

Queensland



ANNO TRICESIMO SECUNDO

ELIZABETHAE SECUNDAE REGINAE

No. 31 of 1983

An Act to consolidate and amend the law relating to
Parliamentary elections

[ASSENTED TO 22ND APRIL, 1983]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. **Short title.** This Act may be cited as the *Elections Act 1983*.
2. **Commencement.** (1) This section and section 1 shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.
(2) Except as provided in subsection (1), this Act shall commence on a day appointed by Proclamation.
3. **Arrangement of Act.** This Act is arranged as follows:—
 - PART I—PRELIMINARY;
 - PART II—ADMINISTRATION;
 - PART III—ELECTORAL ROLLS;
 - PART IV—ENROLMENT QUALIFICATIONS AND DISQUALIFICATIONS;
 - PART V—ENROLMENT;
 - PART VI—NOMINATION, POLLING, AND CONDUCT OF ELECTIONS GENERALLY;
 - PART VII—PUBLICATION OF RESULTS AND RETURN OF WRITS OF ELECTION;
 - PART VIII—SUPPLEMENTAL PROVISIONS;
 - PART IX—ELECTIONS TRIBUNAL;
 - SCHEDULE.
4. **Repeals.** The Acts specified in the Schedule are repealed as and to the extent indicated therein.
5. **Interpretation.** In this Act, unless the contrary intention appears—
 - “absent vote” means a vote cast by an elector as herein prescribed—
 - (a) in the presence of an electoral visitor;
 - (b) before polling day in the presence of a prescribed electoral registrar or returning officer or by postal voting;
 - (c) on polling day at a polling booth that is not a polling booth for the district for which the election is held; or
 - (d) pursuant to the provisions of section 83;
 and the term “absent voter” shall be construed accordingly;
 - “absolute majority of votes” means a number of votes greater than one-half of the number of all the electors who vote at an election, exclusive of electors whose ballot-papers are rejected; but the casting vote of the returning officer, when given, shall be included in reckoning an absolute majority of votes;

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- “Australian citizen” means a person who is or is deemed to be an Australian citizen under the provisions of the *Australian Citizenship Act 1948* of the Commonwealth as amended;
- “claim” means a claim by a person to have his name inserted in an electoral roll;
- “corrupt practice” means any of the offences of treating, undue influence, bribery or personation as set out in Chapter XIV of *The Criminal Code*;
- “election” means the election of a member of the Legislative Assembly;
- “election petition” or “petition” means a petition relating to an election, as provided in Part IX;
- “Elections Tribunal” or “Tribunal” means the Elections Tribunal constituted under Part IX;
- “elector” means a person named as such in a roll;
- “electoral district” or “district” means an electoral district appointed by law to return a member to the Legislative Assembly. Where necessary, the term includes an electoral division of a district;
- “Judge” means the Judge of the Supreme Court for the time being constituting the Elections Tribunal;
- “Minister” means the Minister for Justice and Attorney-General or other Minister of the Crown for the time being charged with the administration of this Act. The term includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “nomination day” means the day named in the writ for nomination of candidates at an election;
- “poll clerk” means the officer appointed by the returning officer to assist himself or the presiding officer in taking the poll at any polling booth or in carrying out any of his other duties under this Act;
- “polling day” or “day of polling” means the day named in the writ for taking the poll in relation to an election in the event of the election being contested;
- “prescribed electoral registrar” has the meaning assigned to it in section 84 (2);
- “presiding officer” means the returning officer or other person duly appointed under this Act to preside and take the poll at any polling booth appointed for the district, or the substitute duly appointed of either;
- “reference” means a question referred to the Elections Tribunal by the Legislative Assembly, as provided in Part IX;
- “Registrar” in relation to the Elections Tribunal, means the Registrar of the Supreme Court;

- “roll” means the electoral roll of electors entitled to vote at the election of a member of the Legislative Assembly for the district in question;
- “Rules of Court” means Rules of Court made under the authority of section 175. The term includes any general rules and orders for the time being remaining in force under subsection (5) thereof;
- “scrutineer” means a person appointed by a candidate to act as scrutineer on his behalf during the election at which he is a candidate;
- “sitting member” means the member of the Legislative Assembly whose election or return or qualification is sought to be affected by an election petition or a reference;
- “Speaker” means the Speaker of the Legislative Assembly for the time being.

PART II—ADMINISTRATION

6. Principal electoral officer. (1) The Governor in Council may appoint a principal electoral officer who shall—

- (a) be appointed and hold office under the *Public Service Act 1922-1978*;
 - (b) have the powers and functions and shall perform the duties conferred or imposed on him under this Act.
- (2) The principal electoral officer—
- (a) may make or cause to be made such inquiries and investigations as he thinks necessary for the effectual execution of his powers, functions and duties and those of electoral registrars;
 - (b) may require any original claim or a copy of any notice or other document to be sent to him by an electoral registrar.

(3) Whenever by reason of the absence or illness of the principal electoral officer or for other sufficient cause it is expedient so to do, the Governor in Council may appoint a person to act as principal electoral officer, and while that person so acts he shall have all the powers and functions and shall perform all the duties of the principal electoral officer and for the purposes of this Act shall be deemed in all respects to be the principal electoral officer.

(4) The person who immediately before the commencement of this Act holds the office of principal electoral officer shall, subject to the *Public Service Act 1922-1978*, continue on such commencement to hold the office of and to be the principal electoral officer for the purposes of this Act.

7. Electoral registrars. (1) The Governor in Council may appoint one or more electoral registrars for any electoral district or, where an electoral district is divided, for any division thereof.

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- (2) The same person may be appointed an electoral registrar for—
- (a) an electoral district and a division of an electoral district;
 - (b) two or more electoral districts;
 - (c) two or more divisions of electoral districts, whether or not the divisions are divisions of the same electoral district.

(3) Any appointment as electoral registrar under this section may, if the Governor in Council thinks fit, be made by the appointment as electoral registrar of the holder for the time being of an office under the Crown in right of the State, specifying the office but without naming the holder; and in every such case each successive holder of the office in question and each person who for the time being occupies or performs the duties of that office shall, without further appointment or other authority and while he holds or occupies or performs the duties of that office, be an electoral registrar in terms of such appointment.

(4) Every electoral registrar shall have the powers and functions and shall perform the duties conferred or imposed upon him by this Act under the general supervision and direction of the principal electoral officer.

(5) All electoral registrars holding office immediately before the commencement of this Act continue on such commencement to hold their offices as electoral registrars and shall be taken to have been appointed under this Act.

8. Chief returning officer. (1) The Governor in Council may appoint, by commission under his hand and the public seal of the State, a person who is not under the age of 18 years to be chief returning officer.

(2) The appointment shall be notified in the Gazette.

(3) If the appointee is an officer of the Public Service, he may hold his appointment in conjunction with any other position in the Public Service.

(4) The chief returning officer shall have the powers and functions and shall perform the duties conferred or imposed on him under this Act.

(5) In case of sickness or any other cause preventing the chief returning officer from carrying out his duties, the Governor in Council may appoint a person to deputize for him; and while he so deputizes for the chief returning officer he shall be deemed in all respects to be the chief returning officer for the purposes of this Act.

9. Returning officers. (1) The Governor in Council may appoint, by commission under his hand and the public seal of the State, a person who is not under the age of 18 years to be returning officer for each electoral district.

(2) Every such appointment shall be notified in the Gazette.

(3) A returning officer shall have the powers and functions and shall perform the duties conferred or imposed on him under this Act and shall be subject to the supervision and direction of the chief returning officer.

(4) In case of sickness or any other cause preventing a returning officer from carrying out his duties, the Governor in Council may appoint a person to deputize for him; and while he so deputizes for the returning officer he shall be deemed in all respects to be the returning officer for the electoral district in question for the purposes of this Act.

(5) All returning officers holding office immediately before the commencement of this Act continue on such commencement to hold their offices as returning officers and shall be taken to have been appointed under this Act.

10. Returning officers, etc., to make declaration. (1) Every person appointed a returning officer, a presiding officer or a poll clerk under this Act shall make and subscribe a solemn declaration in the prescribed form before he enters on the duties of such office.

(2) The solemn declaration shall 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, shall transmit it forthwith to the returning officer of the district in question, and the returning officer shall transmit it to the Clerk of the Parliament at the same time as he transmits the packet referred to in section 107 (1) in compliance therewith.

The Clerk may cause any such declaration to be destroyed at the time of the destruction of the packet in accordance with that section.

(4) Each returning officer shall, within seven days after the receipt by him of notification of his appointment, transmit the solemn declaration made and subscribed by him under this section to the chief returning officer.

11. Assistants to returning officers and electoral registrars. (1) The Governor in Council may appoint a person or persons to assist any returning officer or electoral registrar by exercising or performing any power, function or duty conferred or imposed on the returning officer or electoral registrar under this Act.

(2) The appointment shall be notified in the Gazette and the notification shall specify the power, function or duty that the person named therein is thereby appointed to exercise or perform.

(3) The power, function or duty may be specified by reference to the section or provision of this Act (or the provision of the regulations under this Act) conferring or imposing the same or in any other manner sufficiently designating the same.

(4) The appointment may be limited as to time, place or any other circumstance as specified in the notification in question.

(5) A person appointed under this section may exercise or perform in his own name any power, function or duty specified in the notification of his appointment, but he shall do so under the control and direction of the returning officer or electoral registrar whom he has been appointed to assist.

(6) A power, function or duty exercised or performed in the name of a person appointed under this section to exercise or perform that power, function or duty shall be presumed to have been exercised or performed by that appointee until the contrary is proved.

(7) The appointment of a person under this section does not prevent the returning officer or electoral registrar in question from himself exercising or performing the power, function or duty specified in the notification of that person's appointment.

12. Electoral districts may be divided, etc. (1) The Governor in Council may by Order in Council published in the Gazette—

- (a) divide an electoral district into divisions;
- (b) re-divide an electoral district into divisions;
- (c) abolish the divisions of an electoral district;
- (d) alter the boundaries of divisions of an electoral district by including in one division part or parts of another division and by excluding such part or parts from such other division;
- (e) combine two or more divisions of an electoral district.

(2) The Governor in Council may in an Order in Council made under subsection (1) or in a separate Order in Council give such orders or directions as he may consider necessary or expedient to give effect to the Order in Council under subsection (1), including all necessary consequential changes in enrolment of electors; and effect shall be given forthwith to any such order or direction.

(3) The divisions of an electoral district immediately before the commencement of this Act shall on such commencement be and remain the divisions of that electoral district until the Governor in Council provides otherwise in accordance with this section.

13. Polling booths. (1) Subject to this section, the Governor in Council may appoint, alter and abolish polling booths for taking the poll for a district at a general election or a by-election.

(2) A polling booth for a district may be either within or outside the limits of that district, and one and the same place may be appointed as a polling booth for two or more districts.

(3) Every appointment, alteration or abolition of a polling booth shall be notified in the Gazette with sufficient particularization to identify the location of the polling booth and shall not be valid unless so notified not less than eight clear days before the day appointed for taking the poll at the general election or, as the case may be, by-election to which the notification relates.

(4) The notification or a separate notification shall identify any place appointed for the time being as a polling booth for two or more districts.

PART III—ELECTORAL ROLLS

14. Electoral rolls. (1) There shall be an electoral roll of the electors in each electoral district.

(2) Until new rolls are prepared, the rolls in existence at the commencement of this Act shall, as altered from time to time, be the rolls of electors.

15. General rolls and supplemental rolls. (1) There shall be general rolls and supplemental rolls to the general rolls.

(2) A general roll for a district shall contain the names registered up to the prescribed date.

(3) The electoral registrar of each district or division and each returning officer shall on or before the fifth day after the prescribed date or on or before such earlier day after the prescribed date as is directed by the principal electoral officer either generally or in any particular case (which direction may be given by the principal electoral officer at any time) transmit all claims and applications pursuant to sections 26, 27, 28 and 29 received by him up to the prescribed date to the principal electoral officer who, after having received the said claims and applications for the whole of each district concerned, shall, with as little delay as possible, cause to be printed a sufficient number of copies of a general alphabetical roll of electors of the whole district numbered in regular arithmetical order.

Such rolls shall be known as “general rolls”.

(4) The general roll for each district shall be prepared and published in accordance with this Act up to a date determined by the Minister from time to time (he being hereby thereunto authorized), notification of which date shall be published in the Gazette, and the date so determined shall be the prescribed date referred to in subsection (2) for the purposes of that subsection.

(5) The Minister shall determine dates pursuant to subsection (4) so that not more than 12 months shall elapse between prescribed dates.

(6) Supplemental rolls of all names entitled under this Act to be added to the rolls since the previous general roll shall be prepared and, wherever practicable, printed immediately previous to a general election or to a by-election in any particular district or at any time whenever the Minister so directs.

(7) If it is not practicable to print a supplemental roll or any part thereof, such roll or part may be written or typewritten in the form of a roll.

(8) The names in all supplemental rolls shall be placed together in alphabetical order and the numbers in each such roll shall follow in consecutive arithmetical order after the numbers in the last preceding general roll.

(9) The general roll, with the supplemental rolls for the district concerned, shall be the existing roll for that district within the meaning and for the purposes of this Act.

16. Declaration of validity of rolls notwithstanding certain defects.

(1) Where with respect to any of the names upon the general roll or supplemental roll comprised in the roll of electors entitled to vote at an election for a district the provisions of section 15 have not been complied with in every respect by reason that those names have not been—

- (a) placed together in regular alphabetical order; or
- (b) numbered in regular arithmetical order

or where the address or occupation printed in relation to any name upon a general roll or supplemental roll as aforesaid is in any way incomplete or incorrect by reason of official mistake or error, the Governor in Council may, upon being satisfied—

- (i) in respect of a non-compliance as aforesaid that the irregularity in the alphabetical placing or arithmetical numbering, or both, of the names concerned is of such a nature as not to be likely to mislead; or
- (ii) that the incompleteness or incorrectness in respect of the address or occupation, or both, of a name as aforesaid is not likely to mislead,

by Order in Council published in the Gazette, declare the general roll or supplemental roll in question to be validly comprised in the roll of electors entitled to vote at the election concerned.

(2) Every such Order in Council shall state specifically the nature of the non-compliance, incompleteness or incorrectness as aforesaid.

17. Form of rolls. (1) The rolls shall—

- (a) be in the prescribed form;
- (b) describe the surname, christian names, sex, place of living and occupation of each elector; and
- (c) contain such other particulars as are prescribed.

(2) Where a district is divided, the names of the electors for each electoral division shall be placed together in alphabetical order so as to form a distinct portion of the roll for the district, which portion shall constitute and may be referred to as a “divisional roll”, and each such portion shall be designated by the name assigned to that division, but the numbering in arithmetical order hereinbefore prescribed shall be preserved throughout the roll for the district.

18. Inspection of rolls. (1) The last printed copies of each roll shall be open for public inspection, without fee, at such places within each electoral district as the principal electoral officer directs.

(2) Every roll kept by an electoral registrar shall be open to public inspection without fee at such times and places as are prescribed.

19. Copies of roll may be purchased. Copies of a roll referred to in section 18 (1) shall be obtainable, on payment of the price prescribed, at such places within the electoral district to which the roll relates as the principal electoral officer directs.

20. Officers and others to furnish information. (1) All officers in the service of the Government of the State, all members of the police force and all officers of Local Authorities and other local governing bodies are authorized and required to furnish to the principal electoral officer and to every electoral registrar such information and assistance as he requires to enable him to prepare or revise the rolls.

(2) Members of the police force and persons authorized by the Minister for the purpose shall, when directed by the Minister, deliver forms of claim and application to transfer, collect the completed forms, and deliver them to the proper electoral registrars or to the principal electoral officer.

PART IV—ENROLMENT QUALIFICATIONS AND DISQUALIFICATIONS

21. Persons entitled to enrolment. (1) Subject to the disqualifications set out in this Act, every person not under 18 years of age—

- (a) who is an Australian citizen; or
- (b) who is a British subject (other than an Australian citizen) who was, at some time within the period of 3 months immediately preceding the commencement of this Act, enrolled on the roll for a district or enrolled in any other State or any Territory of the Commonwealth as an elector for the House of Representatives

and who has lived in a district for a period of 3 months continuously immediately preceding the day on which he makes his claim to be enrolled as an elector for such district is qualified for enrolment and entitled to be enrolled on the roll for the district in which he lives, subject to Part V.

(2) The enrolment shall be on the divisional roll for the division in which the person lives in a case where the district is divided into divisions.

(3) A person shall not have his name placed on more than one roll.

(4) A person shall not have his name placed on a roll other than a roll for the district or division in which he lives save that he may have his name placed or retained on the roll for the district or division where his real place of living is in lieu of the roll for the district or division in which he lives, in which case he shall for the purposes of this Act be deemed to live in the district or division where his real place of living is.

In this subsection, “real place of living” means the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

(5) A member of the Legislative Assembly is entitled, notwithstanding subsection (4) or any other provision, if he so desires, to have his name placed or retained on the roll for the district he represents instead of the roll for the district in which he lives.

22. Qualifications of certain Defence Force members. (1) A person whose real place of living is in Queensland who—

- (a) is 18 years of age or over;
- (b) is not an elector;
- (c) is a member of the Defence Force on service outside the Commonwealth;
- (d) has lived in a district for a period of 3 months continuously; and
- (e) is an Australian citizen

shall, for the purposes of this Act, be deemed to be an elector and, subject to section 23, is entitled to a postal vote at an election under this Act as if his name appeared on the roll for the electoral district in which his real place of living is situated.

(2) In this section, the expression “real place of living” means the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

23. Disqualifications. A person is not qualified to be enrolled on any roll and is not entitled to vote at any election if he—

- (a) is mentally ill and incapable of managing his estate; or
- (b) in the State or elsewhere, has been convicted of an offence punishable by imprisonment for one year or longer, has been sentenced to imprisonment in respect of that offence and is in prison serving that sentence.

24. Principal electoral officer to remove names from roll. The principal electoral officer shall remove from a roll the name of an elector who is or becomes subject to any disqualification referred to in section 23 as soon as the disqualification comes to his notice.

PART V—ENROLMENT

25. Addition of names to rolls. New names may be added to rolls pursuant to—

- (a) claims;
- (b) applications to transfer.

26. Claims for enrolment. (1) Subject to this Act—

- (a) where a district is divided, any person—
 - (i) qualified to be enrolled; and
 - (ii) who lives in a division of the district is entitled and may claim to have his name placed on the divisional roll for the division;
- (b) where a district is not divided, any person—
 - (i) qualified to be enrolled; and
 - (ii) who lives in the district is entitled and may claim to have his name placed on the roll for the district.

(2) A claim shall be in the prescribed form and shall be signed by the claimant and witnessed by—

- (a) any elector, who shall record his electoral district after his name; or
- (b) any other person prescribed,

and shall be sent to an electoral registrar, a returning officer or to the principal electoral officer.

27. Registration of claims. (1) An electoral registrar or a returning officer, in a case where the claim is sent to him, shall note on the claim the date and time of its receipt by him and shall forward the claim to the principal electoral officer.

(2) On receipt of the claim from an electoral registrar, a returning officer or the claimant, the principal electoral officer, if satisfied that the claimant is entitled to be enrolled, shall, pursuant to the claim—

- (a) enter the name of the claimant and the particulars relating to him on the roll or divisional roll in question; and
- (b) notify, in the manner prescribed, the claimant and the electoral registrar keeping the roll or divisional roll, as the case may be, on which the claimant claims to be enrolled with respect to the claim.

28. Right to transfer. (1) Any elector whose name is on the roll for any district and who lives in any other district, and has so lived for a period of three months last past, is entitled to and may make application in the prescribed form to transfer his name to the roll for the district in which he lives.

(2) The application shall be signed by the elector and witnessed by—

- (a) any elector, who shall record his electoral district after his name; or
- (b) any other person prescribed,

and shall be sent to an electoral registrar, a returning officer or to the principal electoral officer.

(3) An electoral registrar or a returning officer, in a case where the application is sent to him, shall note on the application the date and time of its receipt by him and shall forward it to the principal electoral officer.

(4) On receipt of the application from an electoral registrar, a returning officer or the applicant, the principal electoral officer, if satisfied that the applicant is entitled to the transfer, shall, pursuant to the application—

- (a) enter the name of the elector and the particulars relating to him on the roll for the district in which he lives;
- (b) remove the name of the elector and the particulars relating to him from the roll on which his name then is; and
- (c) notify the elector and the electoral registrars whose rolls are affected by the transfer in the manner prescribed,

and the electoral registrar keeping the roll from which the name of the elector is being transferred shall thereupon remove the name of the elector and the particulars relating to him therefrom.

29. Change to another divisional roll. (1) Any elector whose name is on a divisional roll and who lives in another division of the same district is entitled to and may make application in the prescribed form to have his name changed to the divisional roll of the latter division.

(2) The application shall be signed by the elector and witnessed by—

- (a) any elector, who shall record his electoral district after his name; or
- (b) any other person prescribed,

and shall be sent to an electoral registrar, a returning officer or to the principal electoral officer.

(3) An electoral registrar or a returning officer, in a case where the application is sent to him, shall note on the application the date and time of its receipt by him and shall forward it to the principal electoral officer.

(4) On receipt of the application from an electoral registrar, a returning officer or the applicant, the principal electoral officer, if satisfied that the applicant is entitled to the change, shall, pursuant to the application—

- (a) enter the name of the elector and the particulars relating to him on the divisional roll for the division in which he lives;
- (b) remove the name of the elector and the particulars relating to him from the divisional roll on which his name then is; and
- (c) notify the elector and the electoral registrars whose rolls are affected by the change in the manner prescribed,

and the electoral registrar keeping the divisional roll from which the name of the elector is being changed shall thereupon remove the name of the elector and the particulars relating to him therefrom.

30. Effective date of enrolment or transfer or change of name. (1) Subject to subsection (2), where—

- (a) the name of a claimant is entered on a roll or divisional roll;
- (b) the name of an applicant for transfer of his name to the roll for the district in which he lives is entered in that roll;
- (c) the name of an applicant for change of his name to the divisional roll for the division in which he lives is entered on that roll

pursuant to this Part, the effective date of entry in each case shall be deemed to be the date of receipt of the claim or application by the electoral registrar or the returning officer to whom it was sent or, where it was sent to the principal electoral officer, the date of receipt by him.

(2) Where a claim or application is received by—

- (a) an electoral registrar or a returning officer;

- (b) if sent by the claimant or applicant to the principal electoral officer, the principal electoral officer

after the issue of the writ for an election and, pursuant to section 35, no addition to or alteration of the roll is made before the close of polling at the election, except under section 34, the effective date of entry of the name of the claimant or applicant shall be the date on which the entry is actually made.

(3) For the purposes of this section, a writ shall be deemed to have been issued at five o'clock in the afternoon of the day on which the writ was issued.

31. Where claimant or applicant not living at address shown in claim or application. (1) If an electoral registrar or a returning officer has reason to believe, in a case where a claim is sent to him pursuant to section 26 or an application is sent to him pursuant to section 28 or 29, that the claimant or applicant is not living at the address shown on the claim or application, he shall forward the claim or application to the principal electoral officer together with advice in writing of the grounds for believing the claimant or applicant is not living at the address shown on the claim or application.

(2) If the principal electoral officer has reason to believe, upon receipt of the claim or application from an electoral registrar, a returning officer or the claimant or applicant and, in the case of receipt from an electoral registrar or a returning officer, whether or not it is accompanied by any advice in writing referred to in subsection (1), that the claimant or applicant is not living at the address shown on the claim or application, he shall submit the claim or application to any officer, member or person referred to in section 20 who in his opinion is in a position to inquire into the matter of the address of the claimant or applicant.

(3) The officer, member or person shall make such inquiries as he is able to make with respect to the address of the claimant or applicant and shall report the result of those inquiries to the principal electoral officer.

(4) If the report satisfies the principal electoral officer that the claimant or applicant is not living at the address shown on the claim or application, he shall—

- (a) not enter the name of the claimant or applicant and the particulars relating to him on the roll for the district or division in which he claims to live; and
- (b) notify the claimant or applicant, if practicable, and the electoral registrar with respect to the claim or application in the manner prescribed.

(5) If the principal electoral officer is satisfied pursuant to a report made under this section that a claimant or applicant is not living at the address shown on the claim or application and the name of the claimant or applicant and particulars relating to him have already been entered on a roll, the principal electoral officer shall remove the name and particulars from the roll in question and shall notify the claimant or

applicant, if practicable, and the electoral registrar with respect thereto in the manner prescribed; and the electoral registrar shall remove the name and particulars from the roll kept by him if they have been entered therein.

(6) Where the name and particulars of an applicant, pursuant to subsection (4), are not entered on a roll or, having been entered, are removed therefrom pursuant to subsection (5), they shall, subject to this Act, be retained or re-entered on the roll for the district or division on which they were at the time of the application if the principal electoral officer is satisfied pursuant to a report made under this section that the applicant is entitled to be enrolled thereon.

32. Compulsory enrolment and transfer. (1) Every person who is entitled to be enrolled as an elector and who is not so enrolled shall fill in and sign, in accordance with this Act, a form of claim for enrolment as an elector, and shall forthwith send or deliver it to an electoral registrar, a returning officer or to the principal electoral officer.

(2) Every elector who has ceased to live in the district or division for which he is enrolled, and has changed his place of living to another district or division and is entitled to be enrolled as an elector for such other district or division, shall fill in and sign, in accordance with this Act, a form of application for transfer or change, as the case requires, and shall forthwith send or deliver it to an electoral registrar, a returning officer or to the principal electoral officer.

(3) Every elector who has altered his place of living from the address pertaining to his name on the roll for the district or division for which he is enrolled to another address in the same district or division shall, within 21 days after so doing, fill in, sign and send to an electoral registrar, a returning officer or to the principal electoral officer the prescribed form of notification of change of address.

(4) The making of regulations for the purposes of this Act may include the making of regulations, not inconsistent with this Act, for or with respect to—

- (a) the carrying into effect of a system relating to—
 - (i) the compulsory enrolment of electors;
 - (ii) the compulsory transfer or change of electors from one roll to another;
 - (iii) the compulsory notification of change of address within the same district or division, and prescribing penalties not exceeding \$10 for any contravention of or failure to comply with regulations so made with respect to such system;
- (b) the imposition by the principal electoral officer, with the consent of the offender, of penalties not exceeding \$10 for breaches of the regulations relating to—
 - (i) compulsory enrolment of electors;

- (ii) compulsory transfer or change of electors from one roll to another;
- (iii) compulsory notification of change of address within the same district or division,
and prescribing the procedure for the determination by the principal electoral officer of the commission of breaches of the regulations as aforesaid alleged to have been committed, and the recovery of penalties imposed by the principal electoral officer in respect of any such breaches found by him to have been committed.

33. Exculpation of physically disabled or mentally incapacitated persons. Where the principal electoral officer is satisfied that, by reason of physical disability or mental incapacity, a person is incapable of complying with the requirements of section 32 or section 91 or of regulations made for or with respect to compulsory enrolment of electors or compulsory transfer or change of electors from one roll to another roll, the failure of the person to comply with any of such requirements by reason of such disability or incapacity is not an offence under this Act.

34. Alterations of rolls. (1) A roll for a district may be altered at any time before five o'clock in the afternoon of the day on which a writ for an election for that district is issued—

- (a) by the principal electoral officer or by an electoral registrar pursuant to a power of alteration conferred or imposed by a provision (not being a provision of this section) of this Act; or
- (b) by the principal electoral officer or, at his direction, by an electoral registrar—
 - (i) by correcting any official mistake or error whereby the name of a person shall have been wrongly placed on or omitted or erased from that roll or pertaining to the address or occupation of a person whose name is upon that roll;
 - (ii) by, on the application of an elector in the prescribed form, changing or correcting his name on a roll or changing or correcting the address or occupation pertaining to his name on a roll;
 - (iii) by striking out the name of any person who, at a time after his name was placed on that roll, shall have become enrolled as an elector for another State of the Commonwealth;
 - (iv) where the name of any person shall be on two or more rolls at any one and the same time, by striking out that name from all of those rolls other than the one of them on which that person last claimed or, as the case may be, applied to have his name placed;
 - (v) in the case of a person whom the principal electoral officer is satisfied would, in the event of an election at the time in question, be incapable by reason of physical disability or mental incapacity of complying with the requirements of section 91, by striking out the name of such person;

- (vi) in the case of a person whom the principal electoral officer is satisfied is deceased or permanently residing outside the State, by striking out the name of such person.

Where it is practicable to do so, the principal electoral officer shall send or cause to be sent to the elector concerned notice of any alteration under this subsection indicating the nature of the alteration.

(2) The roll of electors entitled to vote at an election for a district may be altered by the principal electoral officer or, at his direction, by a returning officer or electoral registrar after five o'clock in the afternoon of the day of the issue of the writ for that election as hereinafter provided in this subsection but not otherwise, that is to say—

- (a) by adding to that roll any name the addition of which thereto is authorized under section 35, section 41 (3), section 43 (5) or section 91 (19);
- (b) by striking out from that roll any name added to another roll under the authority of section 35, section 41 (3) or section 91 (17);
- (c) by changing from one to another divisional roll any name or by altering in any roll or divisional roll the address pertaining to any name where the registration of that change or alteration is authorized under section 35;
- (d) by striking out from that roll the name of any deceased person of whose identity the principal electoral officer is satisfied;
- (e) by striking out from that roll the name of any person of whose identity the principal electoral officer is satisfied and in respect of whom section 24 requires the principal electoral officer to remove the name;
- (f) by striking out from that roll the name of any claimant for enrolment or applicant for transfer or change of name where the principal electoral officer is satisfied pursuant to section 31 that the claimant or applicant is not living at the address shown on the claim or application but whose name has already been entered on the roll, and in respect of whom subsection (5) of that section requires the principal electoral officer to remove the name;
- (g) by correcting any official mistake or error whereby the name of a person shall have been wrongly placed on or struck out from that roll.

(3) The principal electoral officer shall forthwith send or cause to be sent to the elector concerned notice of any alteration under paragraph (b) or paragraph (c) of subsection (2) indicating the nature of the alteration.

(4) (a) A person whose name, by reason of some official mistake or error, shall have been wrongly omitted or erased from any general roll on which he is required by the provisions of section 7 of the *City of Brisbane Act 1924-1982* to be registered as living in the Area of the City of Brisbane to qualify to become and to act as an alderman of the said City shall, notwithstanding that he is not registered on the general roll

in question as living in the Area of the said City (but subject to that person not being under any of the disabilities specified in section 8 of the said Act), be and continue to be qualified to become and to act as an alderman as aforesaid as if he were duly registered on the general roll in question as living in the Area of the said City.

(b) The production to the person who is the chief returning officer or, for an electoral ward, the returning officer for any election under the *City of Brisbane Act 1924-1982* of a certificate purporting to be signed by the principal electoral officer and stating that, by reason of the official mistake or error specified in that certificate, the name of the person named therein was wrongly omitted or, as the case may be, erased from the general roll specified therein shall be accepted by the chief returning officer or returning officer as evidence sufficiently proving the matters certified to in that certificate, and, unless and until evidence in rebuttal of such a certificate is supplied to him, the chief returning officer or returning officer shall not require any of the matters certified as aforesaid to be proved by any other evidence.

(5) (a) A person whose name, by reason of some official mistake or error, shall have been wrongly omitted or erased from any roll on which he is required by the provisions of section 7 of the *Local Government Act 1936-1982* to be enrolled—

- (i) on 31 December immediately preceding any triennial election to qualify him, in respect of that triennial election; or
- (ii) in the case of any election other than the triennial election, on a day not later than 30 clear days before the day on which the election is to be held to qualify him, in respect of that election,

to be nominated as a candidate and to be elected or appointed and to act as chairman or member of any Local Authority shall, notwithstanding that he is not enrolled on the roll in question (but subject to that person not being under any of the disabilities specified in subsection (2) of the said section 7), be and continue to be qualified to be nominated as a candidate and to be elected or appointed and to act as chairman or member of the Local Authority in question as if he had been duly enrolled on the roll in question on 31 December immediately preceding the triennial election in question or, in the case of any election in question other than a triennial election, on the day 30 clear days before the day on which the election is to be held.

(b) The production to the person who is the returning officer for any triennial election or election other than the triennial election under the *Local Government Act 1936-1982* in any Area of a certificate purporting to be signed by the principal electoral officer and stating that, by reason of the official mistake or error specified in that certificate, the name of the person named therein was wrongly omitted or, as the case may be, erased from the roll specified therein shall be accepted by the returning officer as evidence sufficiently proving the matters certified to in that certificate, and, unless and until evidence in rebuttal

of such a certificate is supplied to him, the returning officer shall not require any of the matters certified as aforesaid to be proved by any other evidence.

(6) 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, the State Government Computer Centre or the Comptroller-General of Prisons, or the Government Printer or any of his 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 election or otherwise howsoever to the execution of this Act committed by a returning officer, assistant returning officer, presiding officer, poll clerk, member of the police force 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;
- (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 or 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 entitled to vote for that district at the particular election concerned, 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 person who is mentally ill and incapable of managing his estate referred to in section 37 and, in relation to any returning officer, assistant returning officer, presiding officer, poll clerk, member of the police force 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, member 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 section 41 pursuant to an objection by the principal electoral officer shall never, in any case, be deemed to have been omitted or erased from that roll by reason of official mistake or error committed by a member of the police force or an electoral assistant.

35. Time for altering rolls and of issue of writ. (1) Claims for enrolment and applications to transfer or change and notifications of change of address from one to another place of living within a district or

division received by an electoral registrar, a returning officer or the principal electoral officer before the issue of the writ may be registered after the issue of the writ, but otherwise no addition to or alteration of the roll for any district shall be made during the period between the issue of the writ for an election in the district and the close of the polling at the election, except under section 34.

(2) For the purposes of this section, a writ shall be deemed to have been issued at five o'clock in the afternoon of the day on which the writ was issued.

36. Alterations to be initialled. All alterations in a roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for the alteration and the date (and, where pertinent, the time of day) thereof shall be set against the alteration, together with the initials of the officer making the alteration.

37. Furnishing of names by Registrar-General, etc. (1) The Registrar-General shall in each month furnish to the principal electoral officer a list of all deaths of males and females of 18 years and upwards registered by him during the last preceding month; and the principal electoral officer shall strike off the roll the name of every elector who is named in such a list as dead.

(2) The superintendent of a prison who receives into his custody from a sentencing authority persons who have been convicted of offences convictions of which disqualify or may disqualify such persons under this Act as electors shall in each month furnish to the principal electoral officer, in the prescribed form, a return of such persons so received into his custody during the preceding month.

(3) (a) The Public Trustee shall, as often as is practicable, advise the principal electoral officer of the name and address of any person of or above the age of 18 years who is notified to him under the *Mental Health Act 1974-1978* as being mentally ill and incapable of managing his estate.

(b) Where it comes to the notice of the Public Trustee that the Supreme Court or a Judge thereof has made a declaration that a person of or above the age of 18 years is mentally ill and incapable of managing his estate, the Public Trustee shall advise the principal electoral officer of the name and, if it is known to him, the address of that person.

(c) Upon the authority of the Public Trustee to manage the estate of a person who is mentally ill and incapable of managing his estate ceasing pursuant to clause 2 (2) of the Fifth Schedule to the *Mental Health Act 1974-1978* for any reason other than the death of that person, the Public Trustee shall advise the principal electoral officer accordingly and also the reason for such authority so ceasing.

38. Names on roll may be objected to. (1) Any name on a roll may be objected to by objection in writing—

- (a) made by an elector registered on the same roll or by a prescribed officer and lodged with the principal electoral officer;
or

(b) made by the principal electoral officer.

(2) The objection shall be in the prescribed form and signed by the objector.

(3) (a) The sum of one dollar or such other amount as may be prescribed shall be deposited in respect of each objection made by an elector registered on the same roll and lodged with the principal electoral officer, to be forfeited to Her Majesty if the objection is held by the principal electoral officer to have been lodged without reasonable ground or cause.

(b) A sum is not payable by way of deposit where an objection is made by the principal electoral officer or a prescribed officer.

(4) It is the duty of the principal electoral officer to make an objection in writing, setting out the grounds of objection, in respect of any name that he has reason to believe ought not to be retained on the roll.

(5) No action shall be taken by the principal electoral officer in respect of an objection made by an elector registered on the same roll and lodged with him if he holds the objection to have been lodged without reasonable ground or cause.

(6) Notwithstanding any other provision of this section, no action shall be taken by the principal electoral officer in respect of an objection made by a prescribed officer and lodged with him if he is satisfied that the ground of objection stated in the objection is not a good ground of objection.

39. Notice of objection. (1) Subject to section 38, the principal electoral officer shall forthwith give notice of an objection to the person objected to, which notice shall state the name of the objector.

(2) The notice shall be in the prescribed form and shall be given by posting it to the place of abode for the time being of the person objected to if that place of abode is known to the principal electoral officer or, if it is not so known, to the place of living as appearing on the roll.

40. Answer to objection. (1) The person objected to may, orally or in writing, answer the objection.

(2) Where by his answer a person objected to on the ground that he does not live in the district for which he is enrolled satisfies the principal electoral officer—

(a) that he has lived in Queensland during the three months preceding the making of the objection; and

(b) that he is not entitled as prescribed by section 21 to be enrolled for any other district,

the principal electoral officer shall determine that such ground of objection is not a good ground of objection and shall dismiss the objection accordingly.

41. Determination of objection. (1) (a) Paragraph (b) applies subject to section 40 (2).

(b) On receipt of the answer of the person objected to or after the expiration of 14 days (or such longer period as may be prescribed in respect of any specified electoral district or districts) from the posting of the notice, the principal electoral officer shall determine the objection and, if it appears that the person objected to is not qualified to be enrolled on the roll, shall strike out his name.

(2) At any time within three months after the principal electoral officer has determined that a person objected to is not qualified to be enrolled on the roll and has struck out his name pursuant to subsection (1), that person may make application in the prescribed form to the principal electoral officer to have his name reinstated on the roll.

(3) Notwithstanding any other provision of this Act, on an application made by a person pursuant to subsection (2), the principal electoral officer, upon being satisfied after due inquiry that the name of that person should not have been struck out, shall forthwith reinstate the name of that person on the roll.

42. Objection without reasonable ground or cause. Any person who without reasonable ground or cause lodges with the principal electoral officer an objection to a name on a roll knowing the lodgment to be without reasonable ground or cause is guilty of an offence.

43. Appeal to magistrates court. (1) Any person—

- (a) who has made and sent in a claim to be enrolled on a roll or an application for transfer or change and who has not been enrolled pursuant to the claim or application;
- (b) whose name has been removed from a roll by the principal electoral officer pursuant to section 31 (5); or
- (c) whose name has been struck off a roll by the principal electoral officer upon an objection

may in the manner and within the time prescribed make application to a magistrates court, constituted by a stipendiary magistrate or by two or more justices of the peace who are authorized by the Governor in Council to hear and determine electoral appeals, for an order directing that his name may be enrolled or restored to the roll.

(2) Where an objection has been determined by the principal electoral officer adversely to the person objecting, being an elector registered on the same roll, that person may in manner prescribed apply to a magistrates court, constituted as specified in subsection (1), for an order sustaining the objection.

(3) Where the application has reference to the decision of the principal electoral officer upon an objection, the applicant shall, as prescribed, serve the objector or the person objected to, as the case may be, with notice of the application, and the person so served may appear, or may in writing authorize any person to appear on his behalf, to resist the application.

(4) The court may hear and determine any application under this section, making such order as it thinks fit in respect thereof, and may

make such order as it thinks fit as to the costs of the application, which may be recovered in the same manner as the costs of any other proceeding before the court.

(5) The clerk of the court shall send by post to the principal electoral officer a certified copy of the order of the court, and it shall be the duty of the principal electoral officer to make such entries or alterations (if any) on or to the roll as are necessary to give effect to the order.

(6) Subject to this section, the provisions of the *Justices Act* 1886-1980 are applicable to proceedings under this section as though such proceedings were proceedings as for a breach of duty.

44. Conclusive nature of roll. The existing roll, with all corrections and erasures thereof or therefrom made pursuant to this Act, shall be the roll of electors entitled to vote in the district at all elections and, except as by this section is provided, shall be conclusive evidence of the title of every person therein named to vote:

Provided that—

- (a) a female elector is not disqualified from voting under the name appearing on the roll merely because she has changed her surname upon marriage;
- (b) any person whose name appears on the roll at the time of an election and—
 - (i) who is on polling day under sentence of imprisonment; or
 - (ii) who is then subject to any of the disqualifications mentioned in section 23
 is disqualified from voting;
- (c) any elector who claims to vote, if still living in a district, is entitled to vote notwithstanding that he has changed his place of living to another in the same district;
- (d) an elector who has changed his place of living from the district for which he is enrolled to another district is not on that account disqualified from voting at an election for the district for which he is enrolled until his name has been enrolled for some other district;
- (e) notwithstanding anything implied by the expression “conclusive evidence” or anything contained in this or any other enactment, the vote of any person whose name appears to have been placed on the roll for a district as the direct or indirect result of any false statement made by such person in any claim or other proceeding precedent to enrolment may be disallowed by the Elections Tribunal.

45. Vote by person not named as an elector on the roll. (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, the State Government Computer Centre or the Comptroller-General of Prisons, or the Government Printer or any of his 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 election 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, member of the police force 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;

- (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 election 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 person who is mentally ill and incapable of managing his estate referred to in section 37 and, in relation to the chief returning officer, any returning officer, assistant returning officer, presiding officer, poll clerk, member of the police force 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, member 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 section 41 pursuant to an objection by the principal electoral officer shall never, in any case, be deemed to have been omitted or erased from that roll by reason of official mistake or error committed by a member of the police force or an electoral assistant;
- (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 shall have been permitted to vote under this section at an election for a district shall, in relation to any subsequent election for that district, be deemed to have had knowledge before the issue of the writ for that subsequent election of the mistake or error in consequence whereof he was permitted so to vote.

(2) Notwithstanding any enactment or provision of any enactment of this Act other than this section, a person who, on polling day at a polling booth for a district, claims to vote at an election for that district and—

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

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

- (i) he shall have 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 case required when making that claim or application, in respect of the district for which he claims that vote;
- (ii) that claim for enrolment or application for transfer or change of enrolment shall have been received by that electoral registrar, returning officer or principal electoral officer before five o'clock in the afternoon of the day on which the writ for the election was issued;
- (iii) he shall in relation to that claim for enrolment or application for transfer or change of enrolment have received the prescribed notification of enrolment;
- (iv) his name shall not, to the best of his knowledge, have been removed from the roll for the time being of electors in the district for which he claims to vote by objection, transfer or disqualification; and
- (v) he shall, from and after the time of sending or delivering his claim for enrolment or application for transfer or change as aforesaid and thereafter up to the date of the issue of the writ, have continuously retained his entitlement under this Act to have his name on the roll of electors for the district in question,

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

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

- (a) on polling day at a polling booth for that district claims to vote for that district at that election; and

(b) makes upon an envelope before the presiding officer at that polling booth the declaration prescribed under subsection (2)—thereupon—

(i) that presiding officer shall—

(A) write on a ballot-paper of the description and in the form prescribed for voting under this section, in compliance with the requirements of paragraphs (e) and (f) of subsection (2) of section 68, a list of the names of all the candidates if it does not contain a printed list of the names of such candidates; and

(B) give to that person that ballot-paper, but retain the envelope endorsed with the declaration of that person;

(ii) that person shall, in a compartment provided at the polling booth in question to enable electors to mark ballot-papers, record his vote in the manner prescribed, and immediately thereafter fold up the ballot-paper so as to conceal the manner in which he has voted and deliver it to the aforementioned presiding officer; and

(iii) that presiding officer shall 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 he shall have dealt with it as hereinafter provided in this section.

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

(b) The name and address of each person so permitted to vote shall be recorded before the particular envelope bearing the declaration is deposited in the ballot-box.

(c) Where a presiding officer at a polling booth for two or more districts permits votes under this section for more than one of those districts, he shall make a separate and distinct record in respect of each such district.

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

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

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

Where a presiding officer at a polling booth for two or more districts shall have permitted votes under this section for more than one such district he shall 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 shall—
- (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 by examining the declaration of the voter upon that envelope that the declaration is in order and, by such inquiry as he 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 his district at the election in question), upon satisfying himself as aforesaid in every respect and upon further satisfying himself that the voter has not voted otherwise for his district at that election, place a mark against the name of that voter in the roll used by him at the election in question.

(7) At the scrutiny the returning officer shall produce unopened all envelopes received by him immediately containing votes for his 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), he shall reject that vote and shall, 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 89, the returning officer shall 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), he shall 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 shall have dealt with all the envelopes containing votes permitted under this section produced by him at the scrutiny at any one and the same time, he shall open the ballot-box and count in the manner prescribed by this Act such and so many ballot-papers recording those votes as he shall have placed therein; and shall so proceed

in respect of every such time until the day when all votes permitted under this section shall have been received and dealt with by him or until the day when no further ballot-papers are to be counted, whichever sooner occurs:

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

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

(a) not have claimed to vote for that district or for any other district at that election;

(b) have been permitted to vote under this section at that election for that district;

(c) being named on the roll of electors entitled to vote for another district at that election, have voted for that other district,

the votes of the remaining such persons could not have affected the result of the election for the district firstmentioned in this subsection.

(13) As soon as may be after the conclusion of an election, each returning officer shall 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 shall cause to be taken under, subject to and in accordance with this Act, such steps as are necessary to secure the due enrolment of such of those persons as, being qualified to vote, are not duly enrolled.

PART VI—NOMINATION, POLLING, AND CONDUCT OF ELECTIONS GENERALLY

46. Writs directed to returning officers. (1) Writs for the election of members to serve in the Legislative Assembly shall be sent to the Minister directed to the proper returning officers respectively:

Provided that upon the issue of a writ by the Speaker in the case of a by-election, the writ shall be sent by the Speaker direct to the proper returning officer:

Provided further that where a writ directed to a returning officer cannot be forwarded so as to reach such returning officer on the day of its issue, the Minister or, if such writ was issued by the Speaker, the Speaker shall notify such returning officer by telegram or other expeditious means of the issue of such writ and of the day and place of nomination and of the day of polling fixed by such writ.

(2) In every such writ shall be named—

(a) the nomination day and place of nomination;

- (b) the day for taking the poll at the several polling booths in the event of the election being contested; and
- (c) the day on which the writ is returnable to the Governor or the Speaker, as the case may be.

(3) Subject to this Act, the writ shall be returned not later than the day named therein, notwithstanding the fact that any absent votes have not then been received, examined and counted by the returning officer.

(4) Writs shall be in the prescribed form.

47. Day of general election. In the case of a general election, all elections shall be held on the same day, and that day shall be a Saturday.

48. Nomination and polling days to be publicly notified. (1) The returning officer shall—

- (a) upon receipt of the writ or, where he is notified by the Minister or the Speaker of the issue of the writ before the receipt thereof, upon receipt of such notification, forthwith give public notice of—
 - (i) the nomination day;
 - (ii) the place of nomination;
 - (iii) the day of polling;
 - (iv) the several polling booths;
 - (v) the date up to which additional polling booths may be appointed or existing polling booths may be cancelled; and
 - (vi) a convenient place, to be named by the returning officer, within the district or within 10 kilometres of the district by the nearest practicable route, as the place of nomination at which he will be present between the hours of 9 o'clock in the morning and 12 o'clock noon on nomination day to receive nomination papers; and
- (b) as soon as possible give public notice of any polling booth appointed after the issue of the writ.

(2) The returning officer shall endorse upon the writ the day on which he receives it and also, if he was notified by the Minister or the Speaker of the issue of the writ before the receipt thereof, the day upon which he received such notification, and shall attach such notification to the writ or endorse upon the writ particulars of the mode of notification if the notification was not in written form.

49. Qualification of a candidate. Any person who is not prevented from being elected as a member of the Legislative Assembly by any cause of disqualification prescribed by law and who under this Act is qualified to be enrolled for any electoral district is qualified to be nominated as a candidate and to be elected a member of the Legislative Assembly for any electoral district.

50. Undischarged bankrupt incapable of being nominated or elected.

(1) Any person—

- (a) who under the *Bankruptcy Act* 1966 is a bankrupt in respect of a bankruptcy from which he has not been discharged;
- (b) who has executed a deed of arrangement under Part X of the *Bankruptcy Act* 1966 where the terms of the deed have not been fully complied with;
- (c) whose creditors have accepted a composition under Part X of the *Bankruptcy Act* 1966 where a final payment has not been made under that composition

is incapable of being nominated or elected.

(2) In subsection (1), a reference to the *Bankruptcy Act* 1966 is a reference to the *Bankruptcy Act* 1966 of the Commonwealth as amended.

51. How person may become candidate. (1) In order that any person may be or become a candidate, he shall be nominated by not fewer than 6 persons entitled to vote at the election in respect of the electoral district concerned.

(2) A nomination paper in the prescribed form naming such person as a candidate, signed by the persons nominating him and signed by him as consenting to the nomination, shall be delivered to the returning officer—

(a) at any place or time—

- (i) after the day on which the writ for the election is issued and before nomination day; or
- (ii) before 9 o'clock in the morning on nomination day; or

(b) at the place named in the public notice of nomination day between the hours of 9 o'clock in the morning and 12 o'clock noon on nomination day,

and the returning officer shall, if required, give a receipt for the nomination paper.

(3) The person nominated or some person on his behalf shall, at the time of the delivery of the nomination paper, pay to the returning officer, in money or bank notes or by a cheque drawn by a bank on itself, the sum of \$250 to be dealt with as hereinafter provided and the returning officer may, if he thinks fit, transmit the amount so paid to him to the chief returning officer for safe custody until it is so dealt with.

(4) No person other than—

- (a) a person nominated as aforesaid; and
- (b) by or for whom or on whose behalf payment as aforesaid is made

shall be or be deemed to be a candidate.

(5) A nomination paper shall not be rejected for any mere formal defect or error therein if the returning officer is satisfied that the provisions of this Act have been substantially complied with.

52. Certificate of returning officer. (1) If the returning officer is satisfied that the provisions of this Act with respect to a nomination paper have been substantially complied with, he shall make and sign at the foot of the nomination paper a certificate in the prescribed form.

(2) Such certificate shall not be construed to qualify any person to be a candidate or to sign a nomination paper who is not qualified to be a candidate or to sign the same, or to validate any signature thereto that is false or forged.

(3) The returning officer shall give or forward a copy of the certificate to the candidate.

53. Copy of nomination paper to be posted up. Immediately upon the receipt of a nomination paper, the returning officer shall post up a copy thereof in some conspicuous place at the place of nomination.

54. Election of sole person nominated. If only one person is duly nominated as a candidate, he shall be deemed to be duly elected and the returning officer shall, on nomination day or as soon thereafter as is practicable, publicly notify, by a notice published in the Gazette and by advertisement in some newspaper published in or generally circulating in the district, the name of the candidate who has been duly elected, and make his return accordingly.

55. Nomination of two or more persons. (1) If two or more persons are duly nominated as candidates, a poll shall take place for deciding between such candidates on the day named in the writ at the several polling booths for the district.

(2) The returning officer shall—

(a) immediately after 12 o'clock noon on nomination day post in some conspicuous position at the place of nomination a notice stating the names of the persons who have been duly nominated as candidates, and that a poll will be so taken; and

(b) publish an announcement to the like effect in some newspaper published in or generally circulating in the district.

56. Withdrawal of consent to nomination. A candidate may withdraw his consent to his nomination at any time before the hour of noon on nomination day by delivering to the returning officer a notice of retirement in the prescribed form signed by him, and thereupon and thereby the nomination shall be cancelled, and the deposit paid shall be returned to the candidate.

57. Death of candidate. (1) If at any time—

(a) after the hour of noon on the day that is two days before nomination day; and

(b) before polling day

a candidate dies, the returning officer shall report the fact of the death to the Minister in writing forthwith upon becoming aware of it.

(2) Upon the fact of death being reported to the Minister by the returning officer, the writ shall be a vacated writ.

(3) As a consequence of the writ being vacated, a new writ shall be issued and all proceedings in connexion with the election shall be had and taken anew as though such election were a by-election under this Act.

(4) Upon the vacation of the writ as aforesaid, the returning officer shall pay to the estate of the deceased candidate and to each of the other candidates the moneys paid pursuant to section 51 to the returning officer by, for or on behalf of the candidate in question.

(5) Where moneys payable under subsection (4) have been transmitted to the chief returning officer for safe custody, the chief returning officer may make the payments on behalf of the returning officer in question.

58. Forfeiture of money paid on nomination. (1) Where a poll takes place, the moneys paid pursuant to section 51 to the returning officer by, for or on behalf of candidates who do not receive at the poll a number of first preference votes equal at least to one fifth part of the first preference votes received by the successful candidate shall be forfeited to Her Majesty and, where held by the returning officer, shall be paid over by him to the chief returning officer.

(2) All moneys so forfeited and held by the chief returning officer, whether paid over to him under subsection (1) or earlier transmitted to him for safe custody under section 51 (3) shall be paid over by him to the Treasurer and thereupon it shall be paid to and form part of the Consolidated Revenue Fund.

59. Refund of money paid on nomination. After an election, the money paid pursuant to section 51 by, for or on behalf of the candidate who has been elected and the money so paid by, for or on behalf of each other candidate who has received a number of first preference votes equal at least to one fifth part of the first preference votes received by the candidate who has been elected shall be paid to the candidate in question by the returning officer or by the chief returning officer if held by him for safe custody.

60. Provision of ballot-boxes, etc. (1) For taking the poll the returning officer shall cause to be provided at each polling booth—

- (a) a ballot-box;
- (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 one ballot-box should be provided, the returning officer shall cause two or more ballot-boxes to be provided at that polling booth.

(3) A ballot-box shall be a box capable of being locked by means of a key, with a cleft or opening therein capable of receiving the folded ballot-papers.

(4) Each of them the returning officer and the relevant presiding officer shall keep a key of the ballot-box.

61. Hospital room or ward deemed to be part of polling booth in certain cases. 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 to record his vote and deposit it in a ballot-box at the polling booth shall be deemed to be part of the polling booth for the purposes of enabling such elector to record his 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 him.

62. Returning officer to provide presiding officers. (1) The returning officer—

- (a) may preside at one polling booth within or belonging to his district;
- (b) shall by writing under his hand appoint presiding officers to take the poll at all polling booths except—
 - (i) that at which he presides; and
 - (ii) those central polling booths for which assistant returning officers have been appointed as hereafter in this Act provided;
- (c) shall supply a copy of the roll certified by him under his hand to each presiding officer and each candidate.

(2) Where the returning officer, pursuant to section 60, causes two or more ballot-boxes to be provided at a polling booth, he shall by writing under his hand appoint a presiding officer to take the poll in respect of each ballot-box other than one in respect of which he 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 shall be subject to the prior approval of the chief returning officer.

63. Appointment of poll clerks. The returning officer may appoint a poll clerk or poll clerks to assist himself or the presiding officer in taking the poll or in carrying out any of his other duties under this Act.

64. Illness, etc., of returning officer or presiding officer. 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 writing under his hand, appoint a substitute to act for him or for the presiding officer, as the case may be; and the substitute shall have 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 is a substitute.

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

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

(3) The returning officer shall not finally declare the state of the poll or the name of the member elected until the poll has been finally closed and the ballot-papers have been examined and counted by him as hereafter in this Act provided.

66. Taking of adjourned poll. If for any reason the poll is not taken at a polling booth on polling day, the election shall not be therefore void, but it shall be lawful for the chief returning officer to appoint another day not later than 36 days from the day named in the writ for taking the poll at such polling booth, of which appointment due notice shall be publicly given, and the poll shall be taken accordingly and be deemed to have been taken on the day first appointed.

67. Minimum age of presiding officer, etc. A person who is under the age of 18 years shall not be appointed to act as presiding officer or as substitute for the returning officer or a presiding officer or as poll clerk.

68. Printing, supplying and distribution of ballot-papers. (1) The chief returning officer shall, subject to this section, arrange for, control and supervise—

- (a) the printing of the ballot-papers for the taking of the poll for each district at a general election or, in the case of a by-election, for the district concerned; and
 - (b) the supply to returning officers, overseas officers, interstate officers, prescribed electoral registrars and, where prescribed by this section, presiding officers of ballot-papers in sufficient numbers.
- (2) Every ballot-paper shall—
- (a) according to the vote for the casting of which the same is provided, be in the form respectively prescribed therefor;
 - (b) except as otherwise provided for in this section, be completely printed by the Government Printer;

- (c) be of such material and opacity as, when folded once, to conceal effectually the manner in which the same shall have been used in voting;
- (d) be distinguished by the different colour of the paper thereof or otherwise as prescribed from the ballot-papers used at any previous election (whether a general election or a by-election) during the period of six years next preceding polling day for the election in respect of which each such firstmentioned ballot-paper is for use in casting a vote;
- (e) in the case of ballot-papers for use in casting votes for a district on polling day at a polling booth for that district (except ballot-papers for use in casting votes permitted under section 45), contain a printed list of the names of all the candidates (each name being inserted once only, with the surname first followed by the christian name or names) and of no other person (except the Government Printer) arranged alphabetically in the order of their surnames;
- (f) where, in the case of ballot-papers specified in paragraph (e), two or more candidates have the same surname and christian name or names, have distinguished on those ballot-papers those candidates by the addition, relative to their names as listed on those ballot-papers, of their residences, occupations, and other matter, if any, necessary to distinguish them;
- (g) in the case of ballot-papers other than ballot-papers specified in paragraph (e), contain in compliance with the requirements of paragraphs (e) and (f) a printed or written list of the names of all the candidates but, except as provided by subsection (3), shall not have thereon the name of any other person;
- (h) in the case of ballot-papers for use in casting votes for a district on polling day at a polling booth for that district (except ballot-papers for use in casting votes permitted under section 45), be attached to a butt that—
 - (i) shall not be part of the attached ballot-paper;
 - (ii) shall be perforated in such manner as will permit the ballot-paper to be easily detached therefrom; and
 - (iii) taking into account separately the total number of ballot-papers for each district respectively, shall be numbered in regular arithmetical sequence beginning with the figure “ 1 ” so that no two or more of such butts shall in relation to any one and the same district bear the same number;
- (j) in the case of ballot-papers (not being ballot-papers to which paragraph (h) applies) for use in casting votes permitted under section 45, 82, 83, 84, 85 or 87, be attached to a butt that—
 - (i) shall not be part of the attached ballot-paper;
 - (ii) shall be perforated in such manner as will permit the ballot-paper to be easily detached therefrom; and

- (iii) taking into account collectively the total number of all of those ballot-papers for all districts, shall be numbered in regular arithmetical sequence beginning with the figure " 1 " so that no two or more of such butts shall bear the same number.

(3) The printed words " By authority, (name of Government Printer), Government Printer, Queensland " appearing on a ballot-paper shall, until the contrary is proved, be sufficient evidence that that ballot-paper has been printed by the Government Printer who is hereby authorized and directed to print the aforesaid words on every ballot-paper printed by him.

(4) (a) The Government Printer shall—

- (i) supply to returning officers, overseas officers, interstate officers and prescribed electoral registrars ballot-papers in such numbers as the chief returning officer shall at any time and from time to time direct;
- (ii) include in every parcel of ballot-papers supplied a delivery note in the prescribed form detailing the ballot-papers and the respective numbers thereof contained in the parcel and containing the prescribed form of receipt for the acknowledgment of the receipt of those ballot-papers;
- (iii) forthwith upon supplying a parcel of ballot-papers deliver to the chief returning officer a copy of the delivery note; and
- (iv) retain in his office for a period of not less than two years a copy of every such delivery note.

(b) The Government Printer shall not supply any ballot-paper to any person except under, subject to and in accordance with the provisions of paragraph (a) or the provisions of subsection (5) or (7).

(c) Every returning officer, overseas officer, interstate officer and prescribed electoral registrar shall as soon as practicable after the receipt by him of a parcel of ballot-papers, and in any event before he commences to deal in any way with any of those ballot-papers, check the contents of that parcel with the delivery note therefor and complete the prescribed particulars in and sign the form of acknowledgment of the receipt of those ballot-papers contained in that delivery note.

(d) If on such check there is a discrepancy in numbers of any ballot-papers or otherwise howsoever between the parcel and the delivery note therefor, the returning officer, overseas officer, interstate officer or prescribed electoral registrar shall have a counter check as aforesaid made by a responsible person.

(e) Particulars of any discrepancy found and counter checked as aforesaid shall be noted in the form of acknowledgment, and in that case that form shall be signed by the returning officer, overseas officer, interstate officer or prescribed electoral registrar and the person who shall have made the counter check.

(f) A returning officer, overseas officer, interstate officer or prescribed electoral registrar finding a discrepancy as aforesaid shall forthwith inform both the chief returning officer and the Government Printer thereof.

(g) Subject to paragraphs (c), (d), (e) and (f) and upon compliance with such of those paragraphs as are applicable to the case, a returning officer, overseas officer, interstate officer or prescribed electoral registrar shall retain every delivery note as aforesaid with respect to ballot-papers supplied to him until he shall have dealt with that delivery note as prescribed.

(5) (a) The chief returning officer may direct the Government Printer to supply to a returning officer ballot-papers (being ballot-papers for use in casting votes, other than votes permitted under section 45, for a district on polling day at polling booths for that district) not containing a printed list of all candidates' names but otherwise completely printed where, in the opinion of the chief returning officer, it is necessary (having regard to the remoteness from Brisbane, area and means of communication within the district concerned and to the limit or probable limit of the period of time between nomination day and polling day) to do so in order to ensure the distribution before polling day in sufficient numbers of those ballot-papers to polling booths for that district.

(b) In addition to the direction referred to in paragraph (a), the chief returning officer may direct the Government Printer to supply to a returning officer ballot-papers not containing a printed list of all candidates' names for use in casting votes under section 45, 84, 85 or 87.

(c) A returning officer shall arrange with a local printer for the printing as prescribed by this section of a list of all candidates' names upon every ballot-paper supplied to him under paragraph (a) and, when thereunto directed by the chief returning officer, upon every ballot-paper supplied to him under paragraph (b).

(d) The returning officer shall—

(i) upon delivering a parcel of ballot-papers to a local printer obtain from that printer; and

(ii) upon receiving those ballot-papers back from the printer, give to that printer,

a receipt in the prescribed form and containing the prescribed particulars, and shall keep and retain in his possession until he shall have accounted to the said chief returning officer for all ballot-papers supplied to him in relation to the election in question a copy of the receipt given by him to the printer and the original receipt received by him from the printer.

(6) (a) A returning officer shall supply to the presiding officer at each polling booth (other than a polling booth to which subsection (7) applies) or, in the case of a polling booth where two or more ballot-boxes are provided, every presiding officer in respect thereof a number of ballot-papers for use in casting votes on polling day fully equal to the number of electors likely to vote at such polling booth or, as the case may be, fully equal to the number of electors likely to be depositing votes in the ballot-box in question in each case.

(b) If a returning officer is himself to preside at a polling booth or in respect of a ballot-box thereat, he shall keep for himself a like sufficient number of ballot-papers.

(c) A returning officer shall supply to each electoral visitor appointed by him a number of ballot-papers sufficient for taking votes under section 85, and shall keep for himself a like sufficient number of ballot-papers if he is himself to take votes under that section.

(d) The returning officer shall include in every parcel of ballot-papers supplied by him to a presiding officer or an electoral visitor a delivery note in the prescribed form detailing the ballot-papers and the respective numbers thereof contained in that parcel and containing the prescribed form of receipt for the acknowledgment of the receipt of those ballot-papers.

(e) Every presiding officer or electoral visitor shall as soon as practicable after the receipt by him of a parcel of ballot-papers, and in any event before he commences to use those ballot-papers for taking the poll, check the contents of that parcel with the delivery note therefor and complete the prescribed particulars in and sign the form of acknowledgment of the receipt of those ballot-papers contained in that delivery note.

(f) If on such check there is a discrepancy in numbers of any ballot-papers or otherwise howsoever between the parcel and the delivery note therefor, the presiding officer or electoral visitor shall have a counter check as aforesaid made by a responsible person (who shall be another presiding officer or electoral visitor, if available).

(g) Particulars of any discrepancy found and counter checked as aforesaid shall be noted in the form of acknowledgment, and in that case that form shall be signed by both the presiding officer or electoral visitor and the person who shall have made the counter check.

(h) Subject to paragraphs (e), (f) and (g) and upon compliance with such of those paragraphs as are applicable to the case, a presiding officer or electoral visitor shall retain every delivery note as aforesaid with respect to ballot-papers supplied to him until he shall have dealt with that delivery note as prescribed.

(7) (a) Where any polling booth for a district outside the limits of that district is so situated that, in the opinion of the chief returning officer, it is more convenient to supply directly from the Government Printer ballot-papers for use in casting votes on polling day at that polling booth, the chief returning officer may so direct.

(b) The Government Printer shall supply ballot-papers to every presiding officer at a polling booth in accordance with a direction as aforesaid.

(c) Every parcel of ballot-papers so supplied shall contain a delivery note as specified in paragraph (d) of subsection (6), and every presiding officer concerned shall with respect to that parcel and delivery note be bound by the provisions of paragraphs (e), (f), (g) and (h) of the said subsection (6) as if the ballot-papers in question had been supplied to him by the returning officer.

(d) The chief returning officer shall advise the returning officer of any direction given by him under this subsection, and the returning

officer shall not supply ballot-papers to any presiding officer at any polling booth in respect of which the chief returning officer has advised him of such a direction.

(8) (a) Upon the completion of every election—

(i) the Government Printer shall deliver up to the chief returning officer all ballot-papers of every description printed for the purposes of that election then remaining in stock in his office;

(ii) every—

(A) electoral visitor shall, in the manner and at the time prescribed, account to the returning officer;

(B) presiding officer shall, in the manner and at the time prescribed, account to the returning officer or, in respect of ballot-papers supplied to him by the Government Printer, to the chief returning officer,

for all ballot-papers of every description supplied to him for the purposes of that election, and deliver up to the returning officer or, as the case requires, the chief returning officer such and so many of those ballot-papers as shall not have been used or shall have been spoilt; and

(iii) every returning officer, overseas officer, interstate officer and prescribed electoral registrar shall, in the manner and at the time prescribed for a returning officer, an overseas officer, an interstate officer or a prescribed electoral registrar, as the case may be, account to the chief returning officer for all ballot-papers of every description supplied to him for the purposes of that election, and deliver up to the chief returning officer such and so many of those ballot-papers as shall not have been used or shall have been spoilt.

(b) When the chief returning officer shall have satisfied himself that all ballot-papers printed for the purposes of an election have been duly accounted for to him and that such and so many of those ballot-papers as shall not have been used or shall have been spoilt have been delivered up to him, he shall make a certificate to that effect and shall cause those unused and spoilt ballot-papers to be destroyed.

(c) The chief returning officer shall keep in the records of his office for at least 6 years every certificate as aforesaid made by him.

(9) The chief returning officer shall forthwith report to the Minister any failure by the Government Printer, a returning officer, an overseas officer, an interstate officer, a prescribed electoral registrar, an electoral visitor or a presiding officer to account in compliance in every respect with the requirements of this section for any ballot-paper.

(10) A person who fails to comply in every respect with a provision of this section that is binding upon him is guilty of an offence.

Penalty: \$500.

(11) In this section the term “ presiding officer ” includes an assistant returning officer.

(12) In the application of this section to any election under the *City of Brisbane Act 1924-1982* (whether a triennial election of aldermen of the City of Brisbane or a separate election to fill an extraordinary vacancy in the office of an alderman of the said City)—

- (a) the powers conferred and duties imposed upon the chief returning officer by this section shall respectively be exercised and performed by the Town Clerk of the said City;
- (b) this section shall be so applied by reading any reference herein to the chief returning officer as referring to the Town Clerk of the City of Brisbane.

(13) Any candidate shall be entitled to inspect and to take copies of all relevant delivery notes, receipts and certificates applicable to the electoral district in respect of which he was a candidate.

(14) A misnomer of a candidate in a ballot-paper, whether the name is printed or written pursuant to this Act, shall not affect the full operation of the ballot-paper under this Act where, having regard to all the circumstances including any publicity in connexion with the election, the reference in the ballot-paper reasonably appears to be a reference to that candidate notwithstanding the misnomer.

69. Hours of voting. At every poll the voting shall commence at 8 o'clock in the forenoon and shall close at 6 o'clock in the afternoon of the same day unless adjourned by reason of riot or other interruption pursuant to a provision of this Act:

Provided that 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 o'clock in the afternoon of polling day who is entitled to vote as an elector and who desires to vote shall be permitted to vote.

70. Scrutineers. (1) Each candidate, by writing under his hand, may appoint a scrutineer or scrutineers—

- (a) at each polling booth; or
- (b) where there are two 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 shall upon his 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 candidate is entitled to have one, and only one, scrutineer in a polling booth unless that polling booth is provided with two or more ballot-boxes, in which case he may have one, and only one, scrutineer in respect of each of those ballot-boxes:

Provided that another scrutineer for a candidate may enter a polling booth for the purpose of taking the place of a scrutineer for the candidate in question already present therein or for the purpose of voting.

(4) A candidate is entitled to have one, and only one, scrutineer at any other place where a vote is being cast in accordance with this Act.

(5) A person shall not, without lawful authority, prevent or attempt to prevent a scrutineer from entering or leaving the polling booth at or to which he is appointed or where there is a ballot-box in respect of which he is appointed at any time during the hours of polling or from entering or leaving any other place at or to which he 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 shall not be appointed to act as a scrutineer.

71. Ballot-box to be opened for inspection. A ballot-box shall be opened to be inspected by the poll clerks, candidates and scrutineers before being locked and sealed for receiving the ballot-papers, and shall stand upon the table at which the presiding officer presides.

72. Restriction on entry to polling booth. (1) Subject to subsection (2), a person other than—

- (a) the presiding officer;
- (b) the poll clerk;
- (c) the candidates;
- (d) the scrutineers of the candidates; and
- (e) 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 assistance in the polling booth any member of the police force 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 opinion is obstructing the polling or wilfully violating this Act.

73. Questions to voters. (1) The presiding officer—

- (a) may of his own motion if he thinks fit; and
- (b) shall, if thereunto required by a candidate or scrutineer upon grounds stated by that candidate or scrutineer (being in the case of the question numbered (3) set out hereunder in this subsection one 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 one or more of the following questions, namely:—

- (1) Are you the same person whose name appears as (A. B., number) in the roll for this electoral district?

(2) Have you already voted, either here or elsewhere, at the present election for this electoral district or any other electoral district?

(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, shall not be permitted to vote until he has answered the same in writing signed by him to the satisfaction of the presiding officer and in such a manner as to show that he is entitled to vote.

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

(a) record his vote in the manner prescribed;

(b) then fold the ballot-paper so as to conceal the manner in which he has voted;

(c) then hand the folded ballot-paper to the presiding officer, and the presiding officer shall, without unfolding the ballot-paper and in the presence and sight of the elector and of such candidates and 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 shall produce unopened all envelopes received by him immediately containing votes for his district permitted under this section and, if he is satisfied in every respect that the person who voted was entitled to do so, he shall 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, he shall reject that vote and shall, 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 shall have dealt with all the envelopes containing votes permitted under this section produced by him at the scrutiny, he shall open the ballot-box and count in the manner prescribed such and so many ballot-papers recording those votes as he shall have placed therein:

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

74. Declaration against bribery. The presiding officer may if he thinks fit, and shall if called upon so to do by any candidate or 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 shall not be entitled to vote.

75. Elector required to answer questions, take oath, etc., only as prescribed. An elector shall not at any election be required to answer any questions or to take any oath or make any affirmation or declaration except as provided by this Act.

76. No exclusion from voting except on specified grounds. A person claiming to vote at an election shall not be excluded from voting except by reason of its appearing to the presiding officer, upon putting the prescribed questions or any of them—

- (a) that he is not the person whose name appears on the roll; or
- (b) that he has previously voted at the same election; or
- (c) that he 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.

77. Ballot-paper to be given to elector. (1) When an elector has satisfied the presiding officer that he is entitled to vote at the election, the presiding officer shall deliver to him 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.

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

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

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

79. Mode of voting. (1) The elector—

- (a) having received a ballot-paper shall, in one of the compartments provided for the purpose, place the number " 1 " in the square opposite the name of the candidate for whom he votes as his first preference, and shall give contingent votes for all the remaining candidates by placing, as the case requires, the figures " 2 ", " 3 ", " 4 " (and so on, as the case requires) in the squares opposite their names respectively so as to indicate by numerical sequence the order of his preference for them; and
- (b) shall then forthwith fold up the paper in such manner as will conceal his vote and deposit it in the ballot-box in the presence of the presiding officer.

(2) While an elector is in a compartment preparing his ballot-paper, no other person shall, except as is hereinafter provided, be allowed in such compartment.

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

(a) he is blind; or

(b) his sight is so impaired or he is so physically incapacitated that he is unable to vote without assistance; or

(c) he is illiterate and unable to vote without assistance,

the presiding officer shall—

(i) 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 him; or

(ii) 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 desires to vote, after which he shall fold the ballot-paper and deposit it in the ballot-box for the elector.

(4) The presiding officer shall, 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 names of the candidates in the order they appear on the ballot-paper.

(5) The presiding officer shall, if specifically requested by an elector, state in accurate terms without comment or further elaboration the name of the political party in the interest of which each or any candidate is standing.

(6) An elector shall 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 him pursuant to section 77.

80. Issue of ballot-paper in substitution for spoilt one. (1) If the elector to whom the ballot-paper has been delivered satisfies the presiding officer before he has deposited the ballot-paper in the ballot-box that he has spoilt his ballot-paper by accident or mistake, he 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 shall 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 shall 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 shall 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.

81. Duty of presiding officer where claimant to vote appears to have already done so. (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 shall put to such person the prescribed questions.

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

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

(a) record his vote in the manner prescribed;

(b) then fold the ballot-paper so as to conceal the manner in which he has voted;

(c) then hand the folded ballot-paper to the presiding officer, and the presiding officer shall, 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 shall produce unopened all envelopes received by him immediately containing votes for his district permitted under this section and, if he is satisfied in every respect that the person who voted was entitled to do so, he shall 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, he shall reject that vote and shall, 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 shall have dealt with all the envelopes containing votes permitted under this section produced by him at the scrutiny, he shall open the ballot-box and count in the manner prescribed such and so many ballot-papers recording those votes as he shall have placed therein:

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

82. Voting as absent voter outside district. (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 he is enrolled.

(2) In every such case the person claiming to vote shall answer the questions following, that is to say:—

(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 for which you claim to vote?

(f) What is your present address?

and shall 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 shall not deliver a ballot-paper to that person until he has obtained from him an envelope endorsed to his 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 his.

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

(5) Any person who—

(a) wilfully makes a false answer to any of the questions that he is required under subsection (2) to answer; or

(b) signs his name upon any envelope any part of the endorsement of which is to his knowledge false

is guilty of an offence.

Penalty: \$100.

(6) Subject to compliance in every respect with the requirements of the foregoing provisions of this section—

(a) the presiding officer shall—

(i) if the ballot-paper does not contain a printed list of the names of the candidates, write thereon, in compliance with the requirements of paragraphs (e) and (f) of subsection (2) of section 68, a list of the names of all the candidates but shall not write thereon the name of or any reference to the political party in whose interest each or any candidate is standing;

(ii) give to the elector concerned that ballot-paper, but retain the envelope endorsed as aforesaid;

- (b) the elector shall, in a compartment provided at the polling booth in question to enable electors to mark ballot-papers, record his vote in the manner prescribed, and immediately thereafter fold up the ballot-paper so as to conceal the manner in which he has voted and deliver it to the presiding officer;
- (c) the presiding officer shall 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) (a) Every presiding officer shall make, in the prescribed form, a record of the name of every elector permitted by him 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.

(b) The record of particulars referred to in paragraph (a) shall be made before the particular envelope bearing the declaration is deposited in the ballot-box.

(c) A presiding officer shall initial separately the particulars so recorded by him in respect of each elector.

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

- (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;
- (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;
- (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 he acted as such presiding officer.

(9) A presiding officer acting as such for two or more districts shall transmit the envelope specified in subsection (8) to the returning officer who supplied him with the ballot-papers given by him 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 shall have received from each presiding officer for his district who has permitted votes under this section the absent vote envelopes, advice notes and form of record, he shall—

- (a) verify the number of votes permitted by each such presiding officer;

- (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;
- (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;
- (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 district.

(11) At the scrutiny the returning officer shall produce unopened all envelopes received by him immediately containing votes for his 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—

- (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 his district used by him at the election in question, that the voter is an elector entitled to vote for the district of that returning officer at the election in question.

(12) If the returning officer satisfies himself in every respect in relation to the matters referred to in subsection (11), he shall place a mark against the name of the elector concerned in the roll used by him at the election in question.

(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), he shall reject that vote and shall, 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 89, the returning officer shall 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, he shall 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 shall have dealt with all the envelopes containing votes permitted under this section produced by him at the scrutiny at any one and the same time, he shall open the ballot-box and

count in the manner prescribed by this Act such and so many ballot-papers recording those votes as he shall have placed therein; and shall so proceed in respect of every such time until the day when all votes permitted under this section shall have been received and dealt with by him or until the day when no further ballot-papers are to be counted, whichever sooner occurs:

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 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 shall, upon a scrutiny, without further proof, be prima facie evidence that such voter voted at the election as an absent voter.

(18) Notwithstanding that—

- (a) only one person may be duly nominated as a candidate for any district and that as a consequence no poll is required to be taken of the electors of that district; or
- (b) because of the death of a candidate after the hour of noon on the day that is two days before nomination day and before polling day no poll is to be taken of the electors of the district in question on the day for taking the poll and the writ is vacated in accordance with section 57,

the provisions of this section shall apply and be observed in order to enable electors of other districts to vote as absent voters in that district, and for that purpose the term "poll" where it occurs in sections 60 and 69 shall be deemed to include a poll of absent voters as provided by this section taken on the polling day mentioned in subsection (1).

83. Voting by electors in prescribed cities outside the State. (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") of 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 authorized, for the purpose of enabling any elector absent from the State to exercise the right to vote personally at an election for a district.

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

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

(b) The declaration shall be made and subscribed before a justice of the peace or a person employed in the Public Service of—

- (i) the Commonwealth;
- (ii) a State or Territory of the Commonwealth;
- (iii) a country, state or territory that is a member or part of the British Commonwealth; or
- (iv) a British possession.

(c) The officer shall, upon making and subscribing the declaration, transmit it forthwith to the chief returning officer.

(4) (a) A person claiming to be an elector (hereinafter in this section referred to as an “elector”) may attend before the officer at such office or place and in such city as aforesaid and vote at an election for a district at any time not earlier than 72 hours after the hour of noon on nomination day and not later than six o’clock in the afternoon of the day next preceding polling day.

(b) For the purposes of this subsection, a reference to time shall be taken to be a reference to the local time in the city in question.

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

(b) The officer shall not hand a ballot-paper to the elector until he has obtained from him the envelope endorsed to his satisfaction with the answers to the questions thereon signed by the elector with his 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 his.

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

(d) The officer shall write on the ballot-paper a list of the names of all the candidates for the district for which the elector claims to vote if it does not contain a printed list of the names of such candidates, and shall then hand the ballot-paper to the elector.

(e) The elector shall—

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

(f) The officer shall deposit the fastened envelope in a ballot-box until he shall have dealt with it as hereinafter provided in this section.

(6) (a) If an elector to whom a ballot-paper has been handed satisfies the officer before he has placed the ballot-paper in the envelope and fastened the envelope that he has spoiled his ballot-paper by accident

or mistake, he may, if the officer thinks fit, on giving up the spoilt ballot-paper, be handed a new ballot-paper by the officer in substitution for the spoilt one.

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

(c) Before handing the new ballot-paper to the elector, the officer shall 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.

(7) (a) The officer shall make, in the prescribed form, a record of the name of every elector permitted by him 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.

(b) Where the officer permits votes under this section for more than one district, he shall make a separate and distinct such record in respect of each such district.

(c) The officer shall initial separately the particulars so recorded by him in respect of each elector.

(8) As soon as may be after six o'clock in the afternoon of the day next preceding polling day as referred to in subsection (4), the officer shall—

- (i) 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 him in compliance with subsection (7);
- (ii) transmit by air each such envelope, properly addressed to the returning officer for the district in question;
- (iii) enclose in a securely fastened outer envelope all envelopes containing votes for a district permitted by him under this section.

Where the officer shall have permitted votes under this section for more than one district he shall 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 in an outer envelope and securely fasten the outer envelope;

- (iv) 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 subsections (11), (12), (13), (14), (15) and (16) of section 82 shall 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 shall, upon a scrutiny, without further proof, be prima facie evidence that such voter voted at the election 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 shall have all the functions, powers, duties and liabilities of a presiding officer appointed pursuant to this Act.

84. Attendance before returning officer or prescribed electoral registrar to vote before polling day. (1) An elector who—

- (a) has reason to believe—
 - (i) that he will not on polling day—
 - (A) in the case of a general election be within any district;
 - (B) in the case of a by-election be within the district for which the by-election is being held and for which he is enrolled;
 - (ii) in the case of any general election or by-election, that he will throughout the hours of polling on polling day be travelling or engaged in work or duty in respect of his occupation or calling under conditions that will preclude him from voting at any polling booth in the State;
- (b) will not throughout the hours of polling on polling day be within 10 kilometres by the nearest practicable route of any polling booth open on that day for the purposes of any election;
- (c) is by reason of his membership of a religious order or his 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 72 hours after the hour of noon on nomination day and not later than six o'clock in the afternoon of the day next preceding polling day if he attends before the returning officer for the district for which he is enrolled or a prescribed electoral registrar and makes a declaration in accordance with the prescribed form.

- (2) A prescribed electoral registrar is—
 - (a) in the case of a by-election, an electoral registrar for the district for which the by-election is being held;
 - (b) in the case of a general election—
 - (i) an electoral registrar for the district for which the elector is enrolled; or
 - (ii) an electoral registrar designated by Order in Council as a prescribed electoral registrar under this section, the Governor in Council being hereby authorized to so designate electoral registrars for the purpose.

(3) (a) The prescribed electoral registrar shall, before he enters on the duties of that office under this section, make and subscribe a solemn declaration in the prescribed form which on completion is to be transmitted forthwith to the chief returning officer.

(b) The declaration shall be made and subscribed before a justice of the peace or, if a justice of the peace is not available, before an elector.

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

- (a) first have given reasonable notice of his intention to take the vote of the elector and of the place where and time when he intends to do so to each candidate for the district for which he is returning officer; and
- (b) provide at such place where he intends to take the vote of the elector a compartment to enable the elector to record his vote, and have with him a ballot-box into which he shall place the envelope immediately containing, pursuant to subsection (6), the vote permitted by him under this section.

(5) 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 he is enrolled or a prescribed electoral registrar;
- (b) makes upon an envelope before that returning officer or prescribed electoral registrar the declaration prescribed under subsection (1),

thereupon that returning officer or prescribed electoral registrar shall—

- (i) if the ballot-paper does not contain a printed list of the names of the candidates, write thereon in compliance with the requirements of paragraphs (e) and (f) of subsection (2) of section 68 a list of the names of all the candidates for the electoral district for which the elector claims to vote;
- (ii) give to that elector that ballot-paper but retain the envelope upon which the elector has made the declaration as aforesaid.

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

(7) In the case of a vote permitted under this section by a prescribed electoral registrar, the prescribed electoral registrar shall 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 claimed that vote.

(8) Forthwith upon complying with the provisions of subsections (6) and (7) and with the provisions of subsection (10), the prescribed electoral registrar shall deliver the outer envelope to the elector for posting or delivery to the returning officer to whom that envelope is addressed.

(9) A returning officer shall, subject to subsection (4) (b), retain in his custody the envelope immediately containing a vote permitted by him under this section.

(10) (a) Every returning officer or prescribed electoral registrar shall make, in the prescribed form, a record of the name of every elector permitted by him 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.

(b) Where a prescribed electoral registrar permits votes under this section for more than one district, he shall make a separate and distinct such record in respect of each such district.

(c) The returning officer or prescribed electoral registrar shall initial separately the particulars so recorded by him in respect of each elector.

(11) 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 him for posting or delivery as hereinbefore provided in this section—

(a) without reasonable excuse, proof whereof shall lie on him, fails to himself post that outer envelope before midnight on polling day or deliver it to the returning officer before six o'clock in the afternoon 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.

Penalty: \$200.

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

(a) any ballot-paper on which a vote permitted under this section has been recorded by the elector permitted that vote;

(b) any envelope upon which the declaration prescribed by this section shall have been made by an elector permitted a vote under this section; or

- (c) any envelope (hereinbefore referred to as an outer envelope) addressed to a returning officer in which a vote, contained in an envelope as referred to in paragraph (b), shall have been fastened up for posting or delivery

is guilty of an offence.

Penalty: \$1 000 or imprisonment for 6 months or both.

(13) As soon as may be after six o'clock in the afternoon of the day next preceding polling day every prescribed electoral registrar shall—

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

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

- (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 district.
- (14) (a) At the scrutiny the returning officer shall produce, unopened—
- (i) all envelopes retained by him immediately containing votes for his district permitted under this section by him; and
 - (ii) all outer envelopes received by post by him or delivered to him containing votes for his district permitted under this section by any prescribed electoral registrar.
- (b) Every outer envelope so produced that was—
- (i) received by post by or delivered to the returning officer before six o'clock in the afternoon of polling day; or
 - (ii) 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

shall be opened by the returning officer who shall deal, as required by paragraph (d), with all envelopes enclosed therein immediately containing votes permitted under this section.

(c) 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 him in compliance with the requirements of paragraph (b), the returning officer shall reject that envelope and set it aside for separate custody.

(d) 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 district under this section, the returning officer shall satisfy himself 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 district used by him at the election in question, that the elector is qualified to vote for the district of that returning officer at that election.

(e) 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 paragraph (d), he shall reject that vote and shall, 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.

(f) Subject to section 89, the returning officer shall 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.

(g) If, in respect of any vote permitted under this section, the returning officer is satisfied in every respect as required by the provisions of paragraph (d), but not otherwise, he shall place a mark against the name of the elector concerned in the roll used by him at the election 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.

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

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

(16) For the purposes of this section, the term "by-election" shall be deemed to include any adjourned election, in respect of any district, that it has become necessary to hold, on account of the death of any candidate that occurred after the hour of noon on the day that is two days before nomination day and before polling day, at a general election pursuant to the provisions of section 57.

85. Electoral visitor voting in cases of illness, etc. (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;
- (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 87 to apply for a postal vote certificate may, at any time after the day on which the writ for the election is issued and before six o'clock in the afternoon of the day immediately preceding 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:

Provided that unless the application is made and sent so as to reach the returning officer not later than six o'clock in the afternoon of the day immediately preceding polling day, and unless it so reaches that officer not later than that time, it shall be deemed to be invalid and the elector making the application shall not be entitled to vote under this section.

(2) A person shall 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 writing under his hand, the returning officer for each district shall appoint an electoral visitor and may appoint more than one 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 shall not be appointed as an electoral visitor.

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

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

(7) The provisions of section 10 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) (a) The returning officer shall provide each electoral visitor appointed by him with a ballot-box with a cleft or opening therein capable of receiving an envelope containing a folded ballot-paper.

(b) Before providing an electoral visitor with a ballot-box, the returning officer shall take such steps as may be reasonably practicable to exhibit the box open and empty for the inspection of the candidates for the district or their scrutineers, and shall, immediately after so exhibiting it, close, lock and seal the box, keep the key and deliver the box or cause it to be delivered to the electoral visitor.

(9) An application to vote under this section (in this section referred to as an "application") shall be signed by the applicant (in this section referred to as an "applicant") with his own hand in the presence of, and shall 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) (a) If any applicant is an inmate of a hospital or institution part of which is appointed as a polling booth, the application shall 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—

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

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

- (i) if the application neither contains nor is accompanied by the statement specified in paragraph (a);
- (ii) if, according to such statement, he 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
- (iii) if, according to such statement, he will be an inmate of such hospital or institution and capable of voting therein on polling day,

and no such application shall 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 six o'clock in the afternoon of the day immediately preceding 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 is returning officer,

shall 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 is at the time of application or hereafter referred to as an "electoral visitor absent vote" where the applicant states in his application to the returning officer that his name is on the roll of electors entitled to vote for an electoral district other than the electoral district in which he is at the time of application):

Provided that where the applicant, in his application to the returning officer, states his name is on the roll of electors entitled to vote for the electoral district in which he 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, shall notify the applicant accordingly and shall not give any such direction to an electoral visitor.

(13) (a) If there is time conveniently to do so, the returning officer shall on all copies of rolls issued by him for use at the election 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.

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

(14) (a) 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 shall, where practicable, notify each candidate for the district for which he has been appointed electoral visitor of the time or times on any specified day when he proposes, and the place from which he proposes, to commence making such a visit or visits.

(b) A candidate shall not accompany the electoral visitor either as a scrutineer or in any other capacity at the taking of a vote by the electoral visitor under this section.

(c) (i) In this section, except where the context otherwise indicates, the term "scrutineer" means a person appointed, in the manner prescribed, by a candidate to act as scrutineer on his behalf at the exhibiting of a ballot-box for inspection pursuant to subsection (8) or at the taking of a vote by an electoral visitor under this section.

(ii) A candidate may appoint, by writing under his hand, a scrutineer or scrutineers—

(A) at the exhibiting of a ballot-box for inspection pursuant to subsection (8);

(B) at the taking of votes by electoral visitors under this section:

Provided that one, and only one, scrutineer for each candidate 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 for a candidate 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 for the candidate in question already present therein.

(iii) Every person appointed scrutineer under this subsection shall upon his appointment make and subscribe before the returning officer or an electoral visitor for the district a solemn declaration in the prescribed form.

(iv) An electoral visitor shall transmit to the returning officer every solemn declaration made and subscribed before him by a scrutineer.

(v) A person shall 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 he is appointed, is being exhibited for inspection under this section;

(B) a vote, in relation to the taking of which he is appointed, is being taken under this section.

(15) (a) Every visit by an electoral visitor under this section shall be made on or before polling day at a reasonable hour but no visit shall be made after six o'clock in the afternoon of polling day.

(b) Where the applicant—

- (i) cannot be located by the electoral visitor at the time, or within one half hour of the time, of his visit to the place set forth in the application as the place at which the applicant is at the time of application; or
- (ii) 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 he is available for the purpose of taking the vote of the applicant,

the electoral visitor may terminate his visit and shall not be required to make a further visit under this section to such applicant in respect of the same election.

The provisions of this paragraph apply subject to the provisions of subsection (22).

(16) An electoral visitor shall not visit an applicant for the purpose of taking his vote under this section unless directed so to do by the returning officer, and, subject to subsection (17), it shall not be 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) Notwithstanding any other provision of this section, where a by-election is being held in respect of an electoral district (including an adjourned election on account of the death of a candidate pursuant to section 57), an elector for the electoral district in question may make an application to vote under this section to the returning officer for the district if he satisfies all the requirements of this section as an applicant to vote before an electoral visitor save that the place at which he is at the time of application, as set forth in the application (hereafter in this subsection called “the said place”), is situated outside the district, but is less than 10 kilometres by the nearest practicable route from any polling booth open on polling day for the purposes of the by-election, and an electoral visitor appointed in respect of the district may at the direction of the returning officer (which direction he is hereby authorized to give) visit the elector at the said place for the purpose of taking his vote.

For the purpose of the operation of this section in all other respects, the said place shall be deemed to be within the electoral district in question and the provisions of this section shall apply accordingly.

(18) (a) An electoral visitor—

- (i) may of his own motion if he thinks fit; and
- (ii) shall 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 one 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 he votes and not afterwards any one or more of the following questions, namely:—

(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 application that his 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 election 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)?

(b) An applicant required to answer such questions, or any of them, shall not be permitted to vote until he has answered the same in writing signed by him to the satisfaction of the electoral visitor, and in such a manner as to show that he is entitled to vote.

(c) When the applicant required to answer the prescribed questions or any of them has done so in writing signed by him and otherwise satisfied the requirements of this subsection, he shall hand the form on which those questions are endorsed to the electoral visitor and shall comply with the provisions of subsection (19) in relation to the completion of the prescribed form of certificate or declaration, as the case may be, and after he has, pursuant to subsection (20), fastened the envelope endorsed with the certificate or declaration but before he has placed it in the ballot-box, he shall 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 shall attach such form thereto accordingly.

(d) 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 his district and all envelopes containing electoral visitor absent votes in respect of his district pursuant to subsection (30)—

(i) is not satisfied in every respect that, having regard to the provisions of this subsection, the applicant was entitled to vote, he shall reject that vote and endorse on the envelope that the vote is rejected pursuant to this subsection, whereupon the unopened envelope shall be dealt with as in the case of a disallowed vote under subsection (30);

(ii) is satisfied in every respect that, having regard to the provisions of this subsection, the applicant was entitled to vote, he shall proceed in accordance with the provisions of subsection (30).

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- (19) (a) The electoral visitor shall hand to the applicant—
- (i) in the case of an electoral visitor vote, the prescribed form of certificate endorsed on an envelope;
 - (ii) in the case of an electoral visitor absent vote, the prescribed form of declaration endorsed on an envelope.
- (b) The electoral visitor shall not hand a ballot-paper to the applicant until he has obtained from him—
- (i) in the case of an electoral visitor vote, the envelope endorsed to his satisfaction with the certificate duly completed and signed by the applicant with his own hand in the presence of the electoral visitor;
 - (ii) in the case of an electoral visitor absent vote, the envelope endorsed to his satisfaction with the answers to the questions thereon signed by the applicant with his 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 his.
- (c) Upon receipt of the envelope endorsed with the signed certificate or declaration, as the case may be, the electoral visitor shall then and there fill in the correct date and attest the signature of the applicant.
- (d) The electoral visitor shall write on a ballot-paper of the description and in the form prescribed for voting under this section, in compliance with the requirements of paragraphs (e) and (f) of subsection (2) of section 68, a list of the names of all the candidates if it does not contain a printed list of the names of such candidates, and shall then hand the ballot-paper to the applicant.
- (20) The applicant shall—
- (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 he 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.
- (21) (a) If an applicant to whom a ballot-paper has been handed under this section satisfies the electoral visitor before he has placed the ballot-paper in the envelope and fastened the envelope in manner prescribed that he has spoilt his ballot-paper by accident or mistake, he may, if the electoral visitor thinks fit, on giving up the spoilt ballot-paper, be handed a new ballot-paper by the electoral visitor in substitution for the spoilt one.
- (b) Before being handed a new ballot-paper, the applicant shall 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 spoilt by accident or mistake, as the case may be, and shall give such envelope endorsed with the prescribed declaration to the electoral visitor with the spoilt ballot-paper.

(c) Before handing the new ballot-paper to the applicant, the electoral visitor shall place the spoilt ballot-paper in the envelope that is endorsed with the prescribed declaration, fasten the envelope and set it aside for separate custody.

(22) A vote may not be taken under this section by an electoral visitor at any time after six o'clock in the afternoon of polling day:

Provided however that an electoral visitor may take the vote of an applicant whom, pursuant to subparagraph (a) of subsection (15), he visits not later than six o'clock in the afternoon of polling day even though the taking of such vote is not completed until after that time, but the electoral visitor shall complete the taking of such vote with the least possible delay.

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

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

- (a) obey all directions of the electoral visitor;
- (b) except as provided in section 86—
 - (i) refrain from making any communication whatever with the applicant in relation to his vote;
 - (ii) refrain from assisting the applicant or in any manner interfering with him in relation to his vote;
 - (iii) refrain from looking at the applicant's vote or from doing anything whereby he may become acquainted with the applicant's vote.

(25) 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 86

shall not place any mark upon the ballot-paper.

(26) An electoral visitor shall 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 vote;
- (c) look at or make himself 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 86;
- (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 86.

(27) An electoral visitor shall, immediately after he 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 locked and sealed ballot-box and all forms of record made by him pursuant to subsection (23).

(28) A person shall 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 of an applicant or from otherwise exercising his powers or discharging his duties under this Act.

(29) (a) No person other than the returning officer for the district in which a vote under this section has been taken shall 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.

(b) The returning officer shall 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.

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

(d) The returning officer shall 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.

(e) The returning officer shall 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.

(30) (a) At the scrutiny the returning officer shall produce, unopened, all envelopes containing electoral visitor votes in respect of his district and all envelopes containing electoral visitor absent votes in respect of his district, taken under this section and received by him up to the end of the period of 14 days immediately following the close of the poll, and all applications relating to those votes.

(b) The returning officer shall 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 candidate or his scrutineer who is present to inspect the same, and the returning officer shall determine whether the signature on such envelope is that of the applicant.

(c) If the returning officer is satisfied that the applicant is enrolled and if the vote is allowed, he shall, before opening the envelope, place a mark against the name of the applicant in the roll used by him at the election 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, he shall attach the envelope by gum or other suitable means to the application relating thereto.

(d) Subject to section 89, a ballot-paper shall not be allowed at the scrutiny unless it is enclosed in an envelope endorsed in manner prescribed by this section.

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

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

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

(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 \$200 or to imprisonment for a term not exceeding 6 months.

86. Assistance to certain incapacitated voters. (1) In this section—

(a) the term “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;

(b) the meaning of the term “presiding officer” includes the meaning given to that term in section 45.

(2) If a person (in this subsection referred to as “the elector”) claiming and permitted to vote under section 45, 82, 83, 84 or 85 satisfies the relevant officer that—

- (a) he is blind and therefore; or
- (b) his sight is so impaired; or
- (c) he is so physically incapacitated

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

- (i) 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
- (ii) if thereunto requested by the elector, himself 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 shall 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 he is unable to write his name may be permitted by such relevant officer to sign his name to any declaration or other document by making thereon his distinguishing mark, which shall be witnessed by the relevant officer.

(4) Save in respect of the marking of a ballot-paper, any step or thing taken or done under the authority of subsection (2) 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 shall be taken or done in the sight and presence of such scrutineer.

(5) The ballot-paper shall be marked in the presence of any scrutineer lawfully present.

87. Postal voting. (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 his occupation or calling under conditions that will preclude him 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 kilometres by the nearest practicable route of any polling booth open on that day for the purposes of any election;
- (c) is an elector pursuant to the provisions of section 22; or
- (d) is by reason of his membership of a religious order or his 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 at any time after the day on which the writ for the election is issued and before six o'clock in the afternoon 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 own name shall not be granted.

(3) The application must be signed by the applicant with his own hand in the presence of, and must be declared before and attested by, a person who is an authorized witness for the purpose of this subsection. Such attestation shall 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 *Commonwealth Electoral Act* 1918 as amended of the Commonwealth as an elector for a State or Territory of the Commonwealth shall be an authorized witness for the purposes of subsection (3) whether the application is made within or outside the Commonwealth and, in addition, any government official or minister of religion of another country shall be an authorized witness for the purpose of that subsection where the application is made outside the Commonwealth.

(5) An application under paragraph (c) of subsection (1) shall contain a declaration by the applicant setting out the grounds upon which, pursuant to section 22, he is entitled to vote at the election.

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

(7) Subject to subsection (6), a returning officer to whom an elector applies for a postal vote certificate shall as soon as possible after the hour of noon on nomination day deliver or cause to be sent to such elector—

- (a) the certificate endorsed upon an envelope;
- (b) an envelope addressed to such returning officer; and
- (c) a postal 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 shall, if the ballot-paper does not contain a printed list of the names of the candidates, write thereon, in compliance with the requirements of paragraphs (e) and (f) of subsection (2) of section 68, a list of the names of all the candidates.

(9) Every postal ballot-paper shall 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 shall not be entitled to vote except by means of a postal ballot-paper.

(11) (a) Every returning officer shall keep a record in the prescribed form showing the prescribed particulars in respect of postal vote certificates issued by him, and shall initial separately such particulars in respect of every postal vote certificate issued by him.

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

(12) (a) In the presence of a person who is an authorized witness for the purpose of this subsection and of no other person, the voter may, on or before the polling day but not after six o'clock in the afternoon of polling day, vote in manner following and not otherwise:—

- (i) the voter shall deliver to the person before whom he is voting the postal ballot-paper and the two envelopes aforesaid, in the same condition in which they were issued;
- (ii) the voter shall then sign his name upon the certificate, and the person before whom he is voting shall then and there fill in the correct date and attest the signature;
- (iii) the person before whom the voter is voting shall then deliver the postal ballot-paper to the voter, but shall retain the two envelopes aforesaid;
- (iv) the voter shall then in the presence but not in the sight of the person before whom he is voting, and not in the sight of any other person, vote in the manner prescribed by this Act;
- (v) the voter shall then fold up the ballot-paper so as to conceal the manner in which he has voted, and deliver it to the person before whom he is voting;
- (vi) the person before whom the voter is voting shall then, without unfolding the ballot-paper, place it in the envelope that is endorsed with the certificate, and shall fasten up the envelope;
- (vii) the person before whom the voter is voting shall 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 six o'clock in the afternoon to the returning officer or an assistant returning officer or presiding officer for the district.

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

(c) A person, not being a candidate or an agent paid by a candidate, who is, with respect to an application for a postal vote made at the place where the voter is voting, an authorized witness for the purpose of subsection (3) is also an authorized witness for the purpose of this subsection.

(13) The person before whom the voter votes shall 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 duties under this Act, learns the manner in which the voter has marked his ballot-paper, he shall 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 he is legally bound to answer.

(15) (a) If there is time conveniently to do so, the returning officer shall on all copies of rolls issued by him for use at the election 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 section 22.

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

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

(b) 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 shall, upon a scrutiny, without further proof, be prima facie evidence of the date on which 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 shall deal in the prescribed manner with any postal voter's envelope delivered to him on polling day.

(18) At the scrutiny the returning officer shall produce, unopened, all postal voters' envelopes in respect of his district received by him by post or delivered to him 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 six o'clock in the afternoon to such returning officer or to any assistant returning officer or presiding officer for the district;
- (b) received by post by such returning officer before six o'clock in the afternoon of polling day; or
- (c) received by post by such returning officer within 10 days immediately succeeding the close of the poll,

shall be opened and the enclosure shall be dealt with as follows:—

- (i) the returning officer shall produce the postal voters' applications;
- (ii) the returning officer, without opening the envelope endorsed with the certificate, shall compare the signature of the voter with the signature to the application and allow each candidate or his scrutineer who is present to inspect the same and shall determine whether the signature on such envelope is that of the applicant;
- (iii) if the returning officer is satisfied that the voter (other than a voter entitled to vote pursuant to section 22) is enrolled and voted on or before the polling day but not after six o'clock in the afternoon of polling day and if the vote is allowed, the returning officer shall, before opening the envelope, place a mark against the name of the voter concerned

(other than a voter entitled to vote pursuant to section 22 as aforesaid) in the roll used by him at the election 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 he shall attach the said envelope by gum or other suitable means to the application relating thereto;

- (iv) if the returning officer is not satisfied, in the case of a person purporting to be an elector pursuant to section 22, that such person is an elector pursuant to that section, he shall disallow the vote;
- (v) subject to section 89, no postal ballot-paper shall be allowed at the scrutiny which is not enclosed in an envelope endorsed with the certificate duly signed, attested and dated under this Act;
- (vi) if the returning officer disallows a vote, the unopened envelope endorsed with the certificate and the application relating thereto shall be attached one to the other by gum or other suitable means and shall be set apart for separate custody.

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

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

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

Provided that he shall reject any of those ballot-papers required by the provisions of section 103 to be rejected at the close of the poll.

88. Registration of certain electors as general postal voters. (1) The Governor in Council may by Order in Council declare an electoral district or a division of an electoral district to be a remote area for the purposes of this section.

(2) Any person who is enrolled as an elector for a district or a division of a district that is declared to be a remote area and—

- (a) whose place of living is so distant from the nearest usual polling booth at which he might vote; or
- (b) to whom available means of transport from his place of living to the polling booth is so irregular or inadequate; or

- (c) whose movement between his place of living and the polling booth is so likely to be hampered in time of rain or flooding or other emergent circumstance

as to render it difficult or potentially difficult for him to attend a polling booth to vote in person may make application in the prescribed form to the principal electoral officer to be registered as a general postal voter.

(3) The principal electoral officer shall keep a register of general postal voters in the prescribed form.

(4) If it appears to the principal electoral officer that, having regard to the provisions of subsection (2) and the circumstances of an elector making application thereunder, the applicant is entitled to be registered as a general postal voter, he shall enter the prescribed particulars in the register, but if, on a like consideration as aforesaid, it appears to the principal electoral officer that the applicant is not entitled to be so registered, he shall reject the application.

(5) The principal electoral officer shall notify in writing each of them the applicant and the returning officer for the district in question of his decision.

(6) A returning officer shall keep in the prescribed form a register of general postal voters notified to him by the principal electoral officer and he shall enter the prescribed particulars therein.

(7) If the principal electoral officer at any time considers that the circumstances of an elector registered as a general postal voter no longer warrant registration under this section having regard to the provisions of subsection (2), he may cancel the registration and notify in writing each of them the elector and the returning officer accordingly.

(8) On receipt of a notification in writing from the principal electoral officer pursuant to subsection (7), the returning officer shall remove the name of the elector from his register.

(9) A cancellation shall not be effected between the time of the issue of the writ for an election and polling day.

(10) As soon as possible after the hour of noon on nomination day, a returning officer shall cause to be sent to each general postal voter whose name is entered in the register kept by him—

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

and the provisions of subsections (8) to (21) of section 87 shall apply, subject to necessary adaptations and to subsection (11) 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 six o'clock in the afternoon of the day immediately preceding polling day, from each general postal voter whose name is entered in the register kept by him.

(11) (a) The prescribed form of application referred to in subsection (2) shall contain provision for the giving thereon by the applicant of a specimen signature or specimen signatures.

(b) In forwarding to a returning officer a notification of the name of an applicant entered as a general postal voter in the register of the principal electoral officer, the principal electoral officer shall forward also a specimen signature or certified copy or representation of a specimen signature of that general postal voter.

(c) For the purpose of the application of section 87 (18) (ii) pursuant to subsection (10), the returning officer shall 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 him by the principal electoral officer.

89. When defective declaration, etc., not to invalidate vote. (1) In this section—

(a) the term “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;

(b) the meaning of the term “presiding officer” includes the meaning given to that term in section 45.

(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 him 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 shall be 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 (1) (and, if made by a relevant officer who is not a returning officer, delivered to the appropriate returning officer) shall not be rejected by reason that the relevant officer who made the declaration did not attest or witness by his 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 shall allow and count the vote unless he is required by law to reject it for some other reason.

90. Rights before Elections Tribunal not affected. Any right, entitlement or power of a person with respect to any proceeding before

the Elections Tribunal under Part IX is not limited, diminished or otherwise affected by any provision of this Part.

91. Voting compulsory. (1) It is the duty of every elector enrolled on the roll for an electoral district to vote at every election held for that district.

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

(3) A person is not entitled to vote in respect of more than one district notwithstanding the fact that his name is on more than one roll.

(4) When and so often as an election is held for a district, the returning officer shall—

- (a) from every roll used at the election, indicate by a distinguishing mark on a fair copy of the roll for the district used at the election (which copy is hereinafter referred to as the “marked roll”) the names of the electors who have not been issued with ballot-papers for the election;
- (b) certify, by statutory declaration under his 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 one 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 person who was a candidate at the election to which the marked roll refers, give to that person a copy of the marked roll.

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

- (a) the full name of the elector as appearing on the roll and his address as therein mentioned or the postal address if known and the name of the electoral district and his 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) shall not apply in any case where—
- (a) the name of any elector appears on more than one electoral roll and the principal electoral officer is satisfied that the

elector has voted or attempted to vote in respect of one such enrolment; or

- (b) the principal electoral officer is satisfied that the elector—
 - (i) is dead;
 - (ii) was absent from the State on polling day;
 - (iii) was ineligible to vote at the election;
 - (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 shall—

- (a) fill in the form at the foot of the notice by stating in it the true reason why he failed to record his vote;
- (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 his 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 shall—

- (a) make on the marked roll opposite the name of the elector to whom the form refers, a note to that effect;
- (b) indicate in writing on the marked roll opposite the name of the elector his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to record his vote at the election; and
- (c) if in his opinion the reason for failure to record a vote is a valid and sufficient one, inform the elector in the prescribed form accordingly.

(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 shall 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 election;
- (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;

(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 hand shall in all proceedings be 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 election;

(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 election 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 religious duty);

(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 him 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 his 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.

Penalty: \$10.

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

(a) the principal electoral officer; or

(b) a person authorized 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;

(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;

(c) stating that if, within 28 days from the date of the notice, the elector notifies the principal electoral officer that he 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 he sends to the principal electoral officer such sum by way of penalty as is specified in the notice (but not being more than \$10), 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 shall 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 election 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 shall be 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 him;
- (ii) the sum by way of penalty specified by him (naming such sum); or
- (iii) both such consent and such sum

shall be evidence of the matter or matters so stated in such certificate, and in the absence of evidence in rebuttal thereof shall be conclusive evidence of such matter or matters;

- (c) a certificate purporting to be signed by the principal electoral officer stating his opinion that the reason contained in the said form is not a valid and sufficient reason for the failure of the elector to record his vote at an election shall be 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 his vote at the election, and in the absence of evidence to the contrary shall be conclusive evidence of such matters.

(17) If on or before the date specified in any notice referred to in subsection (5) sent to any elector the principal electoral officer has not received from such elector, duly filled in and signed according to the

requirements of this section, the form at the foot of such notice, the principal electoral officer shall remove from the electoral roll the name of such elector and shall advise such elector in the prescribed form.

(18) Where the name of an elector has been removed from the electoral roll pursuant to subsection (17), that person may, at any time within three months after the date specified in the notice referred to in subsection (5) sent to him, make application in the prescribed form to the principal electoral officer to have his name reinstated on the roll.

(19) Notwithstanding any other provision of this Act, on an application made by a person pursuant to subsection (18), the principal electoral officer, upon being satisfied after due inquiry that that person is entitled to be enrolled as an elector on the electoral roll from which his name has been removed pursuant to subsection (17), shall forthwith reinstate that person's name on that roll.

(20) A person whose name has been removed from an electoral roll pursuant to subsection (17) shall not be eligible to have his name reinstated on an electoral roll except under and pursuant to a fresh claim for enrolment or under and pursuant to section 34 or subsection (19).

(21) The principal electoral officer may require any returning officer to assist him in the administration of this section by performing the duty imposed upon the principal electoral officer by subsection (5), and every returning officer thereunto required by the principal electoral officer shall assist accordingly.

(22) In the application of this section to any election under the *City of Brisbane Act 1924-1982* (whether a triennial election of aldermen of the City of Brisbane or a separate election to fill an extraordinary vacancy in the office of an alderman of the said City)—

- (a) the powers conferred and duties imposed upon the principal electoral officer under the first 16 subsections of this section shall be exercised and performed by the Town Clerk of the said City; and
- (b) subsections (1) to (16) shall be read by substituting for the term "principal electoral officer" wherever appearing therein the term "Town Clerk of the City of Brisbane".

(23) In this section, the term "elector" does not include a person who is deemed to be an elector pursuant to section 22.

92. Proceedings in case of riot or violence. (1) If the proceedings at any election are interrupted or obstructed by any riot or open violence, the presiding officer shall not for such cause finally close the poll, but shall—

- (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 shall 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 shall, as to such place, be reckoned the day of polling at such election within the meaning of this Act.

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

(4) Where pursuant to this section a poll has been adjourned by a presiding officer other than the returning officer, he shall forthwith give notice of such adjournment to the returning officer who shall not finally declare the state of the poll or the name of the member elected until the poll has been finally closed and the ballot-papers have been examined and counted by him in accordance with this Act.

93. Prohibition in respect of canvassing, etc., near or within place of voting. A person who, at any time after the issue of the writ for an election and prior to the close of the poll, within 6 metres from any entrance of a building within which—

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

or within a room or place where a ballot-box is provided in a polling booth or a room or place where a vote is being cast for the election—

- (i) canvasses for votes;
 (ii) solicits the vote of any elector;
 (iii) induces any elector not to vote for any particular candidate;
 (iv) induces any elector not to vote at the election; or
 (v) loiters or obstructs the free passage of voters

is guilty of an offence.

Penalty: \$200.

94. Party emblems not to be worn or displayed in place of voting. A person shall 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 an election.

Penalty: \$40.

95. Power of presiding officer. (1) Every presiding officer shall have power and authority to maintain and enforce order and keep the peace at any election held by or before him.

(2) A presiding officer may summon to his assistance in any polling booth or other place of voting for an election any member of the police force 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 opinion is obstructing the polling or committing an offence against this Act.

PART VII—PUBLICATION OF RESULTS AND RETURN OF WRITS
OF ELECTION

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

(b) Such officer shall 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 shall, at the close of the poll and in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend, make up in separate and distinct parcels—

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

and shall seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire, and shall, 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 shall 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 him during the polling as aforesaid; and he shall with the least possible delay send a copy of the statement to the chief returning officer.

(4) An assistant returning officer shall 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 he officiated and send it to the chief returning officer.

(5) An assistant returning officer shall as soon as possible after he has received the sealed parcels transmitted to him 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 own polling booth with all the ballot-papers contained in the said ballot-boxes;

- (b) thereupon, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend, examine and count the number of first preference votes received for each candidate at all the polling booths of the group;
- (c) make out a written statement signed by himself and countersigned by his 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 received for each candidate so counted as aforesaid;
- (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 him and the said presiding officers during the polling (his own roll being signed by him and the poll clerk, if any); and
 - (ii) all ballot-papers set aside for separate custody by him and the said presiding officers;
- (e) seal up such parcels, and permit the same to be sealed by the scrutineers present if they so desire;
- (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.

97. Presiding officer to examine and count votes and seal and forward parcels to returning officer. At every polling booth in respect of which an assistant returning officer has not been appointed, the presiding officer other than the returning officer shall at the close of the poll, in the presence of the poll clerk, if any, and of such of the candidates and scrutineers as may attend—

- (a) examine and count the number of first preference votes received for each candidate at the polling booth at which he presided;
- (b) make out a written statement, signed by himself and counter-signed by his 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 first preference votes received for each candidate so counted as aforesaid;
- (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 him by the returning officer (which shall be signed by him and the poll clerk, if any), and all books and papers used by him during the polling; and

- (ii) all ballot-papers set aside for separate custody as aforesaid;
- (d) seal up such parcels and permit the same to be sealed by the scrutineers present if they so desire;
- (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.

98. Returning officer to examine and count votes at his polling booth and seal parcels. Every returning officer shall at the close of the poll, in the presence of his poll clerk, if any, and of such of the candidates and scrutineers as may attend—

- (a) examine and count the number of first preference votes received for each candidate at his own polling booth, if any;
- (b) make out a written statement, signed by himself and countersigned by his 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 first preference votes received for each candidate;
- (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 him during the polling; and
 - (ii) all ballot-papers set aside for separate custody as aforesaid;
- (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 his name.

99. Returning officer to open sealed parcels transmitted by presiding officers, count the votes and re-seal each parcel. (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 him 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 first preference votes counted by them respectively, he shall—

- (a) from his own statement, if any, and such other statements ascertain the gross number of first preference votes for each candidate;
- (b) in the presence of his poll clerk (if any) and of such candidates and scrutineers as may attend, open such sealed parcels and examine and count the number of first preference votes for each candidate at each central polling booth and other polling

booth outside a group, and in manner prescribed examine and count the absent votes and votes under sections 45, 73 and 81 received and permitted or allowed;

- (c) if no candidate has received an absolute majority of first preference votes, in the presence of his poll clerk, if any, and of all such candidates and scrutineers as may attend, make a second count and thereafter, if necessary, continue counting as prescribed by section 101 until one candidate has received an absolute majority of votes;
- (d) after ascertaining the candidate who has been elected, 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 at his own polling booth, if any; and
- (e) 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) He shall 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 own polling booth.

(3) He shall also examine the rolls that have been used and marked by him (if any) and the presiding officers at the several polling booths and ascertain whether any electors appear to have voted at more than one polling booth, and shall make out a list showing the names and numbers of all electors who appear to have so voted at more than one polling booth; and he shall forward a copy of the list to each of the candidates and enclose the original list in the sealed packet to be made up by him as provided by section 107.

(4) The returning officer shall not open or examine any sealed parcel in the joint absence of any candidate and his scrutineer unless he has given 24 hours' previous notice in writing to such candidate or to his scrutineer of his intention to open and examine the same:

Provided that an election shall not be 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 he did such act with a fraudulent intent.

100. When scrutiny may proceed despite absence of certain votes.
If the returning officer is satisfied that the votes—

- (a) on any ballot-papers issued at some remote polling booth;
- (b) on any ballot-papers used by prescribed electoral registrars for the purpose of voting under section 84;
- (c) on any ballot-papers used for casting votes under section 87 and which votes were delivered in accordance with paragraph (a) of subsection (18) of that section; or

- (d) on any ballot-papers used for casting votes under section 88 and which votes were delivered in accordance with section 87 (18) (a) as that provision applies pursuant to subsection (10) of section 88,

cannot, having regard to the number of those ballot-papers, possibly affect the result of the election, the returning officer may proceed with the count without awaiting the receipt of those ballot-papers.

101. When candidate elected. (1) When a poll is taken, the candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected.

(2) If no candidate has received an absolute majority of first preference votes, the returning officer shall make a second count.

(3) On the second count the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in the order of the voter's preference.

(4) If any candidate then has an absolute majority of votes he shall be declared elected; but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the continuing candidate next in the order of the voter's preference shall be repeated until one candidate has received an absolute majority of votes.

(5) The candidate who has received an absolute majority of votes shall be declared elected.

(6) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, that candidate amongst them who had the least number of votes at the last count at which they had not an equal number of votes shall be excluded. If such candidates had an equal number of votes at all preceding counts or there was no preceding count, the returning officer shall determine between them by lot which of them shall be excluded.

(7) In this section—

- (a) the expression "continuing candidate" means the candidate not already excluded at the count; and
(b) the expression "determine between them by lot" means determine in accordance with the following direction:—

The names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidate whose name is first drawn shall be excluded.

102. Ballot-paper not to be rejected for certain informalities. (1) Where the voter has indicated his first preference for one candidate and his contingent votes for all remaining candidates except one, and the square opposite the name of that one candidate has been left blank, it

shall be deemed that the voter's preference for that candidate is his last and that accordingly he has indicated the order of his preference for all candidates.

(2) Where there are two candidates only and the voter has indicated his vote by placing the figure "1" in the square opposite the name of one candidate and has left the other square blank, the voter shall be deemed to have indicated the order of his preference for the candidates.

(3) In the case of a ballot-paper containing a list of more than six names of candidates, a ballot-paper shall not be rejected by reason only of the fact that the voter has marked a square opposite the name of one of the candidates with a figure seven that contains a stroke or strokes through a part of the figure, sometimes called a continental seven, provided the figure is a reasonable representation of a figure seven.

(4) Subsection (1) of section 79 applies subject to this section.

103. Causes for rejection and circumstances of non-rejection of ballot-papers. (1) A ballot-paper that—

- (a) has no vote indicated on it or does not indicate the voter's first preference for one candidate and his contingent votes for the remaining candidates in manner prescribed by section 79 or section 102;
- (b) has upon it any mark or writing not authorized 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;
- (c) has upon it the name of or any reference to any political party for or in the interest of which a candidate is standing

shall be rejected at the close of the poll.

(2) Where a ballot-paper contains a written list of the names of the candidates, the vote shall not be rejected because the surname only of any candidate has been written thereon if no other candidate has the same surname or because of any mistake in spelling where the name of the candidate is sufficiently indicated.

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

(4) Nothing contained in this section affects or shall be taken to affect the jurisdiction of the Elections Tribunal with respect to elections.

104. Re-counting of ballot-papers. (1) At any time before the public notification by the returning officer of the result of an election, the returning officer—

- (a) shall, if the difference between the number of votes counted to constitute for a candidate an absolute majority of votes pursuant to section 101 and the number of votes received at the count by the candidate receiving the next highest number

of votes at that stage represents or appears to the returning officer likely to represent a difference of less than one quarter of one per centum of the total number of valid votes cast in respect of the election in the district in question;

- (b) may at the request of any candidate (who shall give the reasons for his request);
- (c) may, if in the circumstances he considers it appropriate so to do, of his own motion

re-count the ballot-papers.

(2) The ballot-papers shall be re-counted in the same manner as for a count in the first instance under this Act, and, in that respect, the returning officer shall have the same powers as if the re-count 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.

105. Declaration of poll. (1) The returning officer shall, as soon as possible after the result of the election has been ascertained by him, publicly notify by a notice in the prescribed form published in the Gazette the result of the election so ascertained and the name of the candidate who has been elected.

(2) Where the returning officer has ascertained upon an examination and count of all the ballot-papers taken at the different polling booths and of such absent votes as have then been received, examined and counted by him that the result of the election cannot be affected by any votes required to be counted under the provisions of this Act that he may receive thereafter, he may at once publicly notify as aforesaid the name of the candidate who has been elected.

(3) Notwithstanding subsection (2), the returning officer shall, in manner hereinbefore prescribed, examine and count all such votes as are required to be counted under the provisions of this Act as he receives after the ascertainment by him referred to in that subsection and up to but excluding the second day preceding the day named in the writ for its return.

(4) Subject to subsection (5), no envelope purporting to contain an absent vote received by the returning officer on the second day preceding or on the day preceding the day named in the writ for the return thereof or on or after such day shall be opened or examined by him, and no vote given thereby shall be counted; and he shall, in manner hereinafter in this Act directed, transmit all such envelopes, unopened, to the Clerk of the Parliament.

(5) Where by reason of some impediment the receipt of certain absent votes has been delayed and the returning officer has reason to believe that such votes, when received, examined and counted, may affect the result of the election, he may certify accordingly to the Governor or Speaker, as the case may be, who may thereupon extend the time for the return of the writ so as to permit such votes to

be received, and such votes shall, when received, be examined and counted and the state of the poll shall be then publicly notified accordingly.

(6) Where there are two candidates only and they have an equal number of first preference votes or where in a final count between two candidates they have an equal number of votes, the returning officer shall decide by his casting vote which shall be elected.

106. Returning officer not to vote at election. Notwithstanding anything contained in this Act, a returning officer shall not vote at—

- (a) any general election;
- (b) any adjourned election in respect of any district, which election it has become necessary to hold on account of the death of any candidate occurring after the hour of noon on the day that is two days before nomination day and before polling day at a general election;
- (c) any by-election for the district for which he is returning officer; or
- (d) any by-election for any other district held at the same time as a by-election for the district for which he is returning officer

except as prescribed by section 105 (6).

107. Ballot-papers to be delivered to Clerk of the Parliament. (1) The returning officer shall 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 one packet the several sealed parcels made up and sealed by him in pursuance of section 99 (1);
- (b) seal up such packet 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 his name; and
- (c) transmit such packet to the Clerk of the Parliament.

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

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

(b) Every such sealed packet shall be safely kept in such room by the Clerk for a period of two years after the date of the delivery of same to him.

(c) Every means of access to such room except one door shall be securely fastened up and such door shall be provided with two locks, each of a different pattern, the keys of which shall, except when required for the purposes of this section, be kept in 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 shall report to the Minister any failure by a returning officer to comply with this section.

(5) Within three months after the expiration of the period of two years mentioned in subsection (3), the Clerk shall cause all such sealed packets to be destroyed, but, before proceeding to such destruction, he shall give reasonable notice thereof to the Speaker, the Attorney-General and the Leader of the Opposition, each of whom shall be entitled to be present thereat personally or by his 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 election, the ballot-papers and declarations contained in any such sealed packet shall be received in evidence as proof of such votes in any court of justice or by the Elections Tribunal upon production thereof, and of a certificate under the hand of the Clerk of the Parliament that the same were transmitted to him 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 member or members of the police force for purposes, stated in that certificate, of an investigation being made by that member or those members of the police force into an alleged offence under this Act or *The Criminal Code*, the Speaker may in writing authorize the said Clerk to produce those ballot-papers, declarations or things to the member or members of the police force, and thereupon the Clerk shall do so.

(8) The Speaker may, having regard to the nature of the alleged offence, impose conditions with respect to the dealing by the member or members of the police force concerned with ballot-papers, declarations or other things produced to him or them by authority as aforesaid.

108. Name of person elected to be endorsed on writ. (1) The name of the person elected and the date of his election shall be endorsed on the writ by the returning officer, and the writ shall be returned by the returning officer to the Governor or Speaker, as the case may be, within the time specified therein.

(2) The date of election shall be—

(a) if only one person is duly nominated as a candidate, the date of nomination day; or

(b) if two or more persons are duly nominated as candidates and a poll is taken, the date of polling day.

109. Election not to be questioned. An election shall not be 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 election is held, if such person in fact acted at such election;
- (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.

110. Remedy for informalities in election proceedings. (1) An election shall not be void in consequence only of any delay in—

- (a) holding the election at the time appointed;
- (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 an election might be impeded, the Governor in Council may adopt such measures as may be necessary for removing the obstacle and, where he does so, he shall forthwith by Order in Council declare valid the election and the measures so adopted.

PART VIII—SUPPLEMENTAL PROVISIONS

111. Political articles to be signed. (1) Every article, report, letter or other matter commenting upon any candidate or political party or 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 shall be signed by the author or authors, giving his or their true name and address or true names and addresses, at the end of the said 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.

Penalty: \$100.

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

Penalty: \$100.

(3) In this section the term “the period” means the period commencing on the day of issue of the writ for an election and ending at the close of the poll in respect of that election.

112. Printing, publishing, etc., material intended or likely to mislead.

(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 his 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 his vote

is guilty of an offence.

Penalty: \$100.

(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 for any particular candidate, provided those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

113. Institution of proceedings for offences under sections 111 and 112. Proceedings for an offence under section 111 or 112 may be instituted by—

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

114. Injunctions. Any person who is responsible for a contravention of or a failure to comply with any provision of section 111 or 112 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 shall be sufficient.

115. Unauthorized possession of ballot-papers, etc. (1) A person shall not unlawfully get possession of or have in his 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.

Penalty: \$1 000 or imprisonment for 6 months or both.

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

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

(4) Proceedings for an offence under this section may be instituted by any member of the police force.

116. Offences in relation to postal voting and enrolment. (1) Any person to whom an application for a postal vote certificate and postal ballot-paper or an envelope containing or purporting to contain a postal 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 it forthwith; or
 - (ii) to deliver it before 6 o'clock in the afternoon on polling day to the returning officer, an assistant returning officer or a presiding officer for the district in question

is guilty of an offence.

Penalty: \$1 000 or imprisonment for 6 months.

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

Penalty: \$1 000 or imprisonment for 6 months.

117. Obstruction or wilful misleading of principal electoral officer, etc. Any person who—

- (a) obstructs or wilfully misleads the principal electoral officer in the exercise or performance of his powers or duties;
- (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.

Penalty: \$200 or imprisonment for 3 months.

118. Person guilty of corrupt or illegal practice, etc., prohibited from voting. (1) Every person guilty of a corrupt or an illegal practice or of illegal payment or hiring at an election is prohibited from voting at such election and, if any such person votes, his vote shall be void.

(2) Every person who, in consequence of conviction or of the report of the Elections Tribunal, has become, under this Act or under any other Act for the time being in force relating to corrupt or illegal practices, incapable of voting at any election, is prohibited from voting at such election and, if any such person votes, his vote shall be void.

119. Neglect by principal electoral officer, etc. (1) 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 is guilty of an offence.

Penalty: \$100.

(2) Any person who—

(a) has a duty to receive a claim for enrolment or an application for transfer or change under this Act;

(b) receives such a claim or application; and

(c) without just excuse, fails to do everything necessary on his part to be done to secure the enrolment, transfer or change pursuant to the claim or application

is guilty of an offence.

Penalty: \$20.

120. Undue influence by certain officers. Any stipendiary magistrate, clerk of the court or member of the police force who, during the time he 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 vote for any candidate or endeavours to persuade or induce any elector to refrain from voting at any election is guilty of an offence.

Penalty: \$200.

121. Neglect by returning officer, etc. (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 he is required to perform is guilty of an offence.

Penalty: \$400.

(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 he is required to perform is guilty of an offence.

Penalty: \$100.

(3) In this section, the expression “a returning officer” includes the chief returning officer.

122. Proof of writ of election. In any prosecution, and in any other proceedings in which it is material to prove a writ of election, it shall be sufficient, for the purpose of proving the writ of election, to produce a copy thereof certified by the Governor or the Speaker.

123. Copy of writ of election to be made, and effect thereof. (1) A copy of the writ of election shall be made and certified by the Governor or the Speaker simultaneously with or immediately after the issue of the writ, and such copy shall be transmitted to the returning officer to whom the writ is directed.

(2) The writ of election and the certified copy shall be transmitted to the returning officer to whom the writ is directed separately and in such a manner as to avoid as far as may be the risk of the writ and the copy being lost or destroyed together.

(3) If a writ of election is lost or destroyed at any time before it is returned to the Governor or the Speaker, the copy thereof certified by the Governor or the Speaker pursuant to this section shall become and be the writ of election for all purposes of this Act, and in such event the Governor or the Speaker shall make and certify a further copy of such writ, which further copy shall be transmitted to the returning officer in question.

124. Evidence of election. The certificate of the returning officer at an election that the election mentioned in the certificate was duly held and that any person named in the certificate was a candidate at that election shall in any proceedings be sufficient evidence of the facts stated therein.

125. General penalty. 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 \$1 000.

126. Summary proceedings. Offences against this Act may be prosecuted in a summary way under the *Justices Act* 1886–1980.

127. Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) the printing, as addenda to the supplemental rolls, of the names of all persons erased from the roll since the publication of the last preceding general roll;
- (b) where objection is made under this Act to names of persons being on rolls, the publication and advertisement of lists of the names of persons objected to and of the objectors;
- (c) subject to section 32 (4), offences against the regulations and prescribing the amount of any penalty for any offence against any regulation, provided that any such penalty shall not exceed \$100;

- (d) 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, shall be used;
- (e) 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;
- (f) 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.

(2) The power to regulate conferred under this Act includes the power to prohibit.

128. Publication of Orders in Council. Section 28A of the *Acts Interpretation Act 1954–1977* 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 shall be read as if a reference to the term “regulation” were a reference to the term “Order in Council”.

PART IX—ELECTIONS TRIBUNAL

129. Constitution of Elections Tribunal. There shall be an Elections Tribunal and it shall be constituted by a Judge of the Supreme Court.

130. Court of record. The Tribunal shall be a court of record.

131. General powers of Tribunal. The Tribunal shall have power to inquire into and determine—

- (a) election petitions;
- (b) all questions that may be referred to it by the Legislative Assembly respecting the validity of any election or return of any member to serve in the Legislative Assembly, whether the question relating to such election or return arises out of—
 - (i) an error in the return of the returning officer;
 - (ii) the failure of the returning officer to make a return;
 - (iii) an allegation of bribery or corruption against any person concerned in the election; or
 - (iv) any other allegation calculated to affect the validity of such election or return; and
- (c) any matter or question concerning the qualification or disqualification of any person who has been returned as a member of the Legislative Assembly.

132. Determinations by Judge alone. The trial of the petition or reference shall be before the Judge sitting alone, and all questions of law and fact arising upon the petition or at the trial shall be determined by the Judge.

133. Powers of Judge. Subject to this Act, the Judge, on the trial of an election petition or reference, shall have all the powers, jurisdiction and authority of a Judge of the Supreme Court.

134. Chief Justice to notify name of Judge to constitute Tribunal. (1) In or about the month of January in each year the Chief Justice shall notify to the Speaker the name of one of the Judges of the Supreme Court at Brisbane who will be the Judge to preside at sittings of the Elections Tribunal for that year.

(2) It is the duty of the Judge so named to hear and determine election petitions and other questions referred to the Tribunal during that year.

(3) In the event of the Judge so named being unable for any reason to try any election petition or reference, the Chief Justice shall from time to time notify to the Speaker the name of another Judge of the Supreme Court to act in his place, and it is the duty of the Judge so named to act in his place accordingly.

(4) Where the Chief Justice has already notified the name of a Judge to constitute the Tribunal for the year in which this Act commences, that Judge shall constitute or continue to constitute the Tribunal for the year in question without further notification from the Chief Justice, subject to the provisions of this section.

135. Petition concerning election or return of member or non-return of writ. (1) A petition complaining of the undue election or return of a member to serve in the Legislative Assembly or complaining that no return has been made to a writ issued for the election of a member to serve in the Legislative Assembly may be presented by any one or more of the following persons:—

- (a) some person who voted or had a right to vote at the election to which the petition relates;
- (b) some person claiming to have had a right to be returned or elected at such election;
- (c) some person alleging himself to have been a candidate at such election.

(2) An election petition shall be signed by the petitioner, or by all of the petitioners if more than one, and shall have endorsed on it the full name and address of the petitioner, or the full names and addresses of all the petitioners if more than one.

136. Presentation of petition and service of copy. (1) An election petition shall be—

- (a) presented to the Supreme Court at Brisbane;
- (b) addressed to the Judges thereof; and
- (c) presented by lodging it in the office of the Registrar.

(2) The petition shall be presented within 8 weeks after the day of the return of the writ to which the petition relates unless it relates to a charge of bribery or corruption alleged to have been committed at an election, in which case it may, with the leave of the Legislative Assembly, be presented at any time within 12 months after the day of the return of the writ.

(3) The petitioner shall, within 14 days after presentation of the petition, cause a copy of it to be served upon the sitting member, if any, and a copy to be served upon the returning officer of the electoral district.

(4) Service of a copy of the petition shall be effected as nearly as may be in the manner in which a writ of summons is served or in such other manner as may be prescribed.

137. Publication of notice of presentation of petition. (1) The Registrar shall publish forthwith in the Gazette a notice of the presentation of the petition, which notice shall contain—

- (a) the name and address of the petitioner;
- (b) the electoral district to which it relates;
- (c) the date of the election;
- (d) the name of the member returned; and
- (e) a statement that the petition is available for inspection at the office of the Registrar during the hours the office is open to the public for business.

(2) The Registrar shall also publish forthwith a copy of the notice in some newspaper circulating in the electoral district.

138. Parties to petition. The sitting member may, within 6 weeks after service of the petition on him, and any person who voted or who had a right to vote at the election to which the petition relates or any person complained against in the petition may, within 6 weeks after publication of the notice in the Gazette, by notice in writing to the Registrar, be admitted as a party to support or to oppose the petition or to defend the return of the sitting member, as the case may be; and every person so admitted shall be a party to the petition.

139. Deposit for costs of petition. The petitioner shall pay into court with the petition the sum of \$400 to the credit of the matter of the petition, which sum shall be liable to be applied, upon the order of the Judge, towards the costs of the respondents to the petition as hereinafter provided or may be restored to the petitioner, wholly or in part, as the case may require.

140. Place and time of trial. (1) The trial of an election petition or reference shall be held at the place of nomination or at some other place, within or outside the limits of the district concerned, at which it

appears to the Judge that trial could most conveniently be held having regard in particular to the saving of time and expense to the petitioner and other parties, if any, to the trial.

(2) The time for the trial shall be appointed by the Judge.

141. Notice of trial. Notice of the time and place at which an election petition or reference is to be tried shall be given to all parties by the Registrar not less than 14 days before the day on which the trial is held.

142. Adjournment of trial. The Judge may adjourn the trial from time to time and from place to place.

143. Trial to be public. The proceedings of the Tribunal shall be conducted openly, and each party to the petition or reference may be present.

144. How party may be heard. Each party to the petition or reference may be heard by himself or his counsel or solicitor or by an agent appointed by him in writing.

145. Principles of trial. (1) Upon the trial of an election petition or reference, the Tribunal shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct itself by the best evidence it can procure or that is laid before it, whether the same is such evidence as the law would require or admit in other cases or not.

(2) The Tribunal may, if it thinks fit, receive affidavits relative to any of the matters in question before it, taken before any justice (which affidavits such justice is hereby authorized to take).

(3) Notwithstanding any provision of this Act requiring the rejection of any vote, the Tribunal may order that any vote rejected in compliance with this Act be counted if it is satisfied that the rejection of that vote was occasioned by the accidental or inadvertent mistake or omission of any returning officer, presiding officer, overseas officer, interstate officer, prescribed electoral registrar or electoral visitor.

146. Summons of witnesses. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances admit, as on a trial of a civil action in the Supreme Court.

147. Judge may summon and examine witnesses. (1) On the trial of an election petition or reference the Judge may, by order under his hand, compel the attendance of any person as a witness who appears to him to have been concerned in the election in question, and any person refusing to obey such order shall be guilty of contempt of court.

(2) The Judge may examine any witness so compelled to attend, or any person in court, and it is immaterial that such witness or person is not called and examined by any party to the petition or reference.

(3) After the examination of a witness as aforesaid by the Judge, such witness may be cross-examined by or on behalf of any party to the petition or reference.

148. Expenses of witnesses. The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition or reference, according to the scale allowed to witnesses on the trial of civil actions in the Supreme Court, may be allowed to such person by a certificate under the hand of the Judge or of the prescribed officer, and such expenses, if the witness was called and examined by the Judge, shall be deemed part of the expenses of the Tribunal, and in other cases shall be deemed to be costs of the petition or reference.

149. Recording and transcription of evidence. *The Recording of Evidence Acts, 1962 to 1968*, shall, with necessary adaptations, extend to trials of election petitions or references, and for this purpose and without limiting the generality of this provision—

- (a) the term “Court” as defined in those Acts shall be deemed to include in its meaning a reference to the Tribunal;
- (b) the term “legal proceeding” as defined in those Acts shall be deemed to include in its meaning a reference to the trial of an election petition or reference by the Tribunal.

150. Recrimination where petition for undue return. On the trial of an election petition complaining of an undue return and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue in the same manner as if he had presented a petition complaining of such election.

151. Determination by Judge. At the conclusion of the trial, the Judge shall determine and declare, upon the questions of fact and law arising before him—

- (a) whether the member whose return or election is complained of was duly returned or elected;
- (b) whether any person not returned as elected was duly elected;
- (c) whether the election was void; or
- (d) whether any member whose qualification is in question was qualified or disqualified,

as the case may require.

152. Judge to certify determination to Speaker. (1) The Judge shall certify in writing his determination to the Speaker.

(2) The certificate shall be accompanied by a copy of the transcribed record of the proceedings before the Tribunal.

153. Time of certification of determination. (1) Subject to subsection (2), the Judge shall certify in writing pursuant to section 152 forthwith upon the expiry of the time for appeal to the Full Court as hereinafter provided.

(2) Where within the prescribed time notice is given by a party of an appeal to the Full Court, the Judge shall postpone the giving of his certificate to the Speaker until the determination of the appeal by the Full Court.

154. Appeal to Full Court. (1) An appeal shall lie to the Full Court from every determination of the Judge upon a question of law.

(2) Notice of appeal shall be filed in the registry of the Supreme Court at Brisbane within 21 days after the determination and declaration of the Judge pursuant to section 151.

155. Determination final where certificate given. Upon the giving by the Judge of his certificate to the Speaker, the determination by the Judge is final.

156. Special case. (1) Where upon the application of any party to a petition or reference it appears to the Judge that the case raised by the petition or reference can be conveniently stated as a special case, he may direct the same to be stated accordingly.

(2) Any such special case shall be heard by the Full Court, and the decision of the Full Court shall be final.

(3) The Full Court shall certify to the Speaker its determination with respect to the special case.

157. Question may be reserved for Full Court. If it appears to the Judge on the trial of a petition or reference that any question of law requires further consideration, the Judge may postpone the giving of the certificate hereinbefore mentioned until the determination of such question by the Full Court, and may for that purpose reserve any such question for the opinion of the Full Court.

158. Receipt of evidence of corrupt practices. On the trial of a petition or reference, unless the Judge otherwise directs, any charge of a corrupt practice may be gone into and evidence in relation thereto may be received before any proof has been given of agency on the part of any candidate in respect of such corrupt practice.

159. Judge to make report in case of corrupt practice, etc. (1) Where a charge is made in a petition of any corrupt practice having been committed at the election to which the petition relates, the Judge shall, in addition to the certificate hereinbefore mentioned and at the same time, report in writing to the Speaker as follows:—

(a) whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent

of any candidate at such election, and the nature of such corrupt practice;

- (b) the names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt practice;
- (c) whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates.

(2) The Judge may at the same time make a special report to the Speaker as to any matters arising in the course of the trial, of which, in his judgment, an account ought to be submitted to the Legislative Assembly.

160. Legislative Assembly to carry out report. The Legislative Assembly, on being informed by the Speaker of any such certificate and report or reports, if any, shall order the same to be entered in its journals, and shall give the necessary directions for confirming or amending the return or for issuing a writ for a new election or for carrying the determination into execution, as circumstances may require.

161. Candidate found, on petition, guilty personally of corrupt practices. If upon the trial of a petition the Judge reports—

- (a) that any corrupt practice other than treating or undue influence has been proved to have been committed with reference to the election to which the petition relates by or with the knowledge and consent of any candidate at the election; or
- (b) that the offence of treating or undue influence has been proved to have been committed with reference to the election by any candidate at the election,

that candidate shall not be capable of being elected to or sitting in the Legislative Assembly for a period of three years, and, if he has been elected, his election shall be void.

162. Candidate found, on petition, guilty by agents of corrupt practices. If upon the trial of a petition in which a charge is made of any corrupt practice having been committed with reference to the election to which the petition relates the Judge reports that a candidate at the election has been guilty by his agents of any corrupt practice with reference to the election, that candidate shall not be capable of being elected to or sitting in the Legislative Assembly for the district in question during the Parliament for which the election was held, and, if he has been elected, his election shall be void.

163. Connivance of candidate at illegal practice. (1) If upon the trial of a petition the Judge reports that any illegal practice is proved to have been committed with reference to the election to which the petition relates by or with the knowledge and consent of any candidate at the election, that candidate shall not be capable of being elected to or

sitting in the Legislative Assembly for the district in question for three years next after the date of the report, and, if he has been elected, his election shall be void.

(2) In addition, he shall be subject to the same incapacities as those to which he would be subject if at the date of the report he had been convicted of such illegal practice.

164. Report exonerating candidate in certain cases of corrupt and illegal practice by agents. Where upon the trial of a petition the Judge reports that a candidate at the election to which the petition relates has been guilty by his agents of the offences of treating, undue influence and illegal practice or of any of such offences with reference to the election, and further reports that the candidate has proved—

- (a) that no corrupt or illegal practice was committed at the election by the candidate himself and the offences mentioned in the report were committed contrary to his orders and without his sanction or connivance;
- (b) that the candidate took all reasonable steps to prevent the commission of corrupt or illegal practice at the election;
- (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate,

the election of such candidate shall not, by reason of the offences mentioned in the report, be void, and the candidate shall not be subject to any incapacity under this Act.

165. Power of Tribunal to except innocent act from being illegal practice, etc. Where it appears to the Tribunal—

- (a) that any act or omission of a candidate at an election or of his agent or of any other person that, by reason of being a payment, engagement or contract in contravention of this Act or *The Criminal Code* or by reason of otherwise being in contravention of this Act or *The Criminal Code*, would be but for this section an illegal practice, payment or hiring, arose or occurred from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise or occur from any want of good faith; and
- (b) that in the circumstances it is just that the candidate, the agent and the other person, or any of them, should not be subject to any of the consequences under this Act of such act or omission,

the Tribunal may make an order allowing such act or omission to be an exception from the provisions of this Act that would otherwise make the same an illegal practice, payment or hiring, and thereupon such candidate, agent or person shall not be subject to any of the consequences under this Act of the said act or omission.

166. Obligation of witness to answer, and certificate of indemnity.

(1) A person who is called as a witness before the Tribunal in respect of an election shall not be excused from answering any question relating to any offence at or connected with such election on the ground that the answer thereto may incriminate or tend to incriminate him or on the ground of privilege:

Provided that—

- (a) a witness who answers truly all questions that he is required by the Tribunal to answer shall be entitled to receive a certificate of indemnity under the hand of the Judge stating that such witness has so answered; and
- (b) an answer by a person to a question put by or before the Tribunal shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.

(2) Where a person has received such a certificate of indemnity in relation to an election and any legal proceeding is at any time instituted against him for any offence under this Act committed by him, previously to the date of the certificate, at or in relation to the same election, the court having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may in its discretion award to such person such costs as he may have been put to in the proceeding.

(3) Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceeding to enforce such incapacity other than a criminal prosecution.

(4) Where counsel or a solicitor or other person lawfully acting as agent for any party to a petition in respect of any election has not taken any part or been concerned in such election, the Tribunal shall not be entitled to examine such counsel or solicitor or agent in respect of matters that came to his knowledge by reason only of his being concerned as counsel or solicitor or agent for such party.

167. Submission of report of Tribunal to Attorney-General. The Judge, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or have not been furnished with certificates of indemnity; and such report shall be laid before the Attorney-General, together with the evidence on which such report was based, with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence is in his opinion sufficient to support a prosecution.

168. Acceptance of office or prorogation not to stop petition. (1) The trial of a petition shall be proceeded with notwithstanding the acceptance by the respondent of an office of profit under the Crown.

(2) The trial of a petition or reference may be proceeded with after the prorogation of Parliament.

169. Withdrawal of petition and substitution of new petitioners. (1) An election petition shall not be withdrawn without the leave of the Judge upon special application, to be made in the prescribed manner, within the prescribed time and at the prescribed place.

(2) No such application shall be made for the withdrawal of a petition until the prescribed notice has been given in the electoral district of the intention of the petitioner to make an application for the withdrawal of his petition.

(3) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

(4) (a) The Judge may, if he thinks fit, substitute as a petitioner any such applicant applying to be substituted, and may further, if the proposed withdrawal is, in the opinion of the Judge, induced by any corrupt bargain or consideration, by order direct that the sum paid into court by the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that the original petitioner shall be liable to pay the costs of the substituted petitioner.

(b) If no such order is made with respect to the sum paid into court by the original petitioner, the same amount shall be paid into court by the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(c) Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities, as the original petitioner.

(5) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(6) Where there are more petitioners than one, no application to withdraw a petition shall be made except with the consent of all the petitioners.

170. Judge to report to Speaker the circumstances of withdrawal. In every case of the withdrawal of a petition, the Judge shall report to the Speaker whether in his opinion the withdrawal of such petition was the result of any corrupt arrangement or in consideration of the withdrawal of any other petition, and, if so, shall report the circumstances attending the withdrawal.

171. Abatement of petition. (1) A petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

(3) On the abatement of a petition the prescribed notice of such abatement having taken place shall be given in the electoral district; and within the prescribed time after the notice is given any person who

might have been a petitioner in respect of the election to which the petition relates may apply to the Judge, in the prescribed manner, within the prescribed time and at the prescribed place to be substituted as a petitioner.

(4) The Judge may, if he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted and on whose behalf payment is made into court as is required in the case of a new petition.

172. Admission in certain cases of voters to be respondents. (1) If before the trial of a petition any of the following events occur in the case of the respondent, that is to say—

- (a) if he dies;
- (b) if the Legislative Assembly resolves that his seat is vacant;
- (c) if he fails within the time hereinbefore provided to give notice to the Registrar that he intends to oppose the petition;
- (d) if he gives, in the prescribed manner and within the prescribed time, notice to the Tribunal that he does not intend to oppose the petition,

notice of such event having occurred shall be given by advertisement in the electoral district.

(2) Such notice shall be given—

- (a) by the Clerk of the Parliament, in the cases referred to in paragraphs (a) and (b) of subsection (1); and
- (b) by the Registrar, in the cases referred to in paragraphs (c) and (d) of subsection (1).

(3) Within the prescribed time after such notice is given, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Judge to be admitted as a respondent to oppose the petition, and such person, subject to subsection (4), shall on such application be admitted accordingly, either with the respondent, if there is a respondent, or in place of the respondent.

(4) Not more than three persons shall be admitted as respondents pursuant to subsection (3).

173. Respondent not opposing petition not to appear as party or to sit in Assembly. (1) A respondent who has given the prescribed notice that he does not intend to oppose a petition shall not be allowed to appear or act as a party against such petition in any proceedings thereon, and shall not sit or vote in the Legislative Assembly until the Legislative Assembly has been informed of the report on the petition.

(2) The Judge shall in all cases in which notice referred to in subsection (1) has been given report the same to the Speaker.

174. General costs of petition. (1) All costs, charges and expenses of and incidental to the presentation of a petition and to the proceedings consequent thereon, with the exception of such costs, charges and expenses

as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Judge may determine, regard being had to—

- (a) the disallowance of any costs, charges or expenses that may in the opinion of the Judge have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or the respondent; and
- (b) the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful.

(2) The total amount of costs that may be ordered to be paid by any one party shall not exceed \$1 000.

(3) The costs may be taxed in the prescribed manner, but according to the same principles as costs between solicitor and client are taxed in an action in the Supreme Court, and such costs may be recovered in the same manner as the costs of an action or in such other manner as may be prescribed.

(4) Such taxation shall be subject to review by the Judge.

175. Rules of Court. (1) The Governor in Council, with the concurrence of any two or more Judges of the Supreme Court of whom the Chief Justice shall be one, may from time to time by Order in Council published in the Gazette make all such Rules of Court, not inconsistent with this Act, as may be considered necessary or convenient for regulating the procedure and practice of the Tribunal and for the purpose of giving full effect to this Part.

(2) Without in any way limiting the comprehensiveness and generality of the provisions of subsection (1), the Rules of Court may make provision for or with respect to—

- (a) the practice, procedure and costs of election petitions and references, the trial thereof and the certifying and reporting thereon;
- (b) forms to be used for all matters and proceedings in or before the Tribunal;
- (c) all matters required or permitted by this Part to be prescribed where the method of prescription is not otherwise provided.

(3) Where Rules of Court made under this section do not extend to a particular case, the Judge may in respect of the particular case give such directions as he thinks fit, and those directions shall, according to their tenor, have the same force and effect as Rules of Court made under this section.

(4) Where—

- (a) Rules of Court are made under this section; and

(b) pursuant to section 128, section 28A (1) of the *Acts Interpretation Act 1954-1977* has been complied with in respect of the Order in Council by which the Rules of Court were made,

the other provisions of the said section 28A may, without derogating from the said section 128, be read as if a reference to the term "regulation" were a reference to the term "Rule of Court".

(5) Until repealed or superseded by Rules of Court made under this section, all general rules and orders for the effectual execution of Part VIII of the *Elections Act 1915-1976* that are in force immediately prior to the commencement of this Act shall, on such commencement and so far as the same are not inconsistent with the provisions of this Act, remain in force and shall be deemed to have been made under and for the purposes of this Act, and may be repealed, altered, varied, amended or otherwise modified under this Act.

SCHEDULE

(Section 4)

Year and Number of Act	Short Title	Extent of Repeal
6 Geo. V. No. 13 ..	<i>The Elections Act of 1915</i> ..	The whole
16 Geo. V. No. 21 ..	<i>The Elections Act Amendment Act of 1925</i>	The whole
21 Geo. V. No. 39 ..	<i>The Elections Acts Amendment Act of 1930</i>	The whole
23 Geo. V. No. 23 ..	<i>The Elections Acts Amendment Act of 1932</i>	The whole
1 Edw. VIII. No. 18	<i>The Elections Acts Amendment Act of 1936</i>	The whole
4 Geo. VI. No. 15 ..	<i>The Elections Acts Amendment Act of 1940</i>	The whole
6 Geo. VI. No. 36 ..	<i>The Elections Acts Amendment Act of 1942</i>	The whole
7 Geo. VI. No. 31 ..	<i>The Elections Acts Amendment Act of 1943</i>	The whole
8 Geo. VI. No. 6 ..	<i>The Elections Acts Amendment Act of 1944</i>	The whole

SCHEDULE—continued

Year and Number of Act	Short Title	Extent of Repeal
12 Geo. VI. No. 47 ..	<i>The Elections Acts Amendment Act of 1948</i>	The whole
1 Eliz. II. No. 4 ..	<i>The Elections Acts and The Criminal Code Amendment Act of 1952</i>	Part II
7 Eliz. II. No. 2 ..	<i>The Elections Acts Amendment Act of 1958</i>	The whole
8 Eliz. II. No. 68 ..	<i>The Elections Acts Amendment Act of 1959</i>	The whole
No. 38 of 1962 ..	<i>The Elections Acts Amendment Act of 1962</i>	The whole
No. 59 of 1965 ..	<i>The Elections Acts Amendment Act of 1965</i>	The whole
No. 42 of 1971 ..	<i>Elections Act Amendment Act 1971</i>	The whole
No. 8 of 1973 ..	<i>Elections Act and The Criminal Code Amendment Act 1973</i>	Part II
No. 13 of 1976 ..	<i>Elections Act Amendment Act 1976</i>	The whole