

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

---

*(As read a first time)*

**AUSTRALIAN CAPITAL TERRITORY COUNCIL BILL 1986**

**TABLE OF PROVISIONS**

**PART I—PRELIMINARY**

Clause

1. Short title
2. Commencement
3. Interpretation
4. Jervis Bay Territory

**PART II—AUSTRALIAN CAPITAL TERRITORY COUNCIL**

*Division 1—Establishment, functions and powers of Council*

5. Establishment of Council
6. General functions of Council
7. General powers of Council
8. Inquiries

*Division 2—Constitution and Procedure of Council*

9. Number of members
10. Chairperson and Deputy Chairperson
11. Acting Chairperson
12. Procedure at meetings
13. Meetings generally to be in public
14. Minutes of meetings
15. Protection of members, &c.
16. Obstruction, &c.
17. Standing rules and orders

TABLE OF PROVISIONS—*continued**Division 3—Membership of Council*

|        |                             |
|--------|-----------------------------|
| Clause |                             |
| 18.    | Term of office of member    |
| 19.    | Members to be part-time     |
| 20.    | Resignation of members      |
| 21.    | Disqualification of members |

*Division 4—Dissolution of Council*

|     |  |
|-----|--|
| 22. | Resolution of lack of confidence           |
| 23. | Dismissal of Council by Governor-General   |
| 24. | Termination of distribution into Districts |

## PART III—ELECTION OF COUNCIL

|     |  |
|-----|--|
| 25. | Interpretation                                       |
| 26. | Election of members                                  |
| 27. | Electoral Districts                                  |
| 28. | Rolls  |
| 29. | Times for general elections                          |
| 30. | Casual vacancies                                     |
| 31. | Qualifications of electors                           |
| 32. | Qualifications of candidates                         |
| 33. | Voting at elections                                  |
| 34. | Election funding                                     |
| 35. | Decisions under Schedule 3 final and conclusive, &c. |
| 36. | Improper influence                                   |

## PART IV—LEGISLATIVE POWERS OF COUNCIL

|     |   |
|-----|---|
| 37. | Powers of Council to make laws                    |
| 38. | Procedure for making Council Laws                 |
| 39. | By-laws   |
| 40. | Penalties   |
| 41. | Crown may be bound                                |
| 42. | Inconsistency with other laws                     |
| 43. | Certain laws deemed to be Council Laws or by-laws |
| 44. | Application of Acts Interpretation Act            |
| 45. | Publication of Council Laws and by-laws           |
| 46. | Application of Statutory Rules Publication Act    |
| 47. | Disallowance of Council Laws and by-laws          |
| 48. | Powers of Governor-General to make Ordinances     |

PART V—MANAGEMENT STRUCTURE, ADMINISTRATION AND STAFF  
OF COUNCIL*Division 1—Committees*

|     |                       |
|-----|-----------------------|
| 49. | Committees of Council |
|-----|-----------------------|

*Division 2—Chairperson*

|     |  |
|-----|--|
| 50. | Chairperson as chief executive officer |
| 51. | Chairperson on full-time basis         |

*Division 3—Head of Administration*

|     |                                     |
|-----|-------------------------------------|
| 52. | Head of Administration              |
| 53. | Functions of Head of Administration |
| 54. | Tenure of Head of Administration    |
| 55. | Acting Head of Administration       |

TABLE OF PROVISIONS--*continued*

Clause

*Division 4—Staff, &c.*

- 56. Staff
- 57. Arrangements relating to staffing
- 58. Consultants

PART VI—FINANCE

- 59. Interpretation
- 60. Council money
- 61. Borrowing from Commonwealth
- 62. Borrowing otherwise than from Commonwealth
- 63. Guarantee of borrowing
- 64. Council may give security
- 65. Borrowing not otherwise permitted
- 66. Guarantees by Council
- 67. Proposal of money votes
- 68. Auditor-General
- 69. Functions of Auditor-General

PART VII—MISCELLANEOUS

- 70. Trade and commerce to be free
- 71. Acquisition of property to be on just terms
- 72. Validity of certain actions
- 73. Application of Electoral Act
- 74. Staffing consultations
- 75. Fines, &c., to be payable to Council
- 76. Remuneration and allowances
- 77. Delegation by Chairperson
- 78. Regulations

SCHEDULE 1

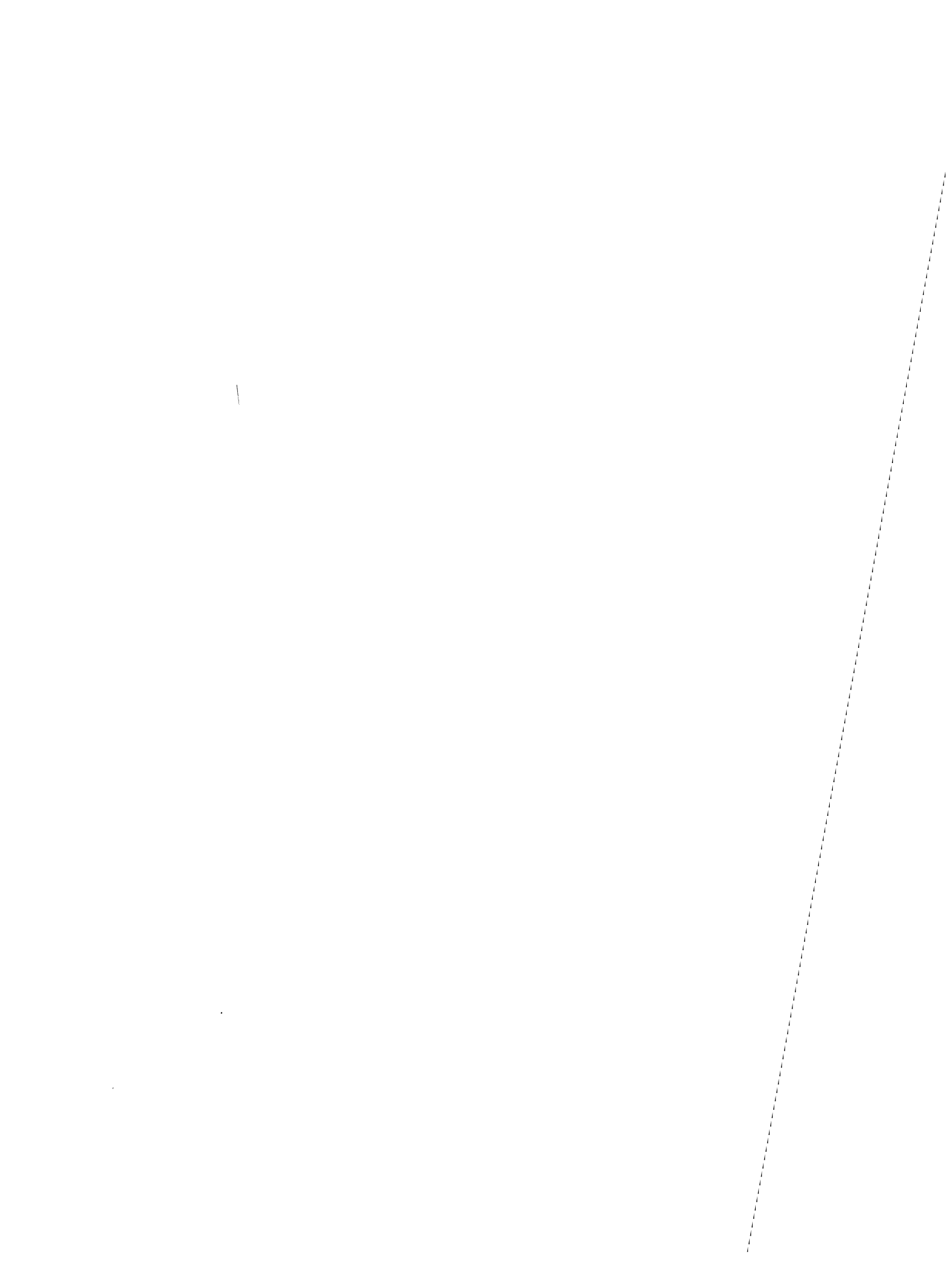
MATTERS WITH RESPECT TO WHICH COUNCIL HAS FUNCTIONS

SCHEDULE 2

LAWS DEEMED TO BE COUNCIL LAWS

SCHEDULE 3

ELECTORAL DISTRICTS



1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

---

Presented and read a first time, 19 March 1986

*(Minister for Territories)*

## A BILL

FOR

**An Act to establish a council to govern the Australian Capital Territory with respect to certain matters and to make laws with respect to those matters, and for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### PART I—PRELIMINARY

#### Short title

5       1. This Act may be cited as the *Australian Capital Territory Council Act 1986*.

#### Commencement

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

10       (2) Sub-section 6 (1), section 8, sub-sections 43 (1) and 57 (2), (3) and (4) and section 75 shall come into operation on a day to be fixed by Proclamation.

(3) Sub-section 57 (1) shall come into operation on the day fixed under sub-section 7 (5) of the *Australian Capital Territory Council (Consequential Provisions) Act 1986*.

### Interpretation

3. (1) In this Act, unless the contrary intention appears— 5
- “appoint” includes re-appoint;
- “by-election” means an election to fill one or more casual vacancies in the membership of the Council;
- “by-law” means a by-law made as provided by Part IV;
- “casual vacancy” means a vacancy in the membership of the Council occurring otherwise than by virtue of section 18 or 23; 10
- “Chairperson” means the Chairperson of the Council elected under section 10, and includes a person who is acting as Chairperson;
- “committee” means a committee established under sub-section 49 (1);
- “Council” means the Australian Capital Territory Council established by sub-section 5 (1); 15
- “Council authority” means a body corporate established for a public purpose by or under a Council Law;
- “Council Law” means a Council Law made in accordance with sections 37 and 38; 20
- “Council money” means revenues, loans and other money received by the Council;
- “Deputy Chairperson” means the Deputy Chairperson of the Council elected under section 10;
- “District” means one of the Electoral Districts into which the Territory is distributed under Part III; 25
- “election” means a general election or a by-election, as the case requires;
- “Electoral Act” means the *Commonwealth Electoral Act 1918*;
- “employee”, in relation to the Council, includes a person appointed to an office referred to in sub-section 56 (2); 30
- “general election” means a general election of members of the Council;
- “Head of Administration” means the person appointed under sub-section 52 (1);
- “member” means a member of the Council, and includes the Chairperson or the Deputy Chairperson; 35
- “member of the staff” means an employee of the Council or a person the subject of an arrangement under section 57;
- “prescribed matter” means—
- (a) a matter specified in Schedule 1;
  - (b) the subject-matter of a law that is specified in Schedule 2; 40  
or
  - (c) a matter that, by virtue of a provision of this Act other than section 37, may be dealt with by Council Law;

“Territory” means the Australian Capital Territory.

(2) A reference in this Act to the day on which an election has been, is, or is to be, held, or to the date of an election, is a reference to the polling day for that election.

5 (3) The Chairperson, the Chairperson of a committee or the Deputy Chairperson may be referred to as Chairman or Chairwoman, or Deputy Chairman or Deputy Chairwoman, as the case requires.

10 (4) Where the results of a general election are declared on different days, a reference in this Act to the day on which the result of the election is declared is a reference to the last of those days.

(5) In this Act—

(a) except in sections 6 and 7, a reference to functions includes a reference to powers and duties; and

15 (b) except in section 7, a reference to the performance of functions includes a reference to the exercise of powers and the discharge of duties.

#### **Jervis Bay Territory**

20 4. This Act does not apply in relation to the Jervis Bay Territory, and a reference in this Act to the Territory does not include a reference to the Jervis Bay Territory.

## **PART II—AUSTRALIAN CAPITAL TERRITORY COUNCIL**

### ***Division 1—Establishment, functions and powers of Council***

#### **Establishment of Council**

25 5. (1) There is established a council by the name of the Australian Capital Territory Council.

(2) The Council—

(a) is a body corporate, with perpetual succession;

(b) shall have a common seal;

30 (c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Council appearing on a document and shall presume that the document was duly sealed.

#### **General functions of Council**

35 6. (1) The Council has the function of governing the Territory with respect to prescribed matters.

(2) In addition to the function referred to in sub-section (1), the Council has such other functions as are vested in it by or under a law in force in the Territory or an arrangement with the Commonwealth.

**General powers of Council**

7. Subject to this Act, the Council has—

- (a) power to do all things necessary or convenient to be done for or in connection with the performance of its functions; and
- (b) power to do all things incidental to the exercise of a power under this Act. 5

**Inquiries**

8. (1) The Council may appoint a person or persons (who may be or include a member or members) to conduct an inquiry into a matter relating to the performance of a function of the Council. 10

(2) Provision may be made by Council Law for and in relation to—

- (a) procedure at inquiries;
- (b) remuneration of persons conducting inquiries and fees for witnesses;
- (c) conferring on persons conducting inquiries the power to— 15
  - (i) summon witnesses to attend and produce documents and other things; and
  - (ii) administer oaths or affirmations; and
- (d) protection and immunity of persons conducting inquiries and of witnesses.

(3) Paragraph (2) (d) is limited to the protection or immunity of a person in respect of acts done or omitted to be done, or statements made, in good faith. 20

(4) A Council Law made for the purposes of paragraph (2) (d) shall not limit or exclude any defence existing apart from that Law.

(5) A Council Law made for the purposes of sub-section (2) shall not require a person to answer a question, or produce a document or other thing, if the answer to the question, or the production of the document or thing, might tend to incriminate the person. 25

(6) This section shall not be taken to limit the generality of any other provision of this Act. 30

***Division 2—Constitution and Procedure of Council*****Number of members**

9. (1) Except as otherwise provided by the regulations, the Council shall consist of 13 members.

(2) The performance of the functions of the Council is not affected by reason only of there being a vacancy or vacancies in the membership of the Council. 35



**Chairperson and Deputy Chairperson**

5 **10.** (1) At the first meeting of the Council held after a general election, the members present shall, before dealing with any other business, elect one of their number to be Chairperson, and another of their number to be Deputy Chairperson, of the Council.

(2) Subject to sub-section (1), if a vacancy occurs in the office of Chairperson or Deputy Chairperson—

- 10 (a) in the case of a vacancy occurring at a meeting of the Council—the members present at that meeting; or  
(b) in any other case—the members present at the next meeting after the vacancy occurs,

shall, before dealing with any other business, elect one of their number to be Chairperson or Deputy Chairperson, as the case may be.

15 (3) If a resolution of lack of confidence in the Chairperson is passed as described in paragraph 22 (1) (a), the members may elect another of their number to be Chairperson.

(4) A person elected to the office of Chairperson or Deputy Chairperson holds the office until—

- 20 (a) the end of the current term of office of the person as a member;  
(b) the person resigns from the office by writing signed by the person and delivered to the Head of Administration;  
(c) the person ceases to be a member otherwise than because of section 18;  
25 (d) in the case of the Chairperson—a person is elected as Chairperson under sub-section (3); or  
(e) in the case of the Deputy Chairperson—  
(i) the term of office is terminated by the Council; or  
(ii) immediately after the election of a Chairperson under sub-section (2) or (3),

30 whichever first occurs.

(5) A person who ceases to hold office as Chairperson or Deputy Chairperson is eligible for re-election to the office.

**Acting Chairperson**

35 **11.** (1) Where there is a vacancy in the office of Chairperson or the Chairperson is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the Chairperson, the Deputy Chairperson or a person elected under sub-section (2) shall act as Chairperson.

40 (2) The Council may elect a member to act as Chairperson under sub-section (1)—

- (a) during a vacancy in the office of Deputy Chairperson; or

(b) during any period, or during all periods, when the Deputy Chairperson is absent from duty or from the Territory or is, for any other reason, unable so to act.

(3) While a person is acting as Chairperson under sub-section (1), the person shall perform all the functions of the Chairperson. 5

(4) If the Council so resolves, the election of a person under sub-section (2) has effect only in such circumstances as are specified in the resolution.

(5) A member who is acting as Chairperson under sub-section (1) shall continue to be paid the remuneration and allowances payable to the member as a member but shall also be paid— 10

(a) so much of any remuneration payable to the Chairperson as exceeds the remuneration that so continues to be paid;

(b) so much of any allowance payable to the Chairperson as exceeds the corresponding allowance that so continues to be paid; and

(c) if an allowance is payable to the Chairperson in respect of which there is no corresponding allowance payable to the member—that allowance. 15

(6) The election of a person under sub-section (2) ceases to have effect if the person resigns by writing signed by the person and delivered to the Head of Administration. 20

(7) The performance of the functions of the Chairperson, by virtue of this section, by a person acting as Chairperson during the absence of the Chairperson from the Territory does not affect the performance of any function by the Chairperson.

### **Procedure at meetings** 25

12. (1) At a meeting of the Council, except as otherwise provided by the regulations, 7 members constitute a quorum.

(2) Questions arising at a meeting of the Council shall be decided by a majority of the votes of the members present and voting.

(3) The member presiding at a meeting of the Council has a deliberative vote only, and, in the event of an equality of votes on a question, the question shall pass in the negative. 30

### **Meetings generally to be in public**

13. (1) Subject to sub-section (2), a meeting of the Council shall be held in public. 35

(2) The Council may hold the whole or part of a meeting in private if, in the opinion of the Council, it is necessary or desirable in the public interest to do so.

(3) A meeting of a committee may, in the discretion of the committee, be held in public or in private. 40

**Minutes of meetings**

14. (1) The Council shall cause minutes of its meetings to be kept.

(2) A copy of any minutes so kept shall, on request made by a person, be made available for inspection by the person or, on payment of such fee (if any) as is fixed by or under Council Law, be supplied to the person.

**Protection of members, &c.**

15. (1) No action, suit or proceeding lies—

- (a) against a member in respect of statements made in good faith in the course of a meeting of the Council or of a committee; or
- 10 (b) against any person in respect of statements made in good faith in a document published by, or with the authority of, the Council or a committee.

(2) Sub-section (1) does not limit or exclude any defence existing apart from that sub-section.

15 (3) A member is not liable, and shall not be summoned, to serve as a juror in a court.

(4) No writ or process of a court shall be served on any person in a place where a meeting of the Council or of a committee is in progress.

20 (5) In this section, “court” means a federal court or a court of a State or Territory.

**Obstruction, &c.**

16. (1) A person shall not—

- (a) hinder, obstruct or interfere with a member who is performing functions as a member;
- 25 (b) hinder, obstruct or interfere with a member of the staff who is performing functions conferred on that person by law;
- (c) interrupt a meeting of the Council or of a committee; or
- (d) create a disturbance, or take part in creating a disturbance, in a place where a meeting of the Council or of a committee is in progress.

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

(2) The Council has no powers in relation to contempt of the Council.

**Standing rules and orders**

35 17. Subject to this Act, the Council may make standing rules and orders with respect to the conduct of meetings of the Council and of committees.

***Division 3—Membership of Council***

**Term of office of member**

40 18. Subject to this Act, the term of office of a member commences at the end of the day on which the declaration of the result of the election of the person as a member is declared and ends—

- (a) in the case of a member who is the Chairperson or the Deputy Chairperson—at the commencement of the first meeting of the Council held after the next general election; and
- (b) in any other case—on the day on which the next general election is held.

5

**Members to be part-time**

19. Unless the regulations otherwise provide, the members (other than the Chairperson) shall be part-time members.

**Resignation of members**

20. A member may resign from office by writing signed by the member and delivered to the Head of Administration.

10

**Disqualification of members**

21. (1) A member vacates office if the member—

- (a) ceases to be qualified to be a candidate for an election;
- (b) is absent from 4 consecutive meetings of the Council without its permission;
- (c) takes or agrees to take, directly or indirectly, any remuneration, allowance, honorarium or reward for services rendered in the Council, otherwise than in accordance with section 76; or
- (d) becomes a member of the staff or becomes employed by a Council authority.

15

20

(2) A member who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Council or a Council authority under which goods or services are to be supplied to the Council or a Council authority shall not take part in a discussion of a matter, or vote on a question, in a meeting of the Council or of a committee where the matter or question relates directly or indirectly to that contract.

25

(3) A question concerning the application of sub-section (2) shall be decided by the Council, and a contravention of that sub-section does not affect the validity of anything done by the Council.

30

***Division 4—Dissolution of Council***

**Resolution of lack of confidence**

22. (1) Subject to sub-section (2), if—

- (a) on a particular day, in pursuance of a motion of which at least 24 hours' notice has been given under the standing rules and orders, the Council passes a resolution of lack of confidence in the Chairperson;
- (b) the Council does not, within the period of 30 days after that day, pass a resolution of confidence in the Chairperson or elect another Chairperson; and

35

40

(c) the Governor-General does not, within that period of 30 days, dismiss the members of the Council under section 23, a general election shall be held on a day specified by the Minister by notice in writing published in the *Gazette*, being not later than 90 days after the end of that period of 30 days.

(2) An election shall not be held under sub-section (1)—

(a) where the resolution referred to in that sub-section is passed after the third Saturday in June in a pre-election year and on or before the first Saturday in March in the next calendar year; or

(b) on any day after the first Saturday in September in a pre-election year and before the first Saturday in March in the next calendar year.

(3) In this section, “pre-election year” means the calendar year preceding the calendar year in which a general election (other than an election under section 23) is due to be held or would be due to be held but for sub-section 29 (5).

#### **Dismissal of Council by Governor-General**

**23. (1)** If, in the opinion of the Governor-General, the Council—

(a) is incapable of effectively performing its functions; or

(b) is conducting its affairs in a grossly improper manner, the Governor-General may dismiss all the members from office.

(2) Where the Governor-General dismisses the members, the Governor-General—

(a) shall appoint a Commissioner for the purposes of this section;

(b) may, at any time, give directions to the Commissioner with respect to the performance of the functions of the Council and the Chairperson; and

(c) may, at any time, order that a general election shall be held on a specified day.

(3) A Commissioner—

(a) shall perform all the functions (other than the power to make laws) of the Council and the Chairperson in accordance with any directions given under paragraph (2) (b); and

(b) may, with the authority of the Governor-General, issue or expend Council money where the issue or expenditure is not authorised by, or in accordance with, Council Law.

(4) A Commissioner shall be paid such remuneration and allowances as are determined by the Governor-General.

(5) Unless sooner terminated by the Governor-General, the term of office of a Commissioner ceases at the commencement of the first meeting of the Council held after the next general election.

(6) The functions conferred on the Governor-General by this section shall be performed by Proclamation.

### Termination of distribution into Districts

24. (1) If a notice is published under sub-section 22 (1), or an order is made under paragraph 23 (2) (c), on a day when the Territory is undergoing distribution into Districts, the distribution is, by force of this section, terminated on that day. 5

(2) If—

(a) the Territory is undergoing distribution into Districts because regulations made for the purposes of section 9 result in an alteration of the number of members of the Council; and 10

(b) the distribution is terminated by sub-section (1),

then, by force of this section, the regulations are void to the extent that, but for this sub-section, they would result in that alteration, and sub-section 48 (7) of the *Acts Interpretation Act 1901* applies, where capable of application, to regulations so made void as if they were disallowed under section 48 of that Act. 15

(3) If—

(a) the Territory is undergoing distribution into Districts by virtue of paragraph 3 (2) (d) of Schedule 3; and 20

(b) the distribution is terminated by sub-section (1),

sub-clause 3 (2) of Schedule 3 has effect as if the reference in paragraph (d) to the expiration of the period of 8 years were a reference to the day of the first meeting of the Council after the election held pursuant to the order or notice referred to in sub-section (1). 25

(4) For the purposes of this section, the Territory is undergoing distribution into Districts if—

(a) a distribution of the Territory into Districts has commenced by virtue of a direction under sub-clause 3 (1) of Schedule 3; and

(b) the Territory has not been distributed into Districts as a result of the distribution so commenced. 30

## PART III—ELECTION OF COUNCIL

### Interpretation

25. Except so far as the contrary intention appears, expressions used in this Part have the same meanings as in the Electoral Act. 35

### Election of members

26. The members shall be elected as provided in this Part.

### Electoral Districts

27. (1) For the purposes of elections—

- (a) the Territory shall be distributed into Electoral Districts; and
- (b) one member shall be chosen for each District.

5 (2) The provisions of Schedule 3 have effect for the purposes of this Part.

### Rolls

28. There shall be a Roll of the electors for each District.

### Times for general elections

10 29. (1) Subject to Division 4 of Part II, general elections shall be held as provided by this section.

(2) The first ordinary election shall be held on a day specified by the Minister by notice in writing published in the *Gazette*.

15 (3) Subject to sub-section (5), the second ordinary election shall be held on the first Saturday in March 1991.

(4) Subject to sub-section (5), each subsequent ordinary election shall be held on the first Saturday in March in the fourth year after the year in which the last ordinary election was held.

(5) Where—

- 20 (a) an ordinary election would, but for this sub-section, be due to be held on a day (in this sub-section referred to as the “due day”) in a particular year (in this sub-section referred to as the “due year”); and
- 25 (b) an election is held under section 23 on a day after the first Saturday in September in the preceding year and before the due day,

the following provisions apply:

- (c) an ordinary election shall not be held in the due year; and
- (d) sub-section (4) has effect in relation to subsequent ordinary elections as if an ordinary election had been held in the due year.

30 (6) In this section—

“ordinary election” means a general election other than an election held under section 22 or 23;

“year” means a calendar year.

### Casual vacancies

35 30. (1) Subject to this section, where a casual vacancy occurs in the office of a member more than 90 days before the day on which the next general election is due to be held, an election shall be held to choose a person to hold the vacant office as a member for the remainder of the term of the member who last held that office.

(2) An election under sub-section (1) shall be held within 90 days after the vacancy occurs.

(3) Where—

(a) a period of 30 days referred to in paragraph 22 (1) (b) ends after a casual vacancy occurs and before an election is held under this section to fill the vacancy; or

(b) a casual vacancy occurs after the end of such a period and on or before the date specified by the Minister under sub-section 22 (1), an election shall not be held under this section to fill the vacancy.

(4) If the Governor-General dismisses the members under section 23 after a casual vacancy occurs and before an election is held under this section to fill the vacancy, the election shall not be held.

### **Qualifications of electors**

31. A person is entitled to vote at an election held on a particular day to choose a member for a particular District if—

(a) the person's real place of living was within the District at some time within 3 months immediately before that day and is within the Territory on that day;

(b) the person's name is on the Roll for the District on that day; and

(c) the person would be entitled to vote in respect of an election held on that day to choose a member of the House of Representatives for a Division that included the whole or part of the District.

### **Qualifications of candidates**

32. A person is qualified to be a candidate for election as a member if, and so long as, the person is—

(a) an Australian citizen; and

(b) either—

(i) an elector entitled to vote at an election; or

(ii) a person qualified to become such an elector,

unless the person—

(c) is the Head of Administration or a member of a Council authority (not being a member of the Council);

(d) is a member of the staff or is employed by a Council authority; or

(e) has been convicted and is under sentence for an offence punishable under the law of the Commonwealth or of a State or Territory by imprisonment for 5 years or longer.

### **Voting at elections**

33. Voting at elections shall be in accordance with the following principles:

(a) voting shall be compulsory;

(b) voting shall be by secret ballot;



- (c) a person shall not vote more than once at an election;
- (d) an elector shall express a first preference for one candidate for a District, and may, if the elector wishes to do so, express subsequent preferences for as many of the other candidates for the District as the elector wishes.

### **Election funding**

34. The Council may, by Council Law, make provision with respect to the funding of an election other than the first general election.

### **Decisions under Schedule 3 final and conclusive, &c.**

35. (1) Notwithstanding anything contained in any other law, but subject to the Constitution and to section 39B and Part VII of the *Judiciary Act 1903*, a decision by the Electoral Commissioner, the Electoral Commission, a Distribution Committee or an augmented Electoral Commission made, or purporting to be made, under Schedule 3 (whether in the exercise of a discretion or not)—

- (a) is final and conclusive;
- (b) shall not be challenged, appealed against, reviewed, quashed, set aside or called in question in any court or tribunal on any ground; and
- (c) is not subject to mandamus, prohibition, certiorari or injunction, or the making of a declaratory or other order, in any court on any ground.

(2) Without limiting the generality of sub-section (1), the provisions of Schedule 3 (other than clause 7 and sub-clauses 13 (6) and (8) and 15 (1), (3), (4) and (5)) are directory only, and any failure to comply with them, whether in whole or in part, does not invalidate a decision of a kind referred to in sub-section (1).

(3) A reference in sub-section (1) to a decision made under Schedule 3 includes a reference to a refusal or failure to make a decision under that Schedule.

### **Improper influence**

36. A person shall not improperly seek to influence a member of a Distribution Committee or of an augmented Electoral Commission in the performance of functions under Schedule 3.

Penalty: \$2,000 or imprisonment for 12 months, or both.

## **PART IV—LEGISLATIVE POWERS OF COUNCIL**

### **Powers of Council to make laws**

37. (1) Subject to this Part, the Council has power to make laws for the peace, order and good government of the Territory with respect to prescribed matters.

(2) A law made by the Council shall not be described as, or entitled, an Act or an Ordinance.

(3) The Council does not have power to make a law with respect to—

(a) industrial relations (other than a law determining conditions of employment of employees of the Council or of a Council authority or a law with respect to the subject-matter of a law specified in Schedule 2); or

(b) the establishment of a court.

(4) Except as provided by the regulations, the Council has no power to make a law with respect to the planning of land use or the development of land.

(5) For the purposes of this Act, the scope of a prescribed matter shall be taken not to be limited by reason only of the existence of any other prescribed matter.

### Procedure for making Council Laws

38. (1) Every proposed law passed by the Council under section 37 shall be submitted to the Attorney-General.

(2) As soon as practicable and, in any event, not later than 2 months, after receipt of a proposed law, the Attorney-General shall issue to the Chairperson—

(a) a certificate in writing stating either or both of the following, namely, that—

(i) in the opinion of the Attorney-General, the Council does not have power to make the proposed law; or

(ii) in the case of a proposed law that affects the jurisdiction, practice or procedure of a court—the Attorney-General does not consent to the proposed law; or

(b) a certificate in writing stating that the Attorney-General does not propose to issue a certificate in relation to the proposed law under paragraph (a).

(3) If the Attorney-General issues a certificate in relation to a proposed law under paragraph (2) (b), the Chairperson shall notify the proposed law in the *Gazette*.

(4) Where a proposed law is notified in the *Gazette*, it takes effect upon the day of notification or, if the proposed law otherwise provides, as so provided.

(5) If the Attorney-General issues a certificate in relation to a proposed law under paragraph (2) (a), the Attorney-General—

(a) shall return the proposed law to the Council, together with reasons in writing for the issue of the certificate; and

(b) may give the Council suggestions in writing as to the amendments necessary for the Attorney-General to refrain from issuing a certificate in relation to the proposed law under paragraph (2) (a).

(6) Where a proposed law is returned under paragraph (5) (a), the Council—

(a) shall consider the reasons, and the suggestions (if any), given by the Attorney-General; and

5 (b) may submit the proposed law, with amendments, to the Attorney-General under sub-section (1),

and, if it is so submitted, this section (including this sub-section) applies again.

10 (7) If the Attorney-General does not issue a certificate in relation to a proposed law within the period of 2 months specified in sub-section (2), the Attorney-General shall be deemed to have, at the end of that period, issued a certificate in relation to the proposed law under paragraph (2) (b).

(8) Section 25D of the *Acts Interpretation Act 1901* does not apply to the giving of reasons under paragraph (5) (a).

## 15 By-laws

39. (1) Where a Council Law so provides, the Chairperson may make by-laws for purposes specified in the Council Law.

(2) A by-law is void to the extent that—

(a) it is inconsistent with a Council Law; or

20 (b) it affects the jurisdiction, practice or procedure of a court.

(3) A by-law—

(a) shall be notified in the *Gazette*; and

(b) subject to sub-section (4), takes effect upon the day of notification or, if the by-law otherwise provides, as so provided.

25 (4) A by-law shall not be expressed to take effect from a day before the day of notification in any case where, if the by-law so took effect—

(a) the rights of a person (other than the Council or a Council authority) existing at the day of notification would be affected in a manner prejudicial to the person; or

30 (b) liabilities would be imposed on a person (other than the Council or a Council authority) in respect of an act or omission occurring before the day of notification,

and a by-law is void to the extent that it is inconsistent with this sub-section.

35 (5) Except as provided in this Part, a Council Law shall not provide for the making of any instruments of a legislative character, other than instruments determining terms and conditions of employment.

(6) Nothing in this section prevents the Council from providing for the disallowance of by-laws by the Council.

**Penalties**

**40. (1)** A Council Law may prescribe penalties for offences against the Law.

**(2)** A by-law may, if so empowered by Council Law, prescribe fines or other pecuniary penalties for offences against the by-law. 5

**Crown may be bound**

**41.** Except as provided by the regulations, a Council Law does not bind the Crown in right of the Commonwealth.

**Inconsistency with other laws**

**42. (1)** A provision of a Council Law or by-law has no effect to the extent that it is inconsistent with a prescribed law, but such a provision shall not be taken to be inconsistent with a prescribed law to the extent that it is capable of operating concurrently with that law. 10

**(2)** In sub-section (1), "prescribed law" means—

**(a)** a law in force in the Territory (other than a Council Law or a by-law); or 15

**(b)** an award, order or determination, or any other instrument of a legislative character, made under a law falling within paragraph (a).

**Certain laws deemed to be Council Laws or by-laws**

**43. (1)** Where a law is specified in Schedule 2— 20

**(a)** the law shall be deemed, on and after the day specified in the Schedule in relation to the law, to be a Council Law; and

**(b)** an instrument in force under the law immediately before the day so specified shall be deemed, on and after that day, to be a by-law made under section 39. 25

**(2)** Where a law is specified in Schedule 2—

**(a)** the law may be amended or repealed at any time by Council Law; and

**(b)** an instrument in force under the law may, subject to Council Law, be amended or repealed at any time by Council Law or by by-laws made under section 39, 30

but an amendment or repeal so made before the day specified in the Schedule in relation to the law does not have effect before that day.

**(3)** Without limiting the operation of sections 10 and 10A of the *Acts Interpretation Act 1901*, a reference in this Act to a law specified in Schedule 2 includes, in a case where another law has amended the first-mentioned law, a reference to all provisions of that other law (whether amending provisions or not) that relate to the first-mentioned law. 35

**(4)** Where a Council Law repeals a law specified in Schedule 2, the subject-matter of the repealed law continues to be a prescribed matter, 40

notwithstanding the repeal, so long as the repealed law remains specified in the Schedule.

(5) In this section, “instrument” means a regulation, rule or by-law.

**Application of Acts Interpretation Act**

5       **44.** Paragraph 46 (a) of the *Acts Interpretation Act 1901* does not apply in relation to a Council Law.

**Publication of Council Laws and by-laws**

**45.** The Council shall publish copies of Council Laws and by-laws and make them available for purchase by the public.

10       **Application of Statutory Rules Publication Act**

**46.** Council Laws and by-laws shall not be taken to be statutory rules within the meaning of the *Statutory Rules Publication Act 1903*, but sub-sections 5 (3), (3A) and (3C) of that Act apply in relation to such laws as they apply to statutory rules.

15       **Disallowance of Council Laws and by-laws**

**47. (1)** Subject to this section, the Governor-General may disallow a law within 6 months after the law is made.

20       **(2)** The Governor-General may, within 6 months after a law is made, recommend to the Council any amendments of the law, or of any other law, that the Governor-General considers to be desirable as a result of considering the law.

25       **(3)** Where, as a result of considering a law, the Governor-General so recommends any amendments, the time within which the Governor-General may disallow the law is extended for 6 months after the date of the recommendation.

**(4)** Upon publication in the *Gazette* of notice of the disallowance of a law, the disallowance has, subject to sub-section (5), the same effect as a repeal of the law.

30       **(5)** If a provision of a disallowed law amended or repealed a law in force immediately before the commencement of that provision, the disallowance revives the previous law from the date of publication of the notice of disallowance as if the disallowed provision had not been made.

35       **(6)** For the purposes of this section, a Council Law or a by-law shall be taken to be made when it is notified in the *Gazette* under sub-section 38 (3) or paragraph 39 (3) (a), as the case may be.

**(7)** In this section, “law” means—

(a) a Council Law or a by-law;

40       (b) an instrument of a legislative character determining terms and conditions of employment of employees of the Council or of a Council authority; or

(c) a part of a Council Law, a by-law or such an instrument.

### **Powers of Governor-General to make Ordinances**

**48.** This Act does not limit the operation of section 12 of the *Seat of Government (Administration) Act 1910*.

## **PART V—MANAGEMENT STRUCTURE, ADMINISTRATION AND STAFF OF COUNCIL** 5

### ***Division 1—Committees***

#### **Committees of Council**

**49. (1)** Subject to this section, the Council may establish such standing committees and other committees as it considers necessary or convenient for the conduct of Council business. 10

**(2)** Where the Council establishes a committee under sub-section (1), it shall—

- (a) appoint the members of the committee;
- (b) appoint a member of the committee to be the Chairperson of the committee; 15
- (c) specify the terms of reference of the committee; and
- (d) determine the number of members of the committee required to constitute a quorum of the committee.

**(3)** The Chairperson of the Council— 20

- (a) shall be a member of each committee; and
- (b) may preside at each meeting of a committee which he or she attends, notwithstanding that another member has been appointed as the Chairperson of the committee under paragraph (2) (b).

**(4)** A member of a committee may resign from office by writing signed and delivered to the Chairperson of the Council. 25

### ***Division 2—Chairperson***

#### **Chairperson as chief executive officer**

**50. (1)** The Chairperson is, under the direction of the Council, the chief executive officer of the Council. 30

**(2)** Except as otherwise provided by Council Law, all acts and things done in the name of, or on behalf of, the Council by the Chairperson shall be deemed to have been done by the Council.

**(3)** Sub-section (2) does not empower the Chairperson to make a Council Law. 35

**Chairperson on full-time basis**

51. The Chairperson—

- (a) holds office on a full-time basis; and
- (b) shall not engage in any paid employment outside the functions of the office of Chairperson except with the approval of the Council.

***Division 3—Head of Administration***

**Head of Administration**

52. (1) There shall be a Head of Administration, who shall be appointed by the Council.

- (2) A person who has attained the age of 65 years shall not be appointed as Head of Administration and a person shall not be appointed as Head of Administration for a period that extends beyond the day on which the person will attain the age of 65 years.

**Functions of Head of Administration**

53. The Head of Administration shall, under the Chairperson, be responsible for—

- (a) the general working and business of the Council;
- (b) arrangements in relation to, and management of, the members of the staff;
- (c) giving effect to this Act and all other laws in force in the Territory in relation to functions of the Council;
- (d) implementing the Council's policies and decisions; and
- (e) performing such functions as are conferred on the Head of Administration by or under Council Law.

**Tenure of Head of Administration**

54. (1) Subject to sub-section (2), the Head of Administration holds office for such period, not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

- (2) Subject to sub-section 52 (2) and section 76, the Head of Administration holds office on such terms and conditions as are provided by Council Law.

**Acting Head of Administration**

55. (1) The Council may appoint a person to act as Head of Administration—

- (a) during a vacancy in the office of the Head of Administration, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Head of Administration is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment. 5

(3) The Council may—

(a) determine the terms and conditions of appointment, excluding remuneration and allowances, of a person acting as Head of Administration; and

(b) terminate such an appointment at any time. 10

(4) A person, other than a member of the staff, who is acting as Head of Administration shall be paid the same remuneration and allowances as are payable to the Head of Administration.

(5) A member of the staff who is acting as Head of Administration shall continue to be paid the remuneration and allowances payable to the member as such a member, but shall also be paid— 15

(a) so much of any remuneration payable to the Head of Administration as exceeds the remuneration that so continues to be paid;

(b) so much of any allowance payable to the Head of Administration as exceeds the corresponding allowance that so continues to be paid; and 20

(c) if an allowance is payable to the Head of Administration in respect of which there is no corresponding allowance payable to the member—that allowance.

(6) Where a person is acting as Head of Administration in accordance with paragraph (1) (b) and the office of Head of Administration becomes vacant while the person is so acting, then, subject to sub-section (2), the person may continue so to act until the Council otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first occurs. 25 30

(7) The appointment of a person to act as Head of Administration ceases to have effect if the person resigns the appointment by writing signed and delivered to the Chairperson.

(8) While a person is acting as Head of Administration, the person shall perform all the functions of the Head of Administration. 35

#### ***Division 4—Staff, &c.***

##### **Staff**

56. (1) The Council may employ persons in accordance with Council Law.

(2) Without limiting the generality of sub-section (1), a Council Law made pursuant to that sub-section may establish offices and provide for the appointment of persons to those offices. 40



**Arrangements relating to staffing**

57. (1) The Council may arrange with the Secretary of a Department of the Australian Public Service for the services of officers or employees in the Department to be made available to the Council.

5 (2) The Council may enter into an arrangement with the appropriate authority of a State or Territory for the services of officers or employees of the Public Service of the State or Territory, or of a body established for a public purpose by or under a law of the State or Territory (including a local governing body), to be made available to the Council.

10 (3) The Council may arrange with a body (other than a body referred to in sub-section (2)) for the services of officers or employees of the body to be made available to the Council.

15 (4) While a person is performing services for the Council pursuant to an arrangement under this section, that person shall perform those services in accordance with the directions of the Head of Administration and not otherwise.

**Consultants**

58. (1) The Council may engage as consultants to the Council persons having suitable qualifications and experience.

20 (2) The terms and conditions of engagement of persons engaged under sub-section (1) are such as are determined by the Council.

**PART VI—FINANCE**

**Interpretation**

59. (1) In this Part—

25 “Council” (except in sections 60, 67, 68 and 69) includes a Council authority empowered by Council Law to borrow money;  
“interest” includes interest on interest.

(2) A reference in this Part to raising money does not include a reference to raising revenues.

30 **Council money**

60. Council money—

- (a) shall be available for the performance of the functions of the Council;
- 35 (b) shall, in respect of its receipt, expenditure and control, be regulated by or under Council Law;
- (c) shall not be issued or expended except as authorised by Council Law; and
- (d) may be invested in such manner as is provided by Council Law.

**Borrowing from Commonwealth**

61. The Minister of State for Finance may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend moneys to the Council at such rates of interest and on such terms and conditions as that Minister determines. 5

**Borrowing otherwise than from Commonwealth**

62. (1) The Council may, with the approval of the Treasurer—

- (a) borrow money otherwise than from the Commonwealth; or
- (b) raise money otherwise than by borrowing,

on terms and conditions specified in, or consistent with, the approval. 10

(2) Without limiting the generality of sub-section (1), the Council may, under that sub-section, borrow money, or raise money otherwise than by borrowing, by dealing with securities.

(3) A borrowing of money, or a raising of money otherwise than by borrowing, under sub-section (1) may be made, in whole or in part, in a currency other than Australian currency. 15

(4) An approval may be given under sub-section (1) in relation to a particular transaction or a class of transactions.

(5) An approval under sub-section (1) shall be given in writing.

(6) In this section, "securities" includes stocks, debentures, debenture stocks, notes, bonds, promissory notes, bills of exchange and similar instruments or documents. 20

(7) A reference in this section to dealing with securities includes a reference to—

(a) creating, executing, entering into, drawing, making, accepting, endorsing, issuing, discounting, selling, purchasing or re-selling securities; 25

(b) creating, selling, purchasing or re-selling rights or options in respect of securities; or

(c) entering into agreements or other arrangements relating to securities. 30

(8) For the purposes of this section—

(a) the issue by the Council of an instrument acknowledging a debt in consideration of—

(i) the payment or deposit of money; or

(ii) the provision of credit, 35

otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Council shall be deemed to be a raising by the Council, otherwise than by borrowing, of an amount of money equal to the amount of the money paid or deposited or the value of the credit provided, as the case may be; 40  
and

- 5 (b) the obtaining of credit by the Council otherwise than in relation to a transaction that is in the ordinary course of the day-to-day operations of the Council shall be deemed to be a raising by the Council, otherwise than by borrowing, of an amount of money equal to the value of the credit so obtained.

**Guarantee of borrowing**

63. (1) The Treasurer may, on behalf of the Commonwealth, enter into a contract—

- 10 (a) guaranteeing the repayment by the Council of money borrowed under paragraph 62 (1) (a) and the payment by the Council of interest on money so borrowed; or  
15 (b) guaranteeing the payment by the Council of such amounts (which may be interest) that the Council is liable to pay with respect to money raised under paragraph 62 (1) (b) as are specified in the contract.

(2) The Treasurer may, in writing, determine—

- 20 (a) that the repayment by the Council of money borrowed under paragraph 62 (1) (a), and the payment by the Council of interest on money so borrowed, are guaranteed by the Commonwealth; or  
25 (b) that the payment by the Council of such money (which may be interest) that the Council is liable to pay with respect to money raised under paragraph 62 (1) (b) as is specified in the determination is guaranteed by the Commonwealth,

and, where the Treasurer makes such a determination, the repayment of that money and the payment of that interest are, or the payment of that money is, by force of this sub-section, guaranteed by the Commonwealth.

(3) A contract may be entered into under sub-section (1), and a determination may be made under sub-section (2), in relation to a particular transaction or a class of transactions.

30 (4) A contract entered into under sub-section (1) may include either or both of the following provisions:

- 35 (a) a provision agreeing, on behalf of the Commonwealth, that proceedings under the contract may be taken in the courts, or a specified court, of a foreign country;  
(b) a provision waiving, on behalf of the Commonwealth, the immunity of the Commonwealth from suit in the courts, or a specified court, of a foreign country in relation to any proceedings that may be taken under the contract.

**Council may give security**

40 64. The Council may give security over the whole or any part of its land or other assets for—

- (a) the repayment by the Council of money borrowed by the Council under section 61 or paragraph 62 (1) (a) and the payment by the Council of interest on money so borrowed;

- (b) the payment by the Council of amounts (including any interest) that the Council is liable to pay with respect to money raised by the Council under paragraph 62 (1) (b); or
- (c) the payment to the Commonwealth of amounts equal to any amounts that the Commonwealth may become liable to pay under a contract entered into under sub-section 63 (1) or a determination made under sub-section 63 (2). 5

### **Borrowing not otherwise permitted**

65. The Council shall not borrow money, or raise money otherwise than by borrowing, except in accordance with this Part. 10

### **Guarantees by Council**

66. (1) The Council shall not make a guarantee to which this section applies except with the approval of the Treasurer and in accordance with such conditions (if any) as are determined by the Treasurer.

- (2) This section applies to a guarantee of— 15
  - (a) the repayment by any person of money borrowed from another person;
  - (b) the payment of interest on money so borrowed; or
  - (c) the payment by any person of amounts (which may be interest) that the person is liable to pay with respect to money raised from another person otherwise than by borrowing. 20

### **Proposal of money votes**

67. (1) A Council Law, vote, resolution or question (any of which is in this section referred to as a “proposal”) the object or effect of which is to dispose of or charge any Council money shall not be proposed in the Council except by the Chairperson. 25

(2) Sub-section (1) does not prevent a member other than the Chairperson from moving an amendment to a proposal made by the Chairperson unless the object or effect of the amendment is to increase the amount of Council money to be disposed of or charged. 30

### **Auditor-General**

68. The Auditor-General for the Commonwealth shall be the Auditor-General for the Council and for each Council authority.

### **Functions of Auditor-General**

69. (1) The Auditor-General shall have such functions in relation to the accounts and financial statements of the Council and of each Council authority as are provided by Council Law. 35

(2) In sub-section (1), “accounts”, in relation to the Council or a Council authority, means—

- (a) accounts and records relating to financial transactions of the Council or authority; and
- (b) records relating to assets of, or in the custody of, the Council or authority.

5

## **PART VII—MISCELLANEOUS**

### **Trade and commerce to be free**

70. (1) Subject to sub-section (2), trade, commerce and intercourse between the Territory and the States, and between the Territory and the Northern Territory, shall be absolutely free.

10

(2) Sub-section (1) does not bind the Commonwealth.

### **Acquisition of property to be on just terms**

71. The power of the Council to make laws does not extend to the making of laws with respect to the acquisition of property otherwise than on just terms.

15

### **Validity of certain actions**

72. (1) Anything done by or in relation to a person who has been elected Chairperson or Deputy Chairperson or appointed as Head of Administration, or a person purporting to act in an office under sub-section 11 (1), 23 (2) or 55 (1), is not invalid on the ground that—

20

- (a) the occasion for the election or appointment had not arisen;
- (b) there was a defect or irregularity in connection with the election or appointment;
- (c) the election or appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

25

(2) Anything done by or in relation to a person who has purported to sit or vote as a member at a meeting of the Council or of a committee is not invalid on the ground that the person—

30

- (a) was not a duly elected member by reason of the person not having been qualified for election or of any other defect in the person's election; or
- (b) had vacated office as a member.

### **Application of Electoral Act**

35

73. (1) Subject to Part III, sub-section (2) and Schedule 3, the Electoral Act applies, subject to such modifications as are prescribed, for the purposes of this Act.

(2) Division 3 of Part XX of the Electoral Act does not apply as provided by sub-section (1) in relation to an election other than the first general election.

(3) In this section, “modifications” includes additions, omissions and substitutions.

### Staffing consultations

74. (1) The Council shall, at such times, and in such manner, as are determined by or under an agreement between the Council and the Minister, hold consultations with the Commonwealth concerning matters relating to, or likely to affect— 5

- (a) staffing of the Council and of Council authorities;
- (b) the determination of terms and conditions of employment of employees; and 10
- (c) industrial questions relating to employees.

(2) In sub-section (1)—

“employee” means—

- (a) a member of the staff; or
- (b) a person employed by a Council authority; 15

“industrial question” has the same meaning as in section 70A of the *Conciliation and Arbitration Act 1904*.

### Fines, &c., to be payable to Council

75. Except as otherwise provided by Council Law—

- (a) a fine or other pecuniary penalty paid, or money forfeited, under a Council Law is payable to the Council; and 20
- (b) property (other than money) forfeited under a Council Law becomes the property of the Council.

### Remuneration and allowances

76. (1) A person shall, in respect of services in an office to which this section applies, be paid— 25

- (a) if, by virtue of a notice under paragraph 3 (4) (b) of the *Remuneration Tribunals Act 1973*, Part II of that Act applies to that office—such remuneration as is determined by the Remuneration Tribunal; or 30
- (b) if paragraph (a) does not apply or no such determination is in operation—such remuneration as is specified by or under Council Law.

(2) In respect of services in an office to which this section applies, a person shall, subject to the *Remuneration Tribunals Act 1973*, be paid such allowances as are specified by or under Council Law. 35

(3) This section applies to the following offices:

- (a) Chairperson;
- (b) Deputy Chairperson;
- (c) a member; 40
- (d) Chairperson of a committee;

- (e) Head of Administration;
- (f) an office established by Council Law.

(4) In paragraph (3) (f), "Council Law" means a Council Law made with respect to a prescribed matter or a law specified in Schedule 2.

**5 Delegation by Chairperson**

77. (1) The Chairperson may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Chairperson, delegate to a person all or any of the Chairperson's functions under this Act, other than this power of delegation or the power to make by-laws.

10 (2) A function so delegated, when performed by the delegate, shall, for the purposes of this Act, be deemed to have been performed by the Chairperson.

(3) A delegation under this section does not prevent the performance of a function by the Chairperson.

15 (4) This section shall not be taken to prevent a Council Law from providing for the delegation by the Chairperson or any other person of functions under that Law or any other Council Law.

**Regulations**

20 78. (1) The Governor-General may make regulations, not inconsistent with this Act—

- (a) prescribing matters—
  - (i) required or permitted by this Act to be prescribed; or
  - (ii) necessary or convenient to be prescribed for carrying out or giving effect to this Act; and
- 25 (b) amending Schedules 1 and 2.

(2) Paragraph (1) (b) does not empower the Governor-General to include an Act in Schedule 2.

---

**SCHEDULE 1**

Sub-section 3 (1)

**MATTERS WITH RESPECT TO WHICH COUNCIL HAS FUNCTIONS**

Community and municipal affairs, including, in particular, welfare services, housing, sport, recreation, entertainment, cultural affairs, ethnic affairs, museums, memorials, libraries, art galleries, public utilities, drainage and sewerage, waste control, littering, pests and noxious plants, public places, public conveniences, markets, hawkers, weights and measures, trading hours, animals, quarrying, cemeteries and crematoria

Landlord and tenant

Building standards

Censorship

Consumer affairs

Corrective and remand services for persons under the age of 18 years

Environment protection and conservation

Food marketing authorities

The supply and use of water, gas, electricity and liquid fuels, and the use of solar energy

Emergency supplies

Public safety

Liquor

Gambling

Road traffic (including the use of tracks and footpaths)

Roads, bridges and tunnels

Road transport

Water transport

Tourism

Taxation (excluding duties of customs and of excise, and taxes with respect to debits and credits made to accounts kept with financial institutions)

Assistance to business and industry

Co-operative societies

The Public Trustee

Workers' compensation

Professions, trades, occupations and callings (excluding the health, medical, educational and legal professions)

Matters incidental to any matter with respect to which the Council has power to make laws

Matters incidental to the performance of any function conferred on the Council by or under this Act.

---



**SCHEDULE 2**

Sub-section 3 (1) and section 43

LAWS DEEMED TO BE COUNCIL LAWS

PART I

ORDINANCES DEEMED TO BE COUNCIL LAWS ON AND AFTER THE DAY ON WHICH SUB-SECTION 43 (1) COMES INTO OPERATION

*Adoption of Children Ordinance 1965*  
*Agents Ordinance 1968*  
*Air Pollution Ordinance 1984*  
*Animal Nuisance Control Ordinance 1975*  
*Annual Holidays Ordinance 1973*  
*Apiaries Ordinance 1928*  
*Apprenticeship Ordinance 1936*  
*Architects Ordinance 1959*  
*Auctioneers Ordinance 1959*  
*Bookmakers Ordinance 1985*  
*Betting (Totalizator Agency) Ordinance 1964*  
*Building Ordinance 1972*  
*Building and Services Ordinance 1924*  
*Business Franchise (Tobacco and Petroleum Products) Ordinance 1984*  
*Canberra Retail Markets Ordinance 1971*  
*Canberra Theatre Trust Ordinance 1965*  
*Careless Use of Fire Ordinance 1936*  
*Cemeteries Ordinance 1933*  
*Child Welfare Ordinance 1957 (except Part III)*  
*Children's Flammable Nightwear Ordinance 1975*  
*City of Canberra Arms Ordinance 1932*  
*Classification of Publications Ordinance 1983*  
*Collections Ordinance 1959*  
*Commonwealth Dwellings (Rent) Ordinance 1961*  
*Community Development Fund Ordinance 1981*  
*Consumer Affairs Ordinance 1973*  
*Co-operative Societies Ordinance 1939*  
*Cotter River Ordinance 1914*  
*Credit Ordinance 1985*  
*Cremation Ordinance 1966*  
*Dangerous Goods Ordinance 1984*  
*Dividing Fences Ordinance 1981*  
*Dog Control Ordinance 1975*  
*Door-to-door Sales Ordinance 1969*  
*Egg Industry Ordinance 1975*  
*Electricity Ordinance 1971*  
*Film Classification Ordinance 1971*  
*Fire Brigade Ordinance 1957*  
*Fire Brigade (Administration) Ordinance 1974*

**SCHEDULE 2—continued**

*Fire Brigade (Promotion of Officer) Ordinance 1985*  
*Fishing Ordinance 1967*  
*Fuels Control Ordinance 1979*  
*Gun Licence Ordinance 1937*  
*Hawkers Ordinance 1936*  
*Holidays Ordinance 1958*  
*Housing Ordinance 1928*  
*Lakes Ordinance 1976*  
*Land Rent and Rates (Deferment and Remission) Ordinance 1970*  
*Landlord and Tenant Ordinance 1949*  
*Law Reform (Manufacturers Warranties) Ordinance 1977*  
*Lay-by Sales Agreements Ordinance 1963*  
*Liquor Ordinance 1975*  
*Litter Ordinance 1977*  
*Long Service Leave Ordinance 1976*  
*Long Service Leave (Building and Construction Industry) Ordinance 1981*  
*Lotteries Ordinance 1964*  
*Milk Authority Ordinance 1971*  
*Motor Omnibus Services Ordinance 1955*  
*Motor Traffic Ordinance 1936*  
*Motor Traffic (Alcohol and Drugs) Ordinance 1977*  
*National Exhibition Centre Trust Ordinance 1976*  
*Nature Conservation Ordinance 1980*  
*Noxious Weeds Ordinance 1921*  
*Nudity Ordinance 1976*  
*Plant Diseases Ordinance 1934*  
*Plumbers, Drainers and Gasfitters Board Ordinance 1982*  
*Poker Machine Control Ordinance 1975*  
*Pool Betting Ordinance 1964*  
*Pounds Ordinance 1928*  
*Prevention of Cruelty to Animals Ordinance 1959*  
*Printing and Newspapers Ordinance 1961*  
*Public Baths and Public Bathing Ordinance 1956*  
*Public Parks Ordinance 1928*  
*Public Trustee Ordinance 1985*  
*Pyramid Selling Ordinance 1973*  
*Rabbit Destruction Ordinance 1919*  
*Racecourses Ordinance 1935*  
*Rates Ordinance 1926*  
*Remuneration Ordinance 1976*  
*Roads and Public Places Ordinance 1937*  
*Rural Workers Accommodation Ordinance 1938*  
*Sale of Motor Vehicles Ordinance 1977*  
*Sewerage Rates Ordinance 1968*  
*Soil Conservation Ordinance 1960*  
*Standard Time and Summer Time Ordinance 1972*

**SCHEDULE 2—continued**

*Stock Ordinance 1934*

*Stock Diseases Ordinance 1933*

*Surveyors Ordinance 1967*

*Theatres and Public Halls Ordinance 1928*

*Tobacco Ordinance 1927*

*Trading Hours Ordinance 1962*

*Trading Stamps Ordinance 1972*

*Traffic Ordinance 1937*

*Unlawful Games Ordinance 1984*

*Water Pollution Ordinance 1984*

*Water Rates Ordinance 1959*

*Water (Restriction of Use) Ordinance 1959*

*Weights and Measures Ordinance 1929*

*Weights and Measures (Packaged Goods) Ordinance 1970*

*Workmen's Compensation Ordinance 1951 (except section 27)*

*Workmen's Compensation Supplementation Fund Ordinance 1980*

**PART II**

**COMMONWEALTH ACTS DEEMED TO BE COUNCIL LAWS ON AND  
AFTER THE DAY ON WHICH SUB-SECTION 43 (1) COMES INTO  
OPERATION**

*Australian Capital Territory Electricity Supply Act 1962 (except sub-sections 18 (3)  
and (4) and section 35A)*

*Australian Capital Territory Gaming and Liquor Authority Act 1981*

**PART III**

**NEW SOUTH WALES ACTS IN FORCE IN THE TERRITORY UNDER  
THE SEAT OF GOVERNMENT ACCEPTANCE ACT 1909 DEEMED TO BE  
COUNCIL LAWS ON AND AFTER THE DAY ON WHICH SUB-SECTION  
43 (1) COMES INTO OPERATION**

*Common Carriers Act 1902*

*Contractors' Debts Act 1897*

*Fertilizers Act 1904*

*Forfeiture of Leases Act 1901*

*Forfeiture and Validation of Leases Act 1905*

*Games Wagers and Betting-houses Act 1901*

*Gaming and Betting Act 1906*

*Innkeepers' Liability Act 1902*

*Landlord and Tenant Act 1899*

*Pawnbrokers Act 1902*

*Second-hand Dealers and Collectors Act 1906*

*Stock Act 1901*

---

### SCHEDULE 3

Section 27

#### ELECTORAL DISTRICTS

##### Interpretation

**1. (1)** In this Schedule—

“average District enrolment” means—

- (a) subject to paragraph (b), the number ascertained by dividing the number of electors enrolled in the Territory by the number of Districts into which the Territory is for the time being distributed; or
- (b) in a case where the number ascertained in accordance with paragraph (a) includes a fraction—the number so ascertained—
  - (i) if the fraction is less than one-half—reduced to the nearest whole number; or
  - (ii) if the fraction is one-half or more—increased to the nearest whole number;

“distribute” includes redistribute;

“Electoral Act” means the *Commonwealth Electoral Act 1918* as applied by this Act;

“general election” does not include an election held under section 22 or 23;

“Minister” means the Minister administering this Act.

**(2)** A person—

- (a) whose name has been placed on a Roll in pursuance of a claim made under section 100 of the Electoral Act; and
- (b) who has not attained 18 years of age,

shall be taken, for the purposes of this Schedule, not to be an elector.

**(3)** Except so far as the contrary intention appears, expressions used in this Schedule have the same meanings as in the Electoral Act.

##### Monthly ascertainment of enrolment, &c.

**2. (1)** The Electoral Commissioner shall, forthwith after the end of each month—

- (a) ascertain, as at the close of a particular day in the month, the number of electors enrolled in each District;
  - (b) determine, as at the close of that day—
    - (i) the average District enrolment; and
    - (ii) the extent to which the number of electors enrolled in each District differs from the average District enrolment; and
  - (c) cause a statement setting out the matters so ascertained and determined to be published forthwith in the *Gazette*.
- (2)** A determination under paragraph (1) (b) shall be made by instrument in writing.

##### Times at which distributions are to commence

**3. (1)** A distribution of the Territory into Districts shall commence whenever the Electoral Commission so directs by notice published in the *Gazette*.

**(2)** Subject to sub-clauses (3) and (5), a direction under sub-clause (1) shall be made—

- (a) forthwith after the commencement of Part III of this Act;
- (b) forthwith after regulations made for the purposes of section 9 of this Act result in an alteration of the number of members of the Council;

**SCHEDULE 3—continued**

- (c) whenever it appears to the Electoral Commission, from statements published under sub-clause 2 (1), that more than one-third of the Districts are, and have, for a period of more than 2 months, been, malapportioned Districts; and
- (d) if a period of 8 years after the day on which the Territory was last distributed into Districts by a determination under sub-clause 15 (1) expires—forthwith after the expiration of the period of 8 years,

and not otherwise.

(3) A direction under sub-clause (1) shall not be made by virtue of paragraph (2) (c) or (d)—

- (a) if the Territory is undergoing distribution into Districts; or
- (b) within one year before the date of a general election.

(4) If a period of 8 years after the day on which the Territory was last distributed into Districts by a determination under sub-clause 15 (1) expires within one year before the day of a general election, sub-clause (2) of this clause has effect, in relation to the expiration of that first-mentioned period, as if the reference in paragraph (d) to the expiration of the period of 8 years were a reference to the day of the first meeting of the Council after that general election.

(5) Where—

- (a) the Territory is undergoing distribution into Districts; and
  - (b) a direction under sub-clause (1) is made by virtue of paragraph (2) (b),
- the distribution is terminated by force of this sub-clause.

(6) A reference in this clause to a malapportioned District is a reference to a District in which the number of electors enrolled differs from the average District enrolment to a greater extent than one-tenth more or one-tenth less.

(7) For the purposes of this clause, the Territory is undergoing distribution into Districts if—

- (a) a distribution of the Territory into Districts has commenced by virtue of a direction under sub-clause (1); and
- (b) the Territory has not been distributed into Districts as a result of the distribution so commenced.

**Distribution Committee**

4. (1) For the purposes of each distribution, the Electoral Commission shall, as soon as practicable after the commencement of the distribution, appoint, by instrument in writing, a Distribution Committee.

(2) Subject to sub-clause (3), the members of the Distribution Committee shall be—

- (a) the Electoral Commissioner;
- (b) the Surveyor-General for the Commonwealth or a prescribed person, being a person having similar qualifications; and
- (c) a person nominated by the Governor-General.

(3) If the person referred to in paragraph (2) (b) is not available to serve as a member of the Distribution Committee, the Electoral Commission shall appoint an officer of the Australian Public Service nominated for the purpose by the Governor-General, being an officer who, in the opinion of the Governor-General, has a status similar to that of the first-mentioned person.

(4) Subject to sub-clause (5), the performance of the functions of the Distribution Committee are not affected by reason only of there being a vacancy, or a change or changes, in its membership.

**SCHEDULE 3—continued**

(5) Where, within any period of not more than 30 days (being a period before the making under sub-clause 8 (1) of a proposed distribution by the Distribution Committee), 2 or more persons who are members of the Distribution Committee die or become unable, by reason of physical or mental incapacity, to serve or continue to serve as members of the Distribution Committee, the Electoral Commission shall, by instrument in writing, revoke the appointment of the Distribution Committee and appoint, for the purposes of the distribution, another Distribution Committee in accordance with sub-clauses (2) and (3).

(6) Where, in pursuance of sub-clause (5), the Electoral Commission revokes the appointment of the Distribution Committee and appoints another Distribution Committee, the provisions of this Schedule apply as if the first-mentioned Distribution Committee had never been appointed.

**Proceedings at meetings of Distribution Committee, &c.**

5. (1) The Electoral Commissioner may, at any time, convene a meeting of the Distribution Committee.

(2) The Electoral Commissioner shall preside at all meetings of the Distribution Committee at which the Electoral Commissioner is present.

(3) If the Electoral Commissioner is not present at a meeting of the Distribution Committee, the person referred to in paragraph 4 (2) (b) shall preside.

(4) At a meeting of the Distribution Committee, 2 members constitute a quorum.

(5) Questions arising at a meeting of the Distribution Committee shall be determined by a majority of the votes of the members present and voting.

(6) The member presiding at a meeting of the Distribution Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) The Distribution Committee may regulate the conduct of proceedings at its meetings as it thinks fit.

(8) The Distribution Committee may inform itself on any matter in such manner as it thinks fit and may consult with such persons as it thinks fit.

(9) The Electoral Commission shall, on request by the Distribution Committee, supply it with all such information, and provide it with all such assistance, as it requires for the purposes of this Schedule.

**Suggestions and comments relating to distribution**

6. (1) The Distribution Committee shall, as soon as practicable after its appointment, by notice published in the *Gazette* and in a newspaper circulating throughout the Territory—

(a) invite written suggestions relating to the distribution of the Territory to be lodged with it within the period of 30 days after the publication of the notice in the *Gazette*; and

(b) invite written comments, being comments relating to suggestions lodged with it in pursuance of paragraph (a), to be lodged with it within the period of 14 days after the expiration of the period referred to in that paragraph.

(2) The Distribution Committee shall, forthwith after the expiration of the period referred to in paragraph (1) (a), cause copies of the suggestions lodged with it in pursuance of that paragraph to be made available for perusal at each office of the Electoral Commission in the Territory.

(3) The Distribution Committee shall consider all suggestions and comments lodged with it in pursuance of sub-clause (1).

**SCHEDULE 3—continued**

**Quota**

7. (1) For the purposes of each distribution of the Territory, the Electoral Commissioner shall, by instrument in writing, determine, in accordance with sub-clause (2), the quota of electors for the Territory.

(2) The quota of electors for the Territory shall be determined by the Electoral Commissioner by dividing the number, as nearly as can be ascertained by the Commissioner, of electors enrolled in the Territory at the expiration of the period of 14 days referred to in paragraph 6 (1) (b) by the number of members to be chosen at a general election and—

- (a) if the number so obtained includes a fraction that is less than one-half—reducing that number to the nearest whole number; or
- (b) if the number so obtained includes a fraction that is one-half or more—increasing that number to the nearest whole number.

**Proposed distribution**

8. (1) The Distribution Committee shall, in accordance with sub-clauses (2) and (3), make a proposed distribution of the Territory.

(2) The proposed distribution shall propose the distribution of the Territory into Districts equal in number to the number of members of which the Council is to consist.

(3) In making the proposed distribution, the Distribution Committee—

- (a) shall, so far as practicable, endeavour to ensure that, 4 years after the Territory has been distributed, the number of electors enrolled in each proposed District will be equal; and
- (b) subject to paragraph (a), shall give due consideration, in relation to each proposed District, to—
  - (i) community of interests within the proposed District, including economic, social and regional interests;
  - (ii) means of communication and travel within the proposed District;
  - (iii) the trend of population changes within the Territory;
  - (iv) the physical features and area of the proposed District; and
  - (v) the boundaries of existing Districts,

and subject thereto the quota of electors for the Territory shall be the basis for the proposed distribution, and the Distribution Committee may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-tenth more or one-tenth less.

**Reasons for proposed distribution**

9. The Distribution Committee shall state, in writing, its reasons for the proposed distribution made by it under sub-clause 8 (1) and any member of the Distribution Committee who disagrees with the proposed distribution may state in writing the reasons for disagreement.

**Notice of proposed distribution**

10. (1) The Distribution Committee shall, as soon as practicable after it has made its proposed distribution of the Territory—

- (a) cause a map or maps showing the names and boundaries of each proposed District to be exhibited at—
  - (i) such post offices, and such other places, as it determines by instrument in writing; and
  - (ii) each office of the Electoral Commission in the Territory;

**SCHEDULE 3—continued**

- (b) cause copies of—
  - (i) the comments lodged with it in pursuance of paragraph 6 (1) (b);
  - (ii) detailed descriptions of the boundaries of each proposed District;
  - (iii) its reasons for the proposed distribution; and
  - (iv) if a member of the Distribution Committee has stated in writing reasons for disagreement with the proposed distribution—those reasons, to be made available for perusal at each office of the Electoral Commission in the Territory; and
- (c) by notice published in the *Gazette* and in a newspaper circulating throughout the Territory, invite public attention to the exhibition of the map or maps referred to in paragraph (a) and to the availability for perusal of copies of the comments, detailed descriptions and reasons referred to in paragraph (b).

(2) A notice published in pursuance of paragraph (1) (c) shall include a statement to the effect that a person or organisation may—

- (a) in the case of a notice published in the *Gazette*—within 14 days after the publication of the notice; or
- (b) in the case of a notice published in a newspaper—within 14 days after the publication of the notice published in the *Gazette* in pursuance of that paragraph, lodge with the Electoral Commission a written objection against the proposed distribution.

(3) A notice published in a newspaper in pursuance of paragraph (1) (c) shall include a map or maps showing the names and boundaries of each proposed District.

**Objections against proposed distribution**

11. A person or organisation may, within 14 days after the publication in the *Gazette* of the notice referred to in paragraph 10 (1) (c), lodge with the Electoral Commission a written objection against the proposed distribution.

**Augmented Electoral Commission**

12. (1) For the purposes of each distribution of the Territory, there is established by this sub-clause an augmented Electoral Commission.

- (2) The members of the augmented Electoral Commission shall be—
  - (a) the Chairman of the Electoral Commission;
  - (b) the member of the Electoral Commission referred to in paragraph 6 (2) (c) of the Electoral Act; and
  - (c) the members of the Distribution Committee.

(3) Subject to sub-clause (4), the performance of the functions of the augmented Electoral Commission is not affected by reason only of there being a vacancy or vacancies, or a change or changes, in its membership.

(4) Where, within any period (in paragraph (b) referred to as the “relevant period”) of not more than 30 days (being a period after the making under sub-clause 8 (1) of a proposed distribution of the Territory by the Distribution Committee), 2 or more persons who are members of the augmented Electoral Commission die or become unable, by reason of physical or mental incapacity, to serve or continue to serve as members of the augmented Electoral Commission—

- (a) the augmented Electoral Commission shall reconsider all objections against the proposed distribution lodged with the Electoral Commission in pursuance of clause 11, being objections previously considered by the augmented Electoral Commission; and



**SCHEDULE 3—continued**

- (b) sub-clause 14 (2) has effect as if the reference in that sub-clause to the period referred to in clause 11 were a reference to the relevant period.

**Proceedings at meetings of augmented Electoral Commission, &c.**

**13. (1)** The Chairman of the Electoral Commission may, at any time, convene a meeting of the augmented Electoral Commission.

(2) The Chairman of the Electoral Commission shall preside at all meetings of the augmented Electoral Commission at which the Chairman is present.

(3) If the Chairman of the Electoral Commission is not present at a meeting of the augmented Electoral Commission—

- (a) the Electoral Commissioner shall preside; or  
(b) if the Electoral Commissioner is not present at the meeting—the members present shall appoint one of their number to preside.

(4) At a meeting of the augmented Electoral Commission, 3 members constitute a quorum.

(5) Subject to sub-clause (6), questions arising at a meeting of the augmented Electoral Commission shall be determined by a majority of the votes of the members present and voting.

(6) A determination under sub-clause 15 (1) shall not be made unless not less than 3 members of the augmented Electoral Commission, of whom not less than 2 are members of the Electoral Commission, vote in favour of the making of the determination.

(7) Subject to sub-clause (8), the member presiding at a meeting of the augmented Electoral Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(8) The casting vote of the member presiding at a meeting of the augmented Electoral Commission shall not be used to vote in favour of the making of a determination under sub-clause 15 (1).

(9) The augmented Electoral Commission may regulate the conduct of proceedings at its meetings as it thinks fit.

(10) Subject to clause 14, the augmented Electoral Commission may inform itself on any matter in such manner as it thinks fit.

(11) The Electoral Commission shall, on request by the augmented Electoral Commission, supply it with all such information, and provide it with all such assistance, as it requires for the purposes of this Schedule.

**Consideration of objections**

**14. (1)** The augmented Electoral Commission shall consider all objections lodged in pursuance of clause 11.

(2) The augmented Electoral Commission shall complete its consideration of the objections as soon as practicable and, in any event, within 6 weeks after the end of the period referred to in clause 11.

(3) The augmented Electoral Commission shall hold an inquiry into an objection unless it is of the opinion that—

- (a) the matters raised in the objection were raised, or are substantially the same as matters that were raised, in—  
(i) suggestions relating to the distribution lodged with the Distribution Committee in pursuance of paragraph 6 (1) (a); or

**SCHEDULE 3—continued**

(ii) comments lodged with the Distribution Committee in pursuance of paragraph 6 (1) (b); or

(b) the objection is frivolous or vexatious.

(4) The augmented Electoral Commission may hold one inquiry into a number of objections.

(5) Proceedings before the augmented Electoral Commission at an inquiry into an objection shall be held in public.

(6) At an inquiry into an objection, submissions in relation to the objection may be made to the augmented Electoral Commission by or on behalf of the person or organisation that lodged the objection and any person or organisation that lodged suggestions relating to the distribution with the Distribution Committee in pursuance of paragraph 6 (1) (a).

(7) At an inquiry into an objection, the augmented Electoral Commission shall consider all submissions made to it in relation to the objection.

(8) The augmented Electoral Commission is not bound by the legal rules of evidence and may regulate the conduct of proceedings at an inquiry into an objection as it thinks fit.

(9) Without limiting the generality of sub-clause (8), the augmented Electoral Commission may determine, in its absolute discretion—

- (a) the manner in which submissions may be made to it;
- (b) the time within which submissions may be made to it;
- (c) the extent to which it may be addressed; and
- (d) the persons by whom it may be addressed.

**Distribution of Territory**

15. (1) The augmented Electoral Commission shall, in accordance with sub-clauses (3), (4) and (5), determine, by notice published in the *Gazette*, the names and boundaries of the Districts into which the Territory is to be distributed and, subject to sub-clause (5), those Districts shall, until altered by a determination under this sub-clause, be the Districts in the Territory.

(2) The augmented Electoral Commission shall make a determination under sub-clause (1) as soon as practicable after it has considered, in accordance with clause 14, all objections lodged in pursuance of clause 11.

(3) The determination shall distribute the Territory into Districts equal in number to the number of members of which the Council is to consist.

(4) In making the determination, the augmented Electoral Commission—

- (a) shall, so far as practicable, endeavour to ensure that, 4 years after the making of the determination, the number of electors enrolled in each District will be equal; and
- (b) subject to paragraph (a), shall give due consideration, in relation to each District, to—
  - (i) community of interests within the District, including economic, social and regional interests;
  - (ii) means of communication and travel within the District;
  - (iii) the trend of population changes within the Territory;
  - (iv) the physical features and area of the District; and
  - (v) the boundaries of existing Districts,

**SCHEDULE 3—continued**

and subject thereto the quota of electors for the Territory shall be the basis for the distribution, and the augmented Electoral Commission may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-tenth more or one-tenth less.

(5) Where a distribution (other than the first distribution) is determined under this clause—

- (a) the distribution does not affect a by-election occurring before the next general election; and
- (b) for the purposes of a by-election so occurring, the Districts that existed before the distribution, and the Rolls for those Districts, continue to have full force and effect notwithstanding the distribution and the fact that new Rolls have been prepared for the new Districts.

**Reasons for determination made by augmented Electoral Commission**

16. The augmented Electoral Commission shall state, in writing, its reasons for the determination made by it under sub-clause 15 (1) and any member of the augmented Electoral Commission who disagrees with the determination may state in writing the reasons for disagreement.

**Copies of certain documents to be forwarded to Minister, &c.**

17. (1) The Electoral Commission shall, forthwith after the augmented Electoral Commission has made a determination under sub-clause 15 (1), forward to the Minister a copy of—

- (a) the suggestions lodged in pursuance of paragraph 6 (1) (a);
  - (b) the comments lodged in pursuance of paragraph 6 (1) (b);
  - (c) the proposed distribution made by the Distribution Committee and its reasons for the proposed distribution;
  - (d) if a member of the Distribution Committee has stated in writing the reasons for disagreement with the proposed distribution—those reasons;
  - (e) the objections lodged in pursuance of clause 11;
  - (f) the determination under sub-clause 15 (1) and the reasons for the determination; and
  - (g) if a member of the augmented Electoral Commission has stated in writing the reasons for disagreement with the determination—those reasons.
- (2) The Minister shall cause copies of the documents forwarded under sub-clause (1)—
- (a) to be laid before each House of the Parliament within 5 sitting days of that House after receipt by the Minister; and
  - (b) except in the case of the first distribution of the Territory—to be forwarded to the Chairperson, who shall lay them before the Council at its next meeting.

