

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

5

(As presented)

10

(Mr Stevenson)

Electors Initiative and Referendum Bill 1994

15

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1994

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**THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY**

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**Electors Initiative and Referendum Bill 1994**

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**A BILL**

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**FOR**

**An Act to enable the electors to introduce,  
amend or repeal laws by direct vote at referendums.**

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

**PART 1 - PRELIMINARY**

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**1. Short title**

This Act may be cited as the *Electors Initiative and Referendum Act 1994*.

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**2. Definitions**

In this Act:

15

“ACT” means the Australian Capital Territory.

“Chief Minister” means the Chief Minister for the purposes of the *Australian Capital Territory (Self-Government Act) 1988* of the Commonwealth.

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“elector” means a person qualified to vote for the election of Members of the Legislative Assembly for the ACT.

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“Electors Bill” means a document by which electors of the ACT call for the introduction of a new law or the repeal or amendment of an existing law of the Australian Capital Territory, by means of a referendum held under this Act. A signed copy of an Electors Bill shall be taken to be part of the Electors Bill.

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“Electors Bill committee” and “committee” mean a quorum of the persons appointed under this Act as members of the Electors Bill committee, in respect of the Electors Bill.

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“Electors Bill representative” and “bill representative” mean a person nominated and appointed under this Act as an Electors Bill representative.

“Electoral Commissioner” and “Commissioner” mean the Electoral Commissioner for the ACT.

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“Electoral Division” means an electoral division of the ACT for the appointment of members of the Legislative Assembly for the ACT, and where no divisions exist, means the Australian Capital Territory.

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“Gazette” means the official publication for Government and legal notices for the ACT; called the “Government Gazette”.

“law” means a law of the Territory, and includes an order made by a Minister of the Legislative Assembly for the ACT.

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“Legislative Assembly” means the Legislative Assembly for the Australian Capital Territory.

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“Local electoral official” means a person appointed under this Act as a local electoral official; and, where no appointment is made, means the Electoral Commissioner.

“notice” - when given by a committee - means a notice in writing delivered to the Electoral Commissioner signed by a quorum of the Electors Bill committee, unless otherwise provided.

“proposed law” means and includes provisions or subject-matter of an Electors Bill for the introduction of a new law or the amendment or repeal of an existing law for submission to a referendum of the electors of the ACT, and includes a proposed law as drafted by the parliamentary counsel.

5 “qualified Electors Bill” means a registered Electors Bill which has been signed by the requisite number of electors to qualify the submission of provisions or subject-matter it contains to a referendum of the electors of the ACT.

10 “referendum” means a referendum initiated by electors of the ACT on a proposed law.

15 “registered Electors Bill” means an Electors Bill which has been signed by at least 400 electors and which otherwise complies with and has been registered under this Act by the Electoral Commissioner.

“signatory” means a person who signs an Electors Bill.

20 “Speaker” means the Speaker of the Legislative Assembly for the ACT.

## PART 2 - INITIATION OF A REFERENDUM BY ELECTORS

### *Commencement of Electors Bill*

#### 3. General description and objects of this Act

30 This Act provides for the initiation by the electors of laws of the Territory by means of Electors Bills and referendums in accordance with the provisions of this Act. An Electors Bill may propose the introduction of a new law of the Territory or the repeal or amendment of an existing law.

#### 4. Particulars required in an Electors Bill

40 (1) An Electors Bill shall be addressed to the Electoral Commissioner requesting that a referendum be held on the subject-matter of an Electors Bill.

45 (2) An Electors Bill shall have a title and contain a plain English description, in not more than 200 words, of the law which the Electors Bill seeks to introduce, amend or repeal. The Electoral Commissioner may allow a description of greater than 200 words if the Commissioner considers it appropriate. If an Electors Bill seeks to amend a law, the description shall also specify the provisions of the law it seeks to amend.

#### 50 5. Particulars allowable in support of an Electors Bill

55 An Electors Bill may be accompanied by written material in its support. Such material may include detailed provisions of the law which an Electors Bill seeks to introduce, amend or repeal, and may include a draft Bill.

6. Electors Bill Committee - how appointed

(1) An Electors Bill committee shall consist of 12 members who:

- (a) are electors; and
- (b) have signed the Electors Bill; and
- (c) have signed a notice of appointment which sets out the full title of the Electors Bill; and
- (d) have been appointed by at least 100 electors who have signed:
  - (i) the Electors Bill; and
  - (ii) the notice of appointment.

(2) After registration of an Electors Bill a quorum of the committee shall be nine members.

(3) The committee may, by notice, appoint a signatory to an Electors Bill to replace a member who has resigned, become incapacitated or has died. The committee shall deliver a copy of the notice to the Electoral Commissioner.

(4) A member of the committee may be removed or replaced by notice in writing delivered to the Commissioner which has been signed by not less than 75% of the appointing electors referred to in sub-section (1) (d). Such removal or replacement shall take effect upon delivery of the notice to the Commissioner.

7. Registration of Electors Bill by Electoral Commissioner

(1) Upon receipt of an Electors Bill the Electoral Commissioner shall issue to the committee a written receipt which shall set out:

- (a) the title of the Electors Bill;
- (b) the description of the Electors Bill;
- (c) a description of any written material in support of the Electors Bill;
- (d) the date of receipt;
- (e) the signature by or on behalf of the Commissioner;
- (f) the official stamp of the electoral office.

(2) The receipt shall be attached to a copy of the Electors Bill which has been certified as a true copy by or on behalf of the Commissioner and delivered to the person delivering the Electors Bill.

(3) Within 14 days (or such longer time as the committee may provide in writing), after the committee delivers an Electors Bill to the Electoral Commissioner, the Commissioner shall register the Electors Bill unless the Commissioner, on reasonable grounds, is satisfied that:

- (a) the Electors Bill has been signed by less than 400 electors;

- 5
- (b) the required number of electors have not signed the Electors Bill within the three month period before the date of delivery of the Electors Bill to the Commissioner,
- (c) the Electors Bill fails to comply with sections 4, 6, and 7 of this Act.
- 10
- (4) The committee shall cause a notice of the title, description and the date of registration of the Electors Bill to be published in the *Gazette* and in a newspaper circulating throughout the ACT, at the cost of the committee.
- (5) The committee is not required to pay any Government costs with respect to an Electors Bill or a referendum.
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- (6) The Electoral Commissioner may refuse to register an Electors Bill if:
- (a) it deals with two or more subject-matters which are not directly or indirectly related; or
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- (b) it names a individual and affects the individual's rights or liabilities (other than in the individual's capacity as a public official); or
- (c) it names a individual and provides for the individual's appointment to, or removal from, public office; or
- 25
- (d) the proposed law is not within the powers of the Legislative Assembly.
- (7) At any time prior to registration, the Commissioner may request the committee to make such changes to the title and description of an Electors Bill and written material in support which the Commissioner considers will enable it to comply with subsection (6).
- 30
- (8) The committee may, upon request of the Commissioner, make changes to an Electors Bill which shall take effect upon delivery of a notice to the Commissioner setting out such changes.
- 35
- (9) The committee may, by notice at any time before registration of an Electors Bill, withdraw a provision or subject-matter of an Electors Bill, or withdraw any written material in support, or withdraw an Electors Bill.
- 40
- (10) If the Commissioner proposes not to register an Electors Bill, the Commissioner shall notify the committee in writing within 14 days of the delivery of the Electors Bill to the Commissioner, or within such longer time as the committee may provide. The notice shall specify the reasons, with respect to any provision or matter, on account of which the Commissioner proposes not to register the Electors Bill.
- 45
8. Copy of Electors Bill to be available for inspection and sale
- 50
- (1) Promptly after registration, copies of an Electors Bill and any written material in support, together with any changes subsequently notified to the Electoral Commissioner, shall be made available for public inspection at the office of the Commissioner and any local electoral official.
- 55
- (2) The Commissioner and the committee shall make copies of an Electors Bill and any written material in support, available freely or available for sale at cost.

- (3) Anyone may arrange the printing of copies of an Electors Bill, as registered, and the written material in support, for distribution freely or for sale.

5 9. How an Electors Bill may be changed after registration

(1) After an Electors Bill is registered and before it becomes a qualified Electors Bill, the committee may change the title and any support material deposited with the Electors Bill, but may not change the description of the Electors Bill.

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(2) Where the written material in support includes a draft Bill, the committee may make changes to the draft Bill, provided the changes do not conflict with the Electors Bill description.

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(3) Any such change shall be made by notice to the Electoral Commissioner.

(4) The committee shall cause a copy of the particulars of any such change to be published in the *Gazette* and in a newspaper circulating throughout the ACT, at the cost of the committee.

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10. When Electors Bill registration is to be cancelled

(1) The Electoral Commissioner shall cancel the registration of an Electors Bill if:

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(a) the Electors Bill is withdrawn by the committee under section 29 of this Act; or

(b) the Electors Bill fails to become a qualified Electors Bill.

30

(2) Cancellation of registration shall terminate any further proceedings on an Electors Bill under this Act.

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*Electoral officials, Electors Bill representatives, etc.*

11. Appointment of Electors Bill representatives

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(1) Two members of the committee may appoint any number of electors of the ACT to be bill representatives for the purpose of obtaining signatures to an Electors Bill.

45

(2) A person who seeks appointment as a bill representative shall:

(a) deliver to the appointing members of the committee a notice, signed by not less than 12 electors who are not committee members, in support of his or her being appointed to be a bill representative; and

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(b) deliver to the appointing members 4 or more passport style photographs, as may be required, for attachment to certificate of identification forms; and

55

(c) sign four certificate of identification forms.

(3) The committee shall deliver a copy of the certificate of identification to the Electoral Commissioner and local electoral officials (if any).

- (4) The certificate of identification shall:
- (a) state the title of the Electors Bill;
  - 5 (b) state the name of the person appointed to be a bill representative;
  - (c) be signed by the bill representative and the two appointing members of the committee;
  - 10 (d) state the name, address and telephone number of a committee member.
- (5) The committee may, by notice sent to a bill representative:
- 15 (a) require the bill representative to return to the committee all signed Electors Bills completed as required by section 15 (4) (b) (i) and (ii);
  - (b) cancel the appointment and certificate of identification of the bill representative. The committee shall send a copy of the notice to the Commissioner and to the local electoral official (if any).
  - 20
- (6) Electors Bill signatures and bill representative declarations may also be witnessed by:
- 25 (a) a local electoral official or Clerk of the Magistrates Court of an Australian State or Territory;
  - (b) a Justice of the Peace or Commissioner for Affidavits of any Australian State or Territory or of New Zealand or of the United Kingdom;
  - 30 (c) an Australian consular officer, or a person approved by that officer;
  - (d) a member of the Australian armed forces outside Australia;
  - (e) a registrar of a court outside Australia;
  - 35 (f) a person or class of persons approved by the Electoral Commissioner.

None of these witnesses have any responsibility other than to satisfy themselves as to the identity of the signatory.

40

## 12. Appointment of local electoral officials

The Electoral Commissioner may appoint local electoral officials to administer the process of Electors Bill qualification.

45

## 13. Which electoral rolls are to be used

To determine who is eligible to sign an Electors Bill, to become a committee member, or a bill representative, copies of printed or published ACT or Commonwealth electoral rolls or other matter evidencing enrolment for the ACT and supplementary rolls shall be used.

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### *Signatories to Electors Bills*

**14. Signatories to Electors Bills**

The following particulars of signatories are required on an Electors Bill:

- 5 (a) the elector's name; and  
    (b) address; and  
10 (c) signature; and  
    (d) date the Electors Bill is signed.

**15. Obligations of Electors Bill representatives**

- 15 (1) In connection with carrying out any obligation under this Act, a bill representative shall produce on request, a copy of the bill representative's certificate of identification.
- 20 (2) Before a person signs an Electors Bill, the bill representative shall give the person an opportunity to read the title and description of the Electors Bill or shall read the title and description to the person.
- 25 (3) A bill representative shall give a copy of the title and description of an Electors Bill to any person who requests a copy.
- (4) The bill representative shall:
- 30 (a) ensure that the relevant particulars of the person signing an Electors Bill are completed; and
- (b) before or at the end of each month:
- 35 (i) rule through all uncompleted spaces on signed Electors Bills; and
- (ii) complete all information and declarations required to be provided and made; and
- 40 (iii) return the signed Electors Bills to the local electoral official (if any) or the Electoral Commissioner.

**16. Counting of Electors Bill signatures and scrutiny**

- 45 (1) The Electoral Commissioner shall give the committee reasonable notice of the appointed time and place of any count or recount of Electors Bill signatories. If such notice is not given, the committee may require a recount.
- 50 (2) Members of the committee are authorised as scrutineers.
- (3) A member of the committee may appoint scrutineers who may scrutinise the count and any recount of signatories to Electors Bills. The Commissioner or local electoral official may, on request of an elector, appoint the elector as a scrutineer at the count and any recount of signatories to an Electors Bill. Such appointment may not be unreasonably withheld.
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- (4) A person, before exercising any role as a scrutineer, shall sign a declaration of non-disclosure of the particulars of any signatory to any Electors Bill to be scrutinised, other than for the administrative purposes of this Act.
- (5) The provisions for the scrutiny of votes in the *Commonwealth Electoral Act 1918* shall apply with such adaptations as may be necessary to the scrutiny of the count or recount of signatories to Electors Bills.
- 10
- (6) The Commissioner and local electoral officials may make due inquiries as to whether signatories are electors.
- (7) If the Commissioner or a local electoral official determines, on reasonable grounds, that a signature is not the signature of an elector, the signature shall not be counted.
- 15
- (8) For the purpose of marking off electors signatures on a copy of the electoral roll held by the committee, a bill representative or committee member may peruse copies of signed Electors Bills which have been delivered directly to the Commissioner or local electoral official.
- 20
- (9) The Electoral Commissioner shall make the following arrangements for the count of signatories to an Electors Bill:
- 25
- (a) For signatories to be counted, they shall sign an Electors Bill before the closing date for signatures set out in section 17. Only Electors Bill signatures delivered to the Commissioner or to a local electoral official within two months after the closing date shall be counted.
- 30
- (b) The Commissioner and any local electoral official who receives signed Electors Bills shall deposit them in a locked and secure metal box or safe until the count for the month.
- 35
- (c) The number of signatories to Electors Bills returned to the Commissioner or local electoral officials shall be counted as soon as practicable after the end of each month during the currency of an Electors Bill.
- 40
- (d) Once counted, signed Electors Bills shall be kept in batches according to each relevant month and deposited in a locked and secure metal box or safe.
- 45
- (e) The names of signatories to Electors Bills that have been counted shall be marked off on a copy of the electoral roll kept by the Commissioner or local electoral official. A name marked off shall only be counted once.
- 50
- (f) If an Electors Bill received by the Commissioner or a local electoral official contains the signature of an elector for another electoral division, particulars shall be given to the local electoral official for that division for inclusion in that other official's count.
- 55
- (g) The Commissioner or local electoral official shall issue a certificate containing particulars of the count of each batch of signed Electors Bills. The certificate shall be kept with each batch. A local electoral official who issues a certificate shall deliver a copy to the Commissioner at the end of each month and shall keep a copy for public inspection at the office of the official.

- (h) The Commissioner or local electoral officials may recount a batch and shall do so at the reasonable request of a scrutineer. The relevant certificate of the count shall be amended as necessary.
- (i) The Commissioner may at any time require counted batches of Electors Bills to be delivered to the Commissioner.

*Qualification of an Electors Bill for submission of a proposed law to electors*

**17. Closing date for Electors Bill signatures**

A signature to an Electors Bill made later than 18 months after the end of the month in which an Electors Bill was registered shall not be counted.

**18. Number of signatories required to qualify an Electors Bill to initiate a referendum**

- (1) An Electors Bill does not qualify for submission to a referendum unless the number of electors who have duly signed the Electors Bill constitutes:
- (a) at least 2% of the number of enrolled electors (provided that the Electors Bill shall be signed by at least 5,000 electors); and
- (b) at least 2% of the electors enrolled in each of a majority of electoral divisions (provided that the Electors Bill shall be signed by at least 1,500 electors in each of a majority of electoral divisions).
- (2) If the number of electors who sign an Electors Bill is at least 5% of the number of enrolled electors (provided that the Electors Bill shall be signed by at least 10,000 electors and by at least 3,000 electors in each of a majority of electoral divisions), then the referendum shall be held within 3 months after qualification.

**19. Electoral Commissioner to determine whether Electors Bill qualifies**

- (1) The certificates of the Electoral Commissioner or local electoral officials shall be evidence of the number of electors who have signed an Electors Bill.
- (2) The Commissioner shall determine whether an Electors Bill has qualified in accordance with section 18 as soon as the committee advises the Commissioner that the required evidence is available.
- (3) Where an Electors Bill does not qualify for submission to a referendum, but where 2 or more Electors Bills deal with the same or substantially the same subject-matter, for the purpose of determining whether that subject-matter qualifies for submission to a referendum, the signatories to those Electors Bills shall be taken to be signatories to a deemed Electors Bill with respect to the subject-matter. A signatory to a deemed Electors Bill shall be counted only once.
- (4) Where, pursuant to subsection (3), subject-matter is deemed to be an Electors Bill, the Commissioner shall, in respect of that subject-matter and the deemed Electors Bill:

- 5
- (a) provide a title and description of the deemed Electors Bill in terms as close as possible to the descriptions of the Electors Bills; and
  - (b) appoint from the respective committees, in order of preference if any as notified to the Commissioner, and in proportion as nearly as possible to the number of signatories to the respective Electors Bills, 12 persons to be committee members with respect to the deemed Electors Bill.

10 **20. Certificate of Qualification of Electors Bill**

- 15
- (1) When the Electoral Commissioner determines that an Electors Bill or subject-matter of an Electors Bill qualifies for submission to a referendum, the Commissioner shall publish a copy of the certificate of qualification in the next available issue of the *Gazette*.
  - 20 (2) The certificate shall set out the title and description of the proposed law and the Commissioner shall number each qualified Electors Bill in order of qualification, beginning with the number 1 for each term of the Legislative Assembly.
  - 25 (3) Upon qualification of an Electors Bill, the Commissioner shall deliver to the Speaker and the parliamentary counsel a copy of the certificate of qualification, the Electors Bill and any written material in support accompanying the Electors Bill.

30 **PART 3 - DRAFTING AND TABLING OF ELECTORS BILL**

35 **21. Drafting of Electors Bill for an Act**

- 40
- 45 (1) The parliamentary counsel shall prepare a draft of the law proposed by a qualified Electors Bill in accordance with the description given in an Electors Bill. The draft shall be prepared in consultation with the committee and in accordance with their instructions.
  - (2) The parliamentary counsel shall take into consideration a draft Bill (if any) presented to the parliamentary counsel by the committee.
  - (3) The parliamentary counsel shall deliver a draft proposed law to the Electoral Commissioner and the Speaker as soon as practicable after an Electors Bill qualifies. This shall be done in time for the referendum on the Electors Bill to be held within the time required by this Act.
  - 50 (4) The parliamentary counsel may, before an Electors Bill qualifies, make arrangements with the Commissioner to obtain copies of the registered Electors Bill and any written material in support deposited with the Commissioner.
  - 55 (5) The parliamentary counsel's draft shall include such transitional, machinery and ancillary provisions as are required for the proper operation of the proposed law and for purposes consequent thereon or incidental thereto.
  - (6) The parliamentary counsel's draft proposed law shall take into account any requirement to submit more than one question at a referendum on the subject-matter of an Electors Bill.

- (7) The committee may amend the parliamentary counsel's draft proposed law by consulting with and then instructing the parliamentary counsel.

5 **22. Speaker to table qualified Electors Bill in the Legislative Assembly**

- (1) The parliamentary counsel shall deliver to the Speaker the parliamentary counsel's draft proposed law as approved by the committee.
- 10 (2) The Speaker shall table a copy of the certificate of qualification and the approved parliamentary counsel's draft proposed law on the next sitting day of the Legislative Assembly.

15 **23. Preparation of ballot papers**

- (1) If one or more Electors Bills deal with subject-matters and provisions which are related, the questions to be asked at a referendum may be placed on the one ballot paper.
- 20 (2) The committee, the parliamentary counsel or the Electoral Commissioner may require referendum questions relating to the one Electors Bill to be placed on a ballot paper on which no other questions are asked.
- 25 (3) The presentation and instructions on the ballot paper shall be prepared by the Commissioner upon consultation with the parliamentary counsel and in accordance with the instructions of the committee.
- (4) The questions on a ballot paper shall be presented in the order in which Electors Bills qualify, unless the respective committees agree to a different order.
- 30 (5) The Commissioner shall ensure that ballot papers and all forms and advisory materials used in connection with a referendum shall state clearly and prominently the words: "This is a binding referendum".
- 35 (6) The presentation of questions on the ballot paper shall provide for preferential voting with respect to provisions, matter or subject-matter of related proposed laws, where the committee or committees so require by notice to the Commissioner.
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**PART 4 - HOLDING OF REFERENDUMS**

45 **24. Date of referendum**

- (1) A referendum on a proposed law may, subject to this section, be held at any time after an Electors Bill becomes a qualified Electors Bill.
- 50 (2) The referendum shall be held on the earliest of the following dates:
- (a) the polling day for the next general election of members of the Legislative Assembly or the next referendum of electors of the ACT under this Act or under any other Act; but
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- 5
- (b) if an Electors Bill qualifies within 21 days before the date specified in subsection (a), then polling day shall be on the next available date when a referendum may be held;
- (c) one or more days which the Electoral Commissioner may determine in each year, beginning on the 1st January;
- 10 (d) the date determined by the Commissioner for the holding of a referendum where an Electors Bill satisfies the requirements of sections 18 (2), 19 and 20.

25. **Vote taken in compliance with Electoral Act**

- 15 (1) The vote at a referendum shall be taken in accordance with the *Commonwealth Electoral Act 1918*, with necessary adaptations, and in accordance with this Act and the instructions as indicated on the ballot paper.
- 20 (2) At a referendum an elector may:
- (a) approve a question by writing "Yes", "1" or a "✓" beside the question or in the box beside the question;
- 25 (b) disapprove a question by writing "No" beside the question or in the box beside the question.
- (3) Where the ballot paper indicates alternative questions, an elector may indicate preferences, including equal preferences, by numbering the answers to the questions in the order of the elector's preferences.
- 30

26. **Electors Bill - approval at referendum and notification**

- 35 (1) A proposed law is approved by the electors at a referendum: if
- (a) a majority of the electors casting valid votes at the referendum with respect to the proposed law, approve the proposed law; and
- 40 (b) the electors who approve the proposed law constitute a majority of the electors, who cast valid votes in approval of the proposed law, in each of a majority of electoral divisions.
- (2) Where electors at the same referendum approve laws, provisions of which are inconsistent, the provisions of the law receiving the highest affirmative vote are to prevail, to the extent of any inconsistency.
- 45 (3) A "Yes", a "1" or a "✓" shall be counted as a first preference.
- (4) Further preferences shall be counted in the order of the numbers 2,3,4 and so on in the manner that preferences are counted under the *Commonwealth Electoral Act 1918*.
- 50 (5) A vote and a preference, including an equal preference, shall be counted where the intention of the elector is clear, provided that the provisions of this Act, with respect to preferences, shall prevail to the extent of any inconsistency with the provisions of the *Commonwealth Electoral Act 1918*.
- 55

(6) Where a proposed law has been approved by the electors, the Chief Minister or another person authorised by enactment to do so, shall notify the approved law in the *Gazette*.

5 (7) Where a proposed law has been approved by a majority of the electors voting, but who are less than a majority of the electors who received ballot papers at the referendum poll or election poll (if the referendum is held at the same time at an election), the Chief Minister or another person authorised by enactment to do so, shall not notify the approved law in the *Gazette* unless the Legislative Assembly recommends that the approved law be so notified.

10 (8) The approved law shall take effect on the day of the notification or, if the approved law otherwise provides, as so provided.

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**PART 5 - LIMITATION ON REFERENDUMS**

20 **27. Matters excluded from referendums**

A referendum on a proposed law may not be held under this Act if the proposed law:

25 (a) affects the rights or liabilities of a named individual (other than in the person's capacity as a public official); or

(b) names an individual and provides for his or her appointment to any public office or for the removal of any such person from public office; or

30 (c) is not within the power of the Legislative Assembly; or

(d) proposes the disallowance of the Appropriation Bill for the ordinary purposes of government. However, a question may be asked at a referendum with respect to proposed expenditure on a specified item or items relating to the implementation of the one administrative proposal or project.

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**28. Electors Bill may seek a referendum on single subject-matter only**

40 (1) A referendum may not be held on a proposed law which deals with two or more subject-matters unless those matters are directly or indirectly related.

(2) Nothing in this section prevents referendums being held on the same day as referendums sought by other Electors Bills under this Act, or referendums originating under any other Act.

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**29. Adopting of Electors Bill by the Legislature before a referendum**

50 (1) If, after an Electors Bill becomes a qualified Electors Bill and before a referendum is held on the proposed law, the Legislature enacts the proposed law, or a law which has substantially the same effect as the proposed law, or which relates to the proposed law, the committee may by notice:

55 (a) withdraw the proposed law from a referendum or postpone the referendum on a proposed law to the next referendum; or

- (b) amend or withdraw in whole or in part a provision or subject-matter of the parliamentary counsel's draft proposed law.
- 5 (2) Except with the consent of the Electoral Commissioner, the committee shall not take any such action within 21 days before the date of the referendum.

10 **PART 6 - MISCELLANEOUS**

30. **Supreme Court to deal with matters**

- 15 (1) The Supreme Court of the ACT has jurisdiction to deal with any matter, or with any objection by a member of the committee or by any other person, and to determine any of the following matters:
- (a) Any matter relating to changes made to an Electors Bill, including:
- 20 (i) changes to an Electors Bill or its title;
- (ii) changes to the description as set out in an Electors Bill;
- 25 (iii) changes to any written material in support.
- (b) Withdrawal in part or in full, postponement in part or in full, or the amendment of an Electors Bill or the parliamentary counsel's draft proposed law.
- 30 (c) Whether an Electors Bill contravenes any provision of this Act.
- (d) Any delay by the Electoral Commissioner, parliamentary counsel or other official in performing a duty imposed by this Act.
- 35 (e) The refusal or failure of the Electoral Commissioner to register an Electors Bill.
- (f) Any questions to be presented on the ballot paper and the wording, presentation and order of those questions.
- 40 (g) Application to shorten or extend any time within which any action may or shall be taken.
- (h) Whether an Electors Bill is a qualified Electors Bill.
- 45 (2) The court may disallow in whole or in part any action taken by the committee and the action or matter disallowed shall thereupon be taken not to have happened or not to have been made by the committee.
- 50 (3) For the purposes of dealing with any application or objection, the Supreme Court may make any necessary order. This includes an order to permit or disallow a proposed change or withdrawal in relation to the whole or any part of the subject-matter or matters of an Electors Bill.
- 55 (4) A member of the committee or an elector who lodges an objection has the right to be heard in person without fee. No award of costs shall be made except where the court dismisses an application or objection as frivolous or vexatious.

**31. Electoral Commissioner may give directions**

The Electoral Commissioner or a returning officer may issue a direction ordering the restraint of a breach of this Act.

5

**32. Offences relating to Electors Bills**

10

(1) A person who signs another person's name to an Electors Bill, or who knowingly signs the same Electors Bill more than once, is guilty of an offence.

(2) A person who gives or offers or promises to give any money or other benefit to a person to sign or not sign an Electors Bill is guilty of an offence.

15

(3) A person who, without reasonable excuse, hinders or obstructs a person from collecting signatures to an Electors Bill, is guilty of an offence.

(4) A person who knowingly misrepresents an Electors Bill in order to influence a person to sign or not sign an Electors Bill is guilty of an offence.

20

(5) A person who represents himself or herself as a bill representative, when the person is not a bill representative, is guilty of an offence.

25

(6) A person who signs an Electors Bill, knowing at the time that he or she is not enrolled as an elector, is guilty of an offence.

(7) A person who threatens, or improperly offers or suggests any violence, injury, damage, loss or disadvantage to an elector or any other person, in order to influence an elector to sign or not sign an Electors Bill, is guilty of an offence.

30

(8) A person who causes, or arranges to cause, any violence, injury, damage, loss or disadvantage to an elector or any other person, in order to influence an elector to sign or not sign an Electors Bill, is guilty of an offence.

35

(9) A person who prints, publishes or distributes any advertisement or document containing a representation of a ballot paper, or any representation appearing to represent a ballot paper, containing directions likely to mislead an elector in relation to the casting of a vote, is guilty of an offence.

40

(10) A person who prints, publishes or distributes any untrue or incorrect statement likely to mislead an elector in relation to voting at a referendum, is guilty of an offence.

45

(11) A person who contravenes a lawful direction of the Commissioner or of a returning officer is guilty of an offence.

(12) A person who discloses any particulars by which a signatory to an Electors Bill may be personally identified (except for the administrative purposes of this Act), is guilty of an offence.

50

(13) Every act or omission which would be punishable by law, if the same had occurred in connection with the holding of an election, shall be held to constitute the like offence if the same occurs in connection with a referendum. The penalties applicable under the *ACT Electoral Act 1992* apply to such offences under that Act.

55

(14) A person who fails to comply with the provisions of this Act is guilty of an offence.

5 (15) Where a body contravenes any provision of this Act or the regulations, each director or any other executive officer of that body shall be deemed to have contravened the same provision. This applies whether the body is incorporated or not and irrespective of whether the contravention is by act or omission, unless that person satisfies the court that:

(a) the body contravened the provision without the knowledge of that person; or

10 (b) that person was not in a position to influence the conduct of the body in relation to its contravention of the provision; or

(c) that person, being in such a position, used all due diligence to prevent the contravention of the provision by the body.

15 (16) A person may be proceeded against and convicted under a provision of this Act whether or not the body referred to in sub-section (15) has been proceeded against or convicted under that provision.

20 (17) The court may order a person found guilty of an offence, whether or not the court records a conviction, and whether or not the court imposes a penalty, to pay costs with respect to any expense which the committee, bill representatives and the Electoral Commissioner have incurred or may reasonably incur as a consequence of the offence.

25 (18) The court may order a person found guilty of an offence to pay the costs of a fresh Electors Bill or fresh referendum, as may be appropriate or necessary. If requested by the court, the Electoral Commissioner shall notify whether a fresh Electors Bill or referendum is appropriate or necessary in respect of any particular electoral division or divisions affected by the offence.

30 (19) The court may order exemplary damages to be paid to the committee in respect of an offence committed under this Act.

35 The maximum penalty for an offence under this section is \$20,000.

### 33. Disclosure of financial contributions

40 (1) The committee, and any person, body of persons or corporation, in favour of or in opposition to an Electors Bill or a proposed law, shall notify the receipt of contributions of money, goods, services, or other benefit, whether received before or after registration of an Electors Bill, if:

45 (a) the contributions from a single contributor exceed the value of \$50 ; or

(b) the total value of contributions exceeds \$5,000.

50 (2) Such contributions shall:

(a) be notified on an approved form; and

(b) specify the name and address of the contributor; and

55 (c) be delivered to the Commissioner at the end of each month until 3 months after a referendum has been held, or until an Electors Bill has been cancelled.

- (3) During the 28 days preceding the referendum, the notices shall be delivered to the Commissioner at the end of each week.

The maximum penalty for an offence under this section is \$20,000.

5

**34. Public moneys not to be used to influence electors**

10

Public moneys shall not be used to pay for, or to reimburse expenditure on publicity which may influence support for or against an Electors Bill, or for or against a proposed law submitted to a referendum under this Act.

**35. Proceedings for offences**

15

Proceedings for an offence against this Act shall be dealt with by the Magistrates Court.

**36. Approved forms**

20

(1) The forms in the schedule may be used with such adaptations as may be appropriate.

25

(2) The Electoral Commissioner may approve forms not inconsistent with this Act for use under this Act.

**37. Commencement**

30

(1) Sections 1, 3 and 37 commence on the day on which this Act is notified in the *Gazette*.

35

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

40

(3) If a provision referred to in sub-section (2) has not commenced before the end of the period of 2 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this sub-section, shall commence on the first day after the end of that period.

**38. Regulations**

45

(1) The Minister administering the electoral laws of the ACT may make regulations not inconsistent with this Act for or with respect to any matter that is required or permitted by this Act to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

50

(2) The regulations may create an offence punishable by a penalty not exceeding \$500.



Electors Initiative and Referendum Act 1994

Form 2 (A)

**Electors Bill**

Electoral District: \_\_\_\_\_ Closing date: \_\_\_\_\_

Title of Electors Bill (*insert full title*):

Description (*insert full text of description not exceeding 200 words*):

If you require that a referendum be held to determine whether the above becomes law, you may complete and sign this form before a bill representative or other approved person under section 11 (6), who will witness your signature.

**Electors Signatures in Support of this Electors Bill**

To: The Electoral Commissioner for the Australian Capital Territory

We, the undersigned electors, request that the above law or measure be submitted to a referendum of the electors for their approval or disapproval.

Date	SURNAME	Given names	Address as enrolled	Signature

N.B. Attach supplementary signature sheets, Form 2 (B), as necessary.

The above persons signed this form in my presence: \_\_\_\_\_  
signature of Electors Bill representative

Print full name \_\_\_\_\_



Electors Initiative and Referendum Act 1994

Form 3

Certificate of Authorisation

Electors Bill Title

[Empty box for Electors Bill Title]

We hereby appoint (name) \_\_\_\_\_

of \_\_\_\_\_

Ph. \_\_\_\_\_ post code \_\_\_\_\_

to act as a Electors Bill representative for the above titled Electors Bill.

Signed \_\_\_\_\_ Name (print) \_\_\_\_\_  
Electors Bill committee member

Address \_\_\_\_\_

Signed \_\_\_\_\_ Name (print) \_\_\_\_\_  
Electors Bill Committee member

Address \_\_\_\_\_

DECLARATION

I, (name) \_\_\_\_\_ the above named appointee do hereby declare that I will carry out my duties as a Electors Bill representative in accordance with the *Electors Initiative and Referendum Act 1994*.

Signed \_\_\_\_\_ Date \_\_\_\_\_  
Electors Bill representative

I certify that the above named Electors Bill representative signed the above Declaration

before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Signed \_\_\_\_\_ Capacity \_\_\_\_\_  
witness to signature J.P., Commissioner for Affidavits, etc.

- Note:
1. The original of this form is to be sent to the Electoral Commissioner on completion.
  2. A signed copy is to be retained by the committee.
  3. A signed copy is to be given to the representative to be produced on request.

Electors Initiative and Referendum Act 1994

Form 4

Notice of Appointment to the Electors Bill Committee

Title of Electors Bill (insert full title):

NOMINATION

We, twelve persons who are also signatories to the above titled Electors Bill, have this \_\_\_\_\_ day of \_\_\_\_\_ 199\_\_ agreed to act as members of the Electors Bill committee and to carry out our duties in accordance with the requirements of the *Electors Initiative and Referendum Act 1994*.

No	SURNAME	Given names	Address as enrolled	Signature
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				

APPOINTMENT

We, the following 100 (one hundred) signatories to the above titled Electors Bill, nominate and hereby appoint the above twelve persons to be members of the Electors Bill committee.

No	SURNAME	Given names	Address as enrolled	Signature
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

Note: Use additional sheets of this Form 4 until 100 signatures are obtained. All sheets must be attached to the above titled Electors Bill when submitted to the ACT Electoral Commissioner for registration.

Electors Initiative and Referendum Act 1994

Form 5

**Certificate of Qualification of Electors Bill**

Qualified Electors Bill No. \_\_\_\_\_

**Title of Electors Bill:**

**Description (*set out subject-matter in full*)**

I CERTIFY that the required number of signatures of electors have been obtained for the presentation of a Electors Bill to a referendum of the electors of the Australian Capital Territory.

\_\_\_\_\_  
ACT Electoral Commissioner

\_\_\_\_\_  
Date