.
- (3) However, the court may not order a new referendum be conducted.
- (4) To remove doubt, it is declared that the court may order the opening of a sealed declaration vote envelope.

- (5) However, the court must ensure, as far as practicable, the secrecy of the ballot is maintained.
- (6) This section is subject to sections 56 and 57.<sup>33</sup>

## **56 Restrictions on certain orders**

- (1) The court must not make an order mentioned in section 55(2) because of a delay in complying with the requirements of part 4, division 3, 4 or 5.<sup>34</sup>
- (2) Also, the court must not make an order under section 55(2) (other than an order to dismiss the application)—
  - (a) because of an absence or error of, or omission by, any member of the commission's staff that appears unlikely to have affected the referendum result; or
  - (b) because incorrect information an elector gives to an issuing officer is written on a declaration envelope the elector signed.
- (3) In deciding whether the requirements of subsection (2) are met, the court must not, if it finds that an elector was prevented from voting at the referendum by absence, error or omission, take into account any evidence of the way in which the elector had intended to vote.

## **57 Restriction on certain evidence and inquiries**

- (1) In a proceeding in relation to the application, the court must not take into account evidence by any person that the person was not permitted to vote during voting hours in relation to a polling place, unless the court is satisfied that, so far as the person was permitted to do so, the person did everything required by this Act to enable the person to vote.
- (2) In a proceeding in relation to the application, the court—

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33 Sections 56 (Restrictions on certain orders) and 57 (Restriction on certain evidence and inquiries)

34 Part 4 (Voting and conduct of referendums), division 3 (How voting takes place at a referendum), 4 (Counting of votes) or 5 (Notifying the results of a referendum)

- (a) may inquire whether persons voting were enrolled on the electoral roll for the electoral district concerned and whether ballot papers were correctly treated as formal or informal during the counting of votes; but
- (b) must not inquire whether the electoral roll, or any copy used at the referendum, was in accordance with this Act.

**58 Referendum not to be disputed because of minor defects or errors**

A referendum is not liable to be disputed because of—

- (a) any defect in the title, or any want of title, of any person by or before whom a referendum is held, if the person in fact acted at the referendum; or
- (b) any formal error or defect in any declaration or other instrument or in any distribution or publication made under this Act or intended to be made under this Act; or
- (c) any distribution or publication mentioned in paragraph (b) being out of time.

**59 Copy of final court orders to be sent to clerk of Parliament**

The court must arrange for a copy of the court's final orders to be sent to the clerk of the Parliament as soon as possible after they are made.

**60 Costs**

- (1) The court may order an unsuccessful party to the application to pay the reasonable costs of the other parties to the application.
- (2) If costs are awarded against the applicant, the deposit filed with the application must be applied towards payment of the costs.
- (3) If not, the deposit must be returned to the person.

**61 Decisions and orders to be final etc.**

Subject to division 2, a decision of, or order made by, the court about the application—

- (a) is final and conclusive; and
- (b) can not be appealed against or otherwise called in question on any ground.

**62 Right of commission to have access to documents**

Unless the court otherwise orders, the filing of an application does not deprive the commission of any right to have access to a document for the purpose of performing its functions.

**Division 2 Appeals****62A Appeal to Court of Appeal on question of law**

An appeal lies to the Court of Appeal from any decision of, or order made by, the Court of Disputed Returns on a question of law.

**62B Time for appealing**

The notice of appeal starting the appeal must—

- (a) be filed within 7 days after the date of the decision or order appealed from; and
- (b) be served as soon as practicable on all other parties to the appeal.

**62C Commission is a party to appeal**

The commission is a party to the appeal, whether or not it is the appellant.

**62D How appeal is dealt with by Court of Appeal**

- (1) In deciding the appeal, the Court of Appeal—

- (a) is not bound by technicalities, legal forms or rules of evidence; and
  - (b) may use the procedures, whether usual or otherwise, that it considers necessary to enable the appeal to be decided quickly and properly; and
  - (c) has all the powers given to it by the *Uniform Civil Procedure Rules 1999*.
- (2) The court must use its best efforts to ensure that the appeal is heard, and the court's final decision is made or order is given, as quickly as is reasonable in the circumstances.

**62E Application for dismissal of appeal**

- (1) A party, other than the appellant, may apply to the Court of Appeal for an order dismissing the appeal on the ground that there has been excessive delay by the appellant in relation to the appeal.
- (2) The court may make an order on the application it considers appropriate.

**62F Copy of final court orders to be sent to Clerk of Parliament**

The Court of Appeal must arrange for a copy of its final orders to be sent to the Clerk of the Parliament as soon as possible after they are made.

**62G Right of commission to have access to documents**

Unless the Court of Appeal otherwise orders, the filing of the notice of appeal does not deprive the commission of any right to have access to a document for the purpose of performing its functions.

## **Part 6                      Enforcement**

### **Division 1                      Offences in general**

#### **63            Attempts taken to be offences**

A person who attempts to commit an offence against a provision of this part is taken to have committed the offence.

#### **68            Improperly influencing commission**

A person must not improperly influence the electoral commissioner in the performance of the commission's duties under this Act.

Maximum penalty—35 penalty units or 1 year's imprisonment.

#### **69            Interfering with referendum right or duty**

A person must not hinder or interfere with the free exercise or performance, by another person, of another right or duty under this Act relating to a referendum.

Maximum penalty—20 penalty units or 6 months imprisonment.

#### **71            Wilful neglect etc. by commission staff**

A senior electoral officer or member of the commission's staff must not wilfully neglect or fail to perform a duty under this Act.

Maximum penalty—20 penalty units.

## Division 2                      **Offences relating to referendum advertising**

### **72      Author of referendum matter must be named**

- (1) A person must not, during a referendum period—
  - (a) print, publish, distribute or broadcast; or
  - (b) permit or authorise another person to print, publish, distribute or broadcast;any advertisement, handbill, pamphlet or notice containing referendum matter unless there appears, or is stated, at its end the particulars required by subsection (2).

Maximum penalty—20 penalty units.
- (2) The particulars are the name and address (other than a post office box) of the person who authorised the advertisement, handbill, pamphlet or notice.
- (3) Subsection (1) does not apply to an advertisement—
  - (a) that is printed, published or distributed on a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
  - (b) that is of a kind prescribed under a regulation for this subsection.
- (4) In this section—

*referendum matter* means anything able to, or intended to—

  - (a) influence an elector in relation to voting at a referendum; or
  - (b) affect the result of a referendum.

### **73      Headline to general referendum matter advertisements**

- (1) If—
  - (a) an article, or a paragraph, containing general referendum matter is printed in the newspaper; and
  - (b) either—

- (i) the insertion of the article or paragraph is or is to be paid for; or
- (ii) any reward or compensation, or promise of reward or compensation, is or is to be made for the insertion of the article or paragraph;

the proprietor must cause the word ‘advertisement’ to be printed as a headline to the article or paragraph in letters not smaller than 10 point or long primer.

Maximum penalty—9 penalty units.

- (2) In this section—

*general referendum matter* means a matter relating to a referendum.

## 74 Misleading electors

- (1) A person must not, during a referendum period print, publish, distribute or broadcast anything that is intended or likely to mislead an elector about the way of voting at the referendum.

Maximum penalty—40 penalty units.

- (2) A person must not, during a referendum period, print, publish, distribute or broadcast by television any representation or purported representation of a ballot paper for use in the referendum if it is likely to induce an elector to vote other than in accordance with this Act.

Maximum penalty—40 penalty units.

- (3) In this section—

*publish* includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

## Division 3 Offences relating to voting etc.

### 75 Failure to vote etc.

- (1) An elector must not—

*Referendums Act 1997*

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- (a) fail to vote at a referendum without a valid and sufficient excuse; or
- (b) contravene section 44(2); or
- (c) state anything to the commission or the commission's staff under section 44<sup>35</sup> the person knows is false or misleading in a material particular.

Maximum penalty—1 penalty unit.

- (2) Without limiting subsection (1)(a), if an elector believes it to be part of the elector's religious duty not to vote at a referendum, that is a valid and sufficient excuse for failing to vote at a referendum.
- (3) A person may be prosecuted for an offence against subsection (1)(a) only if the person has been sent a notice about the referendum under section 44.
- (4) In a proceeding for an offence against subsection (1)(a), a certificate purporting to be signed by a member of the commission's staff stating any of the following matters is evidence of the matter—
  - (a) a referendum happened on a stated day;
  - (b) an elector failed to vote at the referendum;
  - (c) a notice was sent by the commission to the elector under section 44 on a stated day;
  - (d) a form mentioned in section 44(1) was not received by the commission from the elector by the day stated under the subsection.
- (5) If a form is not received by the commission from the elector by the day stated under section 44(1), it is evidence the elector failed to vote at the referendum without a valid and sufficient excuse.
- (6) If a form is received by the commission about the elector's compliance with section 44, statements in the form purporting to be made by—
  - (a) the elector are evidence as statements made by the elector; and

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35 Section 44 (Notice of failure to vote)

- (b) another elector under section 44(3), are evidence as statements made by the other elector.
- (7) Subsection (1)(a) does not apply to an Antarctic elector.
- (8) For the *Justices Act 1886*, section 139,<sup>36</sup> the place where an offence against subsection (1)(a) is committed is taken to be the office of the returning officer for the electoral district for which the elector was enrolled for the referendum.

## **76 Leave to vote**

- (1) This section applies if—
  - (a) an employee who is an elector asks his or her employer, before the polling day for a referendum, for leave of absence to vote at the referendum; and
  - (b) the absence is necessary to enable the employee to vote at the referendum.
- (2) Unless the absence is reasonably likely to cause danger or substantial loss to the employer in relation to the employment concerned, the employer—
  - (a) must allow the employee leave of absence for a reasonable period of not more than 2 hours to enable the employee to vote at the referendum; and
  - (b) must not impose any penalty or disproportionate deduction of pay for the leave of absence.
- (3) An employee must not ask for leave of absence under subsection (1) to vote at a referendum unless the employee genuinely intends to vote at the referendum.

Maximum penalty—9 penalty units.

## **77 Canvassing etc. in or near polling places**

- (1) A person must not, during a referendum period, do anything mentioned in subsection (2)—
  - (a) inside a room with voting compartments; or

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<sup>36</sup> *Justices Act 1886*, section 139 (Where summary cases to be heard)

- (b) within 6m or, in relation to an office mentioned in section 29(1), a lesser distance allowed by the commission, of the entrance to a building with voting compartments.

Maximum penalty—9 penalty units.

- (2) For subsection (1), the things are—
  - (a) canvassing for votes; or
  - (b) inducing an elector not to—
    - (i) vote in a particular way; or
    - (ii) vote at all at the referendum; or
  - (c) loitering; or
  - (d) obstructing the free passage of voters.

## **78 Interrupting voting etc.**

A person must not—

- (a) enter or remain in a polling booth otherwise than as authorised under this Act; or
- (b) wilfully interrupt, obstruct or disturb any proceeding at a referendum; or
- (c) enter a voting compartment otherwise than as authorised under this Act; or
- (d) prevent a scrutineer from entering or leaving a polling place—
  - (i) during voting hours for the polling place; or
  - (ii) while votes are being counted at the polling place; or
- (e) obstruct or wilfully mislead a senior electoral officer or member of the commission's staff in the performance of a duty.

Maximum penalty—9 penalty units.

**80 Displaying referendum statements in certain places**

- (1) A person must not, during a referendum period, display a referendum statement—
- (a) inside a room with voting compartments; or
  - (b) within 6m of the entrance to a building with voting compartments.

Maximum penalty—1 penalty unit.

- (2) In this section—

*referendum statement* means a statement or design that a reasonable person would associate with the approval or disapproval of the Bill or question submitted to the electors.

**82 Offences relating to ballot papers**

- (1) A person must not at a referendum—
- (a) wilfully fail to comply with section 22(10)(c), 28(5)(d), 29(3)(c) or (d) or 30(6)(c) or (d); or
  - (b) take a ballot paper out of a polling place otherwise than as authorised under this Act; or
  - (c) place in a ballot box a ballot paper that has not been—
    - (i) given to an elector under this Act; or
    - (ii) marked by the elector.

Maximum penalty—20 penalty units or 6 months imprisonment.

- (2) A person must not, without lawful excuse, obtain possession of, or have in the person's possession—
- (a) a ballot paper that has been marked by someone else; or
  - (b) a declaration envelope that has been signed by someone else.

Maximum penalty—20 penalty units or 6 months imprisonment.

**83 Failure to post, fax or deliver documents for someone else**

- (1) If a person is given a request under section 30 or 31<sup>37</sup> to post, fax or deliver to the commission or a returning officer, the person must promptly post, fax or deliver the request to the commission or returning officer.

Maximum penalty—20 penalty units or 6 months imprisonment.

- (2) If a person is given a declaration envelope under section 30(6)(d)(ii) to post or send to the commission or returning officer, the person must promptly post or send it to the commission or returning officer.

Maximum penalty—20 penalty units or 6 months imprisonment.

**84 Secrecy of voting**

A person must not—

- (a) unfold a ballot paper that has been marked and folded by an elector under this Act, unless ordered by a court or authorised under this Act to do so; or
- (b) if the person is a member of the commission's staff performing duties at a polling place for a referendum—
- (i) ascertain or discover how an elector has voted at the referendum, unless the person is authorised to do so under this Act; or
- (ii) disclose any information about how an elector has voted at a referendum, unless the person is authorised to do so under this Act or ordered by a court to do so.

Maximum penalty—20 penalty units or 6 months imprisonment.

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<sup>37</sup> Section 30 (Making a declaration vote using posted referendum papers) or 31 (Electoral visitor voting)

**85 Breaking seals on parcels**

A person must not wilfully open or break the seal of a parcel sealed under section 38(2)(h), unless the person is authorised to do so under this Act or ordered by a court to do so.

Maximum penalty—20 penalty units or 6 months imprisonment.

**86 Duty of witness to signing of declaration voting papers**

An elector or other person (the *witness*) must not sign a declaration envelope as witness under section 30(6)(a) unless—

- (a) the witness is satisfied of the identity of the elector who signs the declaration before the witness; and
- (b) the witness has seen the elector sign the declaration; and
- (c) either—
  - (i) the witness knows that the declaration made by the elector on the envelope is true; or
  - (ii) the witness is satisfied, on the basis of inquiries of the elector or otherwise, that the declaration is true.

Maximum penalty—20 penalty units or 6 months imprisonment.

**Division 4 Injunctions****87 Injunctions**

(1) This section applies if—

- (a) a person (the *offending party*)—
  - (i) has engaged, is engaging or is proposing to engage in conduct; or
  - (ii) has failed, is failing or is proposing to fail to do anything; and

*Referendums Act 1997*

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- (b) the conduct or failure constituted, constitutes or would constitute a contravention of, or an offence against, this Act.
- (2) Application may be made to the Supreme Court under this section for an injunction in relation to the conduct or failure.
- (3) The application may be made by—
  - (a) a member; or
  - (b) the commission; or
  - (c) an elector.
- (4) The Supreme Court may grant an interim injunction pending determination of the application.
- (5) If the commission makes the application for the injunction, the Supreme Court must not require it or another person to give any undertakings as to damages as a condition of granting an interim injunction under subsection (4).
- (6) On considering the application for the injunction, the Supreme Court may—
  - (a) in a case to which subsection (1)(a)(i) applies—grant an injunction restraining the offending party from engaging in the conduct concerned and, if in the court’s opinion it is desirable to do so, requiring the offending party to do anything; or
  - (b) in a case to which subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing concerned.
- (7) The Supreme Court may grant the injunction—
  - (a) if the court is satisfied that the offending party has engaged in the conduct, or failed to do the thing, mentioned in subsection (1)—whether or not it appears to the court that the offending party intends—
    - (i) to engage again or continue to engage in the conduct; or
    - (ii) to fail or continue to fail or do the thing; or
  - (b) if it appears to the court that, if the injunction is not granted, it is likely that the offending party will engage

in the conduct, or fail to do the thing, mentioned in subsection (1)—whether or not—

- (i) the offending party has previously engaged in the conduct or failed to do the thing; and
  - (ii) there is an imminent danger of substantial damage to any person if the offending party engages in the conduct or fails to do the thing.
- (8) The Supreme Court may refuse to grant an injunction if it appears to the court that the application was not made to the court at the earliest possible opportunity.
  - (9) The Supreme Court may discharge or vary the injunction or any interim injunction granted under subsection (4).
  - (10) The powers conferred on the Supreme Court by this section are in addition to, and do not limit, any other powers of the court.

## Part 7

### **Referendum held in conjunction with election under Electoral Act 1992**

#### **88 Extension of time**

- (1) This section applies if the polling day for a referendum is the same day as the polling day for an election and the time for holding the election is extended under the *Electoral Act 1992*, section 82.
- (2) If the extension of time for holding the election relates only to a particular electoral district, the day on which the election is to be held in that district is to be taken to be the polling day for the referendum in that district.
- (3) In any other case, the day on which the election is to be held is to be taken to be the polling day for the referendum.

**89 Cut-off date for electoral rolls for an election and a referendum**

- (1) This section applies if—
  - (a) a writ is issued for a referendum; and
  - (b) before the polling day for the referendum, a writ is subsequently issued for an election: and
  - (c) the polling day for the election is also the polling day for the referendum.
- (2) The cut-off date for electoral rolls stated in the writ for the referendum is, by force of this section extended to the cut-off day for electoral rolls stated in the writ for the election.

**90 Pre-poll voting—making a declaration vote at a commission office**

If the polling day for a referendum is also the polling day for an election, the day appointed under section 29(6) may be extended by the commission by gazette notice to the day on which the period mentioned in the *Electoral Act 1992*, section 109<sup>38</sup> begins.

**91 Use of ballot boxes, polling booths and electoral rolls**

If the polling day for a referendum is also the polling day for an election—

- (a) the same polling booths and ballot boxes may be used for the election and the referendum, but if the same ballot boxes are used, the ballot papers for the referendum must, by colour or marking, be readily distinguishable from the ballot papers for the election;
- (b) the same electoral roll must be used for both the election and the referendum.

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38 *Electoral Act 1992*, section 109 (Making a declaration vote at a commission office)

**92 Mobile polling booths**

If the polling day for a referendum is also the polling day for an election, a declaration or arrangement made under the *Electoral Act 1992*, section 94(4) or (6) also has effect as a declaration or an arrangement under section 16(4) or (6) of this Act for the referendum.

**93 Opening of ballot boxes**

A ballot box used for a referendum must not be opened except under this Act or, if the ballot box has been used for both a referendum and an election, under this Act or the *Electoral Act 1992*.

**94 Applications, declarations, ballot papers and references**

If the polling day for a referendum is also the polling day for an election—

- (a) a request made under the *Electoral Act 1992*, sections 110(1) or 111(1) is also taken to be a request under section 30(1) or 31(1) respectively; and
- (b) a declaration made for the election under the *Electoral Act 1992*, section 103(3), 108, 109, 110, 111 or 112 is also taken to be a declaration made under section 23(3), 28, 29, 30, 31 or 32 respectively;<sup>39</sup> and
- (c) a ballot paper given to an elector under section 23(3), 28, 29, 30, 31 or 32 may be enclosed in the same declaration envelope as a ballot paper given to the elector under the *Electoral Act 1992*, section 103(3), 108, 109, 110, 111 or 112 respectively.

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39 Section 23 (Help to enable electors to vote at polling booths), 28 (Making a declaration vote at a polling booth), 29 (Making a declaration vote at a commission office), 30 (Making a declaration vote using posted referendum papers), 31 (Electoral visitor voting) or 32 (Making a declaration vote in cases of uncertain identity)

**95 Record of ordinary voters**

If the polling day for a referendum is also the polling day for an election, the issuing officer is taken to have complied with section 22(8) if he or she has complied with the *Electoral Act 1992*, section 102(8).

**96 Adjournment at both referendum and election**

- (1) This section applies if—
  - (a) the polling day for a referendum is also the polling day for an election; and
  - (b) the returning officer adjourns the poll at a polling booth under the *Electoral Act 1992*, section 95; and
  - (c) the commission fixes a day for the taking of the adjourned poll under the *Electoral Act 1992*, section 95.
- (2) The poll at the polling booth for the referendum is also adjourned until the day fixed by the commission for the taking of the adjourned poll for the election.

## **Part 7A Returns by broadcasters and publishers**

**96A Returns by broadcasters**

- (1) If a referendum has taken place, each broadcaster who, during the referendum period, broadcast an advertisement relating to the referendum must, before the end of 8 weeks after the voting day for the referendum, give the commission a return, in an approved form, stating—
  - (a) particulars of the broadcasting service as part of which the advertisement was broadcast; and
  - (aa) the name and address of the person at whose request the advertisement was broadcast; and
  - (b) the name and address of the person with whose authority the advertisement was broadcast; and

*Referendums Act 1997*

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- (c) the date on which, and the times between which, the advertisement was broadcast; and
- (d) whether or not, on each occasion when the advertisement was broadcast, a charge was made by the broadcaster for the broadcasting of the advertisement and, if a charge was made, specifying the amount of the charge.

Maximum penalty—20 penalty units.

- (1A) Subsection (1) applies to a broadcaster even if at the time the broadcaster broadcast the advertisement the broadcaster was outside Queensland.
- (2) If, in a return under subsection (1), the amount of a charge is specified by a broadcaster in relation to an advertisement, the broadcaster must, in the return, state whether or not the charge is a charge at less than normal commercial rates having regard to the length of the advertisement and the day on which, and the times between which, the advertisement was broadcast.

Maximum penalty—20 penalty units.

- (4) A broadcaster who is required to make a return under this section for an advertisement must keep the record made for the purpose of the relevant provision until the end of the period of 1 month starting on the day on which the return is given to the commission.

Maximum penalty—20 penalty units.

- (5) The requirement of subsection (4) is in addition to the requirements of the relevant provision for the retention of the record.
- (6) In subsections (4) and (5)—

*relevant provision* means—

- (a) in relation to the Australian Broadcasting Corporation—the *Australian Broadcasting Corporation Act 1983* (Cwlth), section 79B; or
- (b) in relation to the Special Broadcasting Service—the *Special Broadcasting Service Act 1991* (Cwlth), section 70B; or

- (c) in any other case—the *Broadcasting Services Act 1992* (Cwlth), schedule 2, section 5.

## **96B Returns by publishers**

- (1) If a referendum has taken place, each publisher of a journal who, during the referendum period, published in the journal an advertisement relating to the referendum must, before the end of 8 weeks after the voting day in the referendum, give the commission a return, in an approved form, stating—
- (a) particulars of the journal in which the advertisement was published; and
  - (aa) the name and address of the person at whose request the advertisement was published; and
  - (b) the name and address of the person with whose authority the advertisement was published; and
  - (c) the date on which the advertisement was published; and
  - (d) particulars of the page in the journal on which the advertisement was published and the space in the journal occupied by the advertisement; and
  - (e) whether or not a charge was made by the publisher for the publication of the advertisement and, if a charge was made, specifying the amount of the charge.

Maximum penalty—20 penalty units.

- (1A) Subsection (1) applies to a publisher even if at the time the publisher published the advertisement the publisher was outside Queensland.
- (2) If, in a return under subsection (1), the amount of a charge is specified by a publisher in relation to an advertisement, the publisher must, in the return, state whether or not the charge was a charge at less than normal commercial rates having regard to the space in the journal occupied by the advertisement and the nature of the journal.

Maximum penalty—20 penalty units.

- (3) A publisher is not required to give a return under subsection (1) in relation to a referendum if the total amount of the charge made by the publisher for the publication of the

advertisement referred to in the subsection and any other advertisement relating to a referendum that took place on the same day as the first-mentioned referendum does not exceed \$1000.

### **96C Combined returns**

- (1) If—
  - (a) the voting at 2 or more referendums took place on the same day; and
  - (b) a person would, apart from this subsection, be required to give 2 or more returns under this part relating to the referendums;

the person may, instead of giving the returns, give 1 return, in an approved form, stating the particulars that he or she would have been required to state in the returns.

- (2) If—
  - (a) a return is given by a person under subsection (1); and
  - (b) a matter details of which are required to be stated in the return relates to more than 1 referendum;

it is sufficient compliance with this part if the return states details of the matter without showing the extent to which the matter relates to any particular referendum.

### **96D Inspection and supply of copies of returns**

- (1) The commission must keep a copy of each return given under this part.
- (2) Anyone is entitled to read the copy.
- (3) The commission must, on request, make the copy available for a person's inspection.
- (4) A person is entitled, on payment of the prescribed fee, to get a copy of a return mentioned in subsection (1).



**101 Transitional provision—petition disputing referendum**

(1) If, immediately before the commencement day, there was a petition filed under section 49 that had not been finally dealt with by the Court of Disputed Returns, the petition is taken to be an application under that section.

(2) In this section—

*commencement day* means the day that the amendments of this Act in the *Electoral and Other Acts Amendment Act 2001*, schedule 2, commenced.

**Schedule 1      Referendum forms**

section 3

**Form 1***Referendums Act 1997***Writ for a referendum on a Bill**

To    Electoral commissioner

I, (*insert name*), Governor direct you to submit a Bill entitled [*here state the title of the Bill*], a copy of which is attached, to electors within the meaning of the *Referendums Act 1997*.

The following days are appointed—

- for the issue of this writ—(*insert day and date*)
- for the cut-off day for the electoral rolls for the referendum—(*insert day and date*)
- for the polling day for the referendum—(*insert day and date*)
- for the return of this writ—(*insert day and date*)

Witness

[*insert the Governor's title and the date*]

Governor

By Command

Schedule 1 (continued)

Reverse

This writ was received by me (*insert day and date*)

Electoral commissioner

\_\_\_\_\_

I declare that on (*insert day and date*) the electors qualified to vote at the referendum voted as follows—

To approve a Bill entitled [*here state title of Bill*]                      Votes

Not to approve a Bill entitled [*here state title of Bill*]                      Votes

I declare that the Bill entitled [*here state title of Bill*] has/has not been approved by a majority of the electors voting.

Electoral commissioner

## Schedule 1 (continued)

**Form 2***Referendums Act 1997***Writ for a referendum on a question**

To Electoral commissioner

I, (*insert name*), Governor direct you to submit a question [*here state the question*] approved by the Legislative Assembly, a copy of which is attached, to electors within the meaning of the *Referendums Act 1997*.

The following days are appointed—

- for the issue of this writ—(*insert day and date*)
- for the cut-off day for the electoral rolls for the referendum—(*insert day and date*)
- for the polling day for the referendum—(*insert day and date*)
- for the return of this writ—(*insert day and date*)

Witness

[*insert the Governor's title and the date*]

Governor

By Command

## Schedule 1 (continued)

Reverse

This writ was received by me (*insert day and date*)

Electoral commissioner

\_\_\_\_\_

I declare that on (*insert day and date*) the electors qualified to vote at the referendum voted as follows—

To approve the question [*here state the question*]                      Votes

Not to approve the question [*here state the question*]                      Votes

I declare that the question [*here state the question*] has/has not been approved by a majority of the electors voting.

Electoral commissioner

## Schedule 1 (continued)

**Form 3***Referendums Act 1997***Ballot paper****(For submission of a Bill)**

HOW TO VOTE—

IF YOU APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE  
OPPOSITE THE WORD 'YES'

IF YOU DO NOT APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE  
OPPOSITE THE WORD 'NO'

A Bill:

*[Here insert long title of Bill]*

YES

NO

## Schedule 1 (continued)

**Form 4***Referendums Act 1997***Ballot paper****(For submission of a question)**

HOW TO VOTE—

IF YOU APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE  
OPPOSITE THE WORD 'YES'

IF YOU DO NOT APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE  
OPPOSITE THE WORD 'NO'

*[Here insert question]*

YES

NO

## Schedule 1 (continued)

**Form 5***Referendums Act 1997***Ballot paper****(For Use For Multiple Referendums)**

HOW TO VOTE FOR EACH OF THE FOLLOWING REFERENDUM ISSUES—

IF YOU APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE OPPOSITE THE WORD 'YES'

IF YOU DO NOT APPROVE PLACE A TICK [ ✓ ] IN THE SQUARE OPPOSITE THE WORD 'NO'

---

A Bill—

*[Here insert long title of Bill]*

YES

NO

---

A question—

*[Here insert question]*

YES

NO

---

## Schedule 3      Dictionary

### section 2

**Antarctic elector** see *Commonwealth Electoral Act 1918* (Cwlth), section 246(1).

**assistant returning officer** means an assistant returning officer under the *Electoral Act 1992*, section 33.

**ballot paper** means a paper—

- (a) on which is shown the issue to be submitted to the electors at a referendum; and
- (b) on which the elector is to record the elector's vote on the issue.

**Bill** means a Bill for an Act.

**broadcast** includes televise.

**broadcaster** means—

- (a) the Australian Broadcasting Corporation established under the *Australian Broadcasting Corporation Act 1983* (Cwlth); or
- (b) the Special Broadcasting Service Corporation established under the *Special Broadcasting Service Act 1991* (Cwlth), section 5; or
- (c) the holder of a licence under the *Broadcasting Services Act 1992* (Cwlth); or
- (d) the provider of a broadcasting service under a class licence under the *Broadcasting Services Act 1992* (Cwlth).

**commission** means the Electoral Commission of Queensland.

**Commonwealth Electoral Act** means the *Commonwealth Electoral Act 1918* (Cwlth).

**court** means the Court of Disputed Returns.

## Schedule 3 (continued)

***Court of Disputed Returns*** see *Electoral Act 1992*, section 127.<sup>40</sup>

***cut-off day for electoral rolls*** see *Electoral Act 1992*, section 3.<sup>41</sup>

***day for the return of a writ*** means the day so described in the writ for the referendum.

***declaration envelope*** means—

- (a) a declaration envelope under section 32; or
- (b) another envelope on which there is a declaration to be made by an elector for this Act.

***deputy electoral commissioner*** see *Electoral Act 1992*, section 22.

***election*** means an election of a member or members of the Legislative Assembly under the *Electoral Act 1992*.

***elector*** means a person entitled to vote at a referendum.<sup>42</sup>

***electoral commissioner*** see *Electoral Act 1992*, section 21.

***electoral district*** see *Electoral Act 1992*, part 3.<sup>43</sup>

***electoral roll*** means an electoral roll under the *Electoral Act 1992*.<sup>44</sup>

***electoral visitor voter*** see section 25(4).

***form 1*** see schedule 1.

***form 2*** see schedule 1.

***form 3*** see schedule 1.

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40 See *Electoral Act 1992*, section 127 (Supreme Court to be Court of Disputed Returns).

41 See *Electoral Act 1992*, section 3 (Definitions). Under section 3 the cut-off date for electoral rolls in relation to a referendum is the day so described in the writ for the referendum.

42 See section 21.

43 *Electoral Act 1992*, part 3 (Electoral districts and electoral redistributions)

44 *Electoral Act 1992*, part 4 (Electoral rolls)

## Schedule 3 (continued)

**form 4** see schedule 1.

**form 5** see schedule 1.

**formal ballot paper** see section 34(3).

**informal ballot paper** see section 34(4).

**institution** see the *Electoral Act 1992*, section 3.

**issuing officer** means an issuing officer under the *Electoral Act 1992*.<sup>45</sup>

**journal** means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

**member** means a member of the Legislative Assembly.

**member of the commission's staff** see the *Electoral Act 1992*, section 30.

**mobile polling booth** see section 16.

**no vote** means a vote on a formal ballot paper not approving of the Bill or question submitted to electors.

**ordinary polling booth** see section 16.

**ordinary postal voter** see section 25(2).

**ordinary vote** means a vote that is not a declaration vote.<sup>46</sup>

**ordinary voting hours** means voting hours in relation to ordinary polling booths.

**polling booth** means an ordinary polling booth or a mobile polling booth.

**polling day** means—

- (a) for a referendum—the day described in the writ for the referendum as the polling day;
- (b) for an election—the day so described in the writ for the election.

---

45 Under the *Electoral Act 1992*, section 3, *issuing officer* means a member of the commission's staff who is responsible for issuing ballot papers or declaration envelopes to electors at an election or referendum.

46 Part 4, division 3, subdivision 2 is about declaration voting.

## Schedule 3 (continued)

***polling place*** means a polling booth or another place where voting at a referendum takes place.

***postal voter*** means an elector who is—

- (a) an ordinary postal voter; or
- (b) a special postal voter.

***referendum*** means the taking of the vote of electors on a Bill or question the subject of a writ.

***referendum paper*** means a ballot paper, declaration envelope or other document issued by the commission for this Act.

***referendum period*** means the period—

- (a) beginning on the day after the writ for the referendum is issued; and
- (b) ending at 6p.m. on the polling day for the referendum.

***returning officer*** means a returning officer under the *Electoral Act 1992*, section 32.

***scrutineer*** means a person appointed as a scrutineer under this Act.<sup>47</sup>

***senior electoral officer*** means the electoral commissioner or deputy electoral commissioner.

***special postal voter*** see the *Electoral Act 1992*, section 105.

***voting compartment*** means a compartment in a polling place where electors may vote in private.

***voting hours***, of a polling place, means the hours during which electors may enter the polling place.

***writ*** means a writ for a referendum issued under section 5.

***yes vote*** means a vote on a formal ballot paper approving of the Bill or question submitted to electors.

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47 See section 19 (Scrutineers).

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	79
3 Key . . . . .	79
4 Table of reprints . . . . .	80
5 List of legislation . . . . .	80
6 List of annotations . . . . .	81

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 11 August 2006. Future amendments of the Referendums Act 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 May 1997	2 June 1997
1A	1999 Act No. 70	15 May 1997	10 January 2000
1B	1999 Act No. 70	27 November 2000	6 December 2000
1C	2001 Act No. 25	25 May 2001	27 July 2001
1D	2002 Act No. 8	6 June 2002	7 June 2002

  

Reprint No.	Amendments included	Effective	Notes
1E	2002 Act No. 8	1 July 2002	
1F	2006 Act No. 41	11 August 2006	

## 5 List of legislation

### **Referendums Act 1997 No. 11**

date of assent 15 May 1997  
 commenced on date of assent  
 amending legislation—

### **State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1**

date of assent 6 December 1999  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 27 November 2000 (2000 SL No. 274)

### **Electoral and Other Acts Amendment Act 2001 No. 25 pts 1, 4 sch 2**

date of assent 25 May 2001  
 commenced on date of assent

### **Electoral and Other Acts Amendment Act 2002 No. 8 ss 1, 2(2), pt 8**

date of assent 19 April 2002  
 ss 1–2 commenced on date of assent  
 s 73 commenced 1 July 2002 (2002 SL No. 119)  
 remaining provisions commenced 6 June 2002 (2002 SL No. 119)

### **Crime and Misconduct and Other Legislation Amendment Act 2006 No. 41 pts 1, 4A**

date of assent 11 August 2006  
 commenced on date of assent (see s 2)

## **6 List of annotations**

### **Kinds of polling booths**

**s 16** amd 2002 No. 8 s 64

### **Who may vote**

**s 21** amd 2006 No. 41 s 50B

### **Who may make a declaration vote**

**s 25** amd 2002 No. 8 s 65; 2006 No. 41 s 50C

### **Payments for failure to vote**

**s 45** amd 1999 No. 70 s 166 sch 1

## **PART 5—DISPUTED RETURNS**

### **Division 1—Disputing referendums**

**div hdg** ins 2001 No. 25 s 16

### **Referendum may be disputed under this part**

**prov hdg** amd 2001 No. 25 s 17(1)

**s 47** amd 2001 No. 25 s 17(2)

### **Requirements for an application to be effective**

**prov hdg** amd 2001 No. 25 s 15 sch 2

**s 49** amd 2001 No. 25 s 15 sch 2

### **Copies of application to be given to clerk of the Parliament and commission**

**prov hdg** amd 2001 No. 25 s 15 sch 2

**s 50** amd 2001 No. 25 s 15 sch 2

### **Application to court for order relating to documents etc.**

**s 51** amd 2001 No. 25 s 15 sch 2

### **Parties to application**

**prov hdg** amd 2001 No. 25 s 15 sch 2

**s 52** amd 2001 No. 25 s 15 sch 2

### **How application is to be dealt with by court**

**prov hdg** amd 2001 No. 25 s 15 sch 2

**s 53** amd 2001 No. 25 s 18; 2001 No. 25 s 15 sch 2

### **Application for dismissal of application disputing referendum**

**s 54** sub 2001 No. 25 s 15 sch 2

### **Powers of the court**

**s 55** amd 2001 No. 25 s 15 sch 2

### **Restrictions on certain orders**

**s 56** amd 2001 No. 25 s 15 sch 2

### **Restriction on certain evidence and inquiries**

**s 57** amd 2001 No. 25 s 15 sch 2

### **Costs**

**s 60** amd 2001 No. 25 s 15 sch 2

**Decisions and orders to be final etc.**

s 61            amd 2001 No. 25 s 19; 2001 No. 25 s 15 sch 2

**Right of commission to have access to documents**

s 62            amd 2001 No. 25 s 15 sch 2

**Division 2—Appeals**

div 2 (ss 62A–62G) ins 2001 No. 25 s 20

**False or misleading statements**

s 64            om 2002 No. 8 s 66

**False, misleading or incomplete documents**

s 65            om 2002 No. 8 s 66

**Bribery**

s 66            om 2002 No. 8 s 66

**Providing money for illegal payments**

s 67            om 2002 No. 8 s 66

**Forging or uttering referendum papers etc.**

s 70            om 2002 No. 8 s 67

**Misleading electors**

s 74            amd 2002 No. 8 s 68

**Failure to vote etc.**

s 75            amd 2002 No. 8 s 69

**Canvassing etc. in or near polling places**

s 77            amd 2002 No. 8 s 70

**Influencing voting**

s 79            om 2002 No. 8 s 71

**Voting if not entitled etc.**

s 81            om 2002 No. 8 s 72

**PART 7A—RETURNS BY BROADCASTERS AND PUBLISHERS**

pt 7A (ss 96A–96D) ins 2002 No. 8 s 73

**How things are to be signed**

s 98            amd 2002 No. 8 s 74

**PART 9—REPEAL AND CONSEQUENTIAL AMENDMENTS**

pt hdg        om R1 (see RA s 40)

**Transitional provision—petition disputing referendum**s 101         prev s 101 om R1 (see RA s 40)  
pres s 101 ins 2001 No. 25 s 15 sch 2**Act amended**

s 102         om R1 (see RA s 40)

**SCHEDULE 2—AMENDMENTS OF ELECTORAL ACT 1992**

om R1 (see RA s 40)

**SCHEDULE 3—DICTIONARY**def “**broadcast**” ins 2002 No. 8 s 75def “**broadcaster**” ins 2002 No. 8 s 75def “**institution**” amd 2006 No. 41 s 50Ddef “**journal**” ins 2002 No. 8 s 75