

Queensland



# REFERENDUMS BILL 1996

Queensland



**REFERENDUMS BILL 1996**

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**DICTIONARY**



**1996**

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**A BILL**

**FOR**

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

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**The Parliament of Queensland enacts—**

1

## **PART 1—PRELIMINARY**

2

### **Short title**

3

1. This Act may be cited as the *Referendums Act 1996*.

4

### **Dictionary**

5

2. The dictionary in schedule 3 defines particular words used in this Act.<sup>1</sup>

6

### **Function of the commission**

7

3. The commission has the continuing function of making appropriate administrative arrangements for the conduct of referendums.<sup>2</sup>

8

9

## **PART 2—WRIT FOR A REFERENDUM**

10

### **Writ for a referendum**

11

- 4.(1) The commission must conduct a referendum if the Governor issues a writ for a referendum to the commission under section 5.<sup>3</sup>

12

13

- (2) The commission must conduct the referendum in accordance with the writ and this Act.

14

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<sup>1</sup> In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14(4).

<sup>2</sup> *Electoral Act 1992*, section 8(1)(h) provides for further functions to be conferred on the commission by another Act.

<sup>3</sup> Section 5 (Writ by Governor)

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**Writ by Governor**

- 5.** The Governor may issue a writ for a referendum if—
- (a) a Bill is to be submitted to the electors; or
  - (b) the Legislative Assembly has resolved that a question be submitted to the electors.

**Form and content of writs**

**6.(1)** A writ must be issued—

- (a) for a referendum to submit a Bill to the electors—in form 1; or
- (b) for a referendum to submit a question to the electors—in form 2.

**(2)** A writ must state the following—

- (a) the day of its issue;
- (b) the cut-off day for electoral rolls for the referendum, which must be not less than 5 days, or more than 7 days, after its issue;
- (c) the polling day for the referendum, which must be a Saturday not less than 26 days, or more than 70 days, after its issue;
- (d) the return day for the writ, which must be not more than 91 days after its issue.

**(3)** For deciding the cut-off day, polling day or return day, that day and the day of issue of the writ are both to be included in any number of days specified in subsection (2)(b) to (d).

**(4)** Subsection (3) applies despite the *Acts Interpretation Act 1954*, section 38.

**(5)** Subsection (2)(c) applies subject to another Act<sup>4</sup> that has specific provision for the time for taking a poll for a particular referendum.

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<sup>4</sup> See, for example, the *Constitution Act 1867*, section 53 and the *Constitution Act Amendment Act 1934*, section 3.

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<b>Attachment to writ</b>	1
7. There must be attached to the writ—	2
(a) for a referendum to submit a Bill to the electors—a copy of the Bill; or	3 4
(b) for a referendum to submit a question to the electors—a statement of the question.	5 6
<b>Commission to publish writ and prepare for referendum</b>	7
8. On receiving a writ, the commission must—	8
(a) publish a copy of the writ in the gazette; and	9
(b) advertise the days stated in the writ in other ways the commissioner considers appropriate; and	10 11
(c) give a copy of the writ and the attached Bill or statement of the question to the returning officer of each electoral district; and	12 13
(d) make available for inspection by anyone, without fee, a copy of the writ and the text of the attached Bill or question at offices of the commission and anywhere else the commission considers appropriate; and	14 15 16 17
(e) make appropriate arrangements for the conduct of the referendum.	18 19
<b>Governor's powers for referendum</b>	20
9.(1) The Governor may by gazette notice—	21
(a) substitute a later day for a day stated under section 6(2) in the writ for a referendum, either generally or for a stated electoral district; or	22 23 24
(b) provide for anything to be done to overcome any difficulty that might otherwise affect the referendum.	25 26
<i>Example of subsection (1)(a)—</i>	27
If a writ for a referendum has issued and a writ for an election subsequently issues, the dates mentioned in section 6(2) may be extended to enable the polling day for the referendum and for the election to coincide.	28 29 30

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- (2) A gazette notice substituting a cut-off day for electoral rolls or return day for the writ may be published before, on or after the cut-off day or return day stated in the writ. 1  
2  
3
- (3) A gazette notice substituting a polling day for a referendum— 4
- (a) must be published before the polling day stated in the writ; and 5
- (b) must not substitute a day for the polling day that is more than 6  
21 days after the polling day stated in the writ. 7

### **PART 3—STATEMENTS OF ARGUMENTS** 8

#### **Purpose of part** 9

**10.** This part provides mainly for the way arguments in favour of or against a Bill or question that is to be submitted to electors at a referendum (the “**Bill**” or “**question**”) are authorised by members and distributed or published by the commission. 10  
11  
12  
13

#### **When must an argument in favour of or against the Bill or question be published** 14 15

**11.(1)** An argument in favour of or against the Bill must be distributed or published by the commission under section 12<sup>5</sup> if the argument is— 16  
17

(a) not more than 1 000 words; and 18

(b) authorised by— 19

(i) for an argument in favour of the Bill—a majority of the 20  
members who voted for the Bill and wish to forward the 21  
argument to the commission; or 22

(ii) for an argument against the Bill—a majority of the members 23  
who voted against the Bill and wish to forward the argument 24  
to the commission; and 25

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<sup>5</sup> Section 12 (How an argument for or against the Bill or question is distributed or published)

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(c) forwarded to the commission by members within 4 weeks after the passage of the Bill.	1 2
(2) An argument in favour of or against the question must be distributed or published by the commission under section 12 if the Legislative Assembly resolves that the question be submitted to the electors and the argument is—	3 4 5 6
(a) not more than 1 000 words; and	7
(b) authorised by—	8
(i) for an argument in favour of a ‘yes’ answer to the question—a majority of the members who voted in favour of the ‘yes’ answer and wish to forward the argument to the commission; or	9 10 11 12
(ii) for an argument in favour of a ‘no’ answer to the question—a majority of the members who voted against the ‘yes’ answer and wish to forward the argument to the commission.	13 14 15 16
(c) forwarded to the commission by members within 4 weeks after the Assembly’s resolution.	17 18
<b>How an argument for or against the Bill or question is distributed or published</b>	19 20
<b>12.(1) If—</b>	21
(a) an argument is forwarded to the commission under section 11; <sup>6</sup> and	22 23
(b) a majority of the members who authorised the argument ask the commission to post the argument to each elector;	24 25
the commission must, not later than 14 days before the polling day for the referendum, print and post to each elector a pamphlet containing the argument and, if another argument was forwarded to the commission under section 11, the other argument.	26 27 28 29

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<sup>6</sup> Section 11 (When must an argument in favour of or against the Bill or question be published)

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(2) If a request is not made under subsection (1), the commission must publish any argument forwarded to it under section 11 at least twice before the polling day for the referendum in at least 2 newspapers circulating throughout the State, including on the day before the polling day.

(3) If more than 1 argument is required to be published under subsection (2), the arguments must be published in the same newspapers at the same time.

(4) If more than 1 argument is published in the same pamphlet or newspaper, the format and printing style used must not unfairly favour 1 argument.

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

**13.(1)** This section applies if more than 1 referendum is to be held on the same day.

(2) All arguments required to be published under section 12(1) or (2) in a pamphlet or newspapers must be published in the same pamphlet or newspapers at the same time.

(3) An argument in favour of a particular Bill or question may be more than 1 000 words if the average number of words for all arguments in favour of the Bills and questions is not more than 1 000.

(4) An argument against a particular Bill or question may be more than 1 000 words if the average number of words for all arguments against the Bills and questions is not more than 1 000.

(5) Subsections (3) and (4) have effect despite section 11(1)(a) or section 11(2)(a).

**Limitation on expenditure by State**

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

- (a) to prepare and publish a newspaper notice under section 12(2);  
and
- (b) to prepare, print and distribute pamphlets under section 12(1), or

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- 
- prepare, print and distribute the pamphlets in languages other than English; and 1  
2
- (c) to enable the commission to provide other publications or information about the Bill or question; and 3  
4
- (d) to provide for the salaries and allowances of members and their staff and of officers of the public service. 5  
6

## **PART 4—VOTING AND CONDUCT OF REFERENDUMS**

7  
8

### *Division 1—Arrangements for referendums*

9

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

10

**15.(1)** The commission must ensure that appropriate polling booths are established for electoral districts for referendums. 11  
12

**(2)** In deciding the number, kind and location of polling booths, the commission must take into account, in addition to any other relevant matters, the desirability of the booths being— 13  
14  
15

- (a) the same as polling booths for the *Electoral Act 1992*; and 16
- (b) accessible to electors with disabilities. 17

**(3)** The commission must ensure that each polling booth is provided with an adequate number of voting compartments and ballot papers. 18  
19

**(4)** The commission must for each referendum advertise the location and hours of opening of all polling booths in the ways the commission considers appropriate. 20  
21  
22

**(5)** The commission must not— 23

- (a) establish a polling booth on the polling day for a referendum; or 24
- (b) abolish a previously established ordinary polling booth during the period starting when the writ for a referendum is issued and ending on the polling day, unless it is necessary to do so for 25  
26  
27

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circumstances beyond the commission's control.	1
(6) The commission must advertise the establishment and abolition of ordinary polling booths in—	2 3
(a) the gazette; and	4
(b) the other ways the commission considers appropriate.	5
(7) The commission must ensure that—	6
(a) electors are allowed to enter ordinary polling booths between 8 a.m. and 6 p.m. on the polling day and to stay until they have voted; and	7 8 9
(b) electors mentioned in section 16(4) and (6) are allowed to enter mobile polling booths, at times decided in writing by the commission, during the period referred to in the subsections and to stay until they have voted.	10 11 12 13
<b>Kinds of polling booths</b>	14
<b>16.(1)</b> There are 2 kinds of polling booths—	15
(a) ordinary polling booths; and	16
(b) mobile polling booths.	17
<b>(2)</b> An ordinary polling booth is a building or other structure, or a part of a building or other structure, that the commission arranges to be available on the polling day for a referendum to enable electors in general to vote.	18 19 20
<b>(3)</b> A mobile polling booth is—	21
(a) an institution declared under subsection (4) to be a mobile polling booth; or	22 23
(b) the whole or part of a building, structure, vehicle or place made available as a mobile polling booth under subsection (6).	24 25
<b>(4)</b> If the commission considers that patients, residents or inmates of an institution should be able to vote at the institution at times (decided by the commission) during the period starting 11 days before the polling day and ending at 6 p.m. on the polling day, the commission may, by gazette notice, declare the institution to be a mobile polling booth for the referendum.	26 27 28 29 30
<b>(5)</b> If the commission declares the institution to be a mobile polling	31



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booth, the person in charge of the institution must allow access by members of the commission's staff, and by patients, residents or inmates of the institution, to enable voting to take place at the referendum.

(6) If the commission considers that an area is too remote to have enough electors to justify an ordinary polling booth, the commission may arrange for the whole or part of a building, structure, vehicle or place to be available as a mobile polling booth, at times (decided by the commission) during the period starting 11 days before the polling day and ending at 6 p.m. on the polling day, for electors in the area to vote at the referendum.

**Adjournment of poll at polling booth**

**17.(1)** A returning officer may adjourn the poll at a polling booth if the taking of the poll is, or is likely to be, interrupted or obstructed by—

- (a) storm, tempest, flood, fire or a similar happening; or
- (b) riot or open violence.

(2) If the poll is adjourned, the commission may fix a day (not later than 34 days after the polling day) for the taking of the adjourned poll.

(3) The commission must give notice of the day fixed for the taking of the adjourned poll in—

- (a) the gazette; and
- (b) the other ways the commission considers appropriate.

(4) If an adjourned poll is held, only electors who are enrolled in the electoral district for which the polling booth is established and who have not already voted, are entitled to vote.

(5) If a poll is adjourned under subsection (1) and the commission is satisfied that the number of votes likely to be cast at the polling booth will not affect the overall referendum result, the commission may abandon the poll at the polling booth.

(6) The adjourned poll is taken to have been held on the polling day.

**Supply of ballot papers and electoral rolls**

**18.(1)** The commission must ensure that a sufficient number of ballot

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papers, and certified copies of the electoral rolls for each electoral district (as at the cut-off day for electoral rolls for a referendum), are available for the referendum at polling places. 1  
2  
3

**(2)** Ballot papers must— 4

(a) be in form 3 for a referendum to submit a Bill to the electors or form 4 for a referendum to submit a question to the electors; and 5  
6

(b) be of a material and opacity that, when folded, effectively conceals the way the elector voted; and 7  
8

(c) be attached to a butt that— 9

(i) is not part of the ballot paper; and 10

(ii) is perforated in a way that allows the ballot paper to be easily detached from it; and 11  
12

(iii) is numbered in a regular arithmetical sequence starting at 1; and 13  
14

(d) contain a square opposite the words ‘YES’ and ‘NO’. 15

**(3)** If 2 or more referendums are held on the same day, the ballot papers for each referendum must be printed on 1 piece of paper and must be in form 5. 16  
17  
18

**Scrutineers** 19

**19.(1)** Each member may, by notice given to a member of the commission’s staff, appoint adults as scrutineers for a referendum. 20  
21

**(2)** Scrutineers are entitled to be present in each ordinary polling booth, each mobile polling booth, and each office staffed by an issuing officer, at times when electors are allowed to vote at the place. 22  
23  
24

**(3)** Scrutineers are also entitled to be present— 25

(a) beforehand at polling places to inspect ballot boxes; and 26

(b) afterwards at polling places and elsewhere to observe the examination of declaration envelopes and the counting of votes. 27  
28

**(4)** At a polling place during times when electors are allowed to vote and beforehand, each member is entitled to have 1 scrutineer present for each issuing officer at the place. 29  
30  
31

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- (5) At the examination of declaration envelopes and the counting of votes, each member is entitled to have 1 scrutineer present for each member of the commission's staff at the place. 1  
2  
3
- (6) A scrutineer may— 4
- (a) object to the entitlement of a person to vote at the referendum; or 5
  - (b) do anything else permitted by this Act. 6
- (7) Issuing officers at a polling place must, before voting starts, allow scrutineers to inspect the ballot boxes that are to be used for voting at the place. 7  
8  
9
- (8) Each scrutineer must carry adequate identification to show that the person is a scrutineer. 10  
11
- (9) Each member is taken to be a scrutineer under this Act. 12

**Correction of errors** 13

20.(1) If there is a delay, error or omission in or in relation to the preparation, issue or return of any writ, it may be corrected by gazette notice by the Governor stating what is to be done. 14  
15  
16

(2) If there is a delay, error or omission in or in relation to the preparation, issue, sending or return of any electoral roll, ballot paper or other document (apart from a writ), it may be corrected by a gazette notice by the commission stating what is to be done. 17  
18  
19  
20

***Division 2—Who may vote at a referendum*** 21**Who may vote** 22

- 21.(1) The following persons are the only persons who are entitled to vote at a referendum— 23  
24
- (a) persons enrolled on the electoral roll for an electoral district; 25
  - (b) persons who are not enrolled, but are entitled to be enrolled on the electoral roll for an electoral district because of the *Electoral Act 1992*, section 64(1)(a)(ii); 26  
27  
28
  - (c) persons whose names are not on the electoral roll for an electoral 29

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district because of official error.	1
(2) A person is not entitled to vote more than once at a referendum.	2
<b><i>Division 3—How voting takes place at a referendum</i></b>	3
<b><i>Subdivision 1—Ordinary voting</i></b>	4
<b>Procedure for voting</b>	5
22.(1) An elector (other than one who makes or must make a declaration vote under subdivision 2) is to vote by following the procedures stated in this section.	6 7 8
(2) The elector is to enter—	9
(a) if the vote is to be taken at an ordinary polling booth—an ordinary polling booth established for the electoral district for which the elector is enrolled during ordinary voting hours; or	10 11 12
(b) if the vote is to be taken at a mobile polling booth declared for an institution or arranged for an area—the mobile polling booth during the times decided by the commission under section 15(7)(b).	13 14 15 16
(3) In the polling booth, the elector is to request a ballot paper from an issuing officer.	17 18
(4) If the elector has a ballot paper and declaration envelope for the referendum given to the elector under section 30 <sup>7</sup> and does not intend to make a declaration vote under subdivision 2, the elector must give the ballot paper and declaration envelope to the issuing officer.	19 20 21 22
(5) The issuing officer must issue a ballot paper to a person who asks for a ballot paper only if the issuing officer is satisfied that the person is enrolled in the electoral district.	23 24 25
(6) The issuing officer may question a person requesting a ballot paper to decide whether the person is enrolled in the electoral district.	26 27

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<sup>7</sup> Section 30 (Making a declaration vote using posted referendum papers)

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- (7) If, after asking questions under subsection (6), the issuing officer suspects that a person claiming to be a particular elector is not the elector, the issuing officer must comply with section 32.<sup>8</sup> 1  
2  
3
- (8) The issuing officer must keep a record of all persons to whom the officer issues ballot papers under this section. 4  
5
- (9) The issuing officer must, if a scrutineer requests it, keep a record of an objection by the scrutineer to the entitlement of a person to vote. 6  
7
- (10) On being given the ballot paper, the elector must, without delay— 8
- (a) go alone to an unoccupied voting compartment in the polling booth; and 9  
10
  - (b) there, in private, mark a vote on the ballot paper in accordance with section 33;<sup>9</sup> and 11  
12
  - (c) fold the ballot paper to conceal the vote and put it in a ballot box in the polling booth; and 13  
14
  - (d) leave the polling booth. 15
- Help to enable electors to vote at polling booths** 16
- 23.(1)** If an elector satisfies an issuing officer that the elector is unable to vote without help, the elector may be accompanied in the polling booth by another person chosen by the elector. 17  
18  
19
- (2) The other person may help the elector, but only in the following ways— 20  
21
- (a) by acting as an interpreter; 22
  - (b) by explaining the ballot paper and the requirements of section 33 relating to its marking; 23  
24
  - (c) by marking, or helping the elector to mark, the ballot paper in the way the elector wishes; 25  
26
  - (d) by folding the ballot paper and putting it in the ballot box. 27
- (3) If an elector (including an elector who makes or must make a 28

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<sup>8</sup> Section 32 (Making a declaration vote in cases of uncertain identity)

<sup>9</sup> Section 33 (How electors must vote)

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declaration vote)—	1
(a) is unable to enter a polling booth because of illness, disability or advanced pregnancy; and	2 3
(b) is able to come to a place (the “ <b>voting place</b> ”) close to the polling booth;	4 5
the issuing officer may perform the issuing officer’s functions and the elector may vote at the voting place as if it were the polling booth.	6 7
<b>(4)</b> However, the issuing officer must—	8
(a) before taking any action under subsection (3), inform any scrutineers present of the proposed action; and	9 10
(b) allow only 1 scrutineer for each member to be present at the voting place; and	11 12
(c) ensure that, after the ballot paper is marked, it is—	13
(i) folded to conceal the vote; and	14
(ii) put into an envelope and sealed; and	15
(d) if the elector has made an ordinary vote—open the envelope inside the polling booth in the presence of any scrutineers and put the folded ballot paper in a ballot box.	16 17 18
 <b>Help to enable electors to vote at hospitals</b>	 19
<b>24.(1)</b> If a polling booth is a hospital or part of a hospital, an issuing officer may visit patients in the hospital or the part of the hospital to enable them to vote.	20 21 22
<b>(2)</b> When visiting a patient, the issuing officer must—	23
(a) take to the patient—	24
(i) a ballot paper or a ballot paper and declaration envelope; and	25
(ii) a ballot box; and	26
(iii) anything else necessary to enable the patient to vote; and	27
(b) if a scrutineer wishes—be accompanied by the scrutineer.	28

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(3) The issuing officer must ensure that, so far as reasonably practicable, section 22<sup>10</sup> is complied with when the patient votes.

***Subdivision 2—Declaration voting***

**Who may make a declaration vote**

**25.(1)** The following electors may make a declaration vote—

- (a) an elector who is an ordinary postal voter, under subsection (2);
- (b) an elector who is a special postal voter;<sup>11</sup>
- (c) an elector who is an electoral visitor voter under subsection (4).<sup>12</sup>

**(2)** The following electors are ordinary postal voters for this Act—

- (a) an elector who will not, throughout ordinary voting hours on the polling day for the referendum, be within 8 km, by the nearest practicable route, of a polling booth;
- (b) an elector who will, throughout ordinary voting hours on the polling day for the referendum, be working or travelling under conditions that prevent voting at a polling booth;
- (c) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
- (d) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth;
- (e) an elector who will, because of membership of a religious order or because of religious beliefs, be prevented from voting at a polling booth for all, or the majority, of ordinary voting hours on the polling day for the referendum;
- (f) an elector who will be serving a sentence of imprisonment, or otherwise be under detention, on the polling day for the

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<sup>10</sup> Section 22 (Procedure for voting)

<sup>11</sup> See subsection (3) and the *Electoral Act 1992*, section 105.

<sup>12</sup> See subsection (4) and the *Electoral Act 1992*, section 105.

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referendum.	1
(3) An elector is a special postal voter for this Act if the elector would be a special postal voter for an election under the <i>Electoral Act 1992</i> .	2 3
(4) The following electors are electoral visitor voters for this Act—	4
(a) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;	5 6
(b) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth.	7 8 9
<b>Who must make a declaration vote</b>	10
26.(1) The following electors must make a declaration vote—	11
(a) an elector who wishes to vote by going to a polling booth on the polling day for the referendum outside the electoral district for which the elector is enrolled;	12 13 14
(b) an elector whose name is not on the electoral roll for an electoral district because of an official error;	15 16
(c) an elector to whom section 21(1)(b) applies;	17
(d) an elector who appears from a record made in error to have already voted in the referendum for any electoral district;	18 19
(e) an elector who is given a ballot paper and declaration envelope under section 32. <sup>13</sup>	20 21
(2) However, if an elector wishes to vote at a joint polling booth on the polling day outside the electoral district for which the elector is enrolled (the “ <b>elector’s district</b> ”), the elector may make an ordinary vote at the joint polling booth if it is also established by the commission as a polling booth for the elector’s district.	22 23 24 25 26
(3) In this section—	27
“ <b>joint polling booth</b> ” means a polling booth established by the commission as a polling booth for more than 1 electoral district.	28 29

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<sup>13</sup> Section 32 (Making a declaration vote in cases of uncertain identity)



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<b>Ways in which an elector may make a declaration vote</b>	1
<b>27.(1)</b> An elector who may or must make a declaration vote must do so by—	2 3
(a) if the elector is unable to enter a polling booth because of illness, disability or advanced pregnancy—going to a place close to a polling booth and voting under section 23(3); or	4 5 6
(b) going during voting hours to a polling booth in an electoral district and following the procedures stated in section 28; <sup>14</sup> or	7 8
(c) going to an office staffed by an issuing officer before the polling day for the referendum and following the procedures stated in section 29; <sup>15</sup> or	9 10 11
(d) if the person is a postal voter—using the ballot paper and declaration envelope that have been posted to the elector under section 30 and following the procedures stated in section 30; <sup>16</sup> or	12 13 14
(e) if the person is an electoral visitor voter—voting before an electoral visitor following the procedures stated in section 31. <sup>17</sup>	15 16
<b>(2)</b> This section is subject to section 32. <sup>18</sup>	17
 <b>Making a declaration vote at a polling booth</b>	 18
<b>28.(1)</b> An elector who may or must make a declaration vote may enter a polling booth during voting hours in an electoral district and ask for a ballot paper and declaration envelope from an issuing officer.	19 20 21
<b>(2)</b> The issuing officer must comply with the request, unless the issuing officer is satisfied that the elector is enrolled for the electoral district for which the polling booth is established.	22 23 24
<b>(3)</b> The issuing officer must keep a record of all persons to whom the officer gives a ballot paper and declaration envelope under this section.	25 26

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<sup>14</sup> Section 28 (Making a declaration vote at a polling booth)

<sup>15</sup> Section 29 (Making a declaration vote at a commission office)

<sup>16</sup> Section 30 (Making a declaration vote using posted referendum papers)

<sup>17</sup> Section 31 (Electoral visitor voting)

<sup>18</sup> Section 32 (Making a declaration vote in cases of uncertain identity)

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- (4) The issuing officer must, if a scrutineer requests it, record on the declaration envelope an objection by the scrutineer to the right of the person to vote. 1  
2  
3
- (5) On being given the ballot paper and declaration envelope, the elector must, without delay— 4  
5
- (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and 6  
7  
8
- (b) go alone to an unoccupied voting compartment in the polling booth; and 9  
10
- (c) there, in private, mark a vote on the ballot paper in accordance with section 33;<sup>19</sup> and 11  
12
- (d) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling booth; and 13  
14
- (e) leave the polling booth. 15
- (6) Sections 23 and 24 apply to the making of a vote under this section in the same way, with any necessary changes, as they apply to the making of a vote under section 22.<sup>20</sup> 16  
17  
18

**Making a declaration vote at a commission office** 19

- 29.(1)** An elector who wishes to make a declaration vote may go to an office staffed by an issuing officer no later than 6 p.m. on the day before the polling day for the referendum and ask for a ballot paper and declaration envelope from the officer. 20  
21  
22  
23
- (2) The officer must comply with the request. 24
- (3) On being given the ballot paper and declaration envelope, the elector must without delay— 25  
26
- (a) sign the appropriate declaration on the declaration envelope before 27

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<sup>19</sup> Section 33 (How electors must vote)

<sup>20</sup> Section 22 (Procedure for voting)  
Section 23 (Help to enable electors to vote at polling booths)  
Section 24 (Help to enable electors to vote at hospitals)

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- 
- the issuing officer and have the officer sign the envelope as witness; and 1  
2
- (b) mark a vote on the ballot paper in accordance with section 33;<sup>21</sup> 3  
and 4
- (c) place the ballot paper in the envelope and seal the envelope; and 5
- (d) give the envelope to the officer; and 6
- (e) leave the office. 7
- (4) The issuing officer must send the envelope to the appropriate 8  
returning officer or put the envelope in a ballot box at the office. 9
- (5) Despite subsection (4), if the elector satisfies the issuing officer that 10  
the elector is unable to vote without help, a person chosen by the elector 11  
may help the elector, but only in the following ways— 12
- (a) by acting as an interpreter; 13
- (b) by explaining the ballot paper and the requirements of section 33 14  
about its marking; 15
- (c) by marking, or helping the elector to mark, the ballot paper in the 16  
way the elector wishes; 17
- (d) by placing the ballot paper in the declaration envelope and sealing 18  
the ballot envelope; 19
- (e) by giving the envelope to the officer. 20
- (6) A declaration vote may be made under this section no earlier than the 21  
day appointed by the commission by gazette notice. 22

**Making a declaration vote using posted referendum papers** 23

**30.(1)** An elector who is an ordinary postal voter may, by writing signed 24  
by the elector and posted or sent by facsimile to the commission or 25  
returning officer for the electoral district for which the elector is enrolled, 26  
ask for a ballot paper and declaration envelope. 27

**(2)** If the request is received not later than 6 p.m. on the Thursday before 28  
the polling day for the referendum, the commission or returning officer 29

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<sup>21</sup> Section 33 (How electors must vote)

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- must post a ballot paper and declaration envelope to the elector. 1
- (3) The commission must, as soon as practicable after the issue of the writ for a referendum, post a ballot paper and declaration envelope to each special postal voter. 2  
3  
4
- (4) Returning officers and the commission must keep a record of all ballot papers and declaration envelopes posted under this section. 5  
6
- (5) On receiving the ballot paper and declaration envelope, the elector must— 7  
8
- (a) sign the appropriate declaration on the declaration envelope before another elector or a person approved by the commission for this paragraph and have the other elector or person sign the envelope as witness; and 9  
10  
11  
12
  - (b) mark a vote on the ballot paper in accordance with section 33;<sup>22</sup> and 13  
14
  - (c) place the ballot paper in the envelope and seal the envelope; and 15
  - (d) either— 16
    - (i) give the envelope to a member of the commission’s staff at an office of the commission before the polling day or at a polling booth on the polling day; or 17  
18  
19
    - (ii) post the envelope, or give it to another person to post, to the commission or the returning officer. 20  
21
- (6) If the elector is unable to vote without help, another person may help by doing any of the things mentioned in subsection (5)(b) to (d) for the elector. 22  
23  
24
- (7) A member of the commission’s staff who is given an envelope under subsection (5)(d)(i) must— 25  
26
- (a) if it is given before the polling day—send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office; or 27  
28  
29
  - (b) if it is given on the polling day—put the envelope in a ballot box at the polling booth. 30  
31

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<sup>22</sup> Section 33 (How electors must vote)

*Referendums***Electoral visitor voting**

**31.(1)** An elector who is an electoral visitor voter may, by writing signed by the elector and posted or sent by facsimile to the commission or the returning officer for the electoral district for which the elector is enrolled, ask to vote as an electoral visitor voter.

**(2)** If the request is received not later than 6 p.m. on the Thursday before the polling day for the referendum, the commission or the returning officer must ensure that an issuing officer visits the elector to enable the person to vote.

**(3)** The issuing officer must visit the elector at a reasonable hour—

- (a) before the polling day; or
- (b) before 6 p.m. on the polling day.

**(4)** When visiting the elector, the issuing officer must—

- (a) take to the elector—
  - (i) a ballot paper; and
  - (ii) a ballot box; and
  - (iii) anything else necessary to enable the elector to vote; and
- (b) if a scrutineer wishes—be accompanied by the scrutineer.

**(5)** The issuing officer must ensure, as far as practicable, section 22<sup>23</sup> is complied with when the elector votes.

**(6)** The elector may ask a person to help the elector, but only in the following ways—

- (a) by acting as an interpreter;
- (b) by explaining the ballot paper and the requirements of section 33<sup>24</sup> about its marking;
- (c) by marking, or helping the elector to mark, the ballot paper in the way the elector wishes;

<sup>23</sup> Section 22 (Procedure for voting)

<sup>24</sup> Section 33 (How electors must vote)

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(d) by folding the ballot paper and putting it in the ballot box.	1
(9) The elector may make an ordinary vote or declaration vote.	2
<b>Making a declaration vote in cases of uncertain identity</b>	3
<b>32.(1)</b> If an issuing officer suspects, as mentioned in section 22(7), that a person claiming to be a particular elector is not the elector, this section applies.	4 5 6
(2) The issuing officer must give the person a declaration envelope.	7
(3) The declaration envelope must have on it the following questions—	8
(a) ‘Are you the same person whose name appears as [ <i>here the issuing officer must write the name of the particular elector and the number appearing on the electoral roll for the name</i> ]?’	9 10 11
(b) ‘Have you already voted, either here or elsewhere, at this referendum?’	12 13
(4) The person must write answers to the questions on the envelope, sign the envelope and have the signature witnessed by the issuing officer.	14 15
(5) The issuing officer must keep the envelope and tell the person that he or she is not entitled to vote, if the person does not answer the questions or answers in either or both of the following ways—	16 17 18
(a) in the negative to the question in subsection (3)(a);	19
(b) in the affirmative to the question in subsection (3)(b).	20
(6) The person must then leave the polling place.	21
(7) If subsection (5) does not apply, the issuing officer must give the person a ballot paper.	22 23
(8) The person must, without delay—	24
(a) go alone to an unoccupied voting compartment at the polling place; and	25 26
(b) there, in private, mark a vote on the ballot paper in accordance with section 33; <sup>25</sup> and	27 28

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<sup>25</sup> Section 33 (How electors must vote)

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- (c) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling place; and 1  
2
- (d) leave the polling place. 3
- (9) Sections 23 and 24 apply to the making of a vote under this section in the same way, with any necessary changes, as they apply to the making of a vote under section 22.<sup>26</sup> 4  
5  
6

*Subdivision 3—Marking of ballot papers* 7**How electors must vote** 8

- 33.(1)** An elector must vote in accordance with subsections (2) or (3). 9
- (2) If the elector approves of the Bill or question submitted to electors at the referendum, the elector may— 10  
11
- (a) place a tick  in the space provided opposite the word ‘YES’ in the space provided on the ballot paper; or 12  
13
- (b) write the word ‘YES’ in the square opposite the word ‘YES’ on the ballot paper; or 14  
15
- (c) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter approves of the Bill or question. 16  
17  
18
- (3) If the elector does not approve of the Bill or question, the elector may— 19  
20
- (a) place a tick  in the space provided opposite the word ‘NO’ in the space provided on the ballot paper; or 21  
22
- (b) write the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or 23  
24
- (c) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter does not approve of the Bill or question. 25  
26  
27

<sup>26</sup> Section 22 (Procedure for voting)  
Section 23 (Help to enable electors to vote at polling booths)  
Section 24 (Help to enable electors to vote at hospitals)

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<b>Formal and informal ballot papers</b>	1
<b>34.(1)</b> For a ballot paper to have effect to indicate a vote—	2
(a) the ballot paper must contain writing that is in accordance with section 33; <sup>27</sup> and	3 4
(b) the ballot paper must not contain any writing or mark by which the elector can be identified; and	5 6
(c) the ballot paper must have been put into a ballot box as required by this Act; and	7 8
(d) if the ballot paper was put into a declaration envelope as required by this Act—the envelope must have been signed, and the signature must have been witnessed, as required by this Act.	9 10 11
<b>(2)</b> Subsection (1)(d) does not apply to the witnessing of a signature if—	12
(a) the person required to witness the signature was a member of the commission’s staff; and	13 14
(b) the person certifies in writing to the returning officer that the envelope was signed by the elector concerned.	15 16
<b>(3)</b> If a ballot paper has effect to indicate a vote, it is a formal ballot paper.	17 18
<b>(4)</b> If a ballot paper does not have effect to indicate a vote, it is an informal ballot paper.	19 20
<i>Division 4—Counting of votes</i>	21
<b>Votes to be counted in accordance with division</b>	22
<b>35.</b> Votes in a referendum are to be counted in accordance with this division.	23 24
<b>Preliminary processing of declaration envelopes and ballot papers</b>	25
<b>36.(1)</b> The commission or the returning officer for each electoral district	26

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<sup>27</sup> Section 33 (How electors must vote)



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must ensure that members of the commission's staff examine all  
 declaration envelopes received by the commission or returning officer to  
 decide whether the ballot papers in them are to be accepted for counting.

(2) A ballot paper must be accepted for counting only if the person  
 examining the declaration envelope is satisfied that—

- (a) the elector concerned was entitled to vote at the referendum; and
- (b) the declaration was signed and witnessed before the end of voting  
 hours on the polling day for the referendum; and
- (c) if the declaration on the envelope was witnessed by a person other  
 than a member of the commission's staff—the signature on the  
 envelope corresponds with the signature in the request and the  
 requirements of section 30(5)(d) were complied with; and
- (d) if the ballot paper is in a declaration envelope received by  
 post—the envelope was received within 10 days after the polling  
 day for the referendum.

(3) If the ballot paper is accepted, the person must take it out of the  
 envelope and, without unfolding it or allowing another person to unfold it,  
 put it in—

- (a) if the envelope was received by the returning officer and not sent  
 to the commission to be dealt with under this section—a sealed  
 ballot box; and
- (b) if the envelope was received by the commission—a sealed ballot  
 box in which ballot papers for the appropriate electoral district,  
 and no other ballot papers, are placed.

(4) If a declaration envelope received by a returning officer is for a  
 different electoral district, it must be sent to the commission or the  
 appropriate returning officer without being examined under this section.

(5) If a declaration envelope is received by an office of the commission,  
 it must be sent to the returning officer for the district for which the elector is  
 enrolled without being examined under this section.

(6) Members of the commission's staff must also seal up in separate  
 parcels, and keep, all unopened envelopes and all opened envelopes.

(7) The commission or returning officer must take reasonable steps to  
 advise all members of the times when, and places where, declaration

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envelopes will be examined under this section.	1
(8) In this section—	2
“ <b>member</b> ” means a member of the Legislative Assembly on the day the writ for the referendum is issued.	3 4
<b>Preliminary and official counting of votes</b>	5
37. The commission must arrange for votes to be counted—	6
(a) on the polling day for the referendum—in accordance with section 38; <sup>28</sup> and	7 8
(b) after the polling day for the referendum—in accordance with section 39. <sup>29</sup>	9 10
<b>Preliminary counting of ordinary votes</b>	11
38.(1) As soon as practicable after the end of ordinary voting hours on the polling day for the referendum, the member of the commission’s staff in charge of a polling booth must ensure the commission’s staff at the polling place follow the procedures stated in subsection (2).	12 13 14 15
(2) The staff must—	16
(a) open all ballot boxes from the polling booth; and	17
(b) identify and keep separately all declaration envelopes; and	18
(c) identify and keep separately all informal ballot papers that are not in declaration envelopes; and	19 20
(d) arrange all yes votes and no votes not in declaration envelopes; and	21 22
(e) count the yes votes, no votes and informal ballot papers; and	23
(f) prepare and sign a statement stating—	24
(i) the number of yes votes; and	25

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<sup>28</sup> Section 38 (Preliminary counting of ordinary votes)

<sup>29</sup> Section 39 (Official counting of votes)

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(ii) the number of no votes; and	1
(iii) the number of informal ballot papers; and	2
(g) advise the returning officer for the appropriate electoral district of the contents of the statement; and	3 4
(h) when the counting is completed—	5
(i) if the poll was for 1 referendum—make up all ballot papers into separate sealed parcels for all informal ballot papers, all ballot papers containing a yes vote, and all ballot papers containing a no vote; or	6 7 8 9
(ii) if the poll was for more than 1 referendum—make up all ballot papers into separate sealed parcels in the way the commission directs; and	10 11 12
(i) write on each parcel a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and	13 14 15
(j) send the parcels and the statements mentioned in paragraph (f) to the returning officer for the appropriate electoral district.	16 17
 <b>Official counting of votes</b>	 18
<b>39.(1)</b> As soon as practicable after the polling day for the referendum, the returning officer for each electoral district must ensure that the commission’s staff follow the procedures stated in this section.	19 20 21
<b>(2)</b> Firstly, the staff must—	22
(a) open all ballot boxes for the electoral district that have not previously been opened; and	23 24
(b) identify all declaration envelopes and keep those for different electoral districts in separate parcels; and	25 26
(c) seal up each parcel of envelopes for an electoral district other than the returning officer’s electoral district, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and	27 28 29 30
(d) send the parcels to the returning officer for the appropriate electoral district.	31 32

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<b>(3) Secondly, the staff must—</b>	1
(a) open all sealed parcels of ballot papers sent to the returning officer under section 38; <sup>30</sup> and	2 3
(b) arrange all yes votes, no votes and informal ballot papers not in declaration envelopes; and	4 5
(c) count the yes votes, no votes and informal ballot papers.	6
<b>(4) Thirdly, the staff must—</b>	7
(a) open all ballot boxes on hand in which ballot papers from declaration envelopes have been placed under section 36(3); and	8 9
(b) arrange all yes votes, no votes and informal ballot papers; and	10
(c) count the yes votes, no votes and informal ballot papers; and	11
(d) reapply paragraphs (a) to (c) as more ballot papers are placed in ballot boxes under section 36(3), until there are no more ballot papers required to be placed in ballot boxes under that section.	12 13 14
 <b>Objections by scrutineers</b>	 15
<b>40.(1)</b> If, while a member of the commission’s staff is complying with section 38 or 39, <sup>31</sup> a scrutineer objects to the staff member’s treatment of a ballot paper as informal, the staff member must mark on the back of it ‘formal’ or ‘informal’ according to whether the staff member’s decision is to treat it as formal or informal.	16 17 18 19 20
<b>(2)</b> If, while a member of the commission’s staff is complying with section 38 or 39, a scrutineer objects to the counting of a ballot paper as a yes vote or a no vote, the staff member must mark on the back of the relevant ballot paper whether the ballot paper has been counted as a yes vote or a no vote or rejected as informal.	21 22 23 24 25
 <b>Recounting of votes</b>	 26
<b>41.(1)</b> At any time before the writ is returned to the Governor, the	27

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<sup>30</sup> Section 38 (Preliminary counting of ordinary votes)

<sup>31</sup> Section 39 (Official counting of votes)

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commission may direct the returning officer, or another member of the commission's staff, to recount some or all of the ballot papers for the referendum.

(2) A person carrying out a recount of ballot papers must, so far as practicable, ensure the requirements of section 39<sup>32</sup> are complied with.

(3) A returning officer or an assistant returning officer must act in accordance with any directions given by the commission.

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

**42.(1)** As soon as practicable after the result of the count under section 39 (including that section as applied under section 41<sup>33</sup>) for a referendum, the returning officer for the electoral district must notify the commission of—

- (a) the total number of yes votes;
- (b) the total number of no votes;
- (c) the total number of informal ballot papers.

(2) A returning officer must not delay complying with subsection (1) because ballot papers have not been received if it is clear, on the advice of the commission, the outstanding ballot papers could not possibly affect the referendum result.

(3) However, if more than 1 referendum is held on the same day, a returning officer may delay advising the results of the counts for all referendums if, on the advice of the commission, any outstanding ballot papers could possibly affect the result of 1 or more of the referendums.

**Return of writ for referendum**

**43.(1)** As soon as practicable after the commission has received notice

<sup>32</sup> Section 39 (Official counting of votes)

<sup>33</sup> Section 41 (Recounting of votes)

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under section 42(1) from the returning officers for all electoral districts and before the day for the return of the writ, the commission must comply with subsection (2).

(2) The commission must—

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

(3) Publication in the gazette of the referendum result is evidence of the referendum result.

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

**44.(1)** The commission may, as soon as practicable after a referendum, send a notice to each elector who appears to have failed to vote at the referendum stating the following—

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

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appropriate day;	1
(f) if the elector does not intend paying the penalty by the appropriate day, the elector is required—	2 3
(i) to state, in a form included in or with the notice, whether the elector voted; and	4 5
(ii) if the elector failed to vote, to state in the form the reason for failing to vote; and	6 7
(iii) to give the form to the commission by the appropriate day.	8
(2) The elector must comply with the requirements of the notice.	9
(3) An elector is taken to have complied with the requirements if—	10
(a) the elector is absent or unable, because of physical incapacity, to comply with the requirements of the notice; and	11 12
(b) another elector who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed.	13 14 15
(4) As soon as practicable after a referendum, the commission must send a notice to each person who made a declaration vote under section 26(1)(b), but whose ballot paper was not accepted for counting under section 36(1), advising the person why the ballot paper was not accepted for counting.	16 17 18 19
<b>Payments for failure to vote</b>	20
<b>45.(1)</b> If the commission sends a person a notice under section 44(1) for a referendum and the person makes payment to the commission under the subsection, the commission must—	21 22 23
(a) accept the payment; and	24
(b) give the person a receipt for the payment; and	25
(c) not take any proceeding against the person for failing to vote at the referendum.	26 27
(2) In this section—	28
“ <b>proceeding</b> ” includes serving an infringement notice under the <i>Justices Act 1886</i> , part 4A.	29 30

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

**46.(1)** The commission must keep the following material for a referendum for a period of 2 years after the return of the writ to the Governor—

- (a) ballot papers showing a mark by an elector for the referendum;
- (b) certified copies of electoral rolls;
- (c) declaration envelopes.

**(2)** However, the commission must comply with any order by a court, or any request by the commissioner of the police service, to hand over, allow access to or give copies of any ballot papers or declaration envelopes.

**PART 5—DISPUTED RETURNS****Referendum may be disputed under this division**

**47.(1)** The result of a referendum may be disputed under this part by a petition to the Court of Disputed Returns under this division.

**(2)** The result may not be disputed in any other way.

**Who may dispute the referendum**

**48.** The result of a referendum may be disputed by—

- (a) a member; or
- (b) the commission.

**Requirements for a petition to be effective**

**49.(1)** For a petition to have effect for this division, the requirements of this section must be complied with.

**(2)** The petition must—

- (a) state the facts relied on to dispute the referendum result; and



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- 
- (b) state the order sought from the court; and 1
- (c) be signed by— 2
- (i) for a petition by the commission—the electoral 3  
commissioner; and 4
- (ii) for a petition by a member—the member, before a witness; 5  
and 6
- (d) if paragraph (c)(ii) applies—contain the signature, occupation and 7  
address of the witness. 8
- (3)** The commission or member disputing the referendum result must— 9
- (a) file the petition with the court within 7 days after the day on 10  
which the writ for the referendum is returned as mentioned in 11  
section 43(2)(c); and 12
- (b) when filing the petition, deposit with the court— 13
- (i) \$400; or 14
- (ii) if a greater amount is prescribed under a regulation—that 15  
amount. 16
- (4)** Subsections (1) and (2) do not, by implication, prevent the 17  
amendment of the petition. 18

**Copies of petition to be given to clerk of the Parliament and 19  
commission 20**

- 50.** The staff of the Supreme Court must give a copy of the petition to— 21
- (a) the clerk of the Parliament; and 22
- (b) the commission, unless the commission filed the petition. 23

**Application to court for order relating to documents etc. 24**

**51.(1)** The petitioner may apply to the court for an order requiring the 25  
commission to give the court stated documents and other things held by the 26  
commission in relation to the referendum. 27

**(2)** The court may make the order about the application it considers 28  
appropriate. 29

**Parties to petition**

**52.(1)** The parties to a petition are the person who filed it and any respondent under this section.

**(2)** The commission is a respondent to any petition by another person under this division.

**(3)** The court may join a member, on the member's application, as respondent under this section.

**How petition is to be dealt with by court**

**53.(1)** The court may conduct hearings and other proceedings in relation to the petition.

**(2)** The court must not have regard to legal forms and technicalities, and is not required to apply the rules of evidence.

**(3)** The court must deal with the petition as quickly as is reasonable in the circumstances.

**(4)** In giving effect to subsection (3), the court must use its best efforts to ensure that—

(a) the proceeding begins within 28 days after the petition is filed;  
and

(b) the court's final orders are given within 14 days after the end of the proceeding.

**(5)** Despite subsections (3) and (4), the court must give all parties to the proceeding at least 10 days notice before it begins the proceeding.

**(6)** The rules of court of the Supreme Court may include provision, not inconsistent with this division, about the practices and procedures of the court for this part.

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

*Referendums***Application for dismissal of petition**

**54.(1)** The commission may apply to the court for an order dismissing the petition on the ground that there has been excessive delay by the petitioner in relation to the petition.

**(2)** The court may make the order on the application it considers appropriate.

**Powers of the court**

**55.(1)** The court may make any order or exercise any power in relation to the petition that the court considers just and equitable.

**(2)** The orders may include any of the following—

- (a) an order to the effect that the referendum as conducted is invalid;
- (b) an order to the effect that the referendum result as endorsed on the writ is invalid;
- (c) an order to the effect that the referendum result as endorsed on the writ is reversed;
- (d) an order to dismiss or uphold the petition in whole or part.

**(2)** This section is subject to sections 56 and 57.<sup>34</sup>

**Restrictions on certain orders**

**56.(1)** The court must not make an order mentioned in section 55(2)(a), (b) or (c) because of—

- (a) a delay in complying with the requirements of part 4, division 3, 4 or 5;<sup>35</sup> or
- (b) an absence or error of, or omission by, any member of the commission's staff that appears unlikely to have affected the

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<sup>34</sup> Section 56 (Restrictions on certain orders)  
Section 57 (Restriction on certain evidence and inquiries)

<sup>35</sup> Part 4 (Voting and Conduct of Referendums)  
Division 3 (How voting takes place at a referendum)  
Division 4 (Counting of votes)  
Division 5 (Notifying the results of a referendum)

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referendum result.

(2) In deciding whether the requirements of subsection (1)(b) are met, the court must not, if it finds that an elector was prevented from voting at the referendum by absence, error or omission, take into account any evidence of the way in which the elector had intended to vote.

**Restriction on certain evidence and inquiries**

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

(2) In a proceeding in relation to the petition, the court—

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

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

58. A referendum is not liable to be disputed because of—

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

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<b>Copy of final court orders to be sent to clerk of Parliament</b>	1
<b>59.</b> The court must arrange for a copy of the court’s final orders to be sent to the clerk of the Parliament as soon as possible after they are made.	2 3
<b>Costs</b>	4
<b>60.(1)</b> The court may order an unsuccessful party to the petition to pay the reasonable costs of the other parties to the petition.	5 6
<b>(2)</b> If costs are awarded against the person who filed the petition, the deposit filed with the petition must be applied towards payment of the costs.	7 8
<b>(3)</b> If not, the deposit must be returned to the person.	9
<b>Decisions and orders to be final etc.</b>	10
<b>61.</b> A decision of, or order made by, the court about the petition—	11
(a) is final and conclusive; and	12
(b) can not be appealed against or otherwise called in question on any ground.	13 14
<b>Right of commission to have access to documents</b>	15
<b>62.</b> Unless the court otherwise orders, the filing of a petition does not deprive the commission of any right to have access to a document for the purpose of performing its functions.	16 17 18
 <b>PART 6—ENFORCEMENT</b>	 19
 <i>Division 1—Offences in general</i>	 20
<b>Attempts taken to be offences</b>	21
<b>63.</b> A person who attempts to commit an offence against a provision of this part is taken to have committed the offence.	22 23

*Referendums***False or misleading statements**

**64.(1)** A person must not state anything to the commission under or for this Act that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units or 6 months imprisonment.

**(2)** It is enough for a complaint for an offence against subsection (1) to state the statement made was false or misleading to the person's knowledge.

**False, misleading or incomplete documents**

**65.** A person must not give a document under or for this Act to the commission containing information that the person knows is false, misleading or incomplete in a material particular without—

- (a) indicating that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
- (b) giving the correct information if the person has, or can reasonably obtain, the correct information.

Maximum penalty—20 penalty units or 6 months imprisonment.

**Bribery**

**66.(1)** A person must not—

- (a) ask for or receive; or
- (b) offer, or agree, to ask for or receive;

property or a benefit of any kind (whether for the person or someone else) on the understanding that the person's referendum conduct will be influenced or affected.

Maximum penalty—85 penalty units or 2 years imprisonment.

**(2)** A person must not, in order to influence or affect another person's referendum conduct, give, or promise or offer to give, property or a benefit of any kind to the other person or someone else.

Maximum penalty—85 penalty units or 2 years imprisonment.

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(3) In this section—	1
<b>“referendum conduct”</b> , of a person, means—	2
(a) the way in which the person votes at a referendum; or	3
(b) the person’s approval or disapproval of the Bill or question submitted to the electors.	4 5
<b>Providing money for illegal payments</b>	6
67. A person must not knowingly provide money for—	7
(a) a payment that contravenes a law relating to referendums; or	8
(b) replacing any money that has been spent in making a payment that contravenes a law relating to referendums.	9 10
Maximum penalty—85 penalty units or 2 years imprisonment.	11
<b>Improperly influencing commission</b>	12
68. A person must not improperly influence the electoral commissioner in the performance of the commission’s duties under this Act.	13 14
Maximum penalty—35 penalty units or 1 year’s imprisonment.	15
<b>Interfering with referendum right or duty</b>	16
69. A person must not hinder or interfere with the free exercise or performance, by another person, of another right or duty under this Act relating to a referendum.	17 18 19
Maximum penalty—20 penalty units or 6 months imprisonment.	20
<b>Forging or uttering referendum papers etc.</b>	21
70.(1) A person must not—	22
(a) forge a referendum paper; or	23
(b) utter a forged referendum paper knowing it to be forged.	24
Maximum penalty—20 penalty units or 6 months imprisonment.	25

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(2) A person must not make the signature of another person on a referendum paper, unless the person is authorised to do so under this Act.	1 2
Maximum penalty—20 penalty units.	3
<b>Wilful neglect etc. by commission staff</b>	4
71. A senior electoral officer or member of the commission's staff must not wilfully neglect or fail to perform a duty under this Act.	5 6
Maximum penalty—20 penalty units.	7
<i>Division 2—Offences relating to referendum advertising</i>	8
<b>Author of referendum matter must be named</b>	9
72.(1) A person must not, during a referendum period—	10
(a) print, publish, distribute or broadcast; or	11
(b) permit or authorise another person to print, publish, distribute or broadcast;	12 13
any advertisement, handbill, pamphlet or notice containing referendum matter unless there appears, or is stated, at its end the particulars required by subsection (2).	14 15 16
Maximum penalty—20 penalty units.	17
(2) The particulars are—	18
(a) in any case—the name and address (other than a post office box) of the person who authorised the advertisement, handbill, pamphlet or notice; and	19 20 21
(b) in the case of an advertisement or notice that is printed otherwise than in a newspaper—the name and place of business of the printer.	22 23 24
(3) Subsection (1) does not apply to an advertisement—	25
(a) that is printed, published or distributed on a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or	26 27
(b) that is of a kind prescribed under a regulation for this subsection.	28



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(4) In this section—	1
<b>“referendum matter”</b> means anything able to, or intended to—	2
(a) influence an elector in relation to voting at a referendum; or	3
(b) affect the result of a referendum.	4
<b>Headline to general referendum matter advertisements</b>	5
73.(1) If—	6
(a) an article, or a paragraph, containing general referendum matter is printed in the newspaper; and	7 8
(b) either—	9
(i) the insertion of the article or paragraph is or is to be paid for; or	10 11
(ii) any reward or compensation, or promise of reward or compensation, is or is to be made for the insertion of the article or paragraph;	12 13 14
the proprietor must cause the word ‘advertisement’ to be printed as a headline to the article or paragraph in letters not smaller than 10 point or long primer.	15 16 17
Maximum penalty—9 penalty units.	18
(2) In this section—	19
<b>“general referendum matter”</b> means a matter relating to a referendum.	20
<b>Misleading electors</b>	21
74.(1) A person must not, during a referendum period print, publish, distribute or broadcast anything that is intended or likely to mislead an elector about the way of voting at the referendum.	22 23 24
Maximum penalty—40 penalty units.	25
(2) A person must not, during a referendum period, print, publish, distribute or broadcast by television any representation or purported representation of a ballot paper for use in the referendum if it is likely to	26 27 28

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induce an elector to vote other than in accordance with this Act. 1  
 Maximum penalty—40 penalty units. 2

***Division 3—Offences relating to voting etc.*** 3

**Failure to vote etc.** 4

**75.(1)** An elector must not— 5

- (a) fail to vote at a referendum without a valid and sufficient excuse; 6  
or 7
- (b) contravene section 44(2); or 8
- (c) state anything to the commission or the commission’s staff under 9  
section 44<sup>36</sup> the person knows is false or misleading in a material 10  
particular. 11

Maximum penalty—1 penalty unit. 12

**(2)** Without limiting subsection (1)(a), if an elector believes it to be part 13  
of the elector’s religious duty not to vote at a referendum, that is a valid and 14  
sufficient excuse for failing to vote at a referendum. 15

**(3)** A person may be prosecuted for an offence against subsection (1)(a) 16  
only if the person has been sent a notice about the referendum under 17  
section 44. 18

**(4)** In a proceeding for an offence against subsection (1)(a), a certificate 19  
purporting to be signed by a member of the commission’s staff stating any 20  
of the following matters is evidence of the matter— 21

- (a) a referendum happened on a stated day; 22
- (b) an elector failed to vote at the referendum; 23
- (c) a notice was sent by the commission to the elector under 24  
section 44 on a stated day; 25
- (d) a form mentioned in section 44(1) was not received by the 26  
commission from the elector by the day stated under the 27  
subsection. 28

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<sup>36</sup> Section 44 (Notice of failure to vote)

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(5) If a form is not received by the commission from the elector by the day stated under section 44(1), it is evidence the elector failed to vote at the referendum without a valid and sufficient excuse. 1  
2  
3

(6) If a form is received by the commission about the elector's compliance with section 44, statements in the form purporting to be made by— 4  
5  
6

(a) the elector are evidence as statements made by the elector; and 7

(b) another elector under section 44(3), are evidence as statements made by the other elector. 8  
9

(7) Subsection (1)(a) does not apply to an Antarctic elector. 10

### **Leave to vote** 11

**76.(1)** This section applies if— 12

(a) an employee who is an elector asks his or her employer, before the polling day for a referendum, for leave of absence to vote at the referendum; and 13  
14  
15

(b) the absence is necessary to enable the employee to vote at the referendum. 16  
17

(2) Unless the absence is reasonably likely to cause danger or substantial loss to the employer in relation to the employment concerned, the employer— 18  
19  
20

(a) must allow the employee leave of absence for a reasonable period of not more than 2 hours to enable the employee to vote at the referendum; and 21  
22  
23

(b) must not impose any penalty or disproportionate deduction of pay for the leave of absence. 24  
25

(3) An employee must not ask for leave of absence under subsection (1) to vote at a referendum unless the employee genuinely intends to vote at the referendum. 26  
27  
28

Maximum penalty—9 penalty units. 29

<b>Canvassing etc. in or near polling places</b>	1
<b>77.(1)</b> A person must not, during a referendum period, do anything mentioned in subsection (2)—	2 3
(a) inside a room with voting compartments; or	4
(b) within 6 m of the entrance to a building with voting compartments.	5 6
Maximum penalty—9 penalty units.	7
<b>(2)</b> For subsection (1), the things are—	8
(a) canvassing for votes; or	9
(b) inducing an elector not to—	10
(i) vote in a particular way; or	11
(ii) vote at all at the referendum; or	12
(c) loitering; or	13
(d) obstructing the free passage of voters.	14
 <b>Interrupting voting etc.</b>	 15
<b>78.</b> A person must not—	16
(a) enter or remain in a polling booth otherwise than as authorised under this Act; or	17 18
(b) wilfully interrupt, obstruct or disturb any proceeding at a referendum; or	19 20
(c) enter a voting compartment otherwise than as authorised under this Act; or	21 22
(d) prevent a scrutineer from entering or leaving a polling place—	23
(i) during voting hours for the polling place; or	24
(ii) while votes are being counted at the polling place; or	25
(e) obstruct or wilfully mislead a senior electoral officer or member of the commission's staff in the performance of a duty.	26 27
Maximum penalty—9 penalty units.	28

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<b>Influencing voting</b>	1
<b>79.</b> A person must not, by violence or intimidation, influence the vote of a person at a referendum.	2 3
Maximum penalty—85 penalty units or 2 years imprisonment.	4
<b>Displaying referendum statements in certain places</b>	5
<b>80.(1)</b> A person must not, during a referendum period, display a referendum statement—	6 7
(a) inside a room with voting compartments; or	8
(b) within 6 m of the entrance to a building with voting compartments.	9 10
Maximum penalty—1 penalty unit.	11
<b>(2)</b> In this section—	12
<b>“referendum statement”</b> means a statement or design that a reasonable person would associate with the approval or disapproval of the Bill or question submitted to the electors.	13 14 15
<b>Voting if not entitled etc.</b>	16
<b>81.</b> A person must not, at a referendum—	17
(a) vote in the name of someone else (including a dead or fictitious person); or	18 19
(b) vote more than once; or	20
(c) cast a vote that the person knows he or she is not entitled to cast; or	21 22
(d) if the person knows another person is not entitled to vote at the referendum—procure the other person to vote.	23 24
Maximum penalty—20 penalty units or 6 months imprisonment.	25
<b>Offences relating to ballot papers</b>	26
<b>82.(1)</b> A person must not at a referendum—	27

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(a) wilfully fail to comply with section 22(10)(c), 28(5)(d), 29(3)(c) or (d) or 30(5)(c) or (d); or	1 2
(b) take a ballot paper out of a polling place otherwise than as authorised under this Act; or	3 4
(c) place in a ballot box a ballot paper that has not been—	5
(i) given to an elector under this Act; or	6
(ii) marked by the elector.	7
Maximum penalty—20 penalty units or 6 months imprisonment.	8
(2) A person must not, without lawful excuse, obtain possession of, or have in the person's possession—	9 10
(a) a ballot paper that has been marked by someone else; or	11
(b) a declaration envelope that has been signed by someone else.	12
Maximum penalty—20 penalty units or 6 months imprisonment.	13
<b>Failure to post or send documents for someone else</b>	14
83.(1) If a person is given a request under section 30 or 31 <sup>37</sup> to post or send by facsimile to the commission or a returning officer, the person must promptly post it or send it by facsimile to the commission or returning officer.	15 16 17 18
Maximum penalty—20 penalty units or 6 months imprisonment.	19
(2) If a person is given a declaration envelope under section 30(5)(d)(ii) to post to the commission or returning officer, the person must promptly post it to the commission or returning officer.	20 21 22
Maximum penalty—20 penalty units or 6 months imprisonment.	23
<b>Secrecy of voting</b>	24
84. A person must not—	25
(a) unfold a ballot paper that has been marked and folded by an	26

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<sup>37</sup> Section 30 deals with declaration voting using posted referendum papers  
Section 31 deals with electoral visitor voting

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elector under this Act, unless ordered by a court or authorised under this Act to do so; or	1 2
(b) if the person is a member of the commission’s staff performing duties at a polling place for a referendum—	3 4
(i) ascertain or discover how an elector has voted at the referendum, unless the person is authorised to do so under this Act; or	5 6 7
(ii) disclose any information about how an elector has voted at a referendum, unless the person is authorised to do so under this Act or ordered by a court to do so.	8 9 10
Maximum penalty—20 penalty units or 6 months imprisonment.	11
<b>Breaking seals on parcels</b>	12
<b>85.</b> A person must not wilfully open or break the seal of a parcel sealed under section 38(2)(h), unless the person is authorised to do so under this Act or ordered by a court to do so.	13 14 15
Maximum penalty—20 penalty units or 6 months imprisonment.	16
<b>Duty of witness to signing of declaration voting papers</b>	17
<b>86.</b> An elector or other person (the “ <b>witness</b> ”) must not sign a declaration envelope as witness under section 30(5)(a) unless—	18 19
(a) the witness is satisfied of the identity of the elector who signs the declaration before the witness; and	20 21
(b) the witness has seen the elector sign the declaration; and	22
(c) either—	23
(i) the witness knows that the declaration made by the elector on the envelope is true; or	24 25
(ii) the witness is satisfied, on the basis of inquiries of the elector or otherwise, that the declaration is true.	26 27
Maximum penalty—20 penalty units or 6 months imprisonment.	28

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## PART 7—REFERENDUM HELD IN CONJUNCTION WITH ELECTION UNDER ELECTORAL ACT 1992

### Extension of time

**87.(1)** This section applies if the polling day for a referendum is the same day as the polling day for an election and the time for holding the election is extended under the *Electoral Act 1992*, section 82.

(2) If the extension of time for holding the election relates only to a particular electoral district, the day on which the election is to be held in that district is to be taken to be the polling day for the referendum in that district.

(3) In any other case, the day on which the election is to be held is to be taken to be the polling day for the referendum.

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

**88.(1)** This section applies if—

- (a) a writ is issued for a referendum; and
- (b) before the polling day for the referendum, a writ is subsequently issued for an election: and
- (c) the polling day for the election is also the polling day for the referendum.

(2) The cut-off date for electoral rolls stated in the writ for the referendum is, by force of this section extended to the cut-off day for electoral rolls stated in the writ for the election.

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

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

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



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<b>Use of ballot boxes, polling booths and electoral rolls</b>	1
<b>90.</b> If the polling day for a referendum is also the polling day for an election—	2 3
(a) the same polling booths and ballot boxes may be used for the election and the referendum, but if the same ballot boxes are used, the ballot papers for the referendum must, by colour or marking, be readily distinguishable from the ballot papers for the election;	4 5 6 7
(b) the same electoral roll must be used for both the election and the referendum.	8 9
 <b>Mobile polling booths</b>	 10
<b>91.</b> If the polling day for a referendum is also the polling day for an election, a declaration or arrangement made under the <i>Electoral Act 1992</i> , section 94(4) or (6) also has effect as a declaration or an arrangement under section 16(4) or (6) of this Act for the referendum.	11 12 13 14
 <b>Opening of ballot boxes</b>	 15
<b>92.</b> A ballot box used for a referendum must not be opened except under this Act or, if the ballot box has been used for both a referendum and an election, under this Act or the <i>Electoral Act 1992</i> .	16 17 18
 <b>Applications, declarations, ballot papers and references</b>	 19
<b>93.</b> If the polling day for a referendum is also the polling day for an election—	20 21
(a) a request made under the <i>Electoral Act 1992</i> , sections 110(1) or 111(1) is also taken to be a request under section 30(1) or 31(1) respectively; and	22 23 24
(b) a declaration made for the election under the <i>Electoral Act 1992</i> , section 103(3), 108, 109, 110, 111 or 112 is also taken to be a declaration made under section 23(3), 28, 29, 30, 31 or 32	25 26 27

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respectively; <sup>39</sup> and	1
(c) a ballot paper given to an elector under section 23(3), 28, 29, 30, 31 or 32 may be enclosed in the same declaration envelope as a ballot paper given to the elector under the <i>Electoral Act 1992</i> , section 103(3), 108, 109, 110, 111 or 112 respectively.	2 3 4 5
<b>Record of ordinary voters</b>	6
<b>94.</b> If the polling day for a referendum is also the polling day for an election, the issuing officer is taken to have complied with section 22(8) if he or she has complied with the <i>Electoral Act 1992</i> , section 102(8).	7 8 9
<b>Adjournment at both referendum and election</b>	10
<b>95.(1)</b> This section applies if—	11
(a) the polling day for a referendum is also the polling day for an election; and	12 13
(b) the returning officer adjourns the poll at a polling booth under the <i>Electoral Act 1992</i> , section 95; and	14 15
(c) the commission fixes a day for the taking of the adjourned poll under the <i>Electoral Act 1992</i> , section 95.	16 17
<b>(2)</b> The poll at the polling booth for the referendum is also adjourned until the day fixed by the commission for the taking of the adjourned poll for the election.	18 19 20

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

**PART 8—MISCELLANEOUS****How things are to be given to commission**

**96.** A form, notice, or other document or thing that is required or permitted by this Act to be given to the commission may be given to the commission by leaving it at, or sending it by post or facsimile or in a similar way, to the commission's office.

**How things are to be signed**

**97.** For this Act, a person signs a thing—

- (a) by signing the person's name in writing on the thing; or
- (b) if the person is unable to sign as mentioned in paragraph (a)—by making the person's mark on the thing as a signature before another person who signs the thing as witness.

**Advertising of office addresses etc.**

**98.** Within a reasonable time after the commencement of a referendum period, the commission must advertise the locations and opening hours of its office and offices of returning officers and other members of the commission's staff.

**Regulation-making power**

**99.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may create offences and prescribe penalties of not more than 20 penalty units for each offence.

**PART 9—REPEAL AND CONSEQUENTIAL  
AMENDMENTS**

**Act repealed**

**100.** The *Referendums Act 1989* is repealed.<sup>40</sup>

**Act amended**

**101.** Schedule 2 amends the *Electoral Act 1992*.

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<sup>40</sup> Act No 69 of 1989.

**SCHEDULE 1** 1

**REFERENDUM FORMS** 2

section 3 3

**FORM 1** 4

*Referendums Act 1996* 5

**WRIT FOR A REFERENDUM ON A BILL** 6

To Electoral commissioner 7

I, (*insert name*), Governor direct you to submit a Bill entitled [*here state the title of the Bill*], a copy of which is attached, to electors within the meaning of the *Referendums Act 1996*. 8  
9  
10

The following days are appointed— 11

- for the issue of this writ—(*insert day and date*) 12
- for the cut-off day for the electoral rolls for the referendum—(*insert day and date*) 13  
14
- for the polling day for the referendum—(*insert day and date*) 15
- for the return of this writ—(*insert day and date*) 16

Witness 17

[*insert the Governor's title and the date*] 19

Governor 20

By Command 21

---

SCHEDULE 1 (continued)

Reverse

1

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

2

Electoral commissioner

3

\_\_\_\_\_

4

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

5

6

7

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

8

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

9

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

10

11

Electoral commissioner

12

SCHEDULE 1 (continued)

**FORM 2**

*Referendums Act 1996*

**WRIT FOR A REFERENDUM ON A QUESTION**

To Electoral commissioner

I, *(insert name)*, Governor direct you to submit a question [*here state the question*] approved by the Legislative Assembly, a copy of which is attached, to electors within the meaning of the *Referendums Act 1996*.

The following days are appointed—

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

Witness

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

Governor

By Command

---

SCHEDULE 1 (continued)

Reverse

1

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

2

Electoral commissioner

3

\_\_\_\_\_

4

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

5

6

7

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

8

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

9

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

10

11

Electoral commissioner

12



SCHEDULE 1 (continued)

**FORM 3**

1

*Referendums Act 1996*

2

**BALLOT PAPER**

3

**(FOR SUBMISSION OF A BILL)**

4

HOW TO VOTE—

5

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

6

7

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

8

9

A Bill:

10

*[Here insert long title of Bill]*

11

YES

12

NO

13

14

SCHEDULE 1 (continued)

**FORM 4**

1

*Referendums Act 1996*

2

**BALLOT PAPER**

3

**(FOR SUBMISSION OF A QUESTION)**

4

HOW TO VOTE—

5

6

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

7

8

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

9

10

*[Here insert question]*

11

YES

12

NO

13

14

SCHEDULE 1 (continued)

**FORM 5**

1

*Referendums Act 1996*

2

**BALLOT PAPER**

3

**(FOR USE FOR MULTIPLE REFERENDUMS)**

4

HOW TO VOTE FOR EACH OF THE FOLLOWING REFERENDUM ISSUES—

5

6

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

7

8

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

9

10

11

A Bill—

12

[Here insert long title of Bill]

13

YES

14

NO

15

16

17

A question—

18

[Here insert question]

19

YES

20

NO

21

22

<b>SCHEDULE 2</b>	1
<b>AMENDMENTS OF ELECTORAL ACT 1992</b>	2
section 101	3
<b>1. Section 3, definition “cut off day for electoral rolls”—</b>	4
<i>omit, insert—</i>	5
‘ “ <b>cut-off day for electoral rolls</b> ” means—	6
(a) for an election—the day so described in the writ for the election;	7
and	8
(b) for a referendum—the day so described in the writ for the referendum.’.	9
	10
<b>2. Section 3, definition “issuing officer”—</b>	11
<i>omit, insert—</i>	12
‘ “ <b>issuing officer</b> ” means a member of the commission’s staff who is responsible for issuing ballot papers or declaration envelopes under this Act or the <i>Referendums Act 1996</i> to electors at an election or referendum.’.	13
	14
	15
	16
<b>3. Section 3—</b>	17
<i>insert—</i>	18
‘ “ <b>referendum</b> ” means a referendum under the <i>Referendums Act 1996</i> .’.	19
<b>4. Section 30(3)(b) and (4), after “election”—</b>	20
<i>insert—</i>	21
‘or referendum’.	22

## SCHEDULE 2 (continued)

- 5. Section 59(1)(b), ‘in relation to an election’—** 1  
*omit, insert—* 2  
‘for an election or referendum’. 3
- 6. Section 65(5), ‘until the end of polling day for an election’—** 4  
*omit, insert—* 5  
‘for an election or referendum until the end of the polling day for the 6  
election or referendum’. 7
- 7. Section 127, ‘this Act’—** 8  
*omit, insert—* 9  
‘this Act and the *Referendums Act 1996*’. 10
- 8. Section 152(2)—** 11  
*insert—* 12  
‘(aa)any purpose related to a referendum’. 13
- 9. Section 152(2)(aa) to (d)—** 14  
*renumber* as section 152(2)(b) to (e). 15  
16

<b>SCHEDULE 3</b>	1
<b>DICTIONARY</b>	2
section 2	3
<b>“Antarctic elector”</b> see <i>Commonwealth Electoral Act 1918</i> (Cwlth), section 246(1).	4 5
<b>“assistant returning officer”</b> means an assistant returning officer under the <i>Electoral Act 1992</i> , section 33.	6 7
<b>“ballot paper”</b> means a paper—	8
(a) on which is shown the issue to be submitted to the electors at a referendum; and	9 10
(b) on which the elector is to record the elector’s vote on the issue.	11
<b>“Bill”</b> means a Bill for an Act.	12
<b>“commission”</b> means the Electoral Commission of Queensland.	13
<b>“Commonwealth Electoral Act”</b> means the <i>Commonwealth Electoral Act 1918</i> (Cwlth).	14 15
<b>“court”</b> means the Court of Disputed Returns.	16
<b>“Court of Disputed Returns”</b> see <i>Electoral Act 1992</i> , section 127. <sup>41</sup>	17
<b>“cut-off day for electoral rolls”</b> see <i>Electoral Act 1992</i> , section 3. <sup>42</sup>	18
<b>“day for the return of a writ”</b> means the day so described in the writ for the referendum.	19 20
<b>“declaration envelope”</b> means—	21

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<sup>41</sup> See *Electoral Act 1992*, section 127 (Supreme Court to be Court of Disputed Returns).

<sup>42</sup> See *Electoral Act 1992*, section 3 (Definitions). Under section 3 the cut-off date for electoral rolls in relation to a referendum is the day so described in the writ for the referendum.

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 SCHEDULE 3 (continued)

(a) a declaration envelope under section 32; or	1
(b) another envelope on which there is a declaration to be made by an elector for this Act.	2 3
<b>“deputy electoral commissioner”</b> see <i>Electoral Act 1992</i> , section 22.	4
<b>“election”</b> means an election of a member or members of the Legislative Assembly under the <i>Electoral Act 1992</i> .	5 6
<b>“elector”</b> means a person entitled to vote at a referendum. <sup>43</sup>	7
<b>“electoral commissioner”</b> see <i>Electoral Act 1992</i> , section 21.	8
<b>“electoral district”</b> see <i>Electoral Act 1992</i> , part 3. <sup>44</sup>	9
<b>“electoral roll”</b> means an electoral roll under the <i>Electoral Act 1992</i> . <sup>45</sup>	10
<b>“electoral visitor voter”</b> see section 25(4).	11
<b>“form 1”</b> see schedule 1.	12
<b>“form 2”</b> see schedule 1.	13
<b>“form 3”</b> see schedule 1.	14
<b>“form 4”</b> see schedule 1.	15
<b>“form 5”</b> see schedule 1.	16
<b>“formal ballot paper”</b> see section 34(3).	17
<b>“informal ballot paper”</b> see section 34(4).	18
<b>“institution”</b> see the <i>Electoral Act 1992</i> , section 3. <sup>46</sup>	19
<b>“issuing officer”</b> means an issuing officer under the <i>Electoral Act 1992</i> . <sup>47</sup>	20

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<sup>43</sup> See section 21.

<sup>44</sup> See *Electoral Act 1992*, part 3 (Electoral Districts and Electoral Redistributions).

<sup>45</sup> See *Electoral Act 1992*, part 4 (Electoral Rolls).

<sup>46</sup> Under section 3, certain places such as hospitals, homes for the aged and prisons are institutions for the purposes of that Act.

<sup>47</sup> Under the *Electoral Act 1992*, section 3 “issuing officer” means a member of the commission’s staff who is responsible for issuing ballot papers or declaration envelopes to electors at an election or referendum.

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 SCHEDULE 3 (continued)

“ <b>member</b> ” means a member of the Legislative Assembly.	1
“ <b>member of the commission’s staff</b> ” see the <i>Electoral Act 1992</i> , section 30.	2 3
“ <b>mobile polling booth</b> ” see section 16.	4
“ <b>no vote</b> ” means a vote on a formal ballot paper not approving of the Bill or question submitted to electors.	5 6
“ <b>ordinary polling booth</b> ” see section 16.	7
“ <b>ordinary postal voter</b> ” see section 25(2).	8
“ <b>ordinary vote</b> ” means a vote that is not a declaration vote. <sup>48</sup>	9
“ <b>ordinary voting hours</b> ” means voting hours in relation to ordinary polling booths.	10 11
“ <b>polling booth</b> ” means an ordinary polling booth or a mobile polling booth.	12 13
“ <b>polling day</b> ” means—	14
(a) for a referendum—the day described in the writ for the referendum as the polling day;	15 16
(b) for an election—the day so described in the writ for the election.	17
“ <b>polling place</b> ” means a polling booth or another place where voting at a referendum takes place.	18 19
“ <b>postal voter</b> ” means an elector who is—	20
(a) an ordinary postal voter; or	21
(b) a special postal voter.	22
“ <b>referendum</b> ” means the taking of the vote of electors on a Bill or question the subject of a writ.	23 24
“ <b>referendum paper</b> ” means a ballot paper, declaration envelope or other document issued by the commission for this Act.	25 26
“ <b>referendum period</b> ” means the period—	27

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<sup>48</sup> Part 4, division 3, subdivision 2 is about declaration voting.



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 SCHEDULE 3 (continued)

- (a) beginning on the day after the writ for the referendum is issued; 1  
and 2
- (b) ending at 6 p.m. on the polling day for the referendum. 3
- “returning officer”** means a returning officer under the *Electoral Act 1992*, 4  
section 32. 5
- “scrutineer”** means a person appointed as a scrutineer under this Act.<sup>49</sup> 6
- “senior electoral officer”** means the electoral commissioner or deputy 7  
electoral commissioner. 8
- “special postal voter”** see the *Electoral Act 1992*, section 105. 9
- “voting compartment”** means a compartment in a polling place where 10  
electors may vote in private. 11
- “voting hours”**, of a polling place, means the hours during which electors 12  
may enter the polling place. 13
- “writ”** means a writ for a referendum issued under section 5. 14
- “yes vote”** means a vote on a formal ballot paper approving of the Bill or 15  
question submitted to electors. 16  
17

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<sup>49</sup> See section 19.