NORTHERN TERRITORY OF AUSTRALIA

REFERENDUMS ACT

As in force at 22 November 2017

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 22 November 2017

REFERENDUMS ACT

An Act provide for the conduct of referendums and for related purposes

Part 1 Preliminary

1 Short title

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

2 Definitions

In this Act, unless the contrary intention appears:

assistant officer means a person appointed as an assistant officer under section 16(1)(c) or (2).

Assistant Returning Officer has the same meaning as in the *Northern Territory Electoral Act*.

ballot-paper includes a postal ballot-paper.

certified list of voters means a list referred to in section 18.

Chief Electoral Officer has the same meaning as in the *Northern Territory Electoral Act*.

division has the same meaning as in the *Northern Territory Electoral Act*.

Divisional Returning Officer has the same meaning as in the *Northern Territory Electoral Act*.

elector means a person whose name is on a roll.

enrolled, in relation to a person, means the person's name is on a roll.

hours of polling means:

(a) in relation to a place other than a place at which a mobile polling team is used – from 8.00 a.m. until 6.00 p.m. on polling day; and

(b) in relation to a place at which a mobile polling team is used – the hours during which the mobile polling team may conduct polling at that place.

mobile polling team means a mobile polling team authorised under section 14.

mobile polling team leader means a mobile polling team leader appointed under section 16(1)(b).

officer means the Chief Electoral Officer, a Divisional Returning Officer, an Assistant Returning Officer, a presiding officer and an assistant officer.

petition means a petition referred to in section 62(1).

polling day means the date fixed by a writ for a referendum as polling day for the referendum.

polling place means a polling place appointed under section 13(1) and includes:

(a) the area adjacent to a polling place designated by a notice erected by the presiding officer of the polling place; and

(b) the area designated by a notice erected by a mobile polling team leader,

during the period the notice is displayed.

presiding officer means a presiding officer of a polling place appointed under section 16(1)(a), and includes a deputy presiding officer appointed under that section while presiding at the polling place and a mobile polling team leader.

referendum means the taking of the vote of electors on the question the subject of a writ for a referendum.

referendum advertisement means anything able or intended:

(a) to influence an elector in relation to voting at a referendum; or

(b) to affect the result of a referendum.

roll means a roll of electors kept under the *Northern Territory Electoral Act*.

scrutineer means a person appointed under section 17.

Tribunal means the Referendum Tribunal established by section 61(1).

writ for a referendum means a writ for a referendum issued under this Act.

3 Delegation

(1) The Chief Electoral Officer may delegate to a person any of his or her powers and functions under this Act, other than this power of delegation.

(2) A delegation under this section may be to a named person or to a person from time to time holding, acting in or performing the duties of an office, designation or position.

(3) A power or function delegated under this section, when exercised or performed by the delegate, is to be taken to have been exercised or performed by the Chief Electoral Officer.

(4) A delegation under this section:

(a) is to be in writing; and

(b) does not prevent the exercise of a power or the performance of a function by the Chief Electoral Officer.

4 Matters that can be subject of referendum

(1) A referendum under this Act can be conducted only for or in relation to a matter specified under section 35 of the *Northern Territory (Self Government) Act 1978* of the Commonwealth.

(2) Subsection (1) applies only while the executive authority of the Ministers of the Territory is conferred under section 35 of the *Northern Territory (Self Government) Act 1978* of the Commonwealth.

Part 2 Writ for referendum

5 Resolution of Legislative Assembly

(1) The Legislative Assembly may, on the motion of the Attorney-General, resolve that a question be submitted to electors.

(2) The Legislative Assembly may specify the date on which the writ for the referendum is to be issued.

6 Issue of writ for referendum

(1) The Administrator must issue a writ for a referendum if the Legislative Assembly has resolved that a question be submitted to electors.

(2) If a date is specified under section 5, the Administrator must issue the writ for the referendum on that date.

7 Form and content of writ for referendum

(1) A writ for a referendum is to be in accordance with the form in the Schedule.

(2) A writ for a referendum is to state:

(a) the date it is issued;

(b) the polling day for the referendum; and

(c) the last day on which the writ may be returned.

(3) The day fixed as polling day is to be not less than 16 clear days nor more than 52 clear days after the date of the issue of the writ for the referendum.

(4) A copy of the resolution of the Legislative Assembly that approved the question being submitted to electors is to be attached to the writ for the referendum.

8 Referendum to be conducted

If the Administrator issues a writ for a referendum, the referendum is to be conducted in accordance with the writ and this Act.

9 Chief electoral officer to publish writ and prepare for referendum

On receiving a writ for a referendum, the Chief Electoral Officer must:

(a) publish a copy of it in the *Gazette*;

(b) advertise the day stated in it as polling day in other ways the Chief Electoral Officer considers appropriate; and

(c) make appropriate arrangements to conduct the referendum.

10 Distribution to electors of arguments for and against question

(1) If the Legislative Assembly resolves to submit a question to electors that relates to a proposed law passed by the Legislative Assembly:

(a) the majority of the members of the Legislative Assembly who voted in favour of the proposed law may authorise an argument in favour of the question for distribution to electors; and

(b) the majority of the members of the Legislative Assembly who voted against the proposed law may authorise an argument against the question for distribution to electors.

(2) If the Legislative Assembly resolves to submit a question to electors that does not relate to a proposed law passed by the Legislative Assembly, the Speaker may call for members to nominate whether they are in favour of the question or whether they are not in favour of the question.

(3) The majority of the members who nominate that they are in favour of the question may authorise an argument in favour of the question for distribution to electors and the majority of the members who nominate that they are not in favour of the question may authorise an argument against the question for distribution to electors.

(4) An argument in favour of or against a question is to consist of not more than 2,000 words.

(5) A copy of an argument authorised under this section is to be given to the Chief Electoral Officer not later than 3 days after the day on which the writ for the referendum is issued.

(6) The Chief Electoral Officer may require amendments to be made to an argument authorised under this section if he or she is of the opinion that it is grossly misleading or inaccurate.

(7) If the Chief Electoral Officer receives arguments authorised under this section, he or she must, as soon as practicable after the arguments are received:

(a) arrange for a pamphlet containing the arguments to be printed; and

(b) as far as is reasonably practicable, ensure that a copy of the pamphlet is posted to each elector.

(8) If 2 or more referendums are to be conducted on the same polling day, all the arguments authorised under this section that relate to the questions to be submitted to electors are to be printed in one pamphlet.

(9) The Chief Electoral Officer may arrange for arguments in favour of and against a question (that substantially reflect the arguments authorised for and against the question):

(a) to be published by printed advertisement or by electronic means;

(b) to be broadcast by radio or television; or

(c) to be published or broadcast by any other means, and for any period, that the Chief Electoral Officer considers appropriate.

(10) A pamphlet or other material prepared, printed, distributed, published or broadcast under this section is not a referendum advertisement for the purposes of Part 6.

Part 3 Conduct of referendum

Division 1 Rolls for referendum

11 Printing of rolls

(1) The Chief Electoral Officer must arrange for the rolls to be printed when directed by the Minister.

(2) Supplementary rolls, setting out additions to the rolls since the last print of the rolls are, if necessary, to be prepared and printed:

(a) immediately after the issue of the writ for a referendum; and

(b) at any other times that the Minister directs.

12 Alteration of rolls

(1) A Divisional Returning Officer may alter a roll kept by him or her for the purpose of:

(a) correcting a mistake or error in the particulars of the enrolment of an elector; or

(b) removing the name of a deceased elector.

(2) A Divisional Returning Officer must not alter a roll kept by him or her that is to be used at a referendum in pursuance of a claim for enrolment or transfer of enrolment received by the Divisional Returning Officer after 6.00 p.m. on the day of the issue of the writ for a referendum until after the close of polling at the referendum.

Division 2 Polling places, mobile polling teams, officers and Scrutineers

13 Polling places

(1) The Minister may, in writing, appoint polling places for a division or part of a division.

(2) A part of premises licensed under the *Liquor Act* is not to be used as a polling place unless the Chief Electoral Officer declares, in writing, that he or she is satisfied that during the hours of polling on polling day:

(a) intoxicating liquor will not be available for sale or consumption on that part of the premises;

(b) the part of the premises proposed to be used as the polling place will be segregated from the part of the premises where intoxicating liquor will be available for sale or consumption; and

(c) electors will not have to pass through the part of the premises where intoxicating liquor will be available for sale or consumption to gain access to the part of the premises proposed to be used as the polling place.

14 Mobile polling teams

(1) The Minister may, in writing, authorise the use of mobile polling teams at particular polling places in a division or part of a division.

(2) If the use of a mobile polling team is to service the voting needs of a class of voters (such as the in-patients or inmates in a hospital or institution), the Minister must specify the class of voters.

(3) If the Minister authorises the use of a mobile polling team at a polling place, the Chief Electoral Officer must, notwithstanding the date fixed as polling day, specify the date and hours during which a mobile polling team is to be used at those places for the purposes of the referendum.

15 Public notice of polling places and mobile polling teams

The Chief Electoral Officer must, as he or she thinks fit:

(a) give public notice of the location of polling places appointed under section 13; and

(b) if the Minister authorises the use of mobile polling teams, give public notice of the dates and hours specified under section 14(3) and, as the case may be, the class of voters referred to in the notice in accordance with section 14(2).

16 Presiding officers and mobile team leaders

(1) The Divisional Returning Officer for the division for which he or she is appointed must:

(a) appoint a presiding officer to preside at each polling place and, if necessary, a deputy presiding officer;

(b) if the use of mobile polling teams has been authorised under section 14, appoint a mobile polling team leader for each mobile polling team who is to have all the functions, powers and duties of a presiding officer;

(c) appoint assistant officers for a polling place or, if the use of mobile polling teams has been authorised under section 14, to be members of a mobile polling team; and

(d) make all other arrangements that are necessary for taking the poll.

(2) A presiding officer may appoint a person to act as an assistant officer on polling day if it is necessary, in his or her opinion, for the conduct of polling at the polling place to which the presiding officer is appointed.

(3) A presiding officer may appoint an officer to perform the presiding officer's duties during his or her temporary absence and the officer may, while acting, exercise all the powers of the presiding officer, and is, in the exercise of those powers, to be taken to be the presiding officer.

(4) An assistant officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer and is, in respect of the exercise of those powers, to be taken to be the presiding officer.

17 Scrutineers

(1) A member of the Legislative Assembly or a person authorised under this section may appoint persons to be scrutineers for the purposes of a referendum.

(2) The appointment of a scrutineer:

(a) is to be made in writing or by telegram or other electronically transmitted writing;

(b) in the case of a scrutineer for a polling place, is to be addressed to the Divisional Returning Officer for the division or the presiding officer of the polling place for which the scrutineer is appointed;

(c) in the case of a scrutineer for a place at which the results of the referendum are to be determined, is to be addressed to the officer conducting the determination at the place;

(d) is to be signed by the member or person authorised to make the appointment or bear his or her name; and

(e) is to state the name and address of the scrutineer.

(3) The Chief Electoral Officer may, as he or she thinks fit, authorise a person to appoint scrutineers for the purposes of a referendum.

(4) Only one scrutineer appointed by each member of the Legislative Assembly or each person authorised to appoint scrutineers for a polling place may enter or remain in the polling place at any one time.

(5) Only one scrutineer appointed by each member of the Legislative Assembly or each person authorised to appoint scrutineers for a place where the results of the referendum are to be determined may enter or remain in the place at any one time or, if tables are used for the purposes of counting ballot-papers, only one scrutineer for each table may enter or remain in the place at any one time.

18 Certified list of voters

(1) The Divisional Returning Officer must supply a list of electors enrolled in the division for which he or she is appointed to all presiding officers appointed for polling places for the division.

(2) The list is to be certified by the Divisional Returning Officer.

Division 3 Polling booths, ballot-boxes and ballot-papers

19 Separate voting booths

(1) A polling place must have separate polling booths.

(2) Polling booths are to be constructed so as to screen voters from being observed while marking their ballot-papers.

20 Ballot-boxes

(1) A ballot-box is to be constructed and fitted as is prescribed.

(2) A polling place in a division is to be provided with as many ballot-boxes as the Divisional Returning Officer for the division thinks fit.

21 Ballot-papers

A ballot-paper is to be in the prescribed form.

Division 4 Mobile polling

22 Mobile polling

Subject to this Act, a person may vote at a referendum using a mobile polling team at a place and on the date and during the hours specified under section 14 in respect of the mobile polling team.

23 Voting at certain polling places may be restricted to class of voters

If the Minister authorises the use of a mobile polling team to service the voting needs of a class of voters at a polling place, only electors of the class may vote using the mobile polling team.

24 Places and hours of use of mobile polling team

(1) If:

(a) a mobile polling team is unable to be at a polling place on the dates or during the times specified under section 14(3); or

(b) in the opinion of the Chief Electoral Officer, the exigencies of the referendum require it,

the Chief Electoral Officer or mobile polling team leader may do one or both of the following:

(c) substitute another place for the appointed polling place, except in the case of a mobile polling team to service the voting needs of a class of voters in accordance with an authorisation under section 14(2);

(d) change or vary the specified dates or hours.

(2) The Chief Electoral Officer or a mobile polling team leader must:

(a) give public notice of the substitution under subsection (1)(c) of a polling place or the change or variation under subsection (1)(d) in the specified dates or hours as he or she thinks fit; and

(b) inform the Divisional Returning Officer of the division in which the mobile polling team is authorised to operate of the substitution, change or variation.

(3) A referendum or the result of a referendum is not to be invalidated on the grounds that a mobile polling team failed to attend at a polling place or to attend on the dates or during the hours specified under section 14(3) or at the place or on the dates or hours substituted, changed or varied under this section.

Division 5 Pre-poll voting and postal voting

25 Pre-poll voting

(1) An elector entitled to vote at a referendum who will not be able to attend at a polling place on polling day may apply to vote under this section.

(2) An elector who is eligible to vote under this section may vote before 6.00 p.m. on the day before polling day at a location determined by the Chief Electoral Officer.

(3) An application under this section:

(a) is to be made to an officer appointed for the purpose by the Chief Electoral Officer; and

(b) subject to section 89, may be made at any time after 7 clear days after the issue of the writ for a referendum.

(4) If the officer to whom an application is made is satisfied:

(a) that facilities for voting are available at the place where the application is made; and

(b) the applicant satisfies the requirements for a postal vote,

the applicant may, there and then, vote at the referendum.

(5) The officer must not issue a ballot-paper to an applicant under this section unless the applicant has answered the following question in the negative: "Will you be able to attend a polling place on polling day during the hours of polling?".

(6) The question to be asked under subsection (5) is in addition to any other question the officer may ask to determine the elector's entitlement to vote at the referendum.

(7) Division 6, with the necessary changes, applies in relation to an application to vote and voting under this section.

26 Postal voting

(1) Part 7 of the *Northern Territory Electoral Act*, with the necessary changes, applies to a referendum as if a reference in that Part to an election were a reference to a referendum.

(2) A form prescribed by the *Northern Territory Electoral Regulations* for the purposes of Part 7 of the *Northern Territory Electoral Act* can be used for the purposes of that Part as applying to a referendum because of subsection (1).

(3) Subject to section 89, a postal ballot-paper must not be issued until 7 clear days after the issue of the writ for a referendum.

Division 6 Voting on polling day

27 Polling

Subject to this Act, polling at a polling place is to be conducted in the manner determined by the Chief Electoral Officer.

28 Persons entitled to vote

A person is only entitled to vote at a referendum if, had the referendum been an election for a member of the Legislative Assembly, the person would be entitled to vote at the election.

29 Ballot-boxes to be exhibited empty before polling

(1) The presiding officer of a polling place must before a vote is taken, exhibit the ballot-box empty and must then securely fasten it closed.

(2) If the presiding officer referred to in subsection (1) is a mobile polling team leader, in a division attended in pursuance of section 14 by the mobile polling team of which he or she is the leader, he or she need not comply with the requirements of subsection (1) other than at the first polling place in the division so attended.

30 Name to be on roll

Subject to this Part, an officer must not issue a ballot-paper to a person unless the person's name appears on the roll for the division for which the person wishes to vote.

31 Persons claiming to vote to give names and other particulars

(1) Subject to this Part and section 89, an officer must issue a ballot-paper to a person if:

(a) the person states his or her full name and any other particulars that are necessary to identify the person as an elector; and

(b) the person answers the following question in the absolute affirmative: "Is this the first time you have voted either here or elsewhere in this referendum?".

(2) An officer may, and at the request of a scrutineer must, put all or any of the following questions in addition to the question referred to in subsection (1) to a person who claims to vote under section 36(1) before issuing a ballot-paper to the person:

(a) "Are you of the age of 18 years or more?";

(b) "Are you an Australian citizen?"; and

(c) "Are you qualified to vote?",

and, if the person answers the question specified in paragraph (b) in the negative:

(d) "Were you a British subject who was enrolled as a Commonwealth, Territory, or State elector on 25 January 1984?".

(3) Subject to this section and Division 5, a ballot-paper is to be issued under this Part:

(a) only:

(i) between the hours of 8.00 a.m. and 6.00 p.m. on polling day; or

(ii) to an elector in a polling place at 6.00 p.m. on a polling day who wishes to vote; or

(b) only:

(i) during the hours specified under section 14(3) or those hours as changed or varied under section 24(1); or

(ii) to a person in a polling place, designated by a notice erected by a mobile polling team leader, at the expiration of the hours specified under section 14(3) or those hours as changed or varied under section 24(1) who wishes to vote.

32 Record of objections

When requested by a scrutineer, a presiding officer must keep a record of all objections made by a scrutineer to the issue of a ballot-paper to any person.

33 Ballot-papers to be initialled

(1) An officer must before issuing a ballot-paper to a person place the officer's initials on the back of the ballot-paper in a position where the initials can be easily seen when the ballot-paper is folded to conceal the vote of the person on it.

(2) Immediately before issuing a ballot-paper to a person whose name is on a certified list of voters, the officer must place a mark against that person's name on the list.

34 Vote to be marked in private

Subject to section 35, a person who has been issued with a ballot-paper must, without delay:

(a) retire alone to an unoccupied polling booth and there mark his or her vote on the ballot-paper in accordance with this Act;

(b) having complied with paragraph (a), fold the ballot-paper so as to conceal his or her vote;

(c) exhibit the ballot-paper folded in accordance with paragraph (b) to an officer; and

(d) openly, and without unfolding the ballot-paper, deposit it in a ballot-box.

35 Assistance of certain persons

(1) If a voter satisfies the presiding officer of a polling place that the voter is so physically incapacitated that he or she is unable to vote without assistance or is illiterate, the presiding officer must, or must direct an officer to:

(a) enter an unoccupied polling booth with the voter;

(b) mark the voter's ballot-paper in accordance with the instructions of the voter; and

(c) fold and deposit the voter's ballot-paper in a ballot-box.

(2) If the presiding officer of a polling place is satisfied that the physical incapacity or illiteracy of a voter will not enable the voter:

(a) to communicate the voter's instructions for marking his or her ballot-paper to the presiding officer or an officer under subsection (1); or

(b) to verify that his or her ballot-paper will be marked in accordance with his or her instructions,

the presiding officer may permit a person appointed by the voter:

(c) to assist the voter in accomplishing the matters referred to in paragraphs (a) and (b); and

(d) to be present while the ballot-paper of the voter is marked, folded and deposited in accordance with subsection (1).

(3) For the purposes of this section, it is sufficient indication of a voter's instructions if the voter or the person appointed by the voter under subsection (2) presents to an officer referred to in subsection (1) a piece of paper or card, whether or not a recognisable how-to-vote card, indicating how to vote at the referendum, and the officer is satisfied that the piece of paper or card reflects the wishes of the voter.

(4) An officer who:

(a) in pursuance of this section is required to mark the ballot-paper of a voter; and

(b) marks the ballot-paper of the voter otherwise than in accordance with instructions given by the voter or, in a case where subsection (2) applies, by a person appointed by the voter,

is guilty of an offence.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(5) A person, appointed under subsection (2) by a voter, who causes the ballot-paper of the voter to be marked by an officer otherwise than in accordance with the instructions of the voter is guilty of an offence.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(6) A scrutineer or a person, appointed under subsection (2) by a voter, must not disclose to any person anything relating to the vote of a voter voting under this section.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(7) Nothing in this Act, other than section 17 or 40, prevents a scrutineer from being present, if he or she so desires, while the ballot-paper of a voter is marked, folded and deposited in accordance with this section.

36 Vote of unlisted persons

(1) The presiding officer of a polling place may, subject to the Regulations, issue a ballot-paper to a person whose name is not on the certified list of voters for the division for which the polling place has been appointed if the person makes a declaration in the prescribed form that:

(a) the person has complied with Part VIII of the *Commonwealth Electoral Act 1918* of the Commonwealth before the issue of the writ for the referendum;

(b) to the best of the person's knowledge, no objection has been upheld in relation to the inclusion of his or her name on a roll; and

(c) the person is not qualified for enrolment in a division other than the division for which he or she claims to vote.

(2) The presiding officer of a polling place may, subject to the Regulations, issue a ballot-paper to a person whose name appears on a certified list of voters marked in accordance with section 33(2) or who has been issued with a postal ballot-paper if the person makes a declaration in the prescribed form that he or she has not already voted and surrenders the postal ballot-paper, if the person is in possession of a postal ballot-paper.

(3) The presiding officer of a polling place may, subject to the Regulations, issue a ballot-paper to a person whose name is not on a certified list of voters for the division in respect of which the polling place is appointed if the person makes a declaration in the prescribed form that he or she is enrolled in another division and that he or she has not already voted at the referendum.

(4) A presiding officer who issues a ballot-paper under this section must:

(a) make and sign a record of:

(i) the name of the person to whom it is issued; and

(ii) the division for which the person declares under subsection (3) he or she is enrolled; and

(b) forward the record to the presiding officer's Divisional Returning Officer.

(5) For the purposes of subsections (1), (2) and (3), the prescribed form is the form prescribed for the purposes of the equivalent subsection of section 72 of the *Northern Territory Electoral Act*.

37 Method of voting

(1) If a person is issued with a ballot-paper under section 36, the person must mark and fold his or her ballot-paper in the manner prescribed in section 34(a) and (b) and return it to the presiding officer for the polling place.

(2) A presiding officer who receives a ballot-paper in accordance with subsection (1) must in the presence of the person who marked and folded the ballot-paper and of scrutineers that are present:

(a) enclose the ballot-paper, without unfolding it, in an envelope bearing the declaration of the person under section 36(1), (2) or (3), as the case may be, and addressed to the Divisional Returning Officer for the division for which the person claims to be entitled to vote; and

(b) forthwith securely fasten the envelope and deposit it in a ballot-box.

38 Spoilt or discarded ballot-papers

(1) On receiving a spoilt ballot-paper or finding or being given a discarded ballot-paper, the presiding officer of a polling place may cancel the ballot-paper.

(2) If a person who has been issued with a ballot-paper satisfies the presiding officer of a polling place that the ballot-paper has been spoilt by mistake or accident, the presiding officer may issue a new ballot-paper to the person.

39 Adjournment of polling

(1) The presiding officer of a polling place may adjourn polling from day to day if the polling is interrupted by:

(a) riot or open violence; or

(b) fire, storm, tempest, flood or a similar occurrence.

(2) The Chief Electoral Officer may adjourn polling at a polling place for a period not exceeding 21 days if, from any cause, the polling place is not open.

(3) If polling is adjourned:

(a) under subsection (1), the presiding officer; or

(b) under subsection (2), the Chief Electoral Officer,

must take steps as he or she thinks necessary or convenient to give public notice of the adjournment as soon as practicable after polling is adjourned.

(4) If polling is adjourned under subsection (1) or (2), only those persons who are entitled to vote in the referendum for the division and who have not already voted are entitled to vote at the adjourned polling.

40 Direction to leave polling place

(1) If the presiding officer at a polling place believes, on reasonable grounds, that a person by his or her conduct at the polling place is or is likely to disrupt the orderly conduct of voting or the counting of votes at the polling place, the presiding officer may direct the person to leave and remain away from the polling place.

(2) A direction under subsection (1) may be given to a person who is a scrutineer or who is entitled to vote at the polling place and has not voted.

(3) A person who is given a direction under subsection (1) must leave and remain away from the polling place in accordance with the direction.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

41 Marking of ballot-papers

(1) A person issued with a ballot-paper must indicate his or her vote:

(a) if the elector intends to vote in favour of the question – by writing the word "yes" in the space provided on the ballot-paper; or

(b) if the elector intends to vote against the question – by writing the word "no" in the space provided on the ballot-paper.

(2) Subject to this Act, a person must not write on or mark a ballot-paper other than a ballot-paper issued to the person.

Maximum penalty: 4 penalty units.

42 Employee wishing to vote

(1) Subject to subsection (2), if an elector notifies his or her employer that the elector desires leave of absence to enable him or her to vote at a referendum, the employer must, if the absence desired is necessary to enable the employee to vote at the referendum, allow him or her leave of absence, without a penalty or disproportionate deduction of pay, for a reasonable period, not exceeding 2 hours, that is necessary to enable the employee to vote at the referendum.

(2) An employee must not, under pretence that he or she intends to vote at a referendum, but without the bona fide intention of so doing, obtain leave of absence under this section.

Maximum penalty: 0.8 penalty unit.

(3) This section does not apply to an elector whose absence may cause danger or substantial loss in respect of the employment in which the elector is engaged.

43 Ballot-boxes to be secured at close of polling

(1) The presiding officer of a polling place must at the close of polling, in the presence of any scrutineers that are in attendance:

(a) publicly close, fasten, seal and take charge of the ballot-box; and

(b) with the least possible delay, forward it to the place where the results of the referendum are to be determined.

(2) A ballot-box that has been closed, fastened and sealed in accordance with subsection (1) must, on no account, be opened except in accordance with this Act.

(3) If the determination of the results of the referendum is proceeded with immediately after the close of polling at the polling place at which the votes are taken, it is not necessary for the presiding officer to publicly close, fasten or seal the ballot-box as required by subsection (1).

Division 7 Offences relating to polling

44 Persons present at polling

A person, other than:

(a) an officer;

(b) a scrutineer, as permitted by section 17; or

(c) an elector voting or about to vote,

must not enter or remain in a polling place except by the permission of the presiding officer of the polling place.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

45 Electors must vote

(1) Subject to this Act, an elector must not fail to vote at a referendum without a valid and sufficient reason for the failure.

Maximum penalty: 0.8 penalty unit.

(2) If the polling day for a referendum is the same as that fixed as polling day for an election of a member of the Legislative Assembly, a person cannot be found guilty of an offence against subsection (1) if the person has been found guilty of an offence

against section 64 of the *Northern Territory Electoral Act* in respect of his or her failing to vote at the election.

46 Person may vote only once

A person must not vote more than once at a referendum.

Maximum penalty: 8 penalty units.

47 Offences in relation to ballot-papers and at polling places

(1) A person must not falsely impersonate a person to secure a ballot-paper to which the impersonator is not entitled.

Maximum penalty: 4 penalty units.

(2) Subject to this Act, a person must not wilfully destroy or deface a ballot-paper.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(3) A person must not fraudulently put a ballot-paper or other paper into a ballot-box.

Maximum penalty: 4 penalty units.

(4) A person must not fraudulently take a ballot-paper out of a polling place or a place at which the results of a referendum are being determined.

Maximum penalty: 17 penalty units or imprisonment for 12 months.

(5) Subject to this Act, a person must not wilfully take a ballot-paper out of a polling place.

Maximum penalty: 1.7 penalty units.

(6) A person must not misconduct him or herself or fail to obey the lawful directions of the presiding officer in a polling place.

Maximum penalty: 1.7 penalty units.

(7) A person must not supply ballot-papers without authority.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

(8) A person must not unlawfully destroy, take or otherwise interfere with, ballot-boxes or ballot-papers contained in a ballot-box.

Maximum penalty: Imprisonment for 5 years.

(9) Subject to this Act, a person must not wear or display an emblem, poster, representation or statement in a polling place that a reasonable person would associate with the approval or disapproval of a question submitted to electors at a referendum.

Maximum penalty: 1.7 penalty units.

(10) A person, other than an officer conducting a determination of the results of a referendum, must not open a ballot-box.

Maximum penalty: Imprisonment for 5 years.

(11) A person, other than an officer, must not exhibit in a polling booth a card or paper having on it a direction or instruction with respect to voting.

Maximum penalty: 8 penalty units.

(12) A person must truthfully answer all questions put to him or her under this Part.

Maximum penalty: 4 penalty units.

Part 4 Determination of results of polling

48 Definition

In this Part, ***officer*** means a Divisional Returning Officer or an Assistant Returning Officer.

49 Determination

The results of a referendum must be ascertained in accordance with this Part.

50 Informal ballot-papers

(1) A ballot-paper is informal:

(a) unless it is:

(i) printed by the Government Printer; or

(ii) created for the purposes of this Act by an officer and initialled by an officer;

(b) if the word "yes" or the word "no" is not written in the space provided on the ballot-paper and the Divisional Returning Officer is not satisfied that the elector's intention in respect of the question is clearly indicated on the ballot-paper; or

(c) if it has on it a mark or writing by which, in the opinion of the Divisional Returning Officer, the voter can be identified.

(2) If the letter "y" or a mark in the form of a tick is written or marked in the space provided on the ballot-paper, it is a clear indication that the elector's intention is to vote in favour of the question.

(3) If the letter "n" or a mark in the form of a cross is written or marked in the space provided on the ballot-paper, it is a clear indication that the elector's intention is to vote against the question.

51 Proceedings at determination

(1) Scrutineers and any other persons who are approved by the officer conducting a determination may be present at the determination of the results of a referendum.

(2) Proceedings at a determination of the results of a referendum are to be open to inspection by scrutineers.

(3) An officer conducting a determination of the results of a referendum may adjourn the determination from time to time.

52 Conduct of determination

(1) An officer conducting a determination of the results of a referendum must:

(a) open the ballot-boxes under his or her control;

(b) notwithstanding paragraphs (c) to (f) inclusive, if he or she is not the Divisional Returning Officer for the division in respect of which the vote on a ballot-paper contained in an envelope is cast – transmit, unopened, all envelopes containing those ballot-papers received by him or her to the Divisional Returning Officers for the divisions in respect of which the votes on those ballot-papers are cast;

(c) place all informal ballot-papers in a parcel;

(d) arrange all formal ballot-papers in the votes in favour of the question and those against the question;

(e) count the votes on the formal ballot-papers;

(f) make and sign a statement setting out the number of:

(i) votes in favour of the question and votes against the question; and

(ii) informal votes;

(g) if he or she is not the Divisional Returning Officer for the division in respect of which the votes were cast – transmit the information contained in the statement referred to in paragraph (f) to the Divisional Returning Officer for the division in respect of which the votes were cast;

(h) place all formal ballot-papers referred to in paragraph (d) in separate parcels according to whether to votes are in favour or against the question;

(j) seal up the parcels referred to in paragraphs (c) and (h) and endorse on each parcel a statement of the contents; and

(k) if he or she is not the Divisional Returning Officer for the division in respect of which votes were cast – transmit to the Divisional Returning Officer referred to in paragraph (g), as soon as is practicable, all the parcels and statements.

(2) A scrutineer may sign:

(a) a statement referred to in subsection (1)(f); and

(b) any parcels referred to in subsection (1)(h).

(3) The Divisional Returning Officer for the division in respect of which the votes on ballot-papers, used for voting under Division 5 or section 36, are cast, must examine, count and deal with those ballot-papers in the prescribed manner.

53 Objections by scrutineers

(1) A scrutineer may object to the officer conducting a determination of the results of a referendum as to the admission or rejection of a ballot-paper as a formal ballot-paper.

(2) The officer conducting a determination of the results of a referendum must:

(a) determine an objection made under subsection (1) by admitting or rejecting the ballot-paper the subject of the objection as a formal ballot-paper; and

(b) mark the ballot-paper "admitted" or "rejected" according to his or her decision.

(3) Nothing in this section prevents the officer conducting a determination of the results of a referendum from rejecting a ballot-paper as being informal although no objection is made to it.

(4) A reference in this section to the officer conducting a determination of the results of a referendum is to be read as a reference to the Divisional Returning Officer for the division in respect of which the votes were cast in the application of this section to a ballot-paper used for voting under Division 5 or section 36.

54 Determination of votes

A Divisional Returning Officer must, from the statements made under section 52 and the result of the scrutiny of the votes counted by him or her, determine the number of votes in favour of the question and the number of votes against the question for the division in respect of which he or she is Divisional Returning Officer.

55 Action after determination of referendum

A Divisional Returning Officer must, on completing a determination of the results of a referendum:

(a) place in separate parcels all informal votes and all formal votes;

(b) seal up the parcels referred to in paragraph (a) and endorse on each parcel a statement of the contents; and

(c) allow any scrutineers present, if they desire, to sign each parcel.

56 Disregarding certain votes

The Chief Electoral Officer may declare the results of a referendum if he or she is satisfied that any ballot-papers that:

(a) have not been received by a Divisional Returning Officer; or

(b) have not been dealt with in accordance with this Act,

cannot, due to the number of those ballot-papers, affect the outcome of a determination of the results of a referendum.

57 Re-count

(1) The Divisional Returning Officer for a division, at any time before the determination of the results of a referendum:

(a) may of his or her own motion or on the written request of a member of the Legislative Assembly or a person authorised to appoint a scrutineer; and

(b) must, on the direction of the Chief Electoral Officer,

re-count any ballot-papers placed in a parcel in accordance with this Part.

(2) A request under subsection (1)(a) is to contain a statement of the reasons for the request.

58 Applicable provisions for re-count

This Part applies to a re-count of any ballot-papers as if the re-count were the determination of the results of a referendum and any decision in relation to the determination as to the admission or rejection of a ballot-paper as a formal ballot-paper may be reversed.

59 Referral of questions

(1) The Divisional Returning Officer conducting a re-count under section 57 must, if required by a scrutineer, refer any question relating to the formal or informal nature of a ballot-paper to the Chief Electoral Officer.

(2) The Chief Electoral Officer must decide a question referred for him or her under subsection (1).

60 Return of writ for referendum

The Chief Electoral Officer must, after the results of the referendum are determined:

(a) write on the writ for the referendum the total number of votes in favour of the question and the total number of votes against the question;

(b) write on the writ whether or not the question has been approved by a majority of the electors voting;

(c) return the writ to the Administrator;

(d) retain a copy of the writ; and

(e) notify the results of the referendum in the *Gazette*.

Part 5 Disputed referendum

61 Referendum Tribunal

(1) The Referendum Tribunal is established.

(2) The Tribunal is constituted by a Judge of the Supreme Court.

(3) The Tribunal must keep a record of its proceedings under this Part.

62 Method of disputing validity of referendum

(1) The validity of a referendum may be disputed by petition addressed to the Tribunal, but not otherwise.

(2) The Tribunal has jurisdiction to hear and determine a petition.

(3) A petition is to:

(a) set out the facts relied on to invalidate the referendum;

(b) set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;

(c) contain a prayer asking for the relief the petitioner claims to be entitled to;

(d) be signed by the person making the petition;

(e) be attested by 2 witnesses whose occupations and addresses are stated; and

(f) be filed with an Associate Judge not later than 21 days after the day fixed for the return of the writ for the referendum.

(4) At the time of filing a petition the petitioner must lodge $500 with the Associate Judge as security for costs.

(5) The Associate Judge must deposit money lodged under subsection (4) in a trust account and must not disperse the money other than in accordance with section 75.

(6) The trust account is to be known as "The Referendum Tribunal Trust Account".

63 Persons to be served

(1) A notice of the lodging of a petition and a copy of the petition must be served on the Chief Electoral Officer.

(2) If the Chief Electoral Officer proposes to contest the petition, he or she must, not later than 7 days after the service or any further time that is allowed by the Tribunal, lodge a reply to the petition with the Associate Judge and the petitioner.

(3) A reply to the petition is to:

(a) set out the facts on which the Chief Electoral Officer proposes to reply;

(b) ask for the relief to which the Chief Electoral Officer claims to be entitled; and

(c) be signed by the Chief Electoral Officer.

64 No proceedings unless requisites complied with

The proceedings on a petition must not be proceeded with unless the requirements of sections 62 and 63 are complied with in respect of the petition.

65 Hearings of Tribunal

The Tribunal, when exercising the jurisdiction conferred by this Part:

(a) is to be open to the public; and

(b) is not bound by the rules of evidence.

66 Powers of Tribunal

(1) Subject to section 68, the powers of the Tribunal includes the power to:

(a) adjourn; and

(b) compel the attendance of witnesses and the production of documents; and

(c) require a person appearing before it to give evidence on oath; and

(d) with the consent of the parties to the proceedings, receive evidence on affidavit or by statutory declaration; and

(e) regulate the form and mode of its proceedings in each case; and

(f) grant to a party to the petition leave to inspect, in the presence of an officer nominated by the Tribunal, the rolls and other documents (except ballot-papers) used at or in connection with the referendum to which a petition relates and to take, in the presence of the officer, extracts from those rolls and documents; and

(g) permit, at any stage of its proceedings and on the terms that it thinks fit, amendments to a petition or other pleadings, that it thinks fit; and

(h) permit a person to appear and be heard, or to be represented, in its proceedings; and

(j) declare a referendum void; and

(k) uphold a petition, in whole or in part; and

(m) dismiss a petition; and

(n) award costs.

(2) The Tribunal may exercise all or any of its powers under this section on any grounds that it thinks fit.

(3) Without limiting the powers conferred by this section, the power of the Tribunal to declare a referendum void may be exercised on the ground that illegal practices were committed in connection with the referendum.

(4) The Tribunal has power to punish a contempt of its authority as if it were the Supreme Court and as if the contempt were a contempt of the Supreme Court.

67 Inquiries by Tribunal

(1) The Tribunal must inquire whether or not the requirements of sections 62 and 63 have been complied with and, so far as voting is concerned, may inquire into the identity of persons and whether their votes were improperly admitted or rejected and whether the result of the polling was correctly ascertained, but the Tribunal must not inquire into the correctness of a roll and must take the roll to be conclusive evidence that the persons enrolled were, at the time of the issue of the writ for the referendum, entitled to be enrolled.

(2) The qualification of a person enrolled must not be questioned and a referendum must not be declared void on the ground that a person

whose name appears on the roll for a division, and who has voted as an elector for the division, was not qualified to be enrolled or to continue to be enrolled as an elector for the division.

68 Exercise of powers

(1) The Tribunal must not exercise the power referred to in section 66(1)(j) or (k):

(a) on the ground of an action that occurred; or

(b) on the ground of the commission of an offence against this Act,

unless it is satisfied:

(c) that the result of the referendum was likely to have been affected by that action or the commission of the offence; and

(d) that it is just that the Tribunal exercise that power.

(2) The Tribunal must not:

(a) in determining whether the actions of an officer affected the results of a referendum, admit evidence of the manner in which a person, who was wrongly prevented from voting at a referendum by an officer, would have voted; or

(b) admit evidence from a person referred to in paragraph (a) unless the person satisfies the Tribunal that he or she was wrongly prevented from voting.

69 Reporting of offences

If the Tribunal finds that a person has committed an offence against this Act, the Associate Judge must, as soon as practicable, report that finding to the Attorney-General, the Director of Public Prosecutions and the Minister.

70 Tribunal may have regard to certain rejected ballot-papers

In making its decision on a petition, the Tribunal may:

(a) have regard to ballot-papers used for voting under Part 3 rejected at the determination if satisfied that the votes marked on the ballot-papers were recorded before the close of polling; and

(b) have regard to any ballot-paper for voting under section 25 or 36 rejected at the determination if of the opinion that the ballot-papers should not have been rejected.

71 Immaterial errors not to vitiate referendum

A referendum must not be voided on account of a delay in the polling or the return of the writ for the referendum.

72 No appeal

An appeal or other proceedings does not lie from or in relation to a decision of the Tribunal.

73 Clerk of Legislative Assembly to receive copy of petition and decision

The Associate Judge must:

(a) as soon as practicable after the issue of a petition; and

(b) after the determination of the petition,

forward to the Clerk of the Legislative Assembly a copy of the petition and a copy of the order of the Tribunal made after the determination.

74 Representation at hearing

(1) A party to proceedings under this Part cannot, except by consent of all parties, or by leave of the Tribunal, be represented by an agent or legal practitioner.

(2) Without limiting subsection (1), no more than one agent or legal practitioner may appear at the same time on behalf of a party to the proceedings under this Part.

75 Costs

(1) The Tribunal may award costs as it thinks fit in proceedings under this Part.

(2) A security paid in accordance with section 62(4):

(a) is to be returned to the person who paid the security if:

(i) no order as to costs is made; or

(ii) costs are awarded to the person who paid the security; or

(b) is to be applied toward the costs of the person to whom they are awarded, other than the person referred to in paragraph (a).

(3) Costs ordered to be paid under this section by the Tribunal may be recovered as if the order of the Tribunal were a judgment of the Supreme Court, and that order it to be entered as a judgment of the Supreme Court and is to be enforced accordingly.

76 Rules of Tribunal

The Judges who are appointed under section 32(1) of the *Supreme Court Act* and are not additional Judges, or a majority of those Judges, may make rules, not inconsistent with this Act:

(a) regulating the practice and procedure of the Tribunal;

(b) conferring on the Tribunal additional powers necessary or convenient for carrying out its functions; and

(c) making any other provision that is necessary or convenient for carrying into effect the provisions of this Part relating to the Tribunal.

Part 6 Offences

77 Exemption of public policy statements

Despite anything in this Act, a declaration of public policy or promise of public action is not to be construed as an offence.

78 Printing of advertisements

(1) On or after the date of issue and before the return of a writ for a referendum, a person must not:

(a) print or publish a printed referendum advertisement, handbill or pamphlet, other than an advertisement in a newspaper, without the name and place of business (if any) of the printer or other person producing the matter being printed at the foot of the matter;

(b) publish a referendum advertisement, handbill or pamphlet or issue a referendum notice, other than the announcement by advertisement in a newspaper of the holding of a meeting, without the name and address of the person authorising the advertisement, handbill, pamphlet or referendum notice appearing at the end of the document;

(c) print, publish or distribute a referendum advertisement, notice, handbill, pamphlet or card containing a representation of a ballot-paper or a representation apparently intended to represent a ballot-paper, having on it directions intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of his or her vote;

(d) print, publish or distribute a referendum advertisement, notice, handbill, pamphlet or card containing an untrue or incorrect statement intended to or likely to mislead or improperly interfere with an elector in or in relation to the casting of the elector's vote; or

(e) wilfully inform an elector that the elector is not enrolled, or that the elector is not enrolled for a particular division, if he or she is enrolled, or is enrolled for the division, as the case may be.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

(2) In subsection (1), ***publish*** and ***distribute*** includes publish or distribute, or publish and distribute, by electronic means and that subsection applies whether or not the electronic means results in the production of printed matter.

79 Heading of advertisements

On and after the date of issue and before the return of the writ for a referendum, the proprietor of every newspaper published or distributed in the Territory must cause the word "advertisement" to be printed as a headline in letters not smaller than 10 point, to each article or paragraph in his or her newspaper containing:

(a) matter intended or calculated to affect the result of a referendum; or

(b) a report of a speech of a person,

the insertion of which is or is to be paid for or for which any reward or compensation or promise is or is to be made.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

80 Articles to be signed

(1) Subject to subsection (3), on and after the date of issue and before the return of the writ for a referendum, every article, report, letter or other matter commenting on the issues being submitted to the electors at the referendum, published in any newspaper, circular,

pamphlet or handbill must:

(a) be signed by the author; or

(b) state the true name and address of the author at the end of the article, report, letter or other matter, or that part of it which is published.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

(2) Subject to subsection (3), a newspaper editor or proprietor who permits, in a newspaper that he or she edits or owns, the contravention or failure to comply with subsection (1) is guilty of an offence.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

(3) This section does not apply to the publishing in a newspaper of:

(a) a leading article; or

(b) an article that consists solely of a report of a meeting and does not contain any comment, other than comment made by a speaker at the meeting, on the issues being submitted to the electors.

81 Broadcasting of advertisements

(1) On and after the date of issue and before the return of the writ for a referendum, every referendum advertisement that is broadcast on radio or television must contain a statement of the name and address of the person authorising the advertisement.

(2) The statement must be at the end of the advertisement.

Maximum penalty: 8 penalty units or imprisonment for 6 months.

82 Untrue statements

A person must not make an untrue statement or supply false information:

(a) to an officer for the purposes of or in connection with:

(i) the preparation, maintenance or revision of the rolls; or

(ii) obtaining a ballot-paper; or

(b) in a document required by or under this Act to be signed by the person.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

83 Signature to papers

(1) If a person who is required by this Act to sign a document is unable to sign his or her name in writing and instead makes his or her mark as his or her signature, the mark is to be taken to be his personal signature, if, subject to subsection (2), it is made in the presence of a witness who signs the document as witness.

(2) If a person of a description referred to in subsection (1) makes an application for a postal ballot-paper or completes a postal vote certificate, a reference in subsection (1) to a witness who signs the document as witness is to be read as a reference to 2 witnesses who sign the application or postal vote certificate, as the case may be, as witnesses.

(3) A person must not make the signature of another person on a document required by this Act to be signed by the other person.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

84 Witnesses to papers

(1) A person must not:

(a) sign his or her name as witness on a blank document that is required by this Act to be witnessed;

(b) sign his or her name as witness on a document required by this Act to be witnessed that has been wholly or partly completed unless it has been signed by the person intended to sign it;

(c) sign his or her name as witness on a document required by this Act to be witnessed unless he or she has seen the person, whose signature he or she purports to witness, sign it; or

(d) write a name other than his or her own name as his or her own name on a document required by this Act.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(2) A member of the Legislative Assembly or person who is authorised to appoint scrutineers must not sign his or her name as witness on a document required by this Act to be witnessed.

Maximum penalty: 0.8 penalty unit.

85 Canvassing near polling places prohibited

Subject to this Act, a person must not during polling hours on polling day or a day to which polling is adjourned, within 10 metres of the entrance of a polling place or by means of sound amplification with the intention that the message is audible in or within 10 metres of the entrance of a polling place:

(a) canvass for votes;

(b) solicit the vote of an elector;

(c) induce an elector not to vote in a particular way;

(d) induce an elector not to vote at the referendum; or

(e) exhibit a notice or sign relating to the referendum.

Maximum penalty: 8 penalty units.

86 Making unauthorised marks

(1) A person must not, without lawful authority, proof of which lies on him or her:

(a) make on or in a paper a mark required by this Act to be placed on or in the paper;

(b) have in his or her possession any paper bearing a mark referred to in paragraph (a); or

(c) make, use or have in his or her possession an instrument capable of making on or in a paper a mark referred to in paragraph (a) other than an instrument used for the purposes of voting.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

(2) A person who, without lawful authority, proof of which authority lies on the person, makes on or in a ballot-paper, or on or in a paper purporting to be a ballot-paper, a mark referred to in subsection (1)(a), is to be taken to have forged the ballot-paper.

(3) A paper bearing a mark referred to in subsection (1)(a), and all instruments capable of making that mark on or in a paper made, used or in the possession of any person without lawful authority, proof of which authority lies on the person, is forfeited to the Territory and may, without warrant, be seized by any member of the Police Force and destroyed or dealt with in any manner that the Chief Electoral Officer or the Commissioner of Police thinks fit.

87 Forged documents

A person must not forge, or utter knowing it to be forged, a document required by this Act.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

88 Influencing officer

A person who, directly or indirectly, by force, deception, threat or intimidation of any kind, influences or attempts to influence an officer in the exercise of the officer's duty, authority or discretion under this Act, is guilty of an offence.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

Part 7 Miscellaneous

89 Referendum at same time as election

(1) If polling day for a referendum is the same as that fixed as polling day for an election of a member of the Legislative Assembly:

(a) a person appointed as an officer under the *Northern Territory Electoral Act* for the election is to be taken to be appointed as an officer for the referendum;

(b) a polling place appointed under the *Northern Territory Electoral Act* for the election is to be taken to be a polling place for the referendum;

(c) a mobile polling team authorised under the *Northern Territory Electoral Act* for the election is to be taken to be a mobile polling team for the referendum and may be used at the places and during the days and hours specified under that Act;

(d) the same certified list of voters may be used for the purposes of both the election and referendum;

(e) the date for the purposes of sections 25 and 26 is the close of nominations for the election; and

(f) the answer given by a person to a question asked of him or her under section 67 of the *Northern Territory Electoral Act* is to be taken to be the person's answer to the equivalent question in section 31.

(2) If polling day for a referendum is the same as that fixed as polling day for:

(a) an election conducted under the *Commonwealth Electoral Act 1918* of the Commonwealth; or

(b) a referendum under the *Referendum (Machinery Provisions) Act 1984* of the Commonwealth,

the Chief Electoral Officer may enter into an agreement with the Australian Electoral Commission for it to conduct the referendum.

(3) If a referendum under this Act is to be conducted by the Australian Electoral Commission, the Administrator may, by notice in the *Gazette*, specify how the referendum is to be conducted.

(4) The notice may provide for anything that in the opinion of the Administrator is necessary or convenient to be done to ensure that the referendum and the election under the *Commonwealth Electoral Act 1918* of the Commonwealth or the referendum under the *Referendum (Machinery Provisions) Act 1984* of the Commonwealth are able to be conducted in a manner that facilitates the conduct of the referendum and the election or referendum, as the case may be, at the same time.

(5) Without limiting the matter that may be included in the notice, the notice may:

(a) provide that a provision of this Act or the Regulations is to be taken to not apply to the conduct of the referendum or to have been amended as specified in the notice;

(b) provide that procedures under the *Commonwealth Electoral Act 1918* of the Commonwealth and the *Referendums (Machinery Provisions) Act 1984* of the Commonwealth are to apply to the conduct of the referendum in substitution for those contained in this Act; and

(c) provide that officers appointed under the *Commonwealth Electoral Act 1918* of the Commonwealth and the *Referendums (Machinery Provisions) Act 1984* of the Commonwealth may exercise the powers and perform the

functions of officers under this Act.

(6) For the purposes of the referendum conducted under this Act, anything done in accordance with a notice under this section is to be taken to have been done under this Act.

90 Extension of time

(1) Subject to subsection (2), the Administrator may, by notice in the *Gazette*, within 20 days before or after polling day:

(a) extend the time for the holding of a referendum; or

(b) extend the time for the return of the writ for the referendum,

for the purpose of obviating a difficulty that may arise in the referendum.

(2) A polling day must not be postponed under subsection (1) at any time later than 7 days before the time originally appointed.

(3) The Chief Electoral Officer must give public notice of any extension of time under subsection (1) in the division to which the extension relates.

91 Averments

The averments of the prosecutor contained in an information or complaint relating to an offence against this Act are evidence of the matters averred.

92 Regulatory offences

An offence of contravening or failing to comply with section 41(2), 44, 46, 47(11) or 83 is a regulatory offence.

93 Prosecutions not to be brought after 12 months

Despite any other law in force in the Territory, a prosecution for an offence against this Act or the Regulations cannot be brought if 12 months have elapsed from the date of the commission of the offence.

94 Disclosure of information

A person who is or has been an officer must not, except for the purposes of this Act, disclose any document or information that he or she has received while acting or purporting to act in accordance with his or her duty as an officer.

Maximum penalty: 17 penalty units or imprisonment for 2 years.

95 Protection of officers

An action or proceeding, civil or criminal, does not lie against a person who is or has been an officer for or in respect of an act or thing done in good faith by the person in his or her capacity as an officer.

96 Destruction of ballot-papers

(1) The Chief Electoral Officer must preserve:

(a) all ballot-papers;

(b) all certified lists of voters; and

(c) all declarations,

used at a referendum for not less than 6 months after the date of the return of the writ for the referendum.

(2) Subject to any directions of the Tribunal, the Chief Electoral Officer must destroy all ballot-papers, lists and declarations referred to in subsection (1) at any time, being not later than 12 months, after the date of the return of the writ for the referendum, that he or she thinks fit.

97 Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Schedule

section 7

NORTHERN TERRITORY OF AUSTRALIA

REFERENDUMS ACT

WRIT FOR REFERENDUM

TO:

the Chief Electoral Officer.

I order you to conduct or make arrangements for the conduct of a referendum in accordance with the *Referendums Act* on the question , approved by the Legislative Assembly and a copy of which is attached, and fix:

(a) , to be polling day; and

(b) , to be the last day on which this writ may be returned.

This writ was issued on , .

Given under my Hand and the Public Seal of the Northern Territory of Australia.

Administrator

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Referendums Act 1998* (Act No. 49, 1998)**

Assent date	14 August 1998
Commenced	14 August 1998

***Statute Law Revision Act (No. 2) 2001* (Act No. 62, 2001)**

Assent date	11 December 2001
Commenced	11 December 2001

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010* (Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

***Penalties Amendment (Chief Minister's and Other Portfolios) Act 2011* (Act No. 27, 2011)**

Assent date	31 August 2011
Commenced	21 September 2011 (*Gaz* G38, 21 September 2011, p 5)

***Supreme Court Amendment (Associate Judges) Act 2017* (Act No. 18, 2017)**

Assent date	5 September 2017
Commenced	22 November 2017 (*Gaz* S84, 21 November 2017, p 1)

3 LIST OF AMENDMENTS

s 2	amd No. 18, 2017, s 36
s 17	amd No. 62, 2001, s 15
s 35	amd No. 27, 2011, s 3
ss 40 – 42	amd No. 27, 2011, s 3
ss 44 – 47	amd No. 27, 2011, s 3
ss 62 – 63	amd No. 18, 2017, s 36

s 66	amd No. 40, 2010, s 118
s 69	amd No. 18, 2017, s 36
s 73	amd No. 18, 2017, s 36
ss 78 – 88	amd No. 27, 2011, s 3
s 94	amd No. 27, 2011, s 3