

Queensland



REFERENDUMS ACT 1989

Reprinted as in force on 28 January 1997
(includes amendments up to Act No. 37 of 1996)

Reprint No. 1A

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Information about this reprint

This Act is reprinted as at 28 January 1997. 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.

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

Also see endnotes for information about—

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

Queensland



REFERENDUMS ACT 1989

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REFERENDUMS ACT 1989

[as amended by all amendments that commenced on or before 28 January 1997]

An Act to provide for the conduct of a referendum and for related purposes

PART 1—PRELIMINARY

Short title

1.1 This Act may be cited as the *Referendums Act 1989*.

Definitions

1.2 In this Act—

“**ballot paper**” means a paper in accordance with the form in the schedule posing the issue to be submitted to referendum.

“**elections tribunal**” means the elections tribunal established pursuant to the *Elections Act 1983*.

“**elector**” means an elector for the purposes of the *Elections Act 1983*.

“**electoral commissioner**” means the electoral commissioner appointed under the *Elections Act 1983*.

“**electoral district**” or “**district**” means an electoral district for the purposes of the *Elections Act 1983*.

“**electoral registrar**” means an electoral registrar for the purposes of the *Elections Act 1983*.

“**poll**” means the taking of the vote for the purposes of a referendum.

“**poll clerk**” means the officer appointed by the returning officer to assist himself or herself or the presiding officer in taking the poll at any

polling booth or in carrying out any of the other duties under this Act.

“polling booth” means a place appointed for the taking of the vote for the purposes of the *Elections Act 1983* or this Act.

“polling day” means the day fixed for the taking of the vote.

“prescribed electoral registrar” means—

- (a) an electoral registrar for the district for which the elector is enrolled for the purposes of the *Elections Act 1983*;
- (b) an electoral registrar designated by order in council as a prescribed electoral registrar for the purposes of the *Elections Act 1983* or this Act, the Governor in Council being hereby authorised to so designate electoral registrars for the purpose.

“prescribed form” means—

- (a) a form prescribed by this Act or the regulations; or
- (b) a form approved by the chief returning officer.

“presiding officer” means the returning officer or other person duly appointed to take the poll at any polling booth appointed for an electoral district or the substitute duly appointed of either.

“referendum” means the taking of the vote of the electors qualified to vote for the election of members of the Legislative Assembly on—

- (a) a Bill required to be approved by the electors qualified to vote for the election of members of the Legislative Assembly; or
- (b) a question resolved by the Legislative Assembly to be submitted to the vote of the electors qualified to vote for the election of members of the Legislative Assembly.

“returning officer” means the returning officer for an electoral district for the purposes of the *Elections Act 1983* and any person appointed under that Act to assist that person; such returning officer being deemed to be a returning officer for the purposes of this Act.

“roll” means a roll for the purposes of the *Elections Act 1983* which is deemed to be a roll for the purposes of this Act.

“scrutineer” means a person appointed as a scrutineer in accordance with this Act.

References to chief returning officer and principal electoral officer

1.3 A reference in this Act to the chief returning officer or the principal electoral officer is a reference to the electoral commissioner.

PART 2—WRIT FOR A REFERENDUM**Writ for a referendum****2.1** Where—

- (a) a Bill is to be submitted to the electors qualified to vote for the election of members of the Legislative Assembly; or
- (b) the Legislative Assembly has resolved that a question be submitted to the electors qualified to vote for the election of members of the Legislative Assembly;

the Governor may issue the Governor's writ to the chief returning officer for the conduct of a referendum.

Form of writ

2.2 The writ for the purpose of section 2.1 must be in accordance with the relevant form in the schedule and must specify—

- (a) the day for the close of the rolls;
- (b) the day appointed for the holding of the referendum;
- (c) the day for the return of the writ.

Statement of referendum issue**2.3** There must be attached to the writ—

- (a) a copy of the Bill to be submitted to the electors qualified to vote for the election of members of the Legislative Assembly; or
- (b) a statement of the question resolved by the Legislative Assembly

to be submitted to the electors qualified to vote for the election of members of the Legislative Assembly.

Duties of chief returning officer

2.4 Upon receipt of the writ the chief returning officer must—

- (a) endorse on the writ the date of receipt by the chief returning officer;
- (b) insert in the gazette and in 2 or more newspapers circulating in the State a notification of the receipt of the writ and of the day appointed for the holding of the referendum and for the return of the writ;
- (c) insert in the gazette within 14 days of the date of receipt of the writ by the chief returning officer a list, with sufficient particularisation to identify the location, of all polling booths appointed by the chief returning officer for the taking of the poll for the referendum;
- (d) forward a copy of the writ and of the Bill or question attached thereto to the returning officer of each electoral district who is to be a returning officer for that electoral district for the purposes of this Act;
- (e) cause a copy of the writ and of the attached Bill or question to be publicly displayed at every place appointed for the holding of a Magistrates Court.

Returning officers etc. to make declaration

2.5(1) Every person appointed a returning officer, a presiding officer, an assistant returning officer or a poll clerk for the purposes of this Act, other than a person deemed to be such returning officer, must make and subscribe a solemn declaration in the prescribed form before the person enters on the duties of such office.

(2) The solemn declaration must be made and subscribed before a justice of the peace or, in the case of a presiding officer or poll clerk appointed in respect of a polling booth at which a justice of the peace is not available, before an elector.

(3) Every presiding officer or poll clerk, upon making and subscribing the solemn declaration, must transmit it forthwith to the returning officer of the district in question, and the returning officer must transmit it to the clerk of the Parliament at the same time as the returning officer transmits the packet or packets referred to in section 5.9(1) in compliance therewith.

(4) Each returning officer for the purposes of this Act, other than a deemed returning officer, must, within 7 days after the receipt by the returning officer of notification of his or her appointment, transmit the solemn declaration made and subscribed by the returning officer under this section to the chief returning officer.

PART 3—STATEMENT OF ARGUMENTS

Publication of ‘yes’ and ‘no’ cases

3.1(1) If—

- (a) a Bill or question is the subject of a writ issued under this Act; and
- (b) within 4 weeks after—
 - (i) the Bill is passed by the Legislative Assembly; or
 - (ii) the Legislative Assembly resolves (whether before or after the commencement of this section) that the question be submitted to the electors qualified to vote for the election of members of the Legislative Assembly;

there is to be forwarded to the electoral commissioner—

- (iii) an argument in favour of the Bill or an affirmative answer to the question to be submitted to the electors in accordance with the resolution, consisting of not more than 1 000 words, authorised by a majority of the members of the Legislative Assembly who both—
 - (A) voted for the Bill or an affirmative answer to the question; and

(B) desire to forward such an argument; or

(iv) an argument against the Bill or an affirmative answer to the question to be submitted to the electors in accordance with the resolution, consisting of not more than 1 000 words, authorised by a majority of the members of the Legislative Assembly who both—

(A) voted against the Bill or an affirmative answer to the question; and

(B) desire to forward such an argument;

then—

(c) if—

(i) the commissioner receives an argument under paragraph (b)(iii) and an argument under paragraph (b)(iv) in relation to the referendum; and

(ii) each argument is accompanied by a request that the electoral commissioner cause a copy of the argument to be posted to each elector;

subsection (3) applies to the referendum; and

(d) in any other case—subsection (2) applies to the referendum.

(2) If this subsection applies to the referendum, the electoral commissioner must cause to be published in at least 2 newspapers circulating throughout the State, on at least 2 occasions (1 occasion being the day before the day appointed for the referendum), a notice containing, as nearly as practicable, the argument in favour of or against the Bill or question or both, as the case requires.

(3) If this subsection applies to the referendum, the electoral commissioner must, not later than 14 days before the day appointed for the referendum, cause to be printed and posted to each elector a pamphlet containing, as nearly as practicable, the arguments in favour of and against the Bill or question.

(4) The format and printing style of a notice under subsection (2), or a pamphlet under subsection (3), are to be as the electoral commissioner determines.

Limitation on expenditure

3.2 Money must not be expended by the State in the presentation of arguments in favour of a Bill or question or against a Bill or question except in relation to—

- (a) the preparation and publication of newspaper notices under section 3.1; and
- (b) the preparation, printing and distribution of pamphlets under section 3.1, or the preparation and distribution of translations into other languages of material contained in those pamphlets; and
- (c) the salaries and allowances of members of the Legislative Assembly, of members of the staff of members of the Legislative Assembly or of persons who are public service employees.

PART 4—POLLING AND CONDUCT OF REFERENDUM**Writ directed to returning officers**

4.1(1) Upon receipt of a copy of the writ from the chief returning officer, the returning officer must give public notice of—

- (a) the day; and
- (b) the several polling booths;

appointed for the referendum.

(2) The returning officer may, not later than 14 days prior to polling day—

- (a) cancel an existing polling booth; or
- (b) appoint an additional polling booth;

for the referendum in which case the returning officer must give public notice of his or her action and advise the chief returning officer within 7 days of his or her action.

(3) Public notice for the purpose of this section may be given by the

insertion of an advertisement in a newspaper circulating in the general area the subject of the action or in such other manner as the returning officer considers appropriate.

Provision of ballot boxes etc.

4.2(1) For taking the vote the returning officer must cause to be provided at each polling booth—

- (a) a ballot box; and
- (b) a compartment or compartments in which electors may record their votes; and
- (c) all necessary materials to enable electors to mark the ballot papers.

(2) In any case where the number of electors likely to vote at a polling booth is such that, in the opinion of the returning officer, more than 1 ballot box should be provided, the returning officer must cause 2 or more ballot boxes to be provided at that polling booth.

(3) A ballot box must be a box with a cleft or opening therein capable of receiving the folded ballot papers.

Hospital room or ward deemed to be part of polling booth in certain cases

4.3 If a part of a hospital or charitable institution is appointed as a polling booth, every room or ward of the hospital or charitable institution in which there is any elector unable by reason of ill-health to present himself or herself to record his or her vote and deposit it in a ballot box at the polling booth, is deemed to be part of the polling booth for the purposes of enabling such elector to record his or her vote, and a presiding officer presiding in respect of a ballot box may take the ballot box to any such elector for the purpose of receiving the vote recorded by the elector.

Returning officer to provide presiding officers

4.4(1) The returning officer—

- (a) may preside at 1 polling booth within or belonging to the

returning officer's district;

- (b) must by written notice appoint presiding officers to take the poll at all polling booths except—
 - (i) that at which the returning officer presides; and
 - (ii) those central polling booths for which assistant returning officers have been appointed as hereafter in this Act provided;
- (c) must supply a copy of the roll certified by the returning officer under his or her hand to each presiding officer.

(2) Where the returning officer, pursuant to section 4.2, causes 2 or more ballot boxes to be provided at a polling booth, the returning officer must by written notice appoint a presiding officer to take the poll in respect of each ballot box other than one in respect of which the returning officer presides and all provisions of this Act relating to presiding officers apply to presiding officers presiding in respect of such ballot boxes.

(3) Appointment by the returning officer of any person as a presiding officer must be subject to the prior approval of the chief returning officer.

Appointment of poll clerks

4.5 The returning officer may appoint a poll clerk or poll clerks to assist the returning officer or the presiding officer in taking the poll or in carrying out any of the returning officer's other duties under this Act.

Illness etc. of returning officer or presiding officer

4.6 If any returning officer or other presiding officer is prevented from presiding at a polling booth by illness or other sufficient cause, the returning officer may, by written notice, appoint a substitute to act for him or her or for the presiding officer, as the case may be; and the substitute has full power and authority to do at the polling booth in question all things required by this Act to be done by the officer for whom he or she is a substitute.

Adjournment of referendum by presiding officer

4.7(1) The presiding officer at any polling booth may adjourn the referendum at that polling booth in any case where the taking of the referendum is or is likely to be interrupted or obstructed by storm, tempest, flood, fire or other occurrence of a like nature.

(2) Where a referendum has been adjourned pursuant to subsection (1) by a presiding officer other than a returning officer, the presiding officer must forthwith give notice of the adjournment to the returning officer, and in any case the returning officer must give notice of the adjournment to the chief returning officer.

Taking of adjourned referendum

4.8 If for any reason the vote is not taken at a polling booth on referendum day, it is lawful for the chief returning officer, where the chief returning officer is of the opinion that the number of votes likely in his or her opinion to be cast at that polling booth is likely to affect the overall result of the referendum, to appoint another day not later than 14 days from the day named in the writ for taking the poll at such polling booth, of which appointment due notice must be publicly given, and the poll must be taken accordingly and is deemed to have been taken on the day first appointed.

Minimum age of presiding officer etc.

4.9 A person who is under the age of 18 years must not be appointed to act as presiding officer or as substitute for the returning officer or a presiding officer or as poll clerk.

Printing, supplying and distributing ballot papers

4.10(1) The electoral commissioner must arrange for, control and supervise—

- (a) the printing of the ballot papers for the taking of the poll; and
- (b) the supply to electoral officials of ballot papers in sufficient numbers.

(2) Every ballot paper must be—

- (a) in the appropriate form set out in the schedule; and
- (b) of the colour approved by the electoral commissioner; and
- (c) attached to a butt that—
 - (i) must not be part of the ballot paper; and
 - (ii) must be perforated in a way that permits the ballot paper to be easily detached from it; and
 - (iii) must be numbered in a regular arithmetical sequence starting at 1.

(3) The electoral commissioner may give directions with respect to the printing of ballot papers, their delivery to appropriate electoral officials and subsequent dealings with the ballot papers by electoral officials and the printer.

(4) Subject to any directions under subsection (3), a returning officer must supply to each polling booth ballot papers equal to the number of electors likely to vote at the polling booth.

(5) A person who contravenes a direction under subsection (3) commits an offence.

Maximum penalty—10 penalty units.

(6) In this section—

“**electoral official**” includes a returning officer, assistant returning officer, overseas officer, interstate officer, prescribed electoral registrar or presiding officer.

Hours of voting

4.11(1) The voting must commence at 8 a.m. and must close at 6 p.m. of the same day unless adjourned by reason of riot or other interruption pursuant to a provision of this Act.

(2) However, any person present in the room or place where the ballot box or ballot boxes is or are provided in the polling booth at 6 p.m. of polling day who is entitled to vote as an elector and who desires to vote must be permitted to vote.

Scrutineers

4.12(1) A member of the Legislative Assembly may by written notice appoint a scrutineer or scrutineers—

- (a) at each polling booth; or
- (b) where there are 2 or more ballot boxes provided at a polling booth, in respect of each of those ballot boxes; or
- (c) at any other place where a vote is being or is to be cast in accordance with this Act.

(2) Every person so appointed a scrutineer must upon his or her appointment make and subscribe before the presiding officer a solemn declaration in the prescribed form.

(3) At any one and the same time during the hours of polling, a member of the Legislative Assembly is entitled to have 1, and only 1, scrutineer in a polling booth unless that polling booth is provided with 2 or more ballot boxes, in which case the member may have 1, and only 1, scrutineer in respect of each of those ballot boxes.

(3A) However, another scrutineer for such member of the Legislative Assembly may enter a polling booth for the purpose of taking the place of a scrutineer for such member in question already present therein or for the purpose of voting.

(4) A member of the Legislative Assembly in accordance with subsection (1) is entitled to have 1, and only 1, scrutineer at any other place where a vote is being cast in accordance with this Act.

(5) A person must not, without lawful authority, prevent or attempt to prevent a scrutineer from entering or leaving the polling booth at or to which the scrutineer is appointed or where there is a ballot box in respect of which the scrutineer is appointed at any time during the hours of polling or from entering or leaving any other place at or to which the scrutineer is appointed where a vote is being or is to be cast in accordance with this Act.

(6) A person who is under the age of 18 years must not be appointed to act as a scrutineer.

(7) A member of the Legislative Assembly is, for the purposes of this Act, deemed to be a scrutineer under this Act.

Ballot box to be opened for inspection

4.13 A ballot box must be opened to be inspected by the poll clerks, any member of the Legislative Assembly, and scrutineers before being sealed for receiving the ballot papers.

Restriction on entry to polling booth

4.14(1) Subject to subsection (2), a person other than—

- (a) the presiding officer;
- (b) the returning officer, whether or not the returning officer is the presiding officer;
- (c) the poll clerk;
- (d) a member of the Legislative Assembly;
- (e) the scrutineers of a member of the Legislative Assembly;
- (f) the electors who for the time being are voting;

is not entitled to be present in a room or place where a ballot box is provided in a polling booth.

(2) The presiding officer or poll clerk may summon to his or her assistance in the polling booth any police officer for the purpose of preserving the public peace or preventing any breach thereof, and for removing out of the polling booth any person who in his or her opinion is obstructing the polling or wilfully violating this Act.

Questions to voters

4.15(1) The presiding officer—

- (a) may of his or her own motion if the presiding officer thinks fit; and
- (b) must, if thereunto required by a scrutineer upon grounds stated by that scrutineer (being in the case of the question numbered 3 set out hereunder in this subsection 1 or more of the grounds prescribed by this Act as disqualifying from voting the person to whom the question is required to be put) and warranting, in the opinion of the presiding officer, the putting thereof;

put to any person claiming to be an elector before that person votes and not afterwards any 1 or more of the following questions—

1. Are you the same person whose name appears as (A.B., number) in the roll?
2. Have you already voted, either here or elsewhere, at the present referendum?
3. Are you disqualified from voting for the reason that (here state the ground for this question)?

(2) A person required to answer such questions, or any of them, is not permitted to vote until the person has answered the same in writing signed by the person to the satisfaction of the presiding officer and in such a manner as to show that the person is entitled to vote.

(3) The prescribed questions must be endorsed upon an envelope and when the person required to answer them, or any of them, has done so in writing signed by the person and otherwise satisfied the requirements of this section, the person must—

- (a) record his or her vote in the manner prescribed;
- (b) then fold the ballot paper so as to conceal the manner in which he or she has voted;
- (c) then hand the folded ballot paper to the presiding officer;

and the presiding officer must, without unfolding the ballot paper and in the presence and sight of the elector and of such scrutineers (if any) as are present, place it in the envelope on which the prescribed questions are endorsed and, after securely fastening the envelope, deposit it in the ballot box.

(4) At the scrutiny the returning officer must produce unopened all envelopes received by the returning officer immediately containing votes for his or her district permitted under this section and, if the returning officer is satisfied in every respect that the person who voted was entitled to do so, the returning officer must open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box and set the envelope aside for separate custody.

(5) If the returning officer is not so satisfied in every respect that the person who voted was entitled to do so, the returning officer must reject that

vote and must, without in any way unfastening or permitting or allowing to be in any way unfastened the envelope containing it, set that envelope aside for separate custody.

(6) When the returning officer has dealt with all the envelopes containing votes permitted under this section produced by the returning officer at the scrutiny, the returning officer must open the ballot box and count in the manner prescribed such and so many ballot papers recording those votes as the returning officer has placed therein.

(7) However, the returning officer must reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

Declaration against bribery

4.16 The presiding officer may if the presiding officer thinks fit, and must if called upon so to do by any scrutineer, require any person claiming to vote to make a solemn declaration against bribery in the prescribed form, and any person refusing to make such declaration is not entitled to vote.

Elector required to answer questions, take oath etc. only as prescribed

4.17 An elector is not at a referendum required to answer any questions or to take any oath or make any affirmation or declaration except as provided by this Act.

No exclusion from voting except on specified grounds

4.18 A person claiming to vote at a referendum is not excluded from voting except by reason of it appearing to the presiding officer, upon putting the prescribed questions or any of them—

- (a) that the person is not the person whose name appears on the roll;
or
- (b) that the person has previously voted at the same referendum; or
- (c) that the person is otherwise not entitled to vote;

or except by reason of such person refusing to answer any of such

questions or to take any prescribed oath or make any prescribed affirmation or declaration.

Ballot paper to be given to elector

4.19(1) When an elector has satisfied the presiding officer that the person is entitled to vote at the referendum, the presiding officer must deliver to the person a ballot paper.

(2) A presiding officer who, having a sufficient supply of ballot papers, fails to comply with subsection (1) when satisfied of the elector's entitlement to vote as therein provided is guilty of wilful neglect of duty.

Name of elector to be marked on roll

4.20(1) Upon delivery of the ballot paper to the elector, the presiding officer or poll clerk must, on the copy of the roll in use by him or her or, in the case of a presiding officer other than the returning officer, on the certified copy of the roll supplied to him or her by the returning officer, place a mark against the name of the elector.

(2) The presiding officer or poll clerk must use ink or pencil of uniform colour in placing such marks on the roll.

(3) The mark is prima facie evidence that the elector against whose name it is placed voted at the referendum.

Mode of voting

4.21(1) Subject to subsection (1A), the elector must—

- (a) having received a ballot paper—
 - (i) if the elector approves of the Bill or the question, place a tick in the space provided opposite the word 'YES' in the space provided on the ballot paper; or
 - (ii) if the elector does not approve of the Bill or the question, place a tick in the space provided opposite the word 'NO' in the space provided on the ballot paper;
- (b) forthwith then fold up the paper in a manner as will conceal the

elector's vote and deposit it in the ballot box in the presence of the presiding officer.

(1A) If—

(a) the elector—

- (i) writes the word 'YES' in the square opposite the word 'YES' on the ballot paper; or
- (ii) otherwise marks the ballot paper in a way that clearly and unambiguously indicates that the voter approves of the Bill or the question;

the elector is taken to have marked the ballot paper as mentioned in subsection (1)(a)(i); and

(b) the elector—

- (i) writes the word 'NO' in the square opposite the word 'NO' on the ballot paper; or
- (ii) otherwise marks the ballot paper in a way that clearly and unambiguously indicates that the voter does not approve of the Bill or the question;

the elector is taken to have marked the ballot paper as mentioned in subsection (1)(a)(ii).

(2) While an elector is in a compartment preparing the elector's ballot paper, no other person is, except as hereinafter provided, allowed in such compartment.

(3) If an elector satisfies the presiding officer that—

- (a) the elector is blind; or
- (b) the elector's sight is so impaired or the elector is so physically incapacitated that the elector is unable to vote without assistance; or
- (c) the elector is illiterate and unable to vote without assistance;

the presiding officer must—

- (d) permit another person appointed by the elector, and who the presiding officer is satisfied is an immediate relative of the elector, to enter an unoccupied compartment with the elector and

mark, fold and deposit the elector's ballot paper for the elector; or

- (e) if the elector does not appoint another person as aforesaid, enter an unoccupied compartment with the elector and the poll clerk or another presiding officer and mark the elector's ballot paper as provided in subsection (1) in the manner the elector says he or she desires to vote, after which the presiding officer must fold the ballot paper and deposit it in the ballot box for the elector.

(4) The presiding officer must, if specifically requested by an elector who is blind or has impaired sight or is illiterate, state in accurate terms without comment or further elaboration the Bill or the question on the ballot paper.

(5) An elector must not take out of the room or place where the ballot box is provided in the polling booth any ballot paper, whether marked or unmarked, delivered to the elector pursuant to this Act.

Issue of ballot paper in substitution for spoilt one

4.22(1) If the elector to whom the ballot paper has been delivered satisfies the presiding officer before the elector has deposited the ballot paper in the ballot box that the elector has spoilt his or her ballot paper by accident or mistake, the elector may, if the presiding officer thinks fit, on giving up the spoilt ballot paper, be handed a new ballot paper by the presiding officer in substitution for the spoilt one.

(2) Before being handed a new ballot paper, the elector must duly complete and sign a declaration in the prescribed form, endorsed upon an envelope, before the presiding officer that the original ballot paper has been spoilt by accident or mistake, as the case may be, and must give such envelope endorsed with the prescribed declaration to the presiding officer with the spoilt ballot paper.

(3) Before handing the new ballot paper to the elector, the presiding officer must place the spoilt ballot paper in the envelope which is endorsed with the prescribed declaration, fasten the envelope and set it aside for separate custody.

Duty of presiding officer where claimant to vote appears to have already done so

4.23(1) If on the roll in use by the presiding officer at a polling booth the name of a person claiming to vote as an elector at such polling booth is marked to indicate that such person has already received a ballot paper, the presiding officer must put to such person the prescribed questions.

(2) Such person must not be permitted to vote until the person has answered the prescribed questions in writing signed by the person to the satisfaction of the presiding officer and in such manner as to show that the person is entitled to vote.

(3) When the person required to answer the prescribed questions has done so in writing signed by the person and otherwise satisfied the requirements of this section, the person must—

- (a) record his or her vote in the manner prescribed;
- (b) then fold the ballot paper so as to conceal the manner in which he or she has voted;
- (c) then hand the folded ballot paper to the presiding officer;

and the presiding officer must, without unfolding the ballot paper and in the presence and sight of the elector and of such scrutineers (if any) as are present, place it in the envelope on which the prescribed questions are endorsed and, after securely fastening the envelope, deposit it in the ballot box.

(4) At the scrutiny the returning officer must produce unopened all envelopes received by the returning officer immediately containing votes for his or her district permitted under this section and, if the returning officer is satisfied in every respect that the person who voted was entitled to do so, the returning officer must open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box and set the envelope aside for separate custody.

(5) If the returning officer is not so satisfied in every respect that the person who voted was entitled to do so, the returning officer must reject that vote and must, without in any way unfastening or permitting or allowing to be in any way unfastened the envelope containing it, set that envelope aside for separate custody.

(6) When the returning officer has dealt with all the envelopes containing

votes permitted under this section produced by the returning officer at the scrutiny, the returning officer must open the ballot box and count in the manner prescribed such and so many ballot papers recording those votes as the returning officer has placed therein.

(7) However, the returning officer must reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

Voting as absent voter outside district

4.24(1) Subject to this Act, any elector may vote as an absent voter at any polling booth that is not a polling booth for the district for which the elector is enrolled.

(2) In every such case the person claiming to vote must answer the questions following—

- (a) For what electoral district are you qualified to vote?
- (b) What is your surname?
- (c) What are your christian names in full?
- (d) What is your occupation?
- (e) What is your full address on the roll for the electoral district or which you claim to vote?
- (f) What is your present address?

and must endorse in the prescribed form the answers to such questions upon an envelope and sign the same.

(3) A presiding officer at any polling booth at which a person claims to vote under this section must not deliver a ballot paper to that person until the presiding officer has obtained from the person an envelope endorsed to the presiding officer's satisfaction with the answers to such questions and signed by that person and that person has, in the presence and hearing of the presiding officer, declared that the answers to the questions are true and that the signature is the person's.

(4) Subject to the person in question so declaring, the presiding officer must witness the signature.

(5) Any person who—

- (a) wilfully makes a false answer to any of the questions that the person is required under subsection (2) to answer; or
- (b) signs his or her name upon any envelope any part of the endorsement of which is to the person's knowledge false is guilty of an offence.

Maximum penalty—2 penalty units.

(6) Subject to compliance in every respect with the requirements of subsections (1) to (5)—

- (a) the presiding officer must give to the elector concerned a ballot paper, but retain the envelope endorsed as aforesaid;
- (b) the elector must, in a compartment provided at the polling booth in question to enable electors to mark ballot papers, record the elector's vote in the manner prescribed, and immediately thereafter fold up the ballot paper so as to conceal the manner in which the elector has voted and deliver it to the presiding officer;
- (c) the presiding officer must then, in the sight and presence of the elector and of such scrutineers (if any) as are present and without unfolding the ballot paper, enclose it in the envelope endorsed, in respect of that elector, as hereinbefore provided in this section and, after securely fastening that envelope, deposit it in the ballot box.

(7) Every presiding officer must make, in the prescribed form, a record of the name of every elector permitted by the presiding officer to vote under this section, the district for which the vote is permitted, and the full address of that elector, as stated by the elector, on the roll for that district.

(7A) The record of particulars referred to in subsection (7) must be made before the particular envelope bearing the declaration is deposited in the ballot box.

(7B) A presiding officer must initial separately the particulars so recorded by the presiding officer in respect of each elector.

(8) Forthwith at the close of the poll each presiding officer must—

- (a) sort the envelopes containing votes recorded under this section into separate bundles according to the districts for which those votes have been so permitted; and

- (b) prepare advice notes of the total number of absent votes permitted for the respective districts and attach each advice note to the separate bundle appropriate to it; and
- (c) enclose the separate bundles with the advice notes attached thereto together with the record of electors permitted to vote as absent voters in an outer envelope and securely fasten the envelope; and
- (d) transmit by post or otherwise that envelope, properly addressed, to the returning officer of the district for which the presiding officer acted as such presiding officer.

(9) A presiding officer acting as such for 2 or more districts must transmit the envelope specified in subsection (8) to the returning officer who supplied the presiding officer with the ballot papers given by the presiding officer to the electors named in the form of record enclosed in that envelope as having been permitted to vote under this section.

(10) When the returning officer for a district has received from each presiding officer for the returning officer's district who has permitted votes under this section the absent vote envelopes, advice notes and form of record, the returning officer must—

- (a) verify the number of votes permitted by each such presiding officer; and
- (b) sort all of the absent vote envelopes received from all of the presiding officers into separate bundles according to the districts for which the votes have been permitted; and
- (c) enclose each bundle in respect of a district together with a form of notification as prescribed in an outer envelope and securely fasten the envelope; and
- (d) transmit by post or otherwise every such outer envelope, properly addressed, to the returning officer of the district respectively for which the votes enclosed therein have been permitted; and
- (e) inform each such returning officer, by telephone or other expeditious means, of the total number of votes permitted for his or her district.

(11) At the scrutiny the returning officer must produce unopened all envelopes received by the returning officer immediately containing votes for the returning officer's district permitted under this section and, without in

any way unfastening or permitting or allowing to be in any way unfastened any envelope immediately containing such a ballot paper, satisfy himself or herself—

- (a) by examining the endorsements upon that envelope, that those endorsements are in order and duly signed and witnessed; and
- (b) by comparing those endorsements with the roll for the returning officer's district used by him or her at the referendum in question, that the voter is an elector entitled to vote for the district of that returning officer at the referendum in question.

(12) If the returning officer satisfies himself or herself in every respect in relation to the matters referred to in subsection (11), the returning officer must place a mark against the name of the elector concerned in the roll used by the returning officer at the referendum.

(13) If in respect of any vote permitted under this section the returning officer is not satisfied in every respect in relation to the matters referred to in subsection (11), the returning officer must reject that vote and must, without in any way unfastening or permitting or allowing to be in any way unfastened the envelope containing it, set that envelope aside for separate custody.

(14) Subject to section 4.33, the returning officer must also reject and set aside for separate custody any envelope purporting to contain a vote permitted under this section which does not bear thereon the endorsements signed and witnessed as prescribed by this section.

(15) If in respect of any vote permitted under this section the returning officer is satisfied in every respect as required by the provisions of this section, the returning officer must open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box and set the envelope aside for separate custody.

(16) When the returning officer has dealt with all the envelopes containing votes permitted under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed by this Act such and so many ballot papers recording those votes as the returning officer has placed therein; and must so proceed in respect of every such time until the day when all votes permitted under this section have been received and dealt with by the returning officer or until the day when no

further ballot papers are to be counted, whichever sooner occurs.

(16A) However, the returning officer shall reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

(17) A signature upon an envelope endorsed with an absent voter's declaration purporting to be the signature of a voter is upon a scrutiny, without further proof, prima facie evidence that such voter voted at the referendum as an absent voter.

Voting in vicinity of, but not in, polling booth by elector unexpectedly incapacitated

4.25(1) Where an elector, although intending to vote in a polling booth on polling day, is on or shortly before polling day physically incapacitated to the extent that the elector is unable to enter a polling booth to vote but is able to bring himself or herself or to be brought to a place or position in close proximity to a polling booth ("**the voting place**") by motor vehicle or any other means, the elector may make application in the prescribed form to the presiding officer at the polling booth in question before 5 p.m. of polling day to vote at the voting place.

(2) An application so made must be taken to be an effective application only if it reaches the presiding officer not later than 5 p.m. of polling day; and an elector who makes an application that reaches the presiding officer after that time is not entitled to vote under this section.

(3) A person to whom an application is entrusted by an applicant for the purpose of delivery to the presiding officer must deliver it to the presiding officer forthwith.

(4) The application must be signed by the applicant with his or her own hand in the presence of, and must be declared before and attested by, an elector.

(5) Upon receipt of the application not later than 5 p.m. of polling day, the presiding officer, if satisfied that the application is properly signed by the applicant, is properly attested and is otherwise completed must as soon as practicable but not later than 6 p.m. of polling day take the vote of the elector at the voting place.

(6) Where the name of the applicant is on the roll of electors entitled to

vote for the district in which the polling booth is situated, the vote must be referred to as an ‘incapacitated person’s vote’ and, where the applicant states in his or her application that the applicant’s name is on the roll of electors entitled to vote for a district that is not the district in which the polling booth is situated, the vote must be referred to as an ‘incapacitated person’s absent vote’.

(7) If the applicant in his or her application states the applicant’s name is on the roll of electors entitled to vote for the district in which the polling booth is situated and the presiding officer satisfies himself or herself that the name is not on the roll, the presiding officer must notify the applicant accordingly and must not take the applicant’s vote under this section.

(8) As soon as practicable after a presiding officer has received an application under this section, the presiding officer must, if it is practicable to do so, notify any scrutineer of whom the presiding officer is aware, of the voting place, and of the approximate time when the vote is to be taken.

(9) A person must not, without lawful authority, prevent or attempt to prevent a scrutineer who is entitled to be present at the voting place when a vote is being taken under this section from being so present.

(10) A presiding officer—

- (a) may of his or her own motion if the presiding officer thinks fit; and
- (b) must if thereunto required by a scrutineer upon grounds stated by that scrutineer (being in the case of the question numbered 3 set out hereunder in this subsection 1 or more of the grounds prescribed by this Act as disqualifying from voting the person to whom the question is required to be put) and warranting, in the opinion of the presiding officer, the putting thereof;

put to any applicant before the applicant votes and not afterwards any 1 or more of the following questions—

1. Is your name (A., B.,) and does your name so appear in the roll for the electoral district of (here state the name of the electoral district for which the applicant states in his or her application that his or her name is on the roll)?
2. Have you already voted at any place at the present referendum for the electoral district of (here state the name of the electoral district

in question) or any other electoral district?

3. Are you disqualified from voting for the reason that (here state the ground for this question)?

(10A) An applicant required to answer such questions, or any of them, must not be permitted to vote until the applicant has answered the same in writing signed by the applicant to the satisfaction of the presiding officer, and in such a manner as to show that the applicant is entitled to vote.

(10B) When the applicant required to answer the prescribed questions or any of them has done so in writing signed by the applicant and otherwise satisfied the requirements of subsections (10) and (10A), the applicant must hand the form on which those questions are endorsed to the presiding officer and must comply with the provisions of subsections (11) to (11C) in relation to the completion of the prescribed form of certificate or declaration, as the case may be, and after the applicant has, pursuant to subsection (12) fastened the envelope endorsed with the certificate or declaration, the applicant must hand it to the presiding officer who must attach to the back thereof by gum or other suitable means the form on which the prescribed questions are endorsed.

(10C) Without derogating from any other provision of this section, if at the scrutiny the returning officer on producing unopened any envelope containing an incapacitated person's vote in respect of his or her district and any envelope containing an incapacitated person's absent vote in respect of his or her district pursuant to subsections (22) to (22E)—

- (a) is not satisfied in every respect that, having regard to the provisions of subsections (10) to (10B) and this subsection, the applicant was entitled to vote, the returning officer must reject that vote and endorse on the envelope that the vote is rejected pursuant to this subsection, whereupon the unopened envelope must be dealt with as in the case of a disallowed vote under subsections (22) to (22E);
- (b) is satisfied in every respect that, having regard to the provisions of subsections (10) to (10B) and this subsection, the applicant was entitled to vote, the returning officer must proceed in accordance with the provisions of subsections (22) to (22E).

(11) The presiding officer must hand to the applicant—

- (a) in the case of an incapacitated person's vote—the prescribed form of certificate endorsed on an envelope;
- (b) in the case of an incapacitated person's absent vote—the prescribed form of declaration endorsed on an envelope.

(11A) The presiding officer must not hand a ballot paper to the applicant unless the presiding officer has obtained from the applicant—

- (a) in the case of an incapacitated person's vote—the envelope endorsed to the presiding officer's satisfaction with the certificate duly completed and signed by the applicant with the applicant's own hand in the presence of the presiding officer;
- (b) in the case of an incapacitated person's absent vote—the envelope endorsed to the presiding officer's satisfaction with the answers to the questions thereon signed by the applicant with the applicant's own hand and the applicant has, in the presence and hearing of the presiding officer, declared that the answers to such questions are true and that the signature is the person's.

(11B) Upon receipt of the envelope endorsed with the signed certificate or declaration, as the case may be, the presiding officer must then and there fill in the correct date and attest the signature of the applicant.

(11C) The presiding officer then must hand the ballot paper to the applicant.

(12) The applicant must—

- (a) in the presence but not in the sight of the presiding officer or any other person vote in the manner prescribed;
- (b) then fold the ballot paper so as to conceal the manner in which the applicant has voted;
- (c) then obtain from the presiding officer the envelope endorsed with the certificate or declaration, as the case may be, place the folded ballot paper therein, and fasten the envelope;
- (d) then hand the fastened envelope to the presiding officer.

(13) If an applicant to whom a ballot paper has been handed under this section satisfies the presiding officer before the applicant has placed the ballot paper in the envelope and fastened the envelope in the manner prescribed that the applicant has spoiled his or her ballot paper by accident or

mistake, the applicant may, if the presiding officer thinks fit, on giving up the spoiled ballot paper, be handed a new ballot paper by the presiding officer in substitution for the spoiled one.

(13A) Before being handed a new ballot paper, the applicant must duly complete and sign a declaration in the prescribed form, endorsed upon an envelope, before the presiding officer that the original ballot paper has been spoiled by accident or mistake, as the case may be, and must give such envelope endorsed with the prescribed declaration to the presiding officer with the spoiled ballot paper.

(13B) Before handing the new ballot paper to the applicant, the presiding officer must place the spoiled ballot paper in the envelope that is endorsed with the prescribed declaration, fasten the envelope and set it aside for separate custody.

(14) A presiding officer must in respect of each district for which the presiding officer has taken the vote of an applicant under this section, make a record in the prescribed form.

(15) Any person present when an applicant is before a presiding officer for the purpose of voting under this section must—

- (a) obey all directions of the presiding officer;
- (b) except as provided in section 4.29—
 - (i) refrain from making any communication whatever with the applicant in relation to his or her vote;
 - (ii) refrain from assisting the applicant or in any manner interfering with the applicant in relation to his or her vote;
 - (iii) refrain from looking at the applicant's vote or from doing anything whereby the person may become acquainted with the applicant's vote.

(16) A person other than—

- (a) the applicant to whom a ballot paper has been handed under this section; or
- (b) a person appointed by, or a presiding officer requested by, the applicant pursuant to section 4.29;

must not place any mark upon the ballot paper.

(17) A presiding officer must not—

- (a) influence or attempt to influence in any way the vote of an applicant;
- (b) suffer or permit a person to influence or attempt to influence in any way the vote of an applicant or to otherwise interfere in any way with an applicant in relation to his or her vote;
- (c) look at or make himself or herself acquainted with the vote given by an applicant or assist an applicant to vote except in the course of acting in accordance with a request by the applicant pursuant to section 4.29;
- (d) suffer or permit a person to see or become acquainted with the vote given by an applicant or to assist an applicant to vote except where that person is acting in accordance with an appointment made by the applicant pursuant to section 4.29.

(18) A person must not without lawful authority prevent or attempt to prevent a presiding officer from being present at the voting place for the purpose of taking the vote of an applicant or from otherwise exercising the presiding officer's powers or discharging the presiding officer's duties under this Act.

(19) On the presiding officer's return to the polling booth after taking the vote of an applicant under this section, the presiding officer forthwith must deposit the fastened envelope referred to in subsection (12)(d) in a ballot box until the presiding officer has dealt with it as hereinafter provided in this section.

(20) Forthwith at the close of the poll the presiding officer must deliver or cause to be sent or transmitted to the returning officer the envelopes containing votes recorded under this section, the applications relating to those votes and the records made by the presiding officer pursuant to subsection (14).

(21) When the returning officer for a district has received from each presiding officer for the returning officer's district who has permitted votes under this section the envelopes, applications and records as aforesaid, the returning officer must—

- (a) verify the number of votes permitted by each presiding officer;
- (b) separate the envelopes endorsed with a declaration from the

- envelopes endorsed with a certificate;
- (c) sort all of the envelopes endorsed with a declaration into separate bundles according to the districts for which those votes have been so taken;
 - (d) enclose each bundle in respect of a district together with the application relating to each incapacitated person's absent vote and a form of notification as prescribed in an outer envelope and securely fasten the envelope;
 - (e) transmit by post or otherwise every such outer envelope, properly addressed, to the returning officer of the district respectively for which the votes enclosed therein have been so taken;
 - (f) inform each such returning officer, by telephone or other expeditious means, of the total number of votes permitted for his or her district.

(22) At the scrutiny the returning officer must produce, unopened, all envelopes containing incapacitated persons' votes in respect of the returning officer's district and all envelopes containing incapacitated persons' absent votes in respect of the returning officer's district, taken under this section and received by the returning officer up to the end of the period of 10 days immediately following the close of the poll, and all applications relating to those votes.

(22A) The returning officer must in each case, without opening the envelope endorsed with the certificate or the declaration, as the case may be, compare the signature of the certifier or the declarant on the envelope with the signature of the applicant on the application and allow each scrutineer who is present to inspect the same, and the returning officer must determine whether the signature on such envelope is that of the applicant.

(22B) If the returning officer is satisfied that the applicant is enrolled and if the vote is allowed, the returning officer must, before opening the envelope, place a mark against the name of the applicant in the roll used by the returning officer at the referendum in question and, after so doing, open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box.

(22C) Forthwith upon so doing, the returning officer must attach the envelope by gum or other suitable means to the application thereto.

(22D) Subject to section 4.33, a ballot paper purporting to be completed in accordance with this section is not allowed at the scrutiny unless it enclosed in an envelope endorsed in the manner prescribed by this section.

(22E) If the returning officer disallows a vote, the unopened envelope and the application relating thereto must be attached 1 to the other by gum or other suitable means and must be set apart for separate custody.

(23) When the returning officer has dealt with all the envelopes containing incapacitated persons' votes and incapacitated persons' absent votes taken under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed such and so many ballot papers recording those votes as the returning officer has placed therein: and must so proceed in respect of every such time until the day when all such votes permitted under this section have been received and dealt with by the returning officer or until the day when no further ballot papers are to be counted, whichever sooner occurs.

(23A) However, the returning officer shall reject any of those ballot papers required by the provision of section 5.6 to be rejected at the close of the poll.

(24) Any person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence.

Maximum penalty—4 penalty units or 6 months imprisonment.

Voting by electors in prescribed cities outside the State

4.26(1) The Governor in Council may appoint as—

- (a) an overseas officer or overseas officers;
- (b) an interstate officer or interstate officers;

an officer or officers (who or each of whom hereafter in this section is referred to as "**the officer**") at such office or place and in such city—

- (c) outside Australia in the case of any overseas officer;
- (d) within Australia but outside the State in the case of any interstate officer;

as may be prescribed by order in council, the Governor in Council being

hereby thereunto authorised, for the purpose of enabling any elector absent from the State to exercise the right to vote personally at a referendum.

(2) A person who is under the age of 18 years must not be appointed as the officer.

(3) The officer must before the officer enters on the duties of his or her office, make and subscribe a declaration in the prescribed form.

(3A) The declaration must be made and subscribed before a justice of the peace or a person employed in the public service of—

- (a) the Commonwealth; or
- (b) a State or Territory of the Commonwealth; or
- (c) a country, state or territory that is a member or part of the British Commonwealth; or
- (d) a British possession.

(3B) The officer must upon making and subscribing the declaration, transmit it forthwith to the chief returning officer.

(4) A person claiming to be an elector (an “**elector**”) may attend before the officer at such office or place and in such city as aforesaid and vote at a referendum at any time not earlier than 28 days prior to polling day and not later than 6 p.m. of the day next preceding polling day.

(4A) For the purposes of subsection (4), a reference to time must be taken to be a reference to the local time in the city in question.

(5) For the purpose of subsection (4), the officer must hand to the elector a form of declaration in the prescribed form endorsed on an envelope.

(5A) The officer must not hand a ballot paper to the elector until the officer has obtained from the elector the envelope endorsed to the officer’s satisfaction with the answers to the questions thereon signed by the elector with his or her own hand and the elector has, in the presence and hearing of the officer, declared that the answers to such questions are true and that the signature is the elector’s.

(5B) Upon receipt of the envelope endorsed with the signed declaration, the officer must then and there fill in the correct date and attest the signature of the elector.

(5C) The officer, if required, must complete the ballot paper so as to

enable a vote to be cast and then hand the ballot paper to the elector.

(5D) The elector must—

- (a) in the presence but not in the sight of the officer or any other person vote in the manner prescribed;
- (b) then fold the ballot paper so as to conceal the manner in which the elector has voted;
- (c) then obtain from the officer the envelope endorsed with the declaration, place the folded ballot paper therein, and fasten the envelope;
- (d) then hand the fastened envelope to the officer.

(5E) The officer must deposit the fastened envelope in a ballot box until the officer has dealt with it as hereinafter provided in this section.

(6) If an elector to whom a ballot paper has been handed satisfies the officer before the elector has placed the ballot paper in the envelope and fastened the envelope that the elector has spoiled his or her ballot paper by accident or mistake, the elector may, if the officer thinks fit, on giving up the spoiled ballot paper, be handed a new ballot paper by the officer in substitution for the spoiled one.

(6A) Before being handed a new ballot paper, the elector must duly complete and sign a declaration in the prescribed form endorsed upon an envelope before the officer that the original ballot paper has been spoiled by accident or mistake, as the case may be, and must give such envelope, endorsed with the prescribed declaration to the officer with the spoiled ballot paper.

(6B) Before handing the new ballot paper to the elector, the officer must place the spoiled ballot paper in the envelope which is endorsed with the prescribed declaration, fasten the envelope and set it aside for separate custody.

(7) The officer must make, in the prescribed form, a record of the name of every elector permitted by the officer to vote under this section, the district for which the vote is permitted, and the full address of the elector, as stated by the elector, on the roll for that district.

(7A) Where the officer permits votes under this section for more than 1 district, the officer must make a separate and distinct record in respect of

each such district.

(7B) The officer must initial separately the particulars so recorded by the officer in respect of each elector.

(8) As soon as may be after 6 p.m. of the day next preceding polling day as referred to in subsection (4), the officer must—

- (a) in respect of each district for which a vote has been permitted—enclose in a securely fastened outer envelope endorsed ‘Record of (name of city) voters’ the form of record made by the officer in compliance with subsections (7) and (7A);
- (b) transmit by air each such envelope, properly addressed to the returning officer for the district in question;
- (c) enclose in a securely fastened outer envelope all envelopes containing votes for a district permitted by the officer under this section.

Where the officer has permitted votes under this section for more than 1 district the officer must sort the envelopes containing those votes into separate parcels according to the districts for which those votes have been so permitted and then enclose the envelopes containing the votes for each such district respectively in an outer envelope and securely fasten the outer envelope;

- (d) transmit by air every such outer envelope, properly addressed, to the returning officer for the district respectively for which the votes enclosed therein have been permitted.

(9) The provisions of section 4.24(11) to (16A) with all necessary adaptations apply with respect to all envelopes and votes received by a returning officer pursuant to this section.

(10) A signature upon an envelope endorsed with the declaration of an elector voting pursuant to this section purporting to be the signature of a voter is upon a scrutiny, without further proof, prima facie evidence that such voter voted at the referendum as an elector pursuant to this section.

(11) Without derogating from any of the provisions of this section and for the purpose of giving full effect to such provisions, the officer has all the functions, powers, duties and liabilities of a presiding officer appointed pursuant to this Act.

Attendance before returning officer or prescribed electoral registrar to vote before polling day

4.27(1) An elector who—

- (a) has reason to believe—
 - (i) that the elector will not on polling day be within any district;
 - (ii) that the elector will throughout the hours of polling on polling day be travelling or engaged in work or duty in respect of his or her occupation or calling under conditions that will preclude the elector from voting at any polling booth in the State;
- (b) will not throughout the hours of polling on polling day be within 10 km by the nearest practicable route of any polling booth open on that day for the purpose of a referendum;
- (c) is by reason of the elector's membership of a religious order or his or her religious beliefs—
 - (i) precluded from attending at a polling booth; or
 - (ii) precluded from voting throughout the hours of polling on polling day or throughout the greater part of those hours;

may be permitted to vote at any time not earlier than 28 days before polling day and not later than 6 p.m. of the day next preceding polling day if the elector attends before the returning officer for the district for which the elector is enrolled or a prescribed electoral registrar and makes a declaration in accordance with the prescribed form.

(2) Where an elector, pursuant to subsection (1), attends before the returning officer for the district for which the elector is enrolled at a place other than the place where the returning officer usually performs his or her duties as returning officer, the returning officer, as a condition precedent to taking the vote of the elector must—

- (a) first have given reasonable notice of his or her intention to take the vote of the elector and of the place where and time when the returning officer intends to do so to any scrutineer who has notified the returning officer of his or her desire to be present at the taking of such vote;
- (b) provide at such place where the returning officer intends to take

the vote of the elector a compartment to enable the elector to record his or her vote, and have with the returning officer a ballot box into which the elector must place the envelope immediately containing, pursuant to subsection (6), the vote permitted by him or her under this section.

(3) When an elector permitted under this section to vote—

- (a) at a time when that elector is so permitted, attends before the returning officer for the district for which the elector is enrolled or a prescribed electoral registrar;
- (b) makes upon an envelope before that returning officer the declaration prescribed under subsection (1);

thereupon that returning officer or prescribed electoral registrar must—

- (c) if the ballot paper is not complete—complete the ballot paper so as to enable a vote to be cast;
- (d) give to that elector that ballot paper but retain the envelope upon which the elector has made the declaration as aforesaid.

(4) The elector must vote (in the presence but not in the sight of the returning officer or prescribed electoral registrar) by recording the elector's vote on the ballot paper delivered to the elector as aforesaid, fold up the ballot paper so as to conceal the manner in which the elector has voted, and then return that ballot paper to the returning officer or prescribed electoral registrar who must, without unfolding the ballot paper, place it in the envelope endorsed with the elector's declaration and fasten up that envelope.

(5) In the case of a vote permitted under this section by a prescribed electoral registrar, the prescribed electoral registrar must place the envelope containing the ballot paper, in and thereafter fasten up a second and outer envelope addressed to the returning officer of the district for which the elector claims that vote.

(6) Forthwith upon complying with the provisions of subsections (4) and (5) and the provisions of subsections (8) to (8A) the prescribed electoral registrar must deliver the outer envelope to the elector for posting or delivery to the returning officer to whom the envelope is addressed.

(7) A returning officer must, subject to subsection (2)(b), retain in the returning officer's custody the envelope immediately containing a vote permitted by the returning officer under this section.

(8) Every returning officer or prescribed electoral registrar must make, in the prescribed form, a record of the name of every elector permitted by him or her to vote under this section, the district for which the vote is permitted, and the full address of that elector, as stated by that elector, on the roll for that district.

(8A) Where a prescribed electoral registrar permits votes under this section for more than 1 district, the electoral registrar must make a separate and distinct record in respect of each such district.

(8B) The returning officer or prescribed electoral registrar must initial separately the particulars so recorded by the returning officer or electoral registrar in respect of each elector.

(9) Any person claiming to vote under this section and permitted that vote for a district who, where the outer envelope containing that vote is delivered to the person for posting or delivery as hereinbefore provided in this section—

- (a) without reasonable excuse, proof whereof lies on the person, fails to personally post that outer envelope before midnight on polling day or deliver it to the returning officer before 6 p.m. of polling day; or
- (b) destroys, mutilates, opens or in any way tampers with that outer envelope or the address thereon or attempts to do any of those things or permits or allows to be done or attempted to be done any of those things;

is guilty of an offence.

Maximum penalty—4 penalty units.

(10) Any person, not being a person who is an elector permitted a vote under this section, who without lawful excuse, proof whereof lies on the person, obtains possession of or at any time has in his or her possession—

- (a) any ballot paper on which a vote permitted under this section has been recorded by the elector permitted that vote; or
- (b) any envelope upon which the declaration prescribed by this section has been made by an elector permitted a vote under this section; or
- (c) any envelope (an “**outer envelope**”) addressed to a returning

officer in which a vote, contained in an envelope as referred to in paragraph (b), has been fastened up for posting or delivery; is guilty of an offence.

Maximum penalty—20 penalty units.

(11) As soon as may be after 6 p.m. of the day next preceding polling day every prescribed electoral registrar must—

- (a) enclose in an envelope the record of the persons permitted votes under this section by the electoral registrar and securely fasten the envelope.

Where a prescribed electoral registrar has permitted votes under this section for 2 or more districts, the electoral registrar must enclose respectively the record as aforesaid in respect of each of those districts in a separate envelope and securely fasten the envelope; and

- (b) transmit by post or otherwise every such envelope, properly addressed, to the returning officer of the district respectively for which the electors named in the record enclosed therein have voted under this section; and
- (c) inform each such returning officer, by telephone or other expeditious means, of the number of votes permitted under this section for his or her district.

(12) At the scrutiny the returning officer must produce, unopened—

- (a) all envelopes retained by the returning officer immediately containing votes for his or her district permitted under this section by the returning officer; and
- (b) all outer envelopes received by post by the returning officer or delivered to the returning officer containing votes for his or her district permitted under this section by any prescribed electoral registrar.

(12A) Every outer envelope so produced that was—

- (a) received by post by or delivered to the returning officer before 6 p.m. of polling day; or
- (b) received by post by the returning officer within 7 days

immediately succeeding the close of the poll and on which the postmark clearly indicates that such envelope was posted on or before polling day must be opened by the returning officer who must deal, as required by subsection (12C), with all envelopes enclosed therein immediately containing votes permitted under this section.

(12B) Without in any way unfastening or permitting or allowing to be in any way unfastened any outer envelope so produced that was not received by the returning officer in compliance with the requirements of subsection (12A), the returning officer must reject that envelope and set it aside for separate custody.

(12C) Without in any way unfastening or permitting or allowing to be in any way unfastened any envelope immediately containing a ballot paper recording a vote permitted for his or her district under this section, the returning officer must satisfy himself or herself by examining the declaration of the elector upon that envelope that the declaration is in order and, by comparing that declaration with the roll for his or her district used by the returning officer at the referendum in question, that the elector is qualified to vote for the district of that returning officer at that referendum.

(12D) If, in respect of any vote permitted under this section, the returning officer is not satisfied in every respect as required by the provision of subsection (12C), the returning officer must reject that vote and must, without in any way unfastening or permitting or allowing to be in any way unfastened the envelope containing it, set that envelope aside for separate custody.

(12E) Subject to section 4.33, the returning officer must also reject and set aside for separate custody any envelope purporting to contain immediately a vote permitted under this section, which envelope does not bear thereon the form of declaration prescribed under this section.

(12F) If, in respect of any vote permitted under this section, the returning officer is satisfied in every respect as required by the provisions of subsection (12C), but not otherwise, the returning officer must place a mark against the name of the elector concerned in the roll used by the returning officer at the referendum in question and, after so doing, open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box and set the envelope aside for separate custody.

(13) When the returning officer has dealt with all the envelopes immediately containing votes permitted under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed by this Act such and so many ballot papers recording those votes as the returning officer has placed therein; and must so proceed, in respect of any such time, until the day when all votes permitted under this section for his or her district have been received and dealt with by the returning officer or until the day when no further ballot papers are to be counted, whichever sooner occurs.

(14) However, the returning officer must reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

Electoral visitor voting in cases of illness etc.

4.28(1) An elector who—

- (a) is seriously ill or infirm, and by reason of such illness or infirmity will be precluded from attending at any polling booth to vote; or
- (b) by reason of some medical condition will be precluded from attending at any polling booth to vote; or
- (c) in the case of a female, will by her approaching maternity be precluded from attending at any polling booth to vote;

and who is not eligible under section 4.30 to apply for a postal certificate may, at any time between 28 days before polling day and before 6 p.m. of the day that is 2 days before polling day, apply in the prescribed form to the returning officer for the electoral district in which the elector is at the time of application, to vote before an electoral visitor.

(1A) However, unless the application is made and sent as to reach the returning officer not later than 6 p.m. of the day that is 2 days before polling day, and unless it so reaches that officer not later than that time, it is deemed to be invalid and the elector making the application is not entitled to vote under this section.

(2) A person must not induce or attempt to induce another person to sign an application to vote before an electoral visitor prior to the time when that

other person may first make application in accordance with the provisions of subsection (1).

(3) By written notice, the returning officer for each district must appoint an electoral visitor and may appoint more than 1 electoral visitor in respect of the district for the purpose of taking votes under this section in the district.

(4) A person who is under the age of 18 years must not be appointed as an electoral visitor.

(5) The same person may be appointed an electoral visitor for more than 1 district.

(6) The returning officer for a district may be the electoral visitor in respect of that district.

(7) The provisions of section 2.5 apply to an electoral visitor in like manner in all respects as they apply to a presiding officer, and such alteration as may be necessary to give effect to this subsection may be made in the form of declaration prescribed pursuant to that section.

(8) The returning officer must provide each electoral visitor appointed by the returning officer with a ballot box with a cleft or opening therein capable of receiving an envelope containing a folded ballot paper.

(8A) Before providing an electoral visitor with a ballot box, the returning officer must take such steps as may be reasonably practicable to exhibit the box open and empty for the inspection of any scrutineers, and must, immediately after so exhibiting it, close and seal the box, and deliver the box or cause it to be delivered to the electoral visitor.

(9) An application to vote under this section (an **“application”**) must be signed by the applicant (an **“applicant”**) with his or her own hand in the presence of, and must be declared before and attested by, any elector of the State or a legally qualified medical practitioner or registered nurse who is in attendance on the applicant.

(10) If any applicant is an inmate of a hospital or institution part of which is appointed as a polling booth, the application must contain or be accompanied by a statement signed by a legally qualified medical practitioner or registered nurse who is in attendance on the applicant and stating in the opinion of such medical practitioner or nurse whether or not the applicant will be an inmate of such hospital or institution on polling day

and—

- (a) if so, whether the applicant will be prevented by the incapacity, illness or other cause by reason whereof the applicant is an inmate of such hospital or institution from voting therein on polling day; or
- (b) if not, whether the applicant will be prevented by the incapacity, illness or other cause by reason whereof the applicant is an inmate from voting at a polling booth on polling day.

(10A) An applicant who is an inmate of a hospital or institution part of which is appointed as a polling booth is not entitled to vote under this section—

- (a) if the application neither contains nor is accompanied by the statement specified in subsection (10); or
- (b) if, according to such statement, the applicant will not be an inmate of such hospital or institution on polling day and will be capable of voting at a polling booth on such day; or
- (c) if, according to such statement, the applicant will be an inmate of such hospital or institution and capable of voting therein on polling day;

and no such application can be granted by the returning officer.

(11) Any person to whom an application is entrusted by an applicant for the purpose of posting or delivery to a returning officer and who fails to post or deliver forthwith the application is guilty of an offence.

(12) Upon receipt of the application not later than 6 p.m. of the day that is 2 days before polling day, the returning officer, if satisfied that—

- (a) the application is properly signed by the applicant, is properly attested and is otherwise completed; and
- (b) the place at which the applicant is at the time of application, as set forth in the application, is situated within the district for which he or she is returning officer;

must as early as practicable direct an electoral visitor for the district to visit the applicant for the purpose of taking the vote of the applicant (in this section hereafter referred to as an “**electoral visitor vote**” where the name of the applicant is on the roll of electors entitled to vote for the electoral

district in which he or she is at the time of application or hereafter referred to as an **“electoral visitor absent vote”** where the applicant states in his or her application to the returning officer that the applicant’s name is on the roll of electors entitled to vote for an electoral district other than the electoral district in which the applicant is at the time of application).

(12A) However, where the applicant, in his or her application to the returning officer, states the applicant’s name is on the roll of electors entitled to vote for the electoral district in which he or she is at the time of application, the returning officer, upon being satisfied that the name of the applicant is not on the roll of electors entitled to vote for the district must notify the applicant accordingly and must not give any such direction to an electoral visitor.

(13) If there is time conveniently to do so, the returning officer must on all copies of rolls issued by the returning officer for use at the referendum make a note against the name of every applicant for the taking of whose electoral visitor vote a direction has been issued to an electoral visitor by the returning officer.

(13A) If there is not time conveniently to make any such note on the rolls, the returning officer must immediately advise all presiding officers of such direction.

(14) As soon as practicable after an electoral visitor has received a direction from the returning officer to visit any applicant or applicants under this section, the electoral visitor must where practicable—

- (a) notify each scrutineer of whose identity the electoral visitor is aware and who has indicated a desire to accompany the electoral visitor of the time or times on any specified day when the electoral visitor proposes, and the place from which the electoral visitor proposes, to commence making such a visit or visits;
- (b) give such notification at least 24 hours before such time or times.

(14A) A scrutineer or scrutineers may be appointed for—

- (a) the exhibiting of a ballot box for inspection pursuant to subsection (8A);
- (b) the taking of votes by electoral visitors under this section.

(14B) However, 1, and only 1, scrutineer appointed by each member of the Legislative Assembly is entitled to be present in the room or place in

which a ballot box is being exhibited for inspection or a vote is being taken under this section, except that a second scrutineer may enter a room or place in which a ballot box is being so exhibited or a vote is being so taken for the purpose of taking the place of a scrutineer already present therein.

(14C) Every person appointed as a scrutineer under subsections (14A) and (14B) must upon appointment make and subscribe before the returning officer or an electoral visitor for the district a solemn declaration in the prescribed form.

(14D) An electoral visitor must transmit to the returning officer every solemn declaration made and subscribed before the electoral visitor by a scrutineer.

(14E) A person must not, without lawful authority, prevent or attempt to prevent a scrutineer from being present in a room or place in which—

- (a) a ballot box, in relation to the exhibiting of which for inspection the scrutineer is appointed, is being exhibited for inspection under this section;
- (b) a vote, in relation to the taking of which the scrutineer is appointed, is being taken under this section.

(15) Every visit by an electoral visitor under this section must be made on or before polling day at a reasonable hour but no visit can be made after 6 p.m. of polling day.

(15A) Where the applicant—

- (a) can not be located by the electoral visitor at the time, or within one-half hour of the time, of the electoral visitor's visit to the place set forth in the application as the place at which the applicant is at the time of application; or
- (b) for any reason is unable or unprepared to vote within one half hour after the electoral visitor has indicated to the applicant or to any person in charge or apparently in charge of the applicant that the electoral visitor is available for the purpose of taking the vote of the applicant;

the electoral visitor may terminate his or her visit and is not required to make a further visit under this section to such applicant in respect of the same referendum.

(15B) The provisions of subsection (15A) apply subject to the provisions of subsections (21) and (21A).

(16) An electoral visitor must not visit an applicant for the purpose of taking the applicant's vote under this section unless directed so to do by the returning officer, and it is not lawful for an electoral visitor to visit an applicant for the purpose of taking the vote of such applicant under this section at any place that is outside a district for which the electoral visitor is appointed.

(17) An electoral visitor—

- (a) may of his or her own motion if the electoral visitor thinks fit; and
- (b) must if thereunto required by a scrutineer upon grounds stated by that scrutineer (being in the case of the question numbered 3 set out hereunder in this subsection 1 or more of the grounds prescribed by this Act as disqualifying from voting the person to whom the question is required to be put) and warranting, in the opinion of the electoral visitor, the putting thereof;

put to any applicant before the applicant votes and not afterwards any 1 or more of the following questions—

1. Are you the same person whose name appears as (A.B., number) in the roll for the electoral district of (here state the name of the electoral district, where the roll is available to the electoral visitor for the purpose of the question)? or
1. Is your name (A.B.,) and does your name so appear in the roll for the electoral district of (here state the name of the electoral district for which the applicant states in his or her application that the applicant's name is on the roll, where the roll is not available to the electoral visitor for the purpose of the question)?
2. Have you already voted at any place at the present referendum for the electoral district of (here state the name of the electoral district in question) or any other electoral district?
3. Are you disqualified from voting for the reason that (here state the ground for this question)?

(17A) An applicant required to answer such questions, or any of them, is not permitted to vote until the applicant has answered the same in writing

signed by the application to the satisfaction of the electoral visitor, and in such a manner as to show that the applicant is entitled to vote.

(17B) When the applicant required to answer the prescribed questions or any of them has done so in writing signed by the applicant and otherwise satisfied the requirements of subsections (17) and (17A), the applicant must hand the form on which those questions are endorsed to the electoral visitor and must comply with the provisions of subsection (18A) in relation to the completion of the prescribed form of certificate or declaration, as the case may be, and after the applicant has, pursuant to subsection (19), fastened the envelope endorsed with the certificate or declaration but before the applicant has placed it in the ballot box, the applicant must make it available for the electoral visitor to attach to the back thereof, by gum or other suitable means the form on which the prescribed questions are endorsed; and the electoral visitor must attach such form thereto accordingly.

(17C) Without derogating from any other provision of this section, if at the scrutiny the returning officer on producing unopened all envelopes containing electoral visitor votes in respect of the returning officer's district and all envelopes containing electoral visitor absent votes in respect of the returning officer's district pursuant to subsection (29)—

- (a) is not satisfied in every respect that, having regard to the provisions of subsections (17) to (17B), the applicant was entitled to vote, the returning officer must reject that vote and endorse on the envelope that the vote is rejected pursuant to this subsection, whereupon the unopened envelopes must be dealt with as in the case of a disallowed vote under subsections (30) and (30A);
- (b) is satisfied in every respect that, having regard to the provisions of subsections (17) to (17B), the applicant was entitled to vote, the returning officer must proceed in accordance with the provisions of subsections (29) to (29E).

(18) The electoral visitor must hand to the applicant—

- (a) in the case of an electoral visitor vote—the prescribed form of certificate endorsed on an envelope;
- (b) in the case of an electoral visitor absent vote—the prescribed form of declaration endorsed on an envelope.

(18A) The electoral visitor must not hand a ballot paper to the applicant

until the electoral visitor has obtained from the applicant—

- (a) in the case of an electoral visitor vote—the envelope endorsed to the electoral visitor’s satisfaction with the certificate duly completed and signed by the applicant with his or her own hand in the presence of the electoral visitor;
- (b) in the case of an electoral visitor absent vote—the envelope endorsed to the electoral visitor’s satisfaction with the answers to the questions thereon signed by the applicant with his or her own hand and the applicant has, in the presence and hearing of the electoral visitor, declared that the answers to such questions are true and that the signature is the applicant’s.

(18B) Upon receipt of the envelope endorsed with the signed certificate or declaration, as the case may be, the electoral visitor must then and there fill in the correct date and attest the signature of the applicant.

(18C) The electoral visitor must if the ballot paper is not completed complete the ballot paper so as to enable a vote to be cast then hand the ballot paper to the applicant.

(19) The applicant must—

- (a) in the presence but not in the sight of the electoral visitor or any other person vote in the manner prescribed;
- (b) then fold the ballot paper so as to conceal the manner in which the applicant has voted;
- (c) then obtain from the electoral visitor the envelope endorsed with the certificate or declaration, as the case may be, place the folded ballot paper therein, and fasten the envelope;
- (d) then place the fastened envelope in the ballot box provided by the electoral visitor.

(20) If an applicant to whom a ballot paper has been handed under this section satisfies the electoral visitor before the applicant has placed the ballot paper in the envelope and fastened the envelope in the manner prescribed that the applicant has spoiled his or her ballot paper by accident or mistake, the applicant may, if the electoral visitor thinks fit, on giving up the spoiled ballot paper, be handed a new ballot paper by the electoral visitor in substitution for the spoiled one.

(20A) Before being handed a new ballot paper, the applicant must duly complete and sign a declaration in the prescribed form, endorsed upon an envelope, before the electoral visitor that the original ballot paper has been spoiled by accident or mistake, as the case may be, and must give such envelope endorsed with the prescribed declaration to the electoral visitor with the spoiled ballot paper.

(20B) Before handing the new ballot paper to the applicant, the electoral visitor must place the spoiled ballot paper in the envelope that is endorsed with the prescribed declaration, fasten the envelope and set it aside for separate custody.

(21) A vote may not be taken under this section by an electoral visitor at any time after 6 p.m. of polling day.

(21A) However, an electoral visitor may take the vote of an applicant whom, pursuant to subsection (15), the electoral visitor visits not later than 6 p.m. of polling day even though the taking of such vote is not completed until after that time, but the electoral visitor must complete the taking of such vote with the least possible delay.

(22) An electoral visitor must, in respect of each district for which the electoral visitor has taken the vote of an applicant under this section, make a record in the prescribed form.

(23) Any person present when an applicant is before an electoral visitor for the purpose of voting under this section must—

- (a) obey all directions of the electoral visitor;
- (b) except as provided in section 4.29—
 - (i) refrain from making any communication whatever with the applicant in relation to the applicant's vote;
 - (ii) refrain from assisting the applicant or in any manner interfering with the applicant in relation to the applicant's vote;
 - (iii) refrain from looking at the applicant's vote or from doing anything whereby the person may become acquainted with the applicant's vote.

(24) A person other than—

- (a) the applicant to whom a ballot paper has been handed under this

section; or

- (b) a person appointed by, or an electoral visitor requested by, the applicant pursuant to section 4.29;

must not place any mark upon the ballot paper.

(25) An electoral visitor must not—

- (a) influence or attempt to influence in any way the vote of an applicant;
- (b) suffer or permit a person to influence or attempt to influence in any way the vote of an applicant or to otherwise interfere in any way with an applicant in relation to the applicant's vote;
- (c) look at or make himself or herself acquainted with the vote given by an applicant or assist an applicant to vote except in the course of acting in accordance with a request by the applicant pursuant to section 4.29;
- (d) suffer or permit a person to see or become acquainted with the vote given by an applicant or to assist an applicant to vote except where that person is acting in accordance with an appointment made by the applicant pursuant to section 4.29.

(26) An electoral visitor must, immediately after the electoral visitor has, as far as practicable, carried out all the directions of the returning officer and complied with the provisions of this section in relation to the taking of votes under this section, deliver or cause to be sent or transmitted to the returning officer the sealed ballot box and all forms of record made by the electoral visitor pursuant to subsection (22).

(27) A person must not without lawful authority prevent or attempt to prevent an electoral visitor from being present in a room or place for the purpose of taking the vote for an applicant or from otherwise exercising the electoral visitor's powers or discharging the electoral visitor's duties under this Act.

(28) No person other than the returning officer for the district in which a vote under this section has been taken can open any ballot box delivered or sent to the returning officer under this section or any envelope containing the vote of any applicant under this section.

(28A) The returning officer may from time to time open any such ballot

box and, without opening any envelopes, separate the envelopes endorsed with a declaration from the envelopes endorsed with a certificate.

(28B) Where an electoral visitor has taken electoral visitor absent votes under this section for more than 1 district, the returning officer must first sort the envelopes endorsed with a declaration into separate parcels according to the districts for which those votes have been so taken.

(28C) The returning officer must then, in respect of each such district respectively, enclose, in an outer envelope, the parcel of envelopes, the application relating to each electoral visitor absent vote and the notification, in the prescribed form, of the number of electoral visitor absent votes taken under this section for that district, and securely fasten the outer envelope.

(28D) The returning officer must transmit by post or by some other suitable form of transmission every such outer envelope properly addressed to the returning officer for the respective district.

(29) At the scrutiny the returning officer must produce, unopened, all envelopes containing electoral visitor votes in respect of the returning officer's district and all envelopes containing electoral visitor absent votes in respect of the returning officer's district, taken under this section and received by the returning officer up to the end of the period of 10 days immediately following the close of the poll, and all applications relating to those votes.

(29A) The returning officer must in each case, without opening the envelope endorsed with the certificate or the declaration, as the case may be, compare the signature of the certifier or the declarant on the envelope with the signature of the applicant on the application and allow each scrutineer who is present to inspect the same, and the returning officer must determine whether the signature on such envelope is that of the applicant.

(29B) If the returning officer is satisfied that the applicant is enrolled and if the vote is allowed, the returning officer must, before opening the envelope, place a mark against the name of the applicant in the roll used by the returning officer at the referendum in question and, after so doing, open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box.

(29C) Forthwith upon so doing, the returning officer must attach the envelope by gum or other suitable means to the application relating thereto.

(29D) Subject to section 4.33, a ballot paper must not be allowed at the scrutiny unless it is enclosed in an envelope endorsed in the manner prescribed by this section.

(29E) If the returning officer disallows a vote, the unopened envelope and the application relating thereto must be attached 1 to the other by gum or other suitable means and must be set apart for separate custody.

(30) When the returning officer has dealt with all the envelopes containing electoral visitor votes and electoral visitor absent votes taken under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed such and so many ballot papers recording those votes as the returning officer has placed therein; and must so proceed in respect of every such time until the day when all such votes permitted under this section have been received and dealt with by the returning officer or until the day when no further ballot papers are to be counted, whichever sooner occurs.

(30A) However, the returning officer shall reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

(31) A signature upon an envelope endorsed with the certificate or declaration of an applicant purporting to be the signature of a voter is upon a scrutiny, without further proof, prima facie evidence that such voter voted at the referendum as an elector pursuant to this section.

(32) Any person who contravenes or fails to comply with any of the provisions of this section is guilty of an offence.

(33) A person who is guilty of an offence under this section is liable to a penalty not exceeding 4 penalty units or to 6 months imprisonment.

Assistance to certain incapacitated voters

4.29(1) In this section—

“presiding officer” includes the meaning given to that term in section 4.32.

“relevant officer” means a returning officer, a presiding officer, an overseas officer, an interstate officer, a prescribed electoral registrar or an electoral visitor, as the case requires.

(2) If a person (“**the elector**”) claiming and permitted to vote under section 4.24, 4.25, 4.26, 4.27, 4.28 or 4.32 satisfies the relevant officer that—

- (a) the person is blind and therefore; or
- (b) the person’s sight is so impaired; or
- (c) the person is so physically incapacitated;

that the person is unable to take and do without assistance the steps and things required to be taken and done by the person for the purpose of so voting, the relevant officer must—

- (d) permit another person appointed by the elector and who the relevant officer is satisfied is an immediate relative of the elector to take and do on behalf of the elector or to assist the elector in taking and doing; or
- (e) if thereunto requested by the elector, personally take and do on behalf of the elector, or assist the elector in taking and doing;

all or any of such steps and things, save that no person other than the elector can declare to the contents of or sign any declaration required by the applicable section of this Act in relation to the vote.

(3) Any person to whom subsection (2) applies who satisfies the relevant officer that the person is unable to write his or her name may be permitted by such relevant officer to sign his or her name to any declaration or other document by making thereon the person’s distinguishing mark, which must be witnessed by the relevant officer.

(4) The relevant officer, if specifically requested by a voter for whom any steps or things are being taken or done or who is being assisted in the taking or doing of any steps or things under the authority of subsection (2), must state in accurate terms without comment or further elaboration the question the subject of the referendum.

(5) Save in respect of the marking of a ballot paper, any step or thing taken or done under the authority of this section on behalf of a voter or for assisting a voter by the relevant officer or other person as aforesaid at any time and place when and where any scrutineer is lawfully present must be taken or done in the sight and presence of such scrutineer.

(6) The ballot paper must be marked in the presence of any scrutineer lawfully present.

Postal voting

4.30(1) Any elector who—

- (a) will throughout the hours of polling on polling day be travelling or engaged in work or duty in respect of the elector's occupation or calling under conditions that will preclude the elector from voting at any polling booth in the State;
- (b) will not throughout the hours of polling on polling day be—
 - (i) within the State; or
 - (ii) within 10 km by the nearest practicable route of any polling booth open on that day for the purposes of any referendum; or
- (c) is an elector pursuant to the provisions of the *Elections Act 1983*, section 22; or
- (d) is by reason of the elector's membership of a religious order or his or her religious beliefs—
 - (i) precluded from attending at a polling booth; or
 - (ii) precluded from attending throughout the hours of polling on polling day or throughout the greater part of those hours;

may at any time after 28 days prior to polling day and before 6 p.m. of the day immediately preceding polling day apply in the prescribed form to the returning officer for the electoral district for which the elector is enrolled for a postal vote certificate.

(2) An application by an applicant who cannot write his or her own name must not be granted.

(3) The application must be signed by the applicant with his or her own hand in the presence of, and must be declared before and attested by, a person who is an authorised witness for the purpose of this subsection.

(3A) Such attestation must be in the presence of the applicant at the place where the application is made.

(4) Any person who is an elector of the State or any person whose name appears on an electoral roll under the *Electoral Act 1918* (Cwlth), as an elector for a State or Territory is an authorised witness for the purposes of subsection (3) whether the application is made within or outside the Commonwealth and, in addition, any officer of an Australian Embassy or Consulate and any government official or minister of religion of another country is an authorised witness for the purpose of that subsection where the application is made outside the Commonwealth.

(5) An application under subsection (1)(c) must contain a declaration by the applicant setting out the grounds upon which, pursuant to the *Elections Act 1983*, section 22, the applicant is entitled to vote at the election.

(6) Upon receipt of the application not later than 6 p.m. of the day immediately preceding polling day, the returning officer, if satisfied that the applicant is entitled to vote under this section, must grant a certificate, which must be duly endorsed upon an envelope and must be in the prescribed form.

(7) Subject to subsection (6), a returning officer to whom an elector applies for a postal vote certificate must as soon as possible after 28 days prior to polling day deliver or cause to be sent to such elector—

- (a) the certificate endorsed upon an envelope; and
- (b) an envelope addressed to such returning officer; and
- (c) a ballot paper.

(8) Before so delivering or causing to be sent the certificate endorsed upon an envelope, the envelope and the postal ballot paper referred to in subsection (7), the returning officer must, if the ballot paper is not complete, complete the ballot paper so as to enable a vote to be cast.

(9) Every ballot paper must be of the description and in the form prescribed for use in voting under this section.

(10) An elector who has received any such certificate is not entitled to vote except by means of a ballot paper.

(11) Every returning officer must—

- (a) keep a record in the prescribed form showing the prescribed particulars in respect of postal vote certificates issued by the returning officer, and must initial separately such particulars in

respect of every postal vote certificate issued by the returning officer;

- (b) endorse every application to the effect that a certificate has issued and sign the endorsement.

(12) In the presence of a person who is an authorised witness for the purpose of this subsection and of no other person, the voter may, on or before the polling day but not after 6 p.m. of polling day, vote in the manner following and not otherwise—

- (a) the voter must deliver to the person before whom the voter is voting the ballot paper and the 2 envelopes aforesaid, in the same condition in which they were issued;
- (b) the voter must then sign his or her name upon the certificate, and the person before whom the voter is voting must then and there fill in the correct date and attest the signature;
- (c) the person before whom the voter is voting must then deliver the ballot paper to the voter, but must retain the 2 envelopes aforesaid;
- (d) the voter must then in the presence but not in the sight of the person before whom the voter is voting, and not in the sight of any other person, vote in the manner prescribed by this Act;
- (e) the voter must then fold up the ballot paper so as to conceal the manner in which the voter has voted, and deliver it to the person before whom the voter is voting;
- (f) the person before whom the voter is voting must then, without unfolding the ballot paper, place it in the envelope that is endorsed with the certificate, and fasten up the envelope;
- (g) the person before whom the voter is voting must then place such envelope in the envelope addressed to the returning officer, and forthwith deliver it to the voter for posting or for delivery on polling day before 6 p.m. to the returning officer, or an assistant returning officer or presiding officer for the district.

(12A) A person must not attest a postal vote except in the presence of the voter and at the place where the voter is voting.

(12B) A person who is, with respect to an application for a postal vote

made at the place where the voter is voting, an authorised witness for the purpose of subsection (3), is also an authorised witness for the purpose of subsection (12).

(13) The person before whom the voter votes must not look at the markings made by the voter on the ballot paper.

(14) If any person before whom a voter votes, in the discharge of his or her duties under this Act, learns the manner in which the voter has marked the voter's ballot paper, the person must not, by word or act or any other means whatsoever, directly or indirectly, divulge or discover, or aid in divulging or discovering, the fact, save in answer to some question which the person is legally bound to answer.

(15) If there is time conveniently to do so, the returning officer must on all copies of rolls issued by the returning officer for use at the referendum make a note against the name of every elector to whom a postal vote certificate has been issued, other than in the case of every elector who is an elector pursuant to the *Elections Act 1983*, section 22.

(15A) If there is not time conveniently to make any such note on the rolls, the returning officer must immediately advise all presiding officers of such issue in such manner as the returning officer thinks fit.

(16) A signature upon a postal vote certificate purporting to be the signature of a voter is, upon a scrutiny, without further proof, prima facie evidence that such voter voted by post at the referendum.

(16A) The date and place of voting stated upon such certificate purporting to be the date on which and the place where the voter's signature is attested is, upon a scrutiny, without further proof, prima facie evidence of the date on which such voter voted by post and of the place where such voter voted by post and of the place where such vote was given and attested.

(17) The returning officer and every assistant returning officer and presiding officer must deal in the prescribed manner with any postal voter's envelope delivered to him or her on polling day.

(18) At the scrutiny the returning officer must produce, unopened, all postal voters' envelopes in respect of the returning officer's district received by the returning officer by post or delivered to the returning officer or to an assistant returning officer or to any presiding officer for the district and every outer envelope that was—

- (a) delivered on polling day before 6 p.m. to such returning officer or to any assistant returning officer or presiding officer for the district; or
- (b) received by post by such returning officer before 6 p.m. of polling day; or
- (c) received by post by such returning officer within 10 days immediately succeeding the close of the poll;

must be opened and the enclosure dealt with as follows—

- (d) the returning officer must produce the postal voters' application;
- (e) the returning officer, without opening the envelope endorsed with the certificate, must compare the signature of the voter with the signature on the application and allow each scrutineer who is present to inspect the same and determine whether the signature on such envelope is that of the applicant;
- (f) if the returning officer is satisfied that the voter (other than a voter entitled to vote pursuant to the *Elections Act 1983*, section 22) is enrolled and voted on or before the polling day but not after 6 p.m. of polling day and if the vote is allowed, the returning officer must, before opening the envelope, place a mark against the name of the voter concerned (other than a voter entitled to vote pursuant to the *Elections Act 1983*, section 22 as aforesaid) in the roll used by the returning officer at the referendum in question and, after so doing, open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box. Forthwith upon so doing the returning officer must attach the said envelope by gum or other suitable means to the application relating thereto;
- (g) if the returning officer is not satisfied, in the case of a person purporting to be an elector pursuant to the *Elections Act 1983*, section 22, that such person is an elector pursuant to that section, the returning officer must disallow the vote;
- (h) subject to section 4.33, no ballot paper can be allowed at the scrutiny which is not enclosed in an envelope endorsed with the certificate duly signed, attested and dated under this Act;
- (i) if the returning officer disallows a vote, the unopened envelope

endorsed with the certificate and the application relating thereto must be attached 1 to the other by gum or other suitable means and must be set apart for separate custody.

(19) An outer envelope must not be opened at the scrutiny unless it was received by post or delivered as prescribed by subsection (18)(a), (b) or (c).

(20) All unopened envelopes must be set aside for separate custody.

(21) When the returning officer has dealt with all the envelopes containing votes permitted under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed by this Act such and so many ballot papers recording those votes as the returning officer has placed therein; and must so proceed in respect of every such time until the day when all votes permitted under this section have been received and dealt with by the returning officer or until the day when no further ballot papers are to be counted, whichever sooner occurs.

(22) However, the returning officer must reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

General postal voters

4.31(1) A person who is a general postal voter for the purposes of the *Electoral Act 1918* (Cwlth) is a general postal voter for the purposes of this Act.

(2) As soon as possible after 28 days prior to polling day a returning officer must cause to be sent to each general postal voter—

- (a) a postal vote certificate endorsed upon an envelope and in the prescribed form; and
- (b) an envelope addressed to the returning officer; and
- (c) a ballot paper;

and the provisions of section 4.30(8) to (22) apply, subject to necessary adaptations and to subsection (3) of this section, as if repeated in this section and as if an application for a postal vote certificate had been received by the returning officer, not later than 6 p.m. of the day immediately preceding polling day, from each general postal voter.

(3) For the purposes of the application of section 4.30(18)(e) pursuant to subsection (2), the returning officer must compare the signature of the voter on the envelope containing the ballot paper with the specimen signature or certified copy or representation thereof forwarded to the returning officer by the principal electoral officer.

Vote by person not named as an elector on the roll

4.32(1) For the purposes of this section—

- (a) in relation to a mistake or error specified in this section, the term **“official”** means a mistake or error committed by or in, or by an officer employed in the office establishment of the principal electoral officer, an electoral registrar, the registrar general, the public trustee, any body providing services by means of a computer to the Government or the corrective services commission or the government printer or any of his or her employees or any other person associated with or engaged in the compilation or printing of any general or supplemental roll of electors, or a mistake or error pertaining to the enrolment of any electors, the conduct of any referendum or otherwise howsoever to the execution of this Act committed by the chief returning officer, a returning officer, assistant returning officer, presiding officer, poll clerk, police officer or person (in paragraph (b) referred to as an **“electoral assistant”**) performing any functions in relation to any such matters at the direction of any other person referred to in this paragraph; and
- (b) the term **“mistake or error”** means (as well as a mistake or error committed in relation to the roll of electors entitled to vote at a particular election for a district) a mistake or error committed in relation to the compilation of any previous general roll or supplemental roll of electors entitled to vote at a previous election for that district and continued in relation to the compilation of the roll of electors for that district entitled to vote at the referendum for which a vote is claimed under this section, and also a mistake or error committed in relation to the compilation of any list of deceased persons or return of convicted persons or advice relating to any patient (within the meaning of the *Mental Health Act 1974*) who is incapable of managing his or her estate referred to in the

Elections Act 1983, section 37 and in relation to the chief returning officer, any returning officer, assistant returning officer, presiding officer, poll clerk, police officer or electoral assistant, the term “**mistake or error**” means any act or omission that the principal electoral officer is satisfied was committed by that officer, clerk, police officer or electoral assistant and by reason whereof, the principal electoral officer is further satisfied, the name of a person has been wrongly omitted or erased from any roll hereinbefore mentioned in this paragraph (b), save that the name of a person struck off a roll under the *Elections Act 1983*, section 41 pursuant to an objection by the principal electoral officer has never, in any case, been deemed to have been omitted or erased from that roll by reason of official mistake or error committed by a police officer or an electoral assistant; and

- (c) the term “**presiding officer**” includes an assistant returning officer and (in relation to a polling booth at which the returning officer may be presiding) the returning officer; and
- (d) a person who has been permitted to vote under this section at a referendum must, in relation to any subsequent election for that district or referendum, be deemed to have had knowledge before the issue of the writ for that subsequent election or referendum of the mistake or error in consequence whereof the person was permitted so to vote.

(2) Notwithstanding any enactment or provision of any enactment of this Act or the *Elections Act 1983* other than this section, a person who, on polling day at a polling booth for a district, claims to vote at a referendum and—

- (a) whose name is not, or apparently is not, on the roll of electors entitled to vote for that district at that referendum; and
- (b) whose name, if not on the aforementioned roll, is not thereon by reason of some official mistake or error whereby the person’s name has been wrongly omitted or erased from that aforementioned roll; and
- (c) that mistake or error occurred through no fault of the person’s and the person had no knowledge thereof before the date of the issue of the writ for that referendum;

must be permitted to vote under this section if, but only if—

- (d) the person has sent or delivered to an electoral registrar, a returning officer or the principal electoral officer a duly completed claim for enrolment or application for transfer or change of enrolment, as his or her case required when making that claim or application, in respect of the district for which the person claims that vote; and
- (e) that claim for enrolment or application for transfer or change of enrolment has been received by that electoral registrar, returning officer or principal electoral officer before 5 p.m. of the day appointed by the writ for the closing of the rolls; and
- (f) the person's name has not, to the best of his or her knowledge, been removed from the roll for the time being of electors in the district for which the person claims to vote by objection, transfer or disqualification; and
- (g) the person has, from and after the time of sending or delivering his or her claim for enrolment or application for transfer or change as aforesaid and thereafter up to the date appointed by the writ for the closing of the rolls, continuously retained the person's entitlement under this Act to have his or her name on the roll of electors for the district in question;

and the person makes a declaration in the prescribed form before the presiding officer at the polling booth where the vote is claimed by the person.

(3) Where a person whose name is not, or apparently is not, on the roll of electors entitled to vote for a district at a referendum—

- (a) on polling day at a polling booth for that district claims to vote for that district at that referendum; and
- (b) makes upon an envelope before the presiding officer at that polling booth the declaration prescribed under subsection (2)—

thereupon—

- (c) that presiding officer must—
 - (i) if the ballot paper of the description and in the form prescribed for voting under this section, is not

complete—complete the ballot paper so as to enable a vote to be cast; and

- (ii) give to that person that ballot paper, but retain the envelope endorsed with the declaration of that person; and
- (d) that person must, in a compartment provided at the polling booth in question to enable electors to mark ballot papers, record the person's vote in the manner prescribed, and immediately thereafter fold up the ballot paper so as to conceal the manner in which the person has voted and deliver it to the aforementioned presiding officer; and
- (e) that presiding officer must then, in the presence of that voter and of such scrutineers (if any) as are present and without unfolding the ballot paper, enclose it in the envelope bearing the declaration of that voter and, after securely fastening that envelope, deposit it in a ballot box until the presiding officer has dealt with it as hereinafter provided in this section.

(4) Each presiding officer must make, in the prescribed form, a record of the name and address and date of birth of every person permitted by the presiding officer to vote under this section.

(4A) The name and address and date of birth of each person so permitted to vote must be recorded before the particular envelope bearing the declaration is deposited in the ballot box.

(4B) Where a presiding officer at a polling booth for 2 or more districts permits votes under this section for more than 1 of those districts, the presiding officer must make a separate and distinct record in respect of each such district.

(4C) A presiding officer must initial separately the particulars so recorded by the presiding officer in respect of each person permitted by the presiding officer to vote under this section.

(5) Forthwith upon the close of the poll each presiding officer must—

- (a) enclose in a securely fastened outer envelope all envelopes containing votes for a district permitted by the presiding officer under this section, together with the record of the persons permitted those votes.

Where a presiding officer at a polling booth for 2 or more

districts has permitted votes under this section for more than 1 such district the presiding officer must first sort the envelopes containing those votes into separate parcels according to the districts for which those votes have been so permitted and then enclose the envelopes containing the votes for each such district respectively, together with the respective record of the persons permitted those votes for the district in question, in a securely fastened outer envelope; and

(b) transmit by post or otherwise every outer envelope, properly addressed, to the returning officer of the district respectively for which the votes enclosed therein have been permitted.

(6) The returning officer must—

(a) without in any way unfastening, or permitting or allowing to be in any way unfastened, any envelope immediately containing such a ballot paper, satisfy himself or herself by examining the declaration of the voter upon that envelope that the declaration is in order and, by such inquiry as the returning officer deems necessary, that the voter is a person permitted to vote under this section for the district of that returning officer;

(b) (in any case where, upon inquiry as aforesaid, the returning officer finds that the name of the voter is on the roll of electors entitled to vote for the returning officer's district at the referendum in question), upon satisfying himself or herself as aforesaid in every respect and upon further satisfying himself or herself that the voter had not voted otherwise for the returning officer's district at that referendum, place a mark against the name of that voter in the roll used by the returning officer at the referendum in question.

(7) At the scrutiny the returning officer must produce unopened all envelopes received by the returning officer immediately containing votes for his or her district permitted under this section.

(8) If in respect of any vote permitted under this section the returning officer is not satisfied in every respect as required by the provisions of subsection (6), the returning officer must reject that vote and must, without in any way unfastening or permitting or allowing to be in any way unfastened the envelope containing it, set that envelope aside for separate

custody.

(9) Subject to section 4.33, the returning officer must also reject and set aside for separate custody any envelope purporting to contain a vote permitted under this section that does not bear thereon the form of declaration prescribed under this section.

(10) If in respect of any vote permitted under this section the returning officer is satisfied in every respect as required by the provisions of subsection (6), the returning officer must open the envelope containing the ballot paper and, without then unfolding the ballot paper, place it in a ballot box and set the envelope aside for separate custody.

(11) When the returning officer has dealt with all the envelopes containing votes permitted under this section produced by the returning officer at the scrutiny at any one and the same time, the returning officer must open the ballot box and count in the manner prescribed by this Act such and so many ballot papers recording those votes as the returning officer has placed therein; and must so proceed in respect of every such time until the day when all votes permitted under this section have been received and dealt with by the returning officer or until the day when no further ballot papers are to be counted, whichever sooner occurs.

(11A) However, the returning officer must reject any of those ballot papers required by the provisions of section 5.6 to be rejected at the close of the poll.

(12) Official mistakes or errors whereby the name or names of a person or persons have been omitted or erased from the roll of electors entitled to vote for a district at a referendum are not a ground for voiding that referendum if, after excluding from the total number of those persons such of them as—

- (a) have not have claimed to vote for that district or for any other district at that referendum;
- (b) have been permitted to vote under this section at that referendum for that district;
- (c) being named on the roll of electors entitled to vote for another district at that referendum, have voted for that other district;

the votes of the remaining such persons could not have affected the result of the referendum.

(13) As soon as may be after the conclusion of a referendum, each returning officer must deliver to the principal electoral officer a list setting out the names and addresses of all persons who have been permitted to vote under this section for the district of that returning officer, and the principal electoral officer must cause to be taken under, subject to and in accordance with the *Elections Act 1983*, such steps as are necessary to secure the due enrolment of such of those persons as, being qualified to vote, are not duly enrolled.

When defective declaration etc. not to invalidate vote

4.33(1) In this section—

“**presiding officer**” includes the meaning given to that term in section 4.31.

“**relevant officer**” means a returning officer, a presiding officer, an overseas officer, an interstate officer, a prescribed electoral registrar or an electoral visitor, as the case requires.

(2) Where, not later than the second day preceding the day named in the writ for its return, a relevant officer declares in writing signed by the relevant officer and verified by statutory declaration (and, in the case of a relevant officer who is not a returning officer, delivered to the appropriate returning officer) that on the day and at the place specified in the declaration the person named therein claimed and was permitted to vote in the manner specified therein and that such person made or signed or made and signed in the presence of the declarant any declaration or document or other writing required by law in relation to such manner of voting, the declaration by such relevant officer is sufficient evidence that the person made or signed or made and signed such declaration, document or other writing in the presence of the declarant.

(3) A vote in respect of which a declaration is duly made by a relevant officer pursuant to subsection (2) (and, if made by a relevant officer who is not a returning officer, delivered to the appropriate returning officer) must not be rejected by reason that the relevant officer who made the declaration did not attest or witness by his or her signature thereto the making or signing or making and signing of the declaration, document or other writing specified in the declaration and, accordingly, in every case, the returning officer must allow and count the vote unless the returning officer is required by law to reject it for some other reason.

Voting compulsory

4.34(1) It is the duty of every elector enrolled on the roll for an electoral district to vote at a referendum held pursuant to this Act.

(2) A person is not entitled to vote more than once at the same referendum.

(3) A person is not entitled to vote more than once notwithstanding the fact that the person's name is on more than 1 roll.

(4) When a referendum is held, the returning officer must—

- (a) from every roll used, indicate by a distinguishing mark on a fair copy of the roll for the district used at the referendum (the “**marked roll**”) the names of the electors who have not been issued with a ballot paper for the referendum;
- (b) certify, by statutory declaration under his or her hand in the prescribed form, the marked roll and the total number of electors who have not been issued with ballot papers as marked thereon;
- (c) within 1 month after polling day or within such longer period after polling day as the principal electoral officer may allow, forward the marked roll to the principal electoral officer;
- (d) upon application made not later than 14 days after polling day by any member of the Legislative Assembly for the electoral district of which he or she is returning officer give to that person a copy of the marked roll.

(5) The principal electoral officer, within 6 months after polling day for a referendum, may send by post to an elector whose name, indicated as aforesaid, appears on a marked roll a notice in the prescribed form, addressed to the elector at the address mentioned in the roll or to the postal address if known, notifying the elector that the elector has failed to record his or her vote at the referendum and requiring the elector to state the true reason why the elector failed to vote; but before sending the notice the principal electoral officer must insert therein—

- (a) the full name of the elector as appearing on the roll and his or her address as therein mentioned or the postal address if known and the name of the electoral district and the elector's number on the roll; and

- (b) a date (not being less than 21 days after the date of the posting of the notice) before or on which the form at the foot of the notice duly filled in and signed by the elector is to be in the hands of the principal electoral officer.

(6) Subsection (5) does not apply in any case where—

- (a) the name of any elector appears on more than 1 electoral roll and the principal electoral officer is satisfied that the elector has voted or attempted to vote in respect of 1 such enrolment; or
- (b) the principal electoral officer is satisfied that the elector—
 - (i) is dead; or
 - (ii) was absent from the State on polling day; or
 - (iii) was ineligible to vote at the referendum; or
 - (iv) was issued with a ballot paper for the purpose of voting; or
 - (v) had a valid and sufficient excuse for not voting.

(7) Every elector to whom a notice has been sent must—

- (a) fill in the form at the foot of the notice by stating in it the true reason why the elector failed to record his or her vote; and
- (b) sign the form; and
- (c) post or deliver it so as to reach the principal electoral officer not later than the date inserted in the notice in relation thereto.

(8) If any elector is unable by reason of absence from the elector's residence or physical incapacity to fill in, sign and post or deliver the form within the time allowed in relation thereto under this section, any other elector who has personal knowledge of the facts may fill in, sign and post or deliver within that time the form duly witnessed as prescribed, and such filling in, signing and delivery or posting of the form may be treated as compliance by the firstmentioned elector with the provisions of this section.

(9) Upon receipt within the time allowed pursuant to this section of any such form properly filled in and signed and witnessed (if so prescribed), the principal electoral officer must—

- (a) make on the marked roll opposite the name of the elector to whom the form refers, a note to that effect; and

- (b) indicate in writing on the marked roll opposite the name of the elector his or her opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to record the elector's vote at the referendum.

(10) If in the case of any elector to whom a notice as aforesaid has been sent the form is not received by the principal electoral officer within the time allowed in relation thereto pursuant to this section, the principal electoral officer must make on the marked roll opposite the name of the elector a note to that effect.

(11) The marked roll indicating—

- (a) the names of electors who did not vote at the referendum; and
- (b) the names of electors from whom or on whose behalf the principal electoral officer received within the time allowed pursuant to this section forms properly filled in and signed; and
- (c) the names of the electors from whom or on whose behalf the principal electoral officer did not within that time receive forms properly filled in and signed; and
- (d) the opinions of the principal electoral officer or a copy of such marked roll or any extract therefrom certified by the principal electoral officer under his or her hand is in all proceedings prima facie evidence of the contents of such marked roll or extract and of the fact that—
 - (i) the electors whose names appear therein marked as aforesaid did not vote at the referendum; and
 - (ii) the notice specified in this section was received in each case by those electors; and
 - (iii) those electors did or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed pursuant to this section.

(12) An elector who—

- (a) fails to vote at any referendum without a valid and sufficient excuse for such failure (which expression “**valid and sufficient excuse**” includes an honest belief on the part of an elector that abstention from voting is part of his or her religious duty); or

- (b) on receipt of the notice aforesaid, fails to fill in and sign and post or deliver to the principal electoral officer so as to reach the principal electoral officer within the time allowed pursuant to this section the form at the foot of the notice; or
- (c) states in such form a false reason for not having recorded the elector's vote or, in the case of an elector filling in or purporting to fill in a form on behalf of any other elector pursuant to this section, states in such form a false reason why the other elector did not vote;

is guilty of an offence.

Maximum penalty—1 penalty unit.

(13) Proceedings for an offence against subsection (12) may be instituted by—

- (a) the principal electoral officer; or
- (b) a person authorised in writing (either generally or in respect of a particular case) by the principal electoral officer.

(14) Before proceedings for an offence against subsection (12) are instituted, the principal electoral officer may issue to the elector a notice in the prescribed form—

- (a) setting out the alleged offence; and
- (b) stating that the elector has the option of having the matter dealt with by the principal electoral officer or by a court of summary jurisdiction; and
- (c) stating that if, within 28 days from the date of the notice, the elector notifies the principal electoral officer that the elector consents to have the matter dealt with by, and is prepared to abide by the decision of, the principal electoral officer, and if at the same time the elector sends to the principal electoral officer such sum by way of penalty as is specified in the notice (but not being more than the value of a penalty unit), further proceedings will not be taken against the elector; and
- (d) stating that in the event of the form of consent and specified penalty not reaching the principal electoral officer within the time specified in the notice, it will be taken that the elector desires to

have the matter dealt with by a court of summary jurisdiction.

(15) If the prescribed form of consent and the specified amount of penalty are received by the principal electoral officer within the time allowed, no further proceedings can be taken against the elector, but if such form and amount are not so received, proceedings for the alleged offence may be instituted against the elector at any time within 12 months after polling day for the referendum in question.

(16) In proceedings against an elector for an offence against subsection (12)—

- (a) the form purporting to be the reply (if any) of that elector to a notice referred to in subsection (5) may be adduced in evidence by the prosecutor and is conclusive evidence that the elector made to the principal electoral officer the reply set out in that form unless the contrary is proved;
- (b) a certificate purporting to be signed by the principal electoral officer and stating that the principal electoral officer did not receive from the elector—
 - (i) consent to the matter being dealt with by the principal electoral officer; or
 - (ii) the sum by way of penalty specified by the principal electoral officer (naming such sum); or
 - (iii) both such consent and such sum is evidence of the matter or matters so stated in such certificate, and in the absence of evidence in rebuttal thereof is conclusive evidence of such matter or matters;
- (c) a certificate purporting to be signed by the principal electoral officer stating his or her opinion that the reason contained in the said form is not a valid and sufficient reason for the failure of the elector to record the elector's vote at a referendum is admissible as evidence of the holding of such opinion by the principal electoral officer and that the reason contained in the said form is not a valid and sufficient reason for the failure of the elector to record the elector's vote at the referendum, and in the absence of evidence to the contrary is conclusive evidence of such matters.

(17) The principal electoral officer may require any returning officer to

assist the principal electoral officer in the administration of this section by exercising the power conferred upon the principal electoral officer by subsection (5), and every returning officer thereunto required by the principal electoral officer must assist accordingly.

(18) In this section—

“**elector**” does not include a person who is deemed to be an elector pursuant to the *Elections Act 1983*, section 22.

Proceedings in case of riot or violence

4.35(1) If the proceedings at any referendum are interrupted or obstructed by any riot or open violence, the presiding officer must not for such cause finally close the poll, but must—

- (a) adjourn the poll at the particular polling booth at which the interruption or obstruction happens, to the following day; and
- (b) if necessary, further adjourn such poll from day to day until the interruption or obstruction has ceased;

when the presiding officer must again proceed with the business of taking the poll at the place at which it was so interrupted or obstructed.

(2) Any day to which the poll is so finally adjourned is, as to such place, reckoned the day of polling at such referendum within the meaning of this Act.

(3) An adjournment must not be made pursuant to subsection (1) to any day beyond that named as the return day in the writ, and if the referendum has not been completed by that day the returning officer must specially return that fact.

(4) Where pursuant to this section a poll has been adjourned by a presiding officer other than the returning officer, the presiding officer must forthwith give notice of such adjournment to the returning officer.

Prohibition in respect of canvassing etc. near or within place of voting

4.36 A person who, at any time after the issue of the writ for a referendum and prior to the close of the poll, within any polling booth (which expression includes the grounds within the perimeter of the place

appointed as the polling booth) or, where an entrance to a building that is or is part of the polling booth and within which—

- (a) a ballot box is provided for the purpose of voting in respect of the referendum; or
- (b) a vote is being cast for the referendum;

is on the said perimeter or within 6 m thereof, within 6 m from that entrance—

- (c) canvasses for votes; or
- (d) solicits the vote of any elector; or
- (e) induces any elector not to vote in any particular manner; or
- (f) induces any elector not to vote at the referendum; or
- (g) loiters or obstructs the free passage of voters is guilty of an offence.

Maximum penalty—4 penalty units.

Party emblems not to be worn or displayed in place of voting

4.37 A person must not wear or display any party emblem or badge in any room or place where a ballot box is provided in a polling booth or other place of voting for a referendum.

Maximum penalty—1 penalty unit.

Powers of presiding officer

4.38(1) Every presiding officer has power and authority to maintain and enforce order and keep the peace at any poll held by or before the presiding officer.

(2) A presiding officer may summon to the presiding officer's assistance in any polling booth or other place of voting any police officer for the purpose of preserving the public peace or preventing any breach thereof or for removing out of such polling booth or other place of voting any person who in his or her opinion is obstructing the polling or committing an offence against this Act.

PART 5—PUBLICATION OF RESULTS

Assistant returning officers

5.1(1) Whenever it is likely that not more than 50 votes will respectively be polled at 1 or more of the polling booths amongst several polling booths for a district (a “**group**”) and that the results of the polling for the group will more conveniently be ascertained at 1 central polling booth, the Governor in Council may appoint a person to act at such central polling booth as assistant returning officer.

(1A) Such officer must also act as and be deemed for all purposes to be the presiding officer at such central polling booth.

(2) Every presiding officer at the several polling booths of the group must, at the close of the poll and in the presence of the poll clerk (if any) and of such of the scrutineers as may attend, make up in separate and distinct parcels—

- (a) the ballot box unopened; and
- (b) the roll supplied to the presiding officer by the returning officer (which must be signed by him or her and the poll clerk (if any)) and all books and papers used by him or her during the polling; and
- (c) all ballot papers set aside for separate custody in accordance with this Act;

and must seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire, and must with the least possible delay, deliver such parcels, or cause them to be delivered, to the assistant returning officer at the central polling booth of the group.

(3) Every such presiding officer must also make out and sign a written statement in the prescribed form containing the number in words as well as figures of the votes polled by being placed in the ballot box at the group polling booth and send it to the assistant returning officer at the central polling booth of the group with all books and papers used by the presiding officer during the polling as aforesaid; and the presiding officer must with the least possible delay send a copy of the statement to the chief returning officer.

(4) An assistant returning officer must in like manner make out and sign a statement of the votes polled by being placed in the ballot box at the group polling booth at which the assistant returning officer officiated and send it to the chief returning officer.

(5) An assistant returning officer must as soon as possible after the assistant returning officer has received the sealed parcels transmitted to the assistant returning officer in accordance with this section—

- (a) open the several sealed parcels containing the ballot boxes, open the ballot boxes and, without examining the votes, count and make a record of the number of ballot papers contained in each ballot box and mix the ballot papers taken at his or her own polling booth with all the ballot papers contained in the said ballot boxes; and
- (b) thereupon, in the presence of the assistant returning officer's poll clerk (if any) and of such of the scrutineers as may attend, examine and count the number of votes received at all the polling booths of the group; and
- (c) make out a written statement signed by himself or herself and countersigned by the assistant returning officer's poll clerk (if any) and by any scrutineers who are present and consent to sign the same, containing the aggregate number in words and figures of the votes so counted as aforesaid; and
- (d) after making out and signing such statement, make up in separate and distinct parcels—
 - (i) all the ballot papers so counted as aforesaid, and all the rolls, books and papers kept and used by the assistant returning officer and the said presiding officers during the polling (the assistant returning officer's own roll being signed by him or her and the poll clerk (if any)); and
 - (ii) all ballot papers set aside for separate custody by the assistant returning officer and the said presiding officers; and
- (e) seal up such parcels, and permit the same to be sealed by the scrutineers present if they so desire; and
- (f) with the least possible delay, deliver such parcels and statement or cause them to be delivered to the returning officer; and

- (g) at the next practicable opportunity thereafter, also transmit a duplicate of such statement signed and countersigned as aforesaid.

Presiding officer to examine and count votes and seal and forward parcels to returning officer

5.2 At every polling booth in respect of which an assistant returning officer has not been appointed, the presiding officer other than the returning officer must at the close of the poll, in the presence of the poll clerk (if any) and of such of the scrutineers as may attend—

- (a) examine and count the number of votes received at the polling booth at which the presiding officer presided; and
- (b) make out a written statement, signed by himself or herself and countersigned by the presiding officer's poll clerk (if any) and any scrutineers who are present and consent to sign the same, containing the numbers in words as well as figures of the votes received so counted as aforesaid; and
- (c) after making out and signing such statement, make up in separate and distinct parcels—
 - (i) all the ballot papers together with the roll supplied to the presiding officer by the returning officer (which must be signed by him or her and the poll clerk (if any)), and all books and papers used by him or her during the polling; and
 - (ii) all ballot papers set aside for separate custody as aforesaid; and
- (d) seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and
- (e) with the least possible delay, deliver such parcels and statement or cause them to be delivered to the returning officer; and
- (f) at the next practicable opportunity thereafter, also transmit a duplicate of such statement signed and countersigned as aforesaid.

Returning officer to examine and count votes at his or her polling booth and seal parcels

5.3 Every returning officer must at the close of the poll, in the presence of his or her poll clerk (if any) and of such of the scrutineers as may attend—

- (a) examine and count the number of votes received at the returning officer's own polling booth (if any); and
- (b) make out a written statement, signed by himself or herself and countersigned by his or her poll clerk (if any) and by any scrutineers who are present and consent to sign the same, containing the number in words and figures of the votes received so counted as aforesaid; and
- (c) after making out and signing such statement, make up in separate and distinct parcels—
 - (i) all the ballot papers, rolls, books and papers kept and used by the returning officer during the polling; and
 - (ii) all ballot papers set aside for separate custody as aforesaid; and
- (d) seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire; and
- (e) endorse the same when so sealed with a description of the contents thereof and with the name of the electoral district and polling booth and the date of polling, and sign such endorsement with the returning officer's name.

Returning officer to open sealed parcels transmitted by presiding officers, count the votes and reseal each parcel

5.4(1) As soon as possible after the returning officer has received from the several assistant returning officers and presiding officers the sealed parcels so transmitted to the returning officer containing the ballot papers counted at the central polling booths and other polling booths outside a group respectively and the several statements of the number of votes counted by them respectively, the returning officer must—

- (a) from his or her own statement (if any) and such other statements

ascertain the gross number of votes for and against the question;
and

- (b) in the presence of his or her poll clerk (if any) and of such scrutineers as may attend, open such sealed parcels and examine and count the number of votes at each central polling booth and other polling booth outside a group, and in a manner prescribed examine and count the absent votes and votes under sections 4.15, 4.23 and 4.32 received and permitted or allowed;
and
- (c) after ascertaining such votes, make up in separate and distinct parcels the ballot papers, rolls, books and papers received from each assistant returning officer and presiding officer, and the absent votes and declarations in like manner as hereinbefore required concerning the ballot papers, rolls, books and papers kept and used by him or her at his or her own polling booth (if any); and
- (d) seal up, and also permit to be sealed up by the scrutineers, and endorse in like manner as aforesaid the said several parcels and deal with the same as hereinafter provided.

(2) The returning officer must also make out, in respect of each central polling booth and other polling booth outside a group, a like written statement, signed and countersigned as hereinbefore required, concerning his or her own polling booth.

(3) The returning officer must also examine the rolls that have been used and marked by the returning officer (if any) and the presiding officers at the several polling booths and ascertain whether any electors appear to have voted at more than 1 polling booth, and must make out a list showing the names and numbers of all electors who appear to have so voted at more than 1 polling booth; and the returning officer must enclose the original list in the sealed packet or packets to be made up by the returning officer as provided by section 5.9.

(4) The returning officer must not open or examine any sealed parcel in the absence of any scrutineer unless the returning officer has given 24 hours previous notice in writing to such scrutineer of whose identity the returning officer is aware and who has indicated a desire to be present at such opening or examination of his or her intention to open and examine the same.

(5) However, a referendum is not invalidated by reason of any act of a returning officer in opening or examining any sealed parcel contrary to this provision unless it is proved that the returning officer did such act with a fraudulent intent.

When scrutiny may proceed despite absence of certain votes

5.5 If the returning officer is satisfied that the votes—

- (a) on any ballot papers issued at some remote polling booth; or
- (b) on any ballot papers used by prescribed electoral registrars for the purpose of voting under section 4.27; or
- (c) on any ballot papers used for casting votes under section 4.30 and which votes were delivered in accordance with subsection (18)(a) of that section; or
- (d) on any ballot papers used for casting votes under section 4.31 and which votes were delivered in accordance with section 4.30(18)(a) as that provision applies pursuant to section 4.31(2);

can not, having regard to the number of those ballot papers, possibly affect the result of the referendum, the returning officer may proceed with the count without awaiting the receipt of those ballot papers.

Causes for rejection and circumstances of nonrejection of ballot paper

5.6(1) A ballot paper that—

- (a) has not been marked as mentioned in section 4.21(1)(a)(i) or (ii); or
- (b) has upon it any mark or writing not authorised by this Act to be put thereon which in the opinion of the returning officer will or may enable any person to identify the ballot paper or the elector;

must be rejected at the close of the poll.

(2) A ballot paper is not informal for any reason other than a reason specified in subsection (1) but must be given effect to according to the voter's intention so far as his or her intention is clear.

Recounting of ballot papers

5.7(1) At any time—

- (a) before forwarding the result of the referendum within a particular electoral district to the chief returning officer; or
- (b) as directed by the chief returning officer;

the returning officer may recount the ballot papers.

(2) The ballot papers must be recounted in the same manner as for a count in the first instance under this Act, and, in that respect, the returning officer has the same powers as if the recount were the count in the first instance and may reverse any decision in relation to the count in the first instance as to the allowance and admission or disallowance and rejection of any ballot paper.

Declaration of referendum

5.8(1) Upon completion of the count within a particular electoral district the returning officer must notify the chief returning officer of the result of that count.

(2) Upon receipt of the count from each electoral district the chief returning officer must within the time fixed for the return of the writ, endorse thereon whether the Bill or question has been approved or not by a majority of the electors voting of the electors qualified to vote for the election of members of the Legislative Assembly.

(3) The Bill or question is to be taken to have been approved if it has been approved by a majority of electors who have actually voted at the referendum in accordance with this Act.

(4) Publication in the gazette of the endorsement of the chief returning officer is conclusive evidence of the result of the referendum save where the Legislative Assembly refers a matter to the elections tribunal in accordance with part 7.

Ballot papers to be delivered to clerk of the Parliament

5.9(1) The returning officer must within 30 days after the expiration of the day named in the writ for the return thereof or, if the Governor or

speaker has extended the time for the return of the writ, the last day of such extended time—

- (a) enclose in 1 or more packets the several sealed parcels made up and sealed by the returning officer in pursuance of section 5.4(1); and
- (b) seal up such packet or packets and affix thereto in the prescribed manner the prescribed label endorsed with a description of the several contents thereof and the name of the electoral district and the date of polling, and sign such endorsement with the returning officer's name; and
- (c) transmit such packet or packets to the clerk of the Parliament.

(2) The sealed packet or packets may be transmitted to the clerk of the Parliament by delivering it or them to the clerk personally or by sending it or them by rail or road or any other prescribed means of transmission addressed to the clerk at Parliament House, Brisbane.

(3) The clerk of the Parliament must deposit all sealed packets transmitted to the clerk under this section in a room in or within the precincts of Parliament House, which room must be set apart for that purpose.

(3A) Every such sealed packet must be safely kept in such room by the clerk for a period of 2 years after the date of the delivery of the same to the clerk.

(3B) Every means of access to such room except 1 door must be securely fastened up and such door must be provided with 2 locks, each of a different pattern, the keys of which must, except when required for the purposes of this section, be kept in a safe deposit at all times during which any sealed packet is being kept therein.

(4) Upon the expiration of 30 days after the day named in the writ for the return thereof or, if the Governor or speaker has extended the time for the return of the writ, the last day of such extended time, the clerk of the Parliament must report to the Minister any failure by a returning officer to comply with this section.

(5) Within 3 months after the expiration of the period of 2 years mentioned in subsection (3A), the clerk must cause all such sealed packets to be destroyed, but, before proceeding to such destruction, the clerk must

give reasonable notice thereof to the speaker, the Attorney-General and the Leader of the Opposition, each of whom are entitled to be present thereat personally or by his or her representative and to verify that all such sealed packets are then destroyed.

(6) If any question at any time arises touching the votes alleged to have been given at any referendum, the ballot papers and declarations contained in any such sealed packet must be received in evidence as proof of such votes in any court of justice or elections tribunal upon production thereof, and of a certificate under the hand of the clerk of the Parliament that the same were transmitted to the clerk in due course by the returning officer of the district to which the same relate.

(7) Upon the certificate of the Attorney-General or solicitor-general stating that any of the ballot papers, declarations or other things contained in any such sealed packet are required by a police officer or officers for purposes, stated in that certificate, of an investigation being made by that police officer or those police officers into an alleged offence under this Act or the Criminal Code, the speaker may in writing authorise the clerk to produce those ballot papers, declarations or things to the police officer or officers, and thereupon the clerk must do so.

(8) The speaker may, having regard to the nature of the alleged offence, impose conditions with respect to the dealing by the police officer or officers concerned with ballot papers, declarations or other things produced by him, her or them by authority as aforesaid.

Referendum not to be questioned

5.10 A referendum is not liable to be questioned by reason of—

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

Remedy for informalities in proceedings

5.11(1) A referendum is not void in consequence only of any delay in—

- (a) holding the referendum at the time appointed; or
- (b) taking the poll; or
- (c) the return of the writ;

or in consequence of any impediment of a merely formal nature.

(2) Where there is any obstacle of a merely formal nature by which the due course of the referendum might be impeded, the Governor in Council may adopt such measures as may be necessary for removing the obstacle and, where the Governor in Council does so, the Governor in Council must forthwith by order in council declare valid the referendum and the measures so adopted.

PART 6—SUPPLEMENTAL PROVISIONS**Political articles to be signed**

6.1(1) Every article, report, letter or other matter commenting upon any of the issues being submitted to the electors, printed and published in any newspaper, circular, pamphlet, placard, sign, poster, bill or “dodger” at any time during the period must be signed by the author or authors giving his, her or their true name and address or true names and addresses, at the end of the article, report, letter or other matter or, where part only of the article, report, letter or other matter appears in any newspaper, circular, pamphlet, placard, sign, poster, bill or “dodger”, at the end of that part.

Maximum penalty—2 penalty units.

(2) Any newspaper editor or proprietor who permits, in any newspaper that the editor or proprietor edits or owns, the publication of any unsigned article, report, letter or other matter commenting upon the issues being submitted to the electors at any time during the period is guilty of an offence.

Maximum penalty—2 penalty units.

(3) In this section—

“**period**” means the period commencing on the day of issue of the writ for a referendum and ending at the close of the poll in respect of that referendum.

Printing publishing etc. material intended or likely to mislead

6.2(1) Any person who—

- (a) prints, publishes or distributes any electoral advertisement, notice, handbill, pamphlet or card containing any representation of a ballot paper or any representation apparently intended to represent a ballot paper, and having thereon any directions intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of the elector’s vote; or
- (b) prints, publishes or distributes any electoral advertisement, notice, handbill, pamphlet or card containing any untrue or incorrect statement intended or likely to mislead or improperly interfere with any elector in or in relation to the casting of the elector’s vote;

is guilty of an offence.

Maximum penalty—2 penalty units.

(2) Nothing contained in subsection (1) prevents the printing, publishing or distributing of any card, not otherwise illegal, that contains instructions on how to vote, provided those instructions are not intended or likely to mislead any elector in or in relation to the casting of the elector’s vote.

Institution of proceedings for offences under ss 6.1 and 6.2

6.3 Proceedings for an offence under section 6.1 or 6.2 may be instituted by—

- (a) the chief returning officer; or
- (b) a person authorised in writing (either generally or in respect of a particular case) by the chief returning officer.

Injunctions

6.4 Any person who is responsible for a contravention of or a failure to comply with any provision of section 6.1 or 6.2 may be restrained on the application of the chief returning officer or of an elector by interim or perpetual injunction by a judge of the Supreme Court from so contravening or failing to comply with the provision in question or from any repetition of such contravention or failure to comply, and, for the purposes of granting an interim injunction, prima facie proof of the contravention of or failure to comply with the provision is sufficient.

Unauthorised possession of ballot papers etc.

6.5(1) A person must not unlawfully get possession of or have in the person's possession any—

- (a) ballot paper; or
- (b) roll, book or paper kept and used by a returning officer, an assistant returning officer, a presiding officer, a poll clerk, an overseas officer, an interstate officer, an electoral visitor or a prescribed electoral registrar.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) It is unlawful for any person to get possession of or have in the person's possession any of the things referred to in subsection (1)(a) and (b) unless such getting possession of or having in possession is authorised, justified or excused under this Act.

(3) Where it is proved that a person got possession of or had in the person's possession any of the things referred to in subsection (1)(a) and (b), the person is guilty of the offence charged against the person under subsection (1) unless the person shows that such getting possession of or having in possession was authorised, justified or excused under this Act.

(4) Proceedings for an offence under this section may be instituted by any police officer.

Offences in relation to postal voting and enrolment

6.6(1) Any person to whom an application for a postal vote certificate and ballot paper or an envelope containing or purporting to contain a ballot

paper is entrusted by a voter for the purpose of posting or delivery who—

- (a) in the case of such an application—fails either to post it forthwith, addressed to the returning officer for the district in question, or to deliver it forthwith to that returning officer; or
- (b) in the case of such an envelope—fails either—
 - (i) to post forthwith; or
 - (ii) to deliver it before 6 p.m. on polling day to the returning officer, an assistant returning officer or a presiding officer of the district in question;

is guilty of an offence.

Maximum penalty—20 penalty units.

(2) Any person wilfully informing an elector at any time on or after the date of issue of the writ for a referendum and before the close of the poll that the elector is not enrolled or that the elector is not enrolled for a particular electoral district or division when in fact the elector is enrolled or is enrolled for that district or division, as the case may be, is guilty of an offence.

Maximum penalty—20 penalty units.

Obstruction or wilful misleading of principal electoral officer etc.

6.7 Any person who—

- (a) obstructs or wilfully misleads the principal electoral officer in the exercise or performance of the principal electoral officer's powers or duties; or
- (b) wilfully misleads any electoral registrar in the preparation of any roll; or
- (c) wilfully inserts or causes to be inserted in any roll any false or fictitious name or address is guilty of an offence.

Maximum penalty—4 penalty units or 3 months imprisonment.

Person guilty of corrupt or illegal practice etc. prohibited from voting

6.8(1) Every person guilty of a corrupt or an illegal practice or of illegal payment or hiring at a referendum is prohibited from voting at such referendum and, if any such person votes, the person's vote is void.

(2) Every person who, in consequence of conviction or of the report of the elections tribunal, has become, under the *Elections Act 1983* or under any other Act for the time being in force relating to corrupt or illegal practices, incapable of voting at any election or referendum, is prohibited from voting at a referendum and, if any such person votes, the person's vote is void.

Neglect by principal electoral officer etc.

6.9 If the principal electoral officer or any electoral registrar is guilty of any wilful misfeasance or wilful or negligent act of commission or omission contrary to any of the provisions of this Act, he or she is guilty of an offence.

Maximum penalty—2 penalty units.

Undue influence by certain officers

6.10 Any magistrate, clerk of the court or police officer who, during the time he or she continues in such office and as a consequence of being in such office by word, message, writing or in any other manner endeavours to persuade any elector to give, or dissuade any elector from giving, his or her vote for or against any question or endeavours to persuade or induce any elector to refrain from voting at any referendum is guilty of an offence.

Maximum penalty—4 penalty units.

Neglect by returning officer etc.

6.11(1) Any person holding office as a returning officer or an assistant returning officer who wilfully neglects or refuses to perform any of the duties that by this Act the person is required to perform is guilty of an offence.

Maximum penalty—8 penalty units.

(2) Any presiding officer or other officer or person (other than a person holding office as a returning officer or an assistant returning officer) who wilfully neglects or refuses to perform any of the duties that by this Act the person is required to perform is guilty of an offence.

Maximum penalty—2 penalty units.

(3) In this section—

“a returning officer” includes the chief returning officer.

General penalty

6.12 A person who contravenes or fails to comply with any provision of this Act is guilty of an offence and, save where a specific penalty is otherwise provided or provision is otherwise made with respect to the offence, is liable to a penalty of 20 penalty units.

Summary proceedings

6.13 Offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

Regulations

6.14 The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) offences against the regulations and prescribing the amount of any penalty for any offence against any regulation, provided that any such penalty must not exceed 2 penalty units;
- (b) prescribing forms and other documents under this Act, and the respective purposes for which such forms or documents, or forms or documents to the like effect, must be used;
- (c) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed by the regulations or where the method of prescription is not otherwise provided;
- (d) all matters that may be convenient for the administration of this

Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

Publication of orders in council

6.15 The *Acts Interpretation Act 1954*, section 28A applies in respect of orders in council made under this Act as if they were regulations and, for the purpose of such application, that section must be read as if a reference to the term “regulation” were a reference to the term “order in council”.

PART 7—CHALLENGE TO REFERENDUM

Method of challenge

7.1 The Legislative Assembly may within 7 sitting days of the return of the writ refer to the elections tribunal any question concerning the validity of a referendum whether such question arises out of—

- (a) an error in the return of the chief returning officer;
- (b) the failure of the chief returning officer to make a return;
- (c) an allegation of bribery or corruption against any person concerned in the referendum;
- (d) any other allegation calculated to affect the validity of the referendum.

Power of elections tribunal

7.2 The elections tribunal for the purpose of this Act possesses all powers and authority vested in it pursuant to the *Elections Act 1983* and may make all such orders, conduct all such hearings and do all such things as if it were acting in accordance with that Act and that Act as necessarily adapted applies accordingly.

Immaterial errors not to vitiate referendum

7.3(1) No referendum and no return or statement showing the voting at a referendum is voided on account of any delay in relation to the taking of votes of electors or in relation to the making of any statement or return or on account of the absence or error of or omission by the chief returning officer or any other person appointed by or under this Act which did not affect the result of the referendum.

(2) However, where any elector was, on account of the absence or error of or omission by the chief returning officer or any other such person prevented from voting at a referendum the elections tribunal must not, for the purpose of determining whether the absence or error or omission by the chief returning officer or such other person did or did not affect the result of the referendum admit any evidence of the manner in which that elector intended to vote.

**PART 8—POLLING IN CONJUNCTION WITH 1991
TRIENNIAL MUNICIPAL ELECTIONS****Interpretation**

8.1 In this part—

“City of Brisbane Act” means the *City of Brisbane Act 1924*, and includes the provisions of the Elections Act that are applied by section 17(6) of that Act.

“City of Brisbane area” means the area for the time being comprised within the City of Brisbane, and includes a part of that area.

“Community Services (Aborigines) Act” means the *Community Services (Aborigines) Act 1984*, and includes—

- (a) the regulations under that Act; and
- (b) the provisions of the Local Government Act that are applied by section 18 of that Act.

“Community Services (Aborigines) area” means an area, or a part of an

area, for which an Aboriginal Council is established under the Community Services (Aborigines) Act.

“Community Services Act” means the Community Services (Aborigines) Act or the Community Services (Torres Strait) Act.

“Community Services area” means a Community Services (Aborigines) area or a Community Services (Torres Strait) area.

“Community Services (Torres Strait) Act” means the *Community Services (Torres Strait) Act 1984*, and includes—

- (a) the regulations under that Act; and
- (b) the provisions of the Local Government Act that are applied by section 18 of that Act or the regulations under that Act.

“Community Services (Torres Strait) area” means an area, or a part of an area, for which an Island Council is established under the Community Services (Torres Strait) Act.

“Elections Act” means the *Elections Act 1983*, and includes the regulations under that Act.

“Local Government Act” means the *Local Government Act 1936*, and includes the regulations under that Act.

“local government area” means an area within the meaning of the Local Government Act, and includes a part of such an area.

“modifications” includes additions, omissions and substitutions.

“relevant Community Services Act” means—

- (a) in relation to a Community Services (Aborigines) area—the Community Services (Aborigines) Act; and
- (b) in relation to a Community Services (Torres Strait) area—the Community Services (Torres Strait) Act.

“town clerk” has the same meaning as in the City of Brisbane Act.

Application of part

8.2 The part applies only in relation to the referendum on the *Constitution (Duration of Legislative Assembly) Amendment Bill 1990*.

Polling under Local Government Act**8.3** Subject to the regulations—

- (a) each person who is a returning officer, presiding officer or poll clerk under the Local Government Act for a local government area is, by force of this section, appointed respectively to be a returning officer, presiding officer or poll clerk under this Act for the area; and
- (b) the chief returning officer is to compile, for each local government area, a roll of electors qualified under the Elections Act to vote for the election of members of the Legislative Assembly and that roll is to be—
 - (i) the roll for the area for the purposes of this Act; and
 - (ii) the voters' roll for the area for the purposes of the Local Government Act; and
- (c) the Local Government Act and the Elections Act do not apply in relation to the compilation of the roll of electors; and
- (d) each polling place under the Local Government Act for a local government area is, by force of this section, appointed a polling booth under this Act for the area; and
- (e) subject to paragraph (g), the vote for the referendum for a local government area is to be taken in accordance with the Local Government Act and not in accordance with this Act; and
- (f) without limiting paragraph (e), the Local Government Act applies (with all necessary changes), and sections 4.1(2) and (3) and 4.4(1) and (3) and sections 4.3, 4.5 to 4.9, 4.11, 4.25 and 4.27 to 4.38 of this Act do not apply, to the taking of the vote for the referendum for the area, but this Act otherwise applies to the conduct of the referendum for the area; and
- (g) subject to paragraphs (i) and (j), sections 4.10, 4.12 to 4.24 and 4.26 of this Act apply to the taking of the vote for the referendum for the area; and
- (h) in the application of the provisions of this Act that apply to the taking of the vote for the referendum for the area or otherwise apply to the conduct of the referendum for the area, a reference to

an electoral district or district is a reference to the area and all necessary consequential changes to this Act are taken to be made; and

- (i) section 4.24 applies as if—
 - (i) subsection (2) were amended by—
 - (A) omitting paragraph (a); and
 - (B) in paragraph (e), omitting the words ‘for the electoral district for which you claim to vote’; and
 - (ii) subsection (10) were omitted and the following subsections were substituted—

‘(10) When the returning officer for the area has received the absent vote envelopes, advice notes and form of record from each presiding officer for the area who has permitted votes under this section, the returning officer must—

- (a) verify the number of votes permitted by each presiding officer; and
- (b) enclose the envelopes, together with notifications in the prescribed form, in an outer envelope and securely fasten the envelope; and
- (c) send the envelope to the chief returning officer.

‘(10A) The chief returning officer must, without unfastening the enclosed envelopes, forward them to the appropriate returning officers, together with notifications in the prescribed form.’; and

- (j) section 4.26 applies as if subsections (7) to (8) were omitted and the following subsections were substituted—

‘(7) The officer must make, in the prescribed form, a record of the full name and address of each voter permitted by the officer to vote under this section.

‘(8) As soon as practicable after 6 p.m. (local time in the city in question) on the day immediately before polling day, the officer must—

- (a) enclose the envelopes, together with the records made under subsection (7), in an outer envelope, endorse the envelope

‘Record of (name of city) voters’ and securely fasten the envelope; and

- (b) send the envelope to the chief returning officer.

‘(8A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with the records made under subsection (7).’; and

- (k) the regulations may prescribe modifications to this Act, the Local Government Act or any other Act for the purposes of the taking of the vote for the referendum, and otherwise conducting the referendum, in accordance with this section.

Polling under City of Brisbane Act

8.4 Subject to the regulations—

- (a) each person who is a returning officer, presiding officer or poll clerk under the City of Brisbane Act for a City of Brisbane area is, by force of this section, appointed to be respectively a returning officer, presiding officer or poll clerk under this Act for the area; and
- (b) the town clerk is the chief returning officer for the purposes of the City of Brisbane Act, but not for the purposes of this Act; and
- (c) the chief returning officer is to compile, for each electoral ward of the City of Brisbane, a roll of electors qualified under the Elections Act to vote for the election of members of the Legislative Assembly and that roll is to be—
- (i) the roll for the ward for the purposes of this Act; and
- (ii) the electoral roll for the ward for the purposes of the City of Brisbane Act; and
- (d) the City of Brisbane Act and the Elections Act do not apply in relation to the compilation of the roll of electors; and
- (e) subject to paragraph (g), the vote for the referendum for the City of Brisbane area is to be taken in accordance with the City of Brisbane Act and not in accordance with this Act; and

- (f) without limiting paragraph (e), the City of Brisbane Act applies (with all necessary changes), and sections 4.1(2) and (3) and 4.4(1) and (3) and sections 4.3, 4.5 to 4.9, 4.11, 4.25 and 4.27 to 4.38 of this Act do not apply, to the taking of the vote for the referendum for the area, but this Act otherwise applies to the conduct of the referendum for the area; and
- (g) subject to paragraphs (i) and (j), sections 4.10, 4.12 to 4.24 and 4.26 of this Act apply to the taking of the vote for the referendum for the area; and
- (h) in the application of the provisions of this Act that apply to the taking of the vote for the referendum for the area or otherwise apply to the conduct of the referendum for the area, a reference to an electoral district or district is a reference to the area and all necessary consequential changes to this Act are taken to be made; and
- (i) section 4.24 applies as if—
 - (i) subsection (2) were amended by—
 - (A) omitting paragraph (a); and
 - (B) in paragraph (e), omitting the words ‘for the electoral district for which you claim to vote’; and
 - (ii) subsection (10) were omitted and the following subsections were substituted—

‘(10) When the returning officer for a City of Brisbane area has received the absent vote envelopes, advice notes and form of record from each presiding officer for the area who has permitted votes under this section, the returning officer must—

 - (a) verify the number of votes permitted by each presiding officer; and
 - (b) enclose the envelopes, together with notifications in the prescribed form, in an outer envelope and securely fasten the envelope; and
 - (c) send the envelope to the chief returning officer.

‘(10A) The chief returning officer must, without unfastening the enclosed envelopes, forward them to the appropriate returning

officers, together with notifications in the prescribed form.’; and

- (j) section 4.26 applies as if subsections (7) to (8) were omitted and the following subsections were substituted—

‘(7) The officer must make, in the prescribed form, a record of the full name and address of each voter permitted by the officer to vote under this section.

‘(8) As soon as practicable after 6 p.m. (local time in the city in question) on the day immediately before polling day, the officer must—

- (a) enclose the envelopes, together with the records made under subsection (7), in an outer envelope, endorse the envelope ‘Record of (name of city) voters’ and securely fasten the envelope; and
- (b) send the envelope to the chief returning officer.

‘(8A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with the records made under subsection (7).’; and

- (k) the regulations may prescribe modifications to this Act, the Elections Act or any other Act for the purposes of the taking of the vote for the referendum, and otherwise conducting the referendum, in accordance with this section.

Polling under Community Services Acts

8.5 Subject to the regulations—

- (a) each person who is a returning officer, presiding officer or poll clerk under a Community Services Act for a Community Services area is, by force of this section, appointed to be respectively a returning officer, presiding officer or poll clerk under this Act for the area; and
- (b) the chief returning officer is to compile, for each Community Services area, a roll of electors qualified under the Elections Act to vote for the election of members of the Legislative Assembly and that roll is to be—

- (i) the roll for the area for the purposes of this Act; and
 - (ii) the voters' roll for the area for the purposes of the relevant Community Services Act; and
- (c) the relevant Community Services Act and the Local Government Act do not apply in relation to the compilation of the roll of electors; and
- (d) each polling place under the relevant Community Services Act for a Community Services area is, by force of this section, appointed a polling booth under this Act for the area; and
- (e) subject to paragraph (g), the vote for the referendum for a Community Services area is to be taken in accordance with the relevant Community Services Act and not in accordance with this Act; and
- (f) without limiting paragraph (e), the relevant Community Services Act applies (with all necessary changes), and sections 4.1(2) and (3) and 4.4(1) and (3) and sections 4.3, 4.5 to 4.9, 4.11, 4.25 and 4.27 to 4.38 of this Act do not apply, to the taking of the vote for the referendum for the area, but this Act otherwise applies to the conduct of the referendum for the area; and
- (g) subject to paragraphs (i) and (j), sections 4.10, 4.12 to 4.24 and 4.26 of this Act apply to the taking of the vote for the referendum for the area; and
- (h) in the application of the provisions of this Act that apply to the taking of the vote for the referendum for the area or otherwise apply to the conduct of the referendum for the area, a reference to an electoral district or district is a reference to the area and all necessary consequential changes to this Act are taken to be made; and
- (i) section 4.24 applies as if—
- (i) subsection (2) were amended by—
 - (A) omitting paragraph (a); and
 - (B) in paragraph (e), omitting the words 'for the electoral district for which you claim to vote'; and
 - (ii) subsection (10) were omitted and the following subsections

were substituted—

‘(10) When the returning officer for the area has received the absent vote envelopes, advice notes and form of record from each presiding officer for the area who has permitted votes under this section, the returning officer must—

- (a) verify the number of votes permitted by each presiding officer; and
- (b) enclose the envelopes, together with notifications in the prescribed form, in an outer envelope and securely fasten the envelope; and
- (c) send the envelope to the chief returning officer.

‘(10A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with notifications in the prescribed form.’; and

- (j) section 4.26 applies as if subsections (7) to (8) were omitted and the following subsections were substituted—

‘(7) The officer must make, in the prescribed form, a record of the full name and address of each voter permitted by the officer to vote under this section.

‘(8) As soon as practicable after 6 p.m. (local time in the city in question) on the day immediately before polling day, the officer must—

- (a) enclose the envelopes, together with the records made under subsection (7), in an outer envelope, endorse the envelope ‘Record of (name of city) voters’ and securely fasten the envelope; and
- (b) send the envelope to the chief returning officer.

‘(8A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with the records made under subsection (7).’; and

- (k) the regulations may prescribe modifications to this Act, a Community Services Act or any other Act for the purposes of the

taking of the vote for the referendum, and otherwise conducting the referendum, in accordance with this section.

Polling for other areas of State

8.6 Subject to the regulations—

- (a) the chief returning officer is to compile, for the areas of the State in relation to which sections 8.3 to 8.5 do not apply, a roll of electors qualified under the Elections Act to vote for the election of members of the Legislative Assembly and that roll is to be the roll for the areas for the purposes of this Act; and
- (b) this Act (apart from this part) and the Elections Act do not apply in relation to the compilation of the roll of electors; and
- (c) in the application of the provisions of this Act to the taking of the vote for the referendum for the areas and otherwise to the conduct of the referendum for the areas, a reference to an electoral district or district is a reference to those areas taken as a whole and all necessary consequential changes to this Act are taken to be made; and
- (d) section 4.24 applies as if—
 - (i) subsection (2) were amended by—
 - (A) omitting paragraph (a); and
 - (B) in paragraph (e), omitting the words ‘for the electoral district for which you claim to vote’; and
 - (ii) subsection (10) were omitted and the following subsections were substituted—

‘(10) When the returning officer for an area in relation to which section 8.6 applies has received the absent vote envelopes, advice notes and form of record from each presiding officer for the area who has permitted votes under this section, the returning officer must—

 - (a) verify the number of votes permitted by each presiding officer; and
 - (b) enclose the envelopes, together with the notifications in the

prescribed form, in an outer envelope and securely fasten the envelope; and

- (c) send the envelope to the chief returning officer.

‘(10A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with notifications in the prescribed form.’; and

- (e) section 4.26 applies as if subsections (7) to (8) were omitted and the following subsections were substituted—

‘(7) The officer must make, in the prescribed form, a record of the full name and address of each voter permitted by the officer to vote under this section.

‘(8) As soon as practicable after 6 p.m. (local time in the city in question) on the day immediately before polling day, the officer must—

- (a) enclose the envelopes, together with the records made under subsection (7), in an outer envelope, endorse the envelope ‘Record of (name of city) voters’ and securely fasten the envelope; and

- (b) send the envelope to the chief returning officer.

‘(8A) The chief returning officer must, without unfastening the enclosed envelopes, send them to the appropriate returning officers, together with the records made under subsection (7).’; and

- (f) the regulations may prescribe modifications to this Act, the Elections Act or any other Act, for the purposes of the taking of the vote for the referendum, and otherwise conducting the referendum, in accordance with this section.

Directions etc. by chief returning officer

8.7(1) Where any difficulty arises in the application of this part, the chief returning officer may give such directions, make such appointments and take such action as the chief returning officer considers necessary or desirable to ensure that the votes of electors are properly taken and the referendum is otherwise properly conducted.

(2) If the chief returning officer exercises any powers under subsection (1) in relation to the referendum, the chief returning officer must, within 30 days after the day on which the writ for the conduct of the referendum is returned, give to the Speaker of the Legislative Assembly, for presentation to the Parliament, a report on the powers exercised under that subsection in relation to the referendum.

(3) Subsection (1) has effect despite any other provision of this Act or any other Act.

PART 9—POLLING AT 1992 DAYLIGHT SAVING REFERENDUM

Application of part

9.1(1) If a question relating to daylight saving is the subject of a writ issued under this Act before April 1992, this part applies to the referendum.

(2) A reference in this part to the referendum is a reference to the referendum mentioned in subsection (1).

Single electoral roll for distribution and referendum

9.2 Despite the *Electoral Districts Act 1991*, section 4.2(3), it is sufficient compliance with that subsection if the roll of electors for an electoral district determined as mentioned in that subsection contains the name of electors registered as living in the electoral district on a date determined by the electoral commissioner that is not later than 3 months after the date mentioned in that subsection.

Directions by electoral commissioner

9.3(1) If a difficulty arises in the application of this Act to the referendum, the electoral commissioner may give such directions, make such appointments and take such action as the electoral commissioner considers necessary or desirable to ensure that the votes of electors are properly taken, that the referendum is otherwise properly conducted and that

any unnecessary expenditure of public money is avoided.

(2) Without limiting subsection (1), the electoral commissioner may give directions—

- (a) amending the boundaries of any electoral district; or
- (b) amending any division of an electoral district into divisions; or
- (c) with respect to any roll to be used for the referendum.

(3) If the electoral commissioner exercises any powers under subsection (1) in relation to the referendum, the electoral commissioner must, within 30 days after the writ for the conduct of the referendum is returned, give to the Speaker of the Legislative Assembly a report on the powers exercised under that subsection in relation to the referendum.

(4) A direction under subsection (1) has effect despite any other provision of this or any other Act.

SCHEDULE

FORM A

Referendums Act 1989

WRIT FOR A REFERENDUM ON A BILL

To Chief returning officer

Greeting:

We command you that you cause a Bill entitled [*Here set out the title of the Bill*] a copy of which is attached hereto to be submitted according to law to the electors qualified to vote for the election of members of the Legislative Assembly: And we appoint the following dates for the purpose of the submission—

1. For the close of the rolls the day of
19 .
2. For taking the votes of the electors the day
of 19 .
3. For the return of the writ on or before the day
of 19 .

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

Governor

By Command

SCHEDULE (continued)

Reverse

This writ was received by me this day of
19 .

Chief returning officer.

I hereby declare that on the day of 19 the
electors qualified to vote for the election of members of the Legislative
Assembly voted as follows—

To approve a Bill entitled [*Here set out title of Bill*] Votes

Not to approve a Bill entitled [*Here set out title of Bill*] Votes

I declare that the Bill entitled [*Here set out title of Bill*] has been
approved/not approved by a majority of the electors voting of the electors
qualified to vote for the election of members of the Legislative Assembly.

Chief returning officer

SCHEDULE (continued)

FORM B

Referendums Act 1989

WRIT FOR A REFERENDUM ON A QUESTION

To Chief returning officer

Greeting:

We command you that you cause the question [*Here set out the question*] approved by the Legislative Assembly a copy of which is attached hereto to be submitted according to law to the electors qualified to vote for the election of members of the Legislative Assembly: And we appoint the following dates for the purpose of the submission—

1. For the close of the rolls the day of
19 .
2. For taking the votes of the electors the day
of 19 .
3. For the return of the writ on or before the day
of 19 .

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

Governor

By Command

 SCHEDULE (continued)

Reverse

This writ was received by me this day of
 19 .

Chief returning officer.

I hereby declare that on the day of 19 the
 electors qualified to vote for the election of members of the Legislative
 Assembly voted as follows—

To approve the question [*Here set out the question*] Votes

Not to approve the question [*Here set out the question*] Votes

I declare that the question [*Here set out the question*] has been
 approved/not approved by a majority of the electors voting of the electors
 qualified to vote for the election of members of the Legislative Assembly.

Chief returning officer.

SCHEDULE (continued)

FORM C

Referendums Act 1989

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 (continued)

FORM D*Referendums Act 1989***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

ENDNOTES

1 Index to endnotes

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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 28 January 1997. Future amendments of the Referendums Act 1989 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

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

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 36 of 1992	23 February 1996

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Referendums Act 1989 No. 69

date of assent 11 August 1989

commenced on date of assent

as amended by—

Referendums Legislation Amendment Act 1990 No. 101 pt 2

date of assent 12 December 1990

commenced on date of assent

Referendums and Elections Legislation Amendment Act 1991 No. 82 pt 2

date of assent 9 December 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1992 No. 36 ss 1–2 sch 2

date of assent 2 July 1992

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

7 List of annotations

Definitions

- s 1.2** def “**Chief Returning Officer**” om 1991 No. 82 s 3(1)
 def “**Electoral Commissioner**” ins 1991 No. 82 s 3(2)
 def “**Minister**” om 1991 No. 82 s 3(1)
 def “**prescribed form**” ins 1990 No. 101 s 3
 def “**principal electoral officer**” om 1990 No. 101 s 3(1)

References to chief returning officer and principal electoral officer

- s 1.3** ins 1991 No. 82 s 4

Publication of ‘yes’ and ‘no’ cases

- s 3.1** sub 1991 No. 82 s 5
 amd 1992 No. 36 s 2 sch 2

Limitation on expenditure

- s 3.2** amd 1991 No. 82 s 6; 1996 No. 37 s 147 sch 2

Provision of ballot boxes etc.

- s 4.2** amd 1990 No. 101 s 4

Printing, supplying and distributing ballot papers

- s 4.10** sub 1991 No. 82 s 7

Ballot box to be opened for inspection

- s 4.13** amd 1990 No. 101 s 5

Questions to voters

- s 4.15** amd 1990 No. 101 s 6

Mode of voting

- s 4.21** amd 1990 No. 101 s 7

Electoral visitor voting in cases of illness etc.

- s 4.28** amd 1990 No. 101 s 8

General postal voters

- s 4.31** amd 1991 No. 82 s 8

Voting compulsory

- s 4.34** amd 1990 No. 101 s 9

Causes for rejection and circumstances of nonrejection of ballot paper

- s 5.6** amd 1990 No. 101 s 10

Regulations

- s 6.14** amd R1 (see RA s 39)

PART 8—POLLING IN CONJUNCTION WITH 1991 TRIENNIAL MUNICIPAL ELECTIONS

- pt hdg** ins 1990 No. 101 s 11

Interpretation

- s 8.1** ins 1990 No. 101 s 11

Application of part

s 8.2 ins 1990 No. 101 s 11

Polling under Local Government Act

s 8.3 ins 1990 No. 101 s 11

Polling under City of Brisbane Act

s 8.4 ins 1990 No. 101 s 11

Polling under Community Services Acts

s 8.5 ins 1990 No. 101 s 11

Polling for other areas of State

s 8.6 ins 1990 No. 101 s 11

Directions etc. by chief returning officer

s 8.7 ins 1990 No. 101 s 11

PART 9—POLLING AT 1992 DAYLIGHT SAVING REFERENDUM

pt hdg ins 1991 No. 82 s 9

Application of part

s 9.1 ins 1991 No. 82 s 9

Single electoral roll for distribution and referendum

s 9.2 ins 1991 No. 82 s 9

Directions by electoral commissioner

s 9.3 ins 1991 No. 82 s 9

SCHEDULE

amd 1990 No. 101 s 12