



LEGISLATIVE ASSEMBLY ACT 1979

[Consolidated as at 1 February 2007
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

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Legislative Assembly Act 1979

An Act relating to the Legislative Assembly of Norfolk Island.

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Legislative Assembly Act 1979*.

Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

Definitions

3. (1) In this Act, unless the contrary intention appears —
- “absentee vote” has the same meaning as in section 21;
 - “Assembly” means the Legislative Assembly;
 - “candidate” means a candidate for election;
 - “Commonwealth Act” means the *Norfolk Island Act 1979* of the Commonwealth;
 - “election” means an election under the Commonwealth Act of a person as a member of the Assembly;
 - “elector” means a person whose name is entered on the electoral roll;
 - “electoral roll” means the electoral roll referred to in section 5;
 - “enrolment” means enrolment on the electoral roll;
 - “general election” means an election other than an election to fill one or more casual vacancies;
 - “nomination day”, in relation to an election, means the day referred to in section 12;
 - “polling day” means —
 - (a) in the case of a general election - the date determined by the Administrator under subsection 35(1) of the Commonwealth Act in respect of the election; and
 - (b) in the case of any other election - the date determined under section 10 of this Act as the date of the election;
 - “postal vote” has the same meaning as in section 21A;
 - “Returning Officer” means a person appointed under section 11.

(2) Subject to subsection 3(1), an expression that is defined by subsection 4(1) of the Commonwealth Act has, unless the contrary intention appears, the same meaning in this Act.

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PART 2 — THE ELECTORAL ROLL

Electoral roll

5. The Returning Officer shall cause an electoral roll to be prepared and maintained for the purposes of this Act.

Qualifications for enrolment

6. (1) Subject to subsection 6(3), a person is entitled to enrolment if at the time of applying for enrolment the person —

- (a) is at least 18 years; and
- (b) is an Australian citizen; and
- (c) has been ordinarily resident in Norfolk Island for 6 months immediately before the application.

(2) Subject to subsection 6(3), a person whose name has been removed from the electoral roll under paragraph 7(1)(b) or 7(1)(c) is entitled to enrolment if at the time of applying for enrolment the person —

- (a) is an Australian citizen; and
- (b) has been present in Norfolk Island for 150 days of the 240 days immediately before the application.

(3) A person who has been convicted —

- (a) of an offence against a law of the Commonwealth, a State or Territory ; and
- (b) is under sentence of imprisonment for one year or longer,

is not entitled to enrolment during the period of imprisonment.

(3A) A person who, by reason of being of unsound mind, is incapable of understanding the nature and significance of enrolment and voting, is not entitled to enrolment.

(4) A person who is entitled to enrolment but is not enrolled shall apply to the Returning Officer for enrolment within one month after he becomes so entitled.

Penalty: 0.5 penalty unit.

(5) The Returning Officer shall not cause or permit the name and address of a person to be entered on the electoral roll unless that person has applied for enrolment.

(6) Where the Returning Officer is satisfied that a person who has applied for enrolment is entitled to enrolment, the Returning Officer shall cause the name and address of that person to be entered on the electoral roll.

(7) Where the Returning Officer is satisfied that a person who has applied for enrolment is not entitled to enrolment, the Returning Officer shall reject the application and, within 14 days after the rejection of the application, shall give notice of the rejection to the applicant.

Alteration of roll

7. (1) The Returning Officer shall cause to be removed from the electoral roll the name of a person who -

- (a) is dead;
- (b) has been absent from Norfolk Island for more than a total of 150 days during the period of 240 days immediately preceding the day on which the electoral roll is closed in accordance with section 8; or
- (c) has ceased to be entitled to enrolment by reason of the application of subsections 6(3) or 6(3A).

or

- (d) ceases to be an Australian citizen.

(1A) As soon as practicable, and in any case within 7 days, after a person's name has been removed from the electoral roll under paragraph 7(1)(b) or 7(1)(c), the Returning Officer shall give written notice to the person of the removal and of the reason for it.

(1B) A notice under subsection 7(1A) may be given by post, and, for the purposes of the application of section 21 of the *Interpretation Act 1979*, is to be taken to have been properly addressed if it is directed to the person at the address that was entered, immediately before the removal of the person's name, on the electoral roll in respect of the person.

(1C) Paragraph 7(1)(d) has effect in relation to persons who apply for enrolment on or after 11 March 2004.

(1D) A person who has been removed from the electoral roll under paragraphs 7(1)(b) or 7(1)(c) is entitled to enrolment if at the time of applying for enrolment the person —

- (a) is an Australian citizen; and
- (b) has been present in Norfolk island for 150 days of the 240 days immediately before the application; and
- (c) is no longer disqualified under paragraph 7(1)(c).

(2) Where —

- (a) a person whose name and address are entered on the electoral roll changes his name or address; or
 - (b) the electoral roll incorrectly describes the name or address of a person,
- that person shall apply to the Returning Officer for the correction of the electoral roll.

Penalty: 0.50 penalty unit.

(3) Where the Returning Officer is satisfied that the name or address of the applicant is not correctly described on the electoral roll, the Returning Officer shall cause the electoral roll to be corrected accordingly.

(4) Where the Returning Officer is satisfied that the name and address of the applicant are correctly described on the electoral roll, he shall reject the application and, within 14 days after rejection of the application, shall give notice of the rejection to the applicant.

Calculation of presence in Norfolk Island

7A. For the purposes of sections 6 and 7 —

- (a) where a person has been present in Norfolk Island for less than the whole of a day, the person is to be taken not to have been present in Norfolk Island on that day; and
- (b) where a person satisfies the Returning Officer —
 - (i) that the person has not attained the age of 25 years; and
 - (ii) that the person has been absent from Norfolk Island for the sole or principal purpose of undergoing full-time vocational training or full-time education,

the person is to be taken to have been present in Norfolk Island during the period of the person's absence.

Correction of errors

7B. Where the Returning Officer is satisfied that a person's name was removed from the electoral roll by reason of inadvertence, or that no reason is ascertainable for the removal of the person's name, the Returning Officer shall re-instate the person's name on the electoral roll.

Closing of roll

8. (1) Where an election is to be held, the electoral roll shall be closed at 5 p.m. on the seventh day before nomination day and shall not be re-opened until after the election.

(2) While the electoral roll is closed, an alteration shall not be made to the roll except —

- (a) to remove the name of a person under subsection 7(1);
- (b) to make a correction under subsection 7(3);
- (c) to re-instate the name of a person under section 7B; or
- (d) to give effect to an order made by the Court of Petty Sessions on an appeal under section 9.

Appeals to Court of Petty Sessions

9. (1) A person —

- (a) who has applied for enrolment or for the correction of the electoral roll and whose application has been rejected;
- (b) who, not being a person referred to in paragraph 9(1)(a), has applied for enrolment or for the correction of the electoral roll and whose name and address have not been entered or correctly entered on the electoral roll; or
- (c) whose name and address have been removed from the electoral roll,

may —

- (d) being a person referred to in paragraph 9(1)(a) - within 28 days after the receipt by him of notice of the rejection; or
- (e) being a person referred to in paragraph 9(1)(b) or 9(1)(c) - at any time,

apply to the Court of Petty Sessions for an order that his name and address be entered, correctly entered or reinstated on the electoral roll, as the case requires.

(2) The Court shall hear and determine the application and may make such order as it thinks fit as to the costs of the application.

(3) The Returning Officer shall give effect to an order made under subsection 9(2).

PART 3 — ELECTION OF MEMBERS

Elections to fill casual vacancies

10. (1) In the case of an election under section 37 of the Commonwealth Act, the Administrator shall determine the date of the election.

(2) Where 2 or more elections are to be held under section 37 of the Commonwealth Act at the one time, they shall be conducted as one election.

Returning Officer

11. (1) The Administrator shall, by written instrument, appoint a person to be the Returning Officer for the purposes of this Act.

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(3) The Administrator shall determine the fee payable to the Returning Officer and shall reimburse the Returning Officer for any expenses properly incurred by him.

Nomination day

12. Nomination day shall be the day that is the twenty eighth day before polling day.

Nomination of candidates

13. (1) The nomination of a candidate shall be effected by delivering to the Returning Officer, not later than noon on nomination day, a form in accordance with the prescribed form and signed by the candidate and by at least 2 electors.

(2) The Returning Officer shall cause to be published in the Gazette a notice specifying the place at which, and the time and date by which, a nomination must be effected.

Public declaration of nominations

14. (1) At 12:30 p.m. on nomination day, the Returning Officer shall read out in public at the Court House on Norfolk Island the names of the candidates and their nominators but if the Returning Officer is, for any reason, unable to do so at the time specified he shall do so as soon as practicable thereafter.

(2) If the number of candidates does not exceed the number of members to be elected, the Returning Officer shall then and there declare those candidates to be elected.

(3) Where, in accordance with subsection 14(2), the Returning Officer declares candidates to be elected, he shall cause a notice to that effect to be published in the Gazette.

(4) If the number of candidates exceeds the number of members to be elected, the Returning Officer shall direct that a poll be taken on polling day and shall cause a notice to that effect, specifying the names of the candidates and their nominators, to be published in the Gazette.

Death of candidate

15. (1) If, after the names of the candidates have been read out under subsection 14(1) and before the commencement of polling on polling day, a candidate dies and the number of candidates remaining does not exceed the number of candidates to be elected, the Returning Officer shall declare those candidates to be elected and shall cause notice to that effect to be published in the Gazette.

(2) If, after the names of the candidates have been read out under subsection 14(1) and before the commencement of polling on polling day, a candidate dies and the number of candidates remaining exceeds the number of members to be elected, the Returning Officer shall, before posting or delivering a ballot-paper to an elector, strike the name of the deceased candidate and the square opposite his name from the ballot-paper.

(3) If a ballot-paper is posted or delivered before it was practicable for the Returning Officer to comply with the provisions of subsection 15(2) or if a candidate dies on polling day and the ballot-paper is marked as provided by subparagraph 20(5)(b)(i) or 20(5)(b)(ii), the vote is not informal by reason of the name of the deceased candidate remaining on the ballot-paper.

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(7) If a deceased candidate is declared under section 44 to have been elected as a member —

- (a)** the declaration of the result of the election ceases to have effect so far as the deceased person is concerned but remains fully effective so far as the election of other persons as members is concerned; and
- (b)** the vacancy in the place of a member caused by the application of paragraph 15(7)(a) shall be filled in accordance with the provisions of this Act for the filling of a casual vacancy.

Election to be by ballot

16. The polling at an election shall be by secret ballot and shall commence at 8 a.m. of polling day and shall close at 5 p.m. of that day.

Polling places

17. (1) The poll shall be taken at such place or places as the Returning Officer appoints.

(2) Where the Returning Officer appoints more than one polling place, he shall appoint a Presiding Officer in respect of each polling place.

(3) Where the Returning Officer appoints only one polling place, he shall be the Presiding Officer at that polling place.

(4) The Returning Officer may appoint a Poll Clerk to assist the Presiding Officer at a polling place.

Compartments for voting

18. (1) At each polling place, there shall be one or more separate voting compartments.

(2) A person who is not an elector about to mark his ballot-paper shall not enter a voting compartment during the poll.

Penalty: 2 penalty units.

Ballot-papers and ballot-boxes

19. (1) The Returning Officer shall furnish to each Presiding Officer a sufficient number of ballot-papers in accordance with the appropriate prescribed form having regard to the number of members to be elected.

(2) The Returning Officer shall determine by lot the order in which the names of the candidates shall appear on the ballot-paper.

(3) The Presiding Officer shall initial each ballot-paper on the back before delivering it to an elector voting at the polling place at which he presides.

(4) The Returning Officer shall furnish to each Presiding Officer a ballot-box the front of which is of glass and in the top of which there is an opening sufficiently large to receive a folded ballot-paper.

(5) The Returning Officer shall cause the box to be locked throughout the polling and the Returning Officer shall retain the key.

Method of voting

20. (1) An elector may vote at any polling place appointed by the Returning Officer.

(2) The Presiding Officer at a polling place shall deliver to each elector desiring to vote at that polling place a ballot-paper initialled in accordance with section 19.

(3) In an election, an elector —

- (a)** shall be entitled to one or more votes being the number of votes equal in number to the number of members to be elected; and
- (b)** shall vote by using, in accordance with subparagraph 20(5)(b)(i) or 20(5)(b)(ii), the vote or all the votes to which he is entitled.

(4) Where an elector has more than one vote, he shall vote for more than one candidate but shall not, where he has more than 2 votes, give more than 2 votes to any candidate.

(5) An elector who has received a ballot-paper shall —

- (a)** enter a voting compartment;
- (b)** without leaving the compartment, vote —
 - (i)** where he is entitled to one vote - by placing a cross or tick representing the vote in the box on the ballot-paper opposite the name of the candidate for whom he wishes to vote; or
 - (ii)** where he is entitled to more than one vote - by placing crosses or ticks equal to the number of votes to which he is entitled, each in a separate box on the ballot-paper opposite the name of any candidate for whom he wishes to vote;

- (c) after having voted, without leaving the compartment, fold the ballot-paper so as to conceal the manner in which he has voted; and
- (d) openly, in the presence of the Presiding Officer, place the ballot-paper in the ballot-box.

(6) If an elector is unable to read, or his sight is so impaired that he is unable to vote without assistance, the Presiding Officer may, at the request of the elector, mark the ballot-paper for him in accordance with his wishes and shall take all reasonable precautions to ensure that the particulars of the vote of the elector are not communicated to any other person.

Absentee voting

21. (1) An elector who —

- (a) is seriously ill or infirm and for that reason will be unable to attend on the polling day at a polling place in order to vote; or
- (b) being a woman, will by reason of her approaching maternity be unable to attend on the polling day at a polling place in order to vote; or
- (c) will be absent from Norfolk Island on the polling day,

may apply to the Returning Officer for an absentee vote certificate and an absentee ballot-paper.

(2) The application shall be made not earlier than nomination day and not later than 5 p.m. on the day next before polling day.

Postal voting

21A. (1) An elector who will be absent from Norfolk Island on the polling day may apply to the Returning Officer for an absentee vote under subsection 21(1)(c) or for a postal vote.

(2) An application for a postal vote may be made at any time, but before 5 pm of the day that is not less than 10 days before polling day and must be —

- (a) in the prescribed form; and
- (b) signed by the applicant.

Application for absentee voting papers

22. An application for an absentee vote certificate and an absentee ballot-paper —

- (a) shall be made by the elector in accordance with the prescribed form; and
- (b) shall be witnessed by an authorised witness.

Issue of certificates and ballot-papers

23. (1) Upon receipt of an application under section 21 or 21A, signed by the applicant the Returning Officer shall —

- (a) issue an absentee or postal vote certificate in accordance with the prescribed form;

(b) issue an absentee or postal ballot-paper in accordance with the appropriate prescribed form and showing the names of all of the candidates in the order determined by, under subsection 19(2), having regard to the number of members to be elected; and

(c) issue an envelope addressed to the Returning Officer.

(3) The Returning Officer shall forthwith post or deliver the certificate, ballot-paper and envelope to the elector.

Numbering of applications and certificates

24. (1) The Returning Officer shall number consecutively all applications for absentee or postal vote certificates and absentee or postal ballot-papers received by him and shall number each absentee or postal vote certificate with a number corresponding to the number of the application.

(2) The Returning Officer shall place his initials on the back of an absentee or postal ballot-paper posted as provided by subsection 23(3).

(3) The initials of the Returning Officer shall be placed so as to be easily seen when the ballot-paper is folded to conceal the manner in which the elector votes.

Manner of absentee voting

25. (1) Where an absentee or postal vote certificate and an absentee or postal ballot-paper have been issued to an elector, the succeeding subsections have effect.

(2) The elector shall exhibit his absentee or postal ballot-paper, unmarked, and his absentee or postal vote certificate, to an authorised witness.

(3) The elector shall then and there, in the presence of the authorised witness, sign his name in his own handwriting on the absentee or postal vote certificate in the place provided for the signature of the voter.

(4) The authorised witness shall then and there sign his name in his own handwriting on the absentee or postal vote certificate in the place provided for the signature of the authorised witness and shall, if the elector has not already done so, fill in the date in the place provided for that purpose.

(5) The elector, or, if the elector is unable to read or his sight is so impaired that he is unable to vote without assistance, a person appointed by the elector, shall then and there, in the presence of the authorised witness, but so that the authorised witness is unable to see the vote, mark the ballot-paper in the manner provided by subparagraph 20(5)(b)(i) or 20(5)(b)(ii) in accordance with the wishes of the elector and fold the ballot-paper so that the vote is unable to be seen.

(6) If —

(a) the elector is unable to read or his sight is so impaired that he is unable to vote without assistance; and

(b) the elector has not appointed a person in accordance with subsection 25(5),

the authorised witness shall mark the vote of the elector on the ballot-paper in the manner provided by subparagraph 20(5)(b)(i) or 20(5)(b)(ii) in accordance with the wishes of the elector.

(7) The authorised witness or the elector shall then and there place the ballot-paper in the envelope addressed to the Returning Officer, fasten the envelope and forthwith post or deliver it, or cause it to be posted or delivered, to the Returning Officer.

(7A) An envelope containing a postal vote certificate and postal ballot paper must be received by the Returning Officer no later than 5 p.m. on the polling day.

(8) The authorised witness shall not, unless the sight of the elector is so impaired that he is unable to vote without assistance and the elector does not appoint a person to mark his vote for him, look at or make himself acquainted with the vote of the elector and, except as provided by subsection 25(5), shall not permit or suffer a person other than the elector to see or become acquainted with the vote of the elector, to assist the elector to vote or to interfere in any way with the elector in relation to his vote.

Authorised witnesses

26. (1) For the purposes of this Part, in respect of a form signed within Norfolk Island, an elector, a Justice of the Peace or a notary public is an authorised witness.

(2) In respect of a form signed in a place outside Norfolk Island, an elector, an Australian Citizen an elector under the *Commonwealth Electoral Act 1918*, and a person who is, in that place, a person before whom an affidavit or statutory declaration may be made and who states their qualification so to do, is an authorised witness.

(3) A candidate at an election is not an authorised witness in respect of that election

Duties of authorised witnesses

27. (1) An authorised witness —

- (a) shall comply with section 25 in so far as it has to be complied with on his part;
- (b) shall ensure that the provisions of that section are complied with by an elector exercising an absentee or postal vote before him and by a person appointed by an elector under subsection 25(5); and
- (c) shall not disclose to any person particulars of the vote of an elector who exercised an absentee or postal vote before him.

(2) An authorised witness shall not influence, or attempt to influence, in any way, the vote of an elector exercising an absentee or postal vote before him.

Penalty: 5 penalty units or one months imprisonment.

Absentee ballot-papers not to be unlawfully marked

28. A person shall not mark a vote upon an absentee or postal ballot-paper unless he is —

- (a) the elector to whom the absentee ballot-paper was issued; or
- (b) a person appointed by the elector or an authorised witness assisting the elector in pursuance of subsection 25(5) or 25(6).

Penalty: 10 penalty units or 3 months imprisonment.

Absentee ballot-papers not to be unlawfully opened

29. A person other than the Returning Officer or a person acting under his directions shall not open an envelope in which an absentee or postal ballot-paper has been placed in pursuance of subsection 25(7) and which has been fastened by an elector or authorised witness in accordance with the provisions of that subsection.

Penalty: 10 penalty units or 3 months imprisonment.

Failure to post applications for absentee ballot-papers

30. A person to whom an application for an absentee or postal vote certificate and an absentee or postal ballot-paper or an envelope containing or purporting to contain an absentee or postal ballot-paper is entrusted by an elector for the purpose of posting to the Returning Officer shall post or deliver the application or envelope forthwith.

Penalty: 5 penalty units or one months imprisonment.

Absentee vote ballot-boxes

31. The Returning Officer shall keep a locked and sealed ballot-box with the words “ Absentee and Postal Vote Ballot Box” marked on the box and shall place and keep in the box until the counting of votes all envelopes containing absentee and postal vote ballot papers received not later than 5 p.m. of polling day.

Late absentee ballot-papers to be rejected

32. Absentee and postal vote ballot papers received by the Returning Officer after 5 p.m. of polling day are informal and the Returning Officer shall reject them when the votes are counted.

Informal votes

- 33. (1)** A ballot-paper is informal if the elector has—
- (a) where he has more than one vote, failed to vote in accordance with subsection 20(4); or
 - (b) marked the ballot-paper —
 - (i) by placing in the boxes a number of crosses or ticks that exceeds the number of votes to which the elector is entitled;
 - (ii) by placing in the boxes a number of crosses or ticks that is less than the number of votes to which the elector is entitled; or
 - (iii) by placing a cross or tick outside the boxes appearing on the ballot-paper; or
 - (iv) by placing more than one cross or tick in any one box appearing on the ballot paper.

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

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Questioning of electors

35. (1) The Presiding Officer shall ask an elector to state his full name and address and whether he has already voted at the election.

(2) A person shall not make a false answer to a question asked under subsection 35(1) by a Presiding Officer.

Penalty: 5 penalty units or one months imprisonment.

(3) A Presiding officer shall not give a ballot-paper to a person unless —

- (a)** the person states his full name and address and that he has not already voted at the election; and
- (b)** the name and address of the person are on the electoral roll.

Scrutineers

36. (1) A candidate may appoint one scrutineer for each polling place to represent him at that polling place during the conduct of the poll.

(2) The appointment of a scrutineer shall, unless the Returning Officer or the Presiding Officer otherwise permits, be made by the candidate delivering to the Returning Officer or Presiding Officer a notice signed by the candidate specifying the name and address of the scrutineer.

(3) A scrutineer shall not —

- (a)** interfere with or attempt to influence an elector within a polling place; or
- (b)** communicate with any person in the polling place except in so far as is necessary for the discharge of his functions.

Penalty: 5 penalty units or one months imprisonment.

(4) Subject to subsection 36(3), a person shall not hinder a scrutineer from entering or leaving a polling place during the poll.

Penalty: 5 penalty units or one months imprisonment.

(5) A scrutineer who —

- (a)** contravenes or fails to comply with subsection 36(3) or 36(4); or
- (b)** fails to obey a lawful direction of the Presiding Officer,

may be removed from the polling place by a member of the Police Force of Norfolk Island or by a person authorised by the Presiding Officer.

Scrutiny of ballot-papers

37. (1) The scrutiny of the ballot-papers shall, subject to this Act, be conducted as provided by the succeeding subsections.

(2) Immediately after the close of the poll, the Presiding Officer at each polling place shall bring the ballot-boxes, unopened, to the Returning Officer.

(3) The Returning Officer shall —

- (a)** cause all the ballot-boxes to be opened;
- (b)** reject all informal ballot-papers;
- (c)** count the votes for each candidate on the unrejected ballot-papers; and
- (d)** place in a separate parcel all the ballot-papers that have been rejected as informal.

(4) The Returning Officer shall, at any stage of the scrutiny, make such examinations of the ballot-papers, such counts of the votes and such calculations as are necessary for the purpose of giving effect to section 38.

(5) The Returning Officer may appoint a person or persons to assist him in carrying out his duties under this section.

Filling of one or more vacancies

38. (1) Subject to subsection 38(2), in an election, the candidate who receives the highest number of votes, or the candidates, to the number required to be elected, who receive the highest number of votes, shall be elected.

(2) Where an equality of votes for 2 or more candidates occurs in respect of a vacancy or vacancies, the Returning Officer shall determine by lot which of the candidates having equal number of votes shall be elected.

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Scrutineers at counting of votes

40. A candidate may appoint one scrutineer to represent him at the counting of votes.

Scrutineers not to handle ballot-papers

41. A scrutineer at the counting of votes shall not handle a ballot-paper.

Penalty: 1 penalty unit.

Objections

42. (1) If a scrutineer at the counting of votes objects that a ballot-paper is informal, the Returning Officer or a person appointed by him to assist in the counting of votes shall mark the ballot-paper "Admitted" or "Rejected" according to his decision to admit or reject the ballot-paper.

(2) Subsection 42(1) does not prevent the Returning Officer or other person from rejecting a ballot-paper as informal although a scrutineer has not objected to it.

Re-count

43. (1) At any time before the declaration of the result of the poll, the Returning Officer —

(a) may, if he thinks fit, on the written request of a candidate setting out the reason for the request, or of his own motion; and

(b) shall, if the Administrator so directs,

conduct a re-count of the ballot-papers.

(2) The Returning Officer has the same powers in respect of the re-count as he would have if it were the scrutiny and may reverse a decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

Declaration of poll

44. As soon as practicable after the result of the poll has been ascertained, the Returning Officer shall publicly declare at the Court House on Norfolk Island, and cause to be published in the Gazette, a notice specifying —

- (a) the name or names of the member or members elected;
- (b) the number of votes cast for each candidate; and
- (c) the number of informal ballot-papers.

Return of writs

45. As soon as possible after the result of an election has been declared, the Returning Officer shall endorse on the writ the name of the person, or names of the persons, elected and shall return the writ to the Administrator.

Disputes as to validity of elections

46. (1) A person who was entitled to vote at an election may, not later than 90 days after the declaration of the poll in respect of that election, dispute the validity of the election by petition addressed to the Supreme Court.

(2) The petition shall —

- (a) set out the facts relied on in support of the petition;
- (b) set out the relief to which the petitioner claims to be entitled; and
- (c) be signed by the petitioner.

(3) The Supreme Court shall not hear a petition unless the provisions of subsection 46(2) have been complied with.

(4) The Administrator or the Returning Officer may intervene in the proceeding.

(5) In hearing the petition, the Supreme Court shall sit in open court and, in addition to exercising any other powers that it has, may —

- (a) declare that a candidate who was declared to have been elected was not duly elected whether by reason that he was not a person qualified to be a candidate for election or for some other reason;
- (b) declare that a candidate who was not declared to have been elected was duly elected;
- (c) declare an election to be void; or
- (d) dismiss or uphold the petition in whole or in part.

(6) In hearing the petition, the Supreme Court —

- (a) is not bound to act in a formal manner and is not bound by any rules of evidence but may inform itself on any matter in such manner as it thinks just; and
- (b) shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

(7) The Supreme Court shall not declare the election to be void on account of —

- (a) any delay in the declaration of nominations, in the polling or in the declaration of the poll; or
- (b) the absence or error of, or omission by, a person, being an absence, error or omission that did not affect the result of the election.

(8) Where the Supreme Court declares the election to be void, the Administrator shall issue a writ for a fresh election.

Supreme Court not to make certain orders

46A. (1) The Supreme Court shall not make an order —

- (a) by way of injunction (including an interim or interlocutory injunction), or any other order the effect of which would be to restrain the Returning Officer from conducting an election, by reason only that a person was not a person qualified to be a candidate for election; or
- (b) except as provided by paragraph 46(5)(a), by way of declaration as to, or otherwise in consequence of, or in any way relating to, the disqualification of a person to be a candidate for election, whether that person was declared to be elected or not.

(2) The Administrator or the Returning Officer may intervene in proceedings seeking an order that the Court is not authorised to make by reason of subsection 46A(1).

(3) If, before the commencement of this section, a person has commenced proceedings in the Supreme Court, whether against the Returning Officer or some other person, seeking an order that the Court is not authorised to make by reason of subsection 46A(1), the proceedings are, by force of this section, stayed.

(4) The Supreme Court shall not make an order under section 46 declaring an election to be void by reason only that a candidate was not a person qualified to be a candidate for election.

(5) Where under section 46 the Court declares that a candidate who was, or at or about the same time declares that candidates who were, declared to have been elected was or were not duly elected by reason only that he or each of them was not a person qualified to be a candidate for election —

- (a) the declaration under section 44 of the result of the election ceases to have effect so far as that person is or those persons are concerned but remains fully effective so far as the election of other persons as members is concerned; and
- (b) the vacancy in the place of a member or the vacancies in the places of members caused by the declaration of the Court under section 46 shall be filled in accordance with the provisions of this Act for the filling of a casual vacancy or casual vacancies.

Compulsory voting

47. (1) As soon as practicable after the result of an election, being an election at which a poll is held, is ascertained, the Returning Officer shall —

- (a) prepare a list of the names and addresses of the electors who did not vote at the poll; and
- (b) by writing under his hand, certify the list to be a true and correct list of the names and addresses of those electors.

(2) Within one month after the preparation of the list, the Returning Officer shall send by post to each elector whose name appears on the list, at the address specified in the list, a notice, in the prescribed form, notifying the elector that he appears to have failed to vote, together with a prescribed form.

(3) Subsection 47(2) does not require the Returning Officer to send a notice and form to an elector if the Returning Officer is satisfied that the elector —

- (a) is dead; or
- (b) was not eligible to vote at the election; or
- (c) was over the age of 90 years on the day of the election; or
- (d) by reason of being of unsound mind, was incapable of understanding the nature and significance of enrolment and voting; or
- (e) was entitled to an absentee or postal vote ballot under section 21 but declined to avail himself or herself of the entitlement.

(4) A notice under subsection 47(2) shall specify a date, not being less than 21 days after the date of posting the notice, on or before which the form enclosed with the notice, duly completed and signed by the elector, and witnessed, is to be returned to the Returning Officer.

(5) An elector to whom a notice under subsection 47(2) has been sent shall —

- (a) complete the form enclosed with the notice by stating in it the true reason why he did not vote;
- (b) sign the form in the presence of an authorised witness; and
- (c) post the form to the Returning Officer not later than the date specified in the notice.

(6) If an elector is unable, by reason of absence from his place of living or physical incapacity, to complete, sign and post the form in accordance with subsection 47(5), some other elector who has personal knowledge of the facts may complete, sign in the presence of an authorised witness and post the form in accordance with that subsection and the completion, signing and posting of the form by that other elector shall, for the purposes of this section, be deemed to be compliance by the first-mentioned elector with the provisions of that subsection.

(7) Upon receipt of a form completed in accordance with subsection 47(5) or 47(6), the Returning Officer shall endorse on the list referred to in subsection 47(1), opposite to the name of the elector concerned, his opinion whether the reason specified in the form is a good and sufficient reason for the failure of the elector to vote.

(8) The Returning Officer shall also endorse on the list, opposite to the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly completed and signed has not been received by the Returning Officer, a note to that effect.

(9) The list prepared and endorsed by the Returning Officer, and any extract from the list certified by the Returning Officer under his hand to be a true and correct extract from the list, is evidence —

- (a) of the contents of the list or extract;
- (b) of the fact that the electors whose names appear in the list or extract did not vote in the election;
- (c) that a notice under subsection 47(2) was received by each elector whose name appears in the list or extract; and
- (d) that the electors did, or did not, as the case may be, comply with the provisions of subsection 47(5) or 47(6).

(10) An elector shall not —

- (a) fail to vote at an election without a good and sufficient reason;
- (b) on receipt of a notice under subsection 47(2), fail to comply with the provisions of subsection 47(5); or
- (c) state on the form enclosed with a notice under subsection 47(2) a false reason for not having voted or, in the case of an elector completing or purporting to complete a form on behalf of some other elector in pursuance of subsection 47(6), state on the form a false reason why that other elector did not vote.

Penalty: 0.50 penalty unit.

(11) Proceedings for an offence against this section shall not be instituted except by the Administrator or by a person authorised in writing by the Administrator for the purpose.

Persons not to alter, etc, ballot-papers

47A. (1) Subject to subsection 47A(2), a person shall not destroy, deface, alter, take or otherwise interfere with a ballot-paper once it has been placed in a ballot-box.

Penalty: 20 penalty units or 6 months imprisonment.

(2) Subsection 47A(1) does not apply in relation to anything done to a ballot-paper in accordance with this Act.

Persons not to damage or remove ballot-boxes

47B. No person shall damage or, except in accordance with this Act, remove a ballot-box —

- (a) containing ballot-papers; or
- (b) placed for the reception of ballot-papers.

Penalty: 20 penalty units or 6 months imprisonment.

Destruction of ballot-papers

47C. Where an election has taken place and —

- (a) a period of 3 years has elapsed from the date of the election; and
 - (b) there is no dispute as to the validity of the election under section 46,
- the Administrator may order the destruction of the ballot-papers used in the election.

PART 4 — MISCELLANEOUS**Clerk to Legislative Assembly**

48. (1) There shall be a Clerk to the Legislative Assembly, in this section referred to as “the Clerk”.

(2) The Clerk shall be appointed by the Speaker in accordance with a recommendation of the Assembly.

(3) The Clerk, or a person appointed to act as Clerk, is responsible to the Speaker and has such powers, functions and duties as the Speaker determines.

(4) The Speaker may, in accordance with a recommendation of the Assembly, appoint a person to act as Clerk.

(5) During a vacancy in the office of Clerk or while the Clerk is absent from duty, a person so appointed has all the powers and functions, and shall perform all the duties, of the Clerk.

(6) The terms and conditions of appointment of the Clerk, or of a person appointed to act as Clerk, are such as the Speaker determines in accordance with a recommendation of the Assembly.

(7) The Clerk, or a person appointed to act as Clerk, may resign his office by writing under his hand delivered to the Speaker.

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Request to convene Assembly

50. The number of members of the Assembly who may request the Administrator, in pursuance of subsection 40(2) of the Commonwealth Act, to convene a meeting of the Assembly is 3.

Fee for supply of minutes

51. The fee referred to in subsection 44(2) of the Commonwealth Act is 0.20 fee unit.

Regulations

52. The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters required or permitted to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

NOTES

The *Legislative Assembly Act 1979* as shown in this consolidation comprises Act No. 5 of 1979 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Legislative Assembly Act 1979</i>	5, 1979	29.6.79	
<i>Legislative Assembly Act (No. 2) 1979</i>	6, 1979	19.7.79	
<i>Legislative Assembly (Amendment) Act 1983</i>	4, 1983	15.4.83	
<i>Immigration (Consequential Amendments) Act 1983</i>	3, 1984	26.3.84	
<i>Legislative Assembly (Amendment) Act 1984</i>	3, 1985	7.2.85	
<i>Statute Law Revision (Penalties and Fees) Act 1984</i>	9, 1985	13.5.85	4
[reprinted as at 21 April 1986 incorporating above amendments]			
<i>Statute Law Revision (Status) (No. 3) Act 1986</i>	31, 1986	4.12.86	
<i>Legislative Assembly Amendment Act 1987</i>	22, 1987	24.3.88	
<i>Legislative Assembly Amendment Act 1989</i>	9, 1989	10.8.89	
<i>Legislative Assembly Amendment Act 1991</i>	13, 1991	7.8.91	
[reprinted as at 10 August 1991 incorporating above amendments]			
<i>Legislative Assembly Amendment Act 1992</i>	4, 1992	5.3.92 (Deemed to have come into operation 7.8.91)	4
<i>Statute Law (Miscellaneous Provisions) Act 1995</i>	13, 1995	27.7.95	

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Legislative Assembly Amendment Act 2000</i>	1, 2000	17.2.00	

[Reprinted as at 29 February 2000]

<i>Legislative Assembly (Amendment No. 1) Act 2004</i>	24, 2005	14.10.05 Note - Part 2, except section 3A that is inserted into the principal Act by section 5, has effect from 11 March 2004
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<i>Legislative Assembly (Amendment) Act 2006</i>	26, 2006	4.12.06
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[Previously consolidated as at 1 February 2007; re-issued 10 September 2013 to clarify table of amendments]

Table of Amendments

ad = added or inserted am = amended rep = repealed rs = repealed and substituted

Provisions affected	How affected
3(1)	am 13, 1991; 24, 2005
4	rep 4, 1983
5(2)(3)	rs 4, 1983
5	am 13, 1991
6(1)	am 3, 1984
	rs 3, 1985
	am 31, 1986
	rs 13, 1991; 24, 2005
6(2)	rs 3, 1985
	am 31, 1986
	rs 13, 1991; 24, 2005
6(3)	rs 3, 1984
	rs 3, 1985; 24, 2005
6(3)(A)	ad 24, 2005
6(4)	am 4, 1983
	am 13, 1991

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected	
6(5)	am	13, 1991
6(6)	am	13, 1991
6(7)	am	13, 1991
7	am	24, 2005
7(1)	rs	13, 1991
7(1A)	ad	13, 1991
7(1B)	ad	13, 1991
7(1)(C)	ad	24, 2005
7(1)(D)	ad	24, 2005
7(2)	am	4, 1983
	am	13, 1991
7(3)	am	13, 1991
7(4)	am	13, 1991
7A	ad	13, 1991
7B	ad	13, 1991
8(2)	am	9, 1989
	rs	13, 1991
9(3)	am	13, 1991
11(1)	rs	13, 1991
11(2)	rep	13, 1995
12	am	24, 2005
13(1)	am	4, 1983
14(1)	am	24, 2005
15	rs	6, 1979
15(3)	am	4, 1983
15(4) - (6)	rep	4, 1983
18(2)	am	4, 1983
19(1)	am	4, 1983
20	rs	4, 1983
	am	24, 2005
20(4)	am	26, 2006
21(A)	ad	24, 2005
22	am	4, 1983
23(1)	am	4, 1983
23(1)	rs	24, 2005
23(2)	rep	24, 2005
24	am	24, 2005
25	am	24, 2005
25(5)(6)	am	4, 1983
25(7A)	ad	24, 2005
26(2)	rs	24, 2005
27	am	4, 1983; 24, 2005
28	am	4, 1983; 24, 2005

ad = added or am = amended rep = repealed rs = repealed and
inserted substituted

Provisions affected	How affected
29	am 4, 1983; 24, 2005
30	am 4, 1983; 24, 2005
31	am 24, 2005
32	am 4, 1983; 24, 2005
33	rs 4, 1983
33(1)(b)	rs 24, 2005
34	rep 4, 1983
35(2)	am 4, 1983
36(3)(4)	am 4, 1983
37(3)(4)	am 4, 1983
38	rs 4, 1983
39	rep 4, 1983
41	am 4, 1983
47(3)(c), (d), (e)	ad 24, 2005
44	am 4, 1983
46(1)	am 1, 2000
46(5)	am 6, 1979
46A	ad 6, 1979
47(2) (10)	am 4, 1983
47A	ad 4, 1983
47B	ad 4, 1983
47C	ad 4, 1983
48(2), (3), (4), (6), (7)	am 13, 1995
49	am 6, 1979
	rep 22, 1987
51	am 9, 1985
Schedule	rep 4, 1983

[**Note:** in previous consolidations a section 10A was erroneously included as having been an amendment of this Act — that revision is now excluded]

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