

1984

PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

REFERENDUM (MACHINERY PROVISIONS) BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Special Minister of State,
the Hon. M.J. Young, M.P.)

OUTLINE

The purpose of this Bill is to repeal the Referendum (Constitution Alteration) Act 1906 and subsequent amending Acts, make machinery provision for voting at referendums (including voting by electors in the Territories), make changes to referendum provisions consequential upon the passage of the Commonwealth Electoral Legislation Amendment Act 1983, and incorporate modifications to current referendum procedures.

REFERENDUM (MACHINERY PROVISIONS) BILL 1984
- CLAUSE NOTES

- Clause 1 - Formal
- Clause 2 - Formal. This clause provides for the Act to come into force on a day to be fixed by Proclamation.
- Clause 3 - This clause contains definitions and interpretations.
- . Sub-clause 3(1) provides definitions of absent voter, absent voting, Antarctica, Antarctic elector, Antarctic Returning Officer, approved form, Assistant Antarctic Returning Officer, Assistant Divisional Returning Officer, Assistant Returning Officer, Australian Capital Territory, Australian Electoral Officer, Australian Electoral Officer for a State, Australian Electoral Officer for a Territory, authorised witness, constable, Division, Divisional Returning Officer, election, elector, Deputy Electoral Commissioner, Electoral Commission, Electoral Commissioner, electoral visitor, eligible overseas elector, hospital, itinerant elector, mobile polling team leader, mobile polling team member, officer, polling booth, polling place, postal voting, referendum, referendum period, registered medical practitioner, Roll, special hospital, station, substitute presiding officer, Subdivision, Territory, and voting day.
 - . Sub-clause 3(2) provides that a reference to a Division includes a reference to the Northern Territory and that a reference to a Subdivision includes a reference to a District of the Northern Territory as specified under the Commonwealth Electoral Act 1918.
- Clause 4 - This clause provides that an elector is entitled to vote at a referendum where, if the referendum were an election, he would be entitled to vote at the election; and for the closure of rolls for a referendum.
- Clause 5 - This clause provides for the appointment of an Australian Electoral Officer for a Territory, an acting Australian Electoral Officer and his resignation and the validity of things done by a person purporting to act as Australian Electoral Officer notwithstanding any defects in his appointment.
- Clause 6 - This clause provides for the appointment of and exercise of powers by Assistant Returning Officers and the exercise of powers by Assistant Divisional Returning Officers.
- Clause 7 - This clause provides for the issue of a writ for a referendum.
- Clause 8 - This clause provides for the form of the writ which shall appoint the day for the close of the Rolls, a Saturday, for the taking the votes of electors, and the day for the return of the writ, and that a writ shall be deemed to have been issued at 6 o'clock in the afternoon of the day on which the writ was issued. Attached to the writ will be a copy of the proposed law or a statement setting out the changes proposed to be made to the Constitution.

- Clause 9 - This clause provides that the close of the Rolls shall be 7 days after the issue of the writ, and that voting day at the referendum shall be not less than 33 days and not more than 58 days after the issue of the writ.
- Clause 10 - This clause provides for an extension of the time for taking the votes at a referendum, and returning the writ.
- . Sub-clause 10(3) provides that when voting for a referendum and polling for an election are fixed for the same day, and an extension of time for holding the election is provided for pursuant to "old" section 144 of the Commonwealth Electoral Act 1918, the voting day for the referendum shall be deemed to have been postponed to the day to which polling at the election has been postponed.
- Clause 11 - This clause makes provision similar to those contained in the Referendum (Constitution Alteration) Act 1906 for the distribution to electors of arguments for and against the proposed law or laws to be submitted to electors at a referendum. It provides however, that the Electoral Commissioner need not distribute the Yes/No cases if he is informed by the Minister that the referendum is not to be held.
- Clause 12 - This clause provides that the Governor-General shall forward to the Governors of the States and to the Administrator of the Northern Territory a copy of the writ and the attachment, and forward the original writ and attachment to the Electoral Commissioner.
- Clause 13 - This clause provides that the Electoral Commissioner shall, publicise the writ by notice in the Gazette and advise each Australian Electoral Officer.
- Clause 14 - This clause deals with actions to be taken by Australian Electoral Officers and Divisional Returning Officers on receiving advice of the writ.
- . Sub-clause 14(1) provides for further publicity to be given to the writ and the proposed law or laws.
- Clause 15 - This clause provides that, subject to provisions allowing the adjournment of polling in certain circumstances, votes at a referendum shall be taken throughout Australia on the voting day appointed in the writ.
- Clause 16 - This clause provides that polling places appointed under the Commonwealth Electoral Act for elections shall also be polling places for referendums.
- . Sub-clause 16(2) requires the Electoral Commission to advertise (between the issue of the writ and polling day) the locations of polling places, and in particular, the abolition of places that were polling places at the most recent election or referendum.

- . Sub-clause 16(3) provides that where a referendum and an election are held concurrently, the publication of a notice of polling place locations under "old" sub-section 27(3) of the Commonwealth Electoral Act shall be deemed to be the publications of a notice under sub-clause 16(2).

Clause 17 - This clause deals with arrangements for voting at referendums.

- . Sub-clause 17(1) requires each Divisional Returning Officer, for the purpose of a referendum, to provide and equip proper polling booths, and provide ballot boxes, ballot papers, and certified lists of voters.
- . Sub-clauses 17(2) to (5) provide for the appointment and exercise of powers by presiding officers, assistant presiding officers and poll clerks, and provide that their appointment shall terminate on the completion of the referendum.

Clause 18 - This clause provides for the appointment of substitute a presiding officers.

Clause 19 - This clause requires each polling booth to be equipped with the necessary ballot-boxes.

Clause 20 - This clause requires polling booths to have voting compartments, constructed to screen the voters from observation, and equipped with a pencil.

Clause 21 - This clause provides that licensed premises may only be used as a polling booth if the Electoral Commissioner declares in writing that he is satisfied that no intoxicating liquor will be available for sale in any part of the premises during voting hours.

Clause 22 - This clause deals with the certified lists of voters used at polling places.

- . Sub-clause 22(1) provides that the certified list of voters to be used at a polling place shall be a list of electors (including provisional enrolees who will have turned 18 by voting day) enrolled for the Division.

Clause 23 - This clause provides that where an election and a referendum are held concurrently:

- . A person appointed in respect of the election to be an Australian Electoral Officer, an assistant presiding officer, a substitute presiding officer or a poll clerk shall be deemed to be similarly appointed in respect of the referendum;
- . The same polling booths and ballot-boxes may be used for both (provided that if the same ballot-boxes are used, the ballot-papers for the referendum must be coloured differently from those used for the election); and
- . The same certified list of voters may be used for both.

- Clause 24 - This clause requires voters at a referendum to signify their approval or disapproval of the proposed law by writing the words "Yes" or "No", as the case requires, in the space provided on the ballot-paper.
- Clause 25 - This clause provides for the forms of ballot-paper to be used for a referendum.
- Clause 26 - This clause provides that all ballot-papers shall be initialled on the back by the presiding officer before being handed to a person claiming to vote, and that an exact account of all ballot-papers initialled by the Presiding Officer shall be kept.
- Clause 27 - This clause provides for the appointment of one scrutineer for each polling place by the Governor-General, for each polling place in a State by the Governor of the State, and by the Administrator of the Northern Territory for one each polling place in the Northern Territory.
- Clause 28 - This clause sets out the rights of, and constraints imposed upon, scrutineers at polling booths.
- Clause 29 - This clause provides for the conduct of voting at a referendum.
- . Sub-clause 29(1) provides that each presiding officer shall exhibit on empty ballot-box and securely fasten it, that each polling booth shall open at 8am voting day, and close when all the voters within it at 6pm have voted (with no voters being admitted to it after 6pm) and that each presiding officer shall, in the presence of the poll clerk and any scrutineers close, fasten, seal and forward each ballot-box for the purpose of scrutiny.
 - . Sub-clause 29(2) provides that ballot-boxes shall only be opened in accordance with the Act, or in the case of a referendum held in conjunction with an election, in accordance with this Act or the Commonwealth Electoral Act 1918.
- Clause 30 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for the questions to be put to the voter.
- Clause 31 - This clause provides for questions to be put to the voter when an election and a referendum are held on the same day.
- . Sub-clause 31(1) provides that questions put to the voter pursuant to "old" Section 115 of the Commonwealth Electoral Act 1918 for the purposes of the election, if answered satisfactorily as regards the election, may be accepted as sufficient to enable the person to vote at the referendum.
 - . Sub-clause 31(2) and (3) provide that the presiding officer may further ask the person whether he has voted at the referendum, and if that person does not answer the question or answers in the affirmative, he shall not be permitted to vote.

- Clause 32 - This clause provides that if a person claiming to vote has had his Christian or given name omitted from the Roll or a certified list of voters, or if the wrong Christian or given name, a wrong address or a misspelt surname is entered, that person's claim to vote shall not be rejected if, in the opinion of the presiding officer, the person is sufficiently identified. The claim to vote of a female elector shall not be rejected by reason only that she has changed her name by marriage and that change has not been reflected in the Roll.
- Clause 33 - This clause provides that each person claiming to vote at the referendum is entitled to receive a ballot-paper duly initialled by the presiding officer, if the person's name is on the certified list of voters and his answers to the questions show that he is entitled to vote, or if he claims to vote pursuant to the provisions relation to absent voting and complies with those provisions. Each presiding officer is obliged to note any objections by scrutineers, and keep a record of such objections.
- Clause 34 - This clause provides for the certified list of voters to be marked when ballot-papers are issued and for a record to be kept of the name and Division of each absent voter.
- . Sub-clause 34(3) provides for a single marking of the certified list and the one record of absent voters where a referendum and an election are held concurrently.
- Clause 35 - This clause provides that a voter shall, upon receiving a ballot paper, retire to an unoccupied voting compartment, mark his vote on the ballot-paper, fold it so as to conceal his vote, place it in the ballot-box and leave the booth.
- Clause 36 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for assistance to be given to certain disabled voters.
- Clause 37 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for the casting of a provisional vote at a referendum by a person whose name is not on the certified list.
- Clause 38 - This clause makes provision similar to those in the Commonwealth Electoral Act 1918 for a declaration vote by an elector who is already marked on the Roll as having voted.
- Clause 39 - This clause makes provision similar to those in the Commonwealth Electoral Act 1918 for a declaration vote by a person whose address is not shown on the roll (that is, silent enrollees).
- Clause 40 - This clause provides for declaration votes where an election and a referendum are held on the same day.
- . Paragraph 40(a) and (b) provide that a declaration made under "old" section 121 of the Commonwealth Electoral Act 1918 shall be deemed to be a declaration under sub-clause 37(1), and that a ballot-paper containing the vote cast pursuant to clause 37 may be enclosed in the same envelope as a vote cast pursuant to "old" section 121 of the Commonwealth Electoral Act 1918.

- Paragraphs 40(c) and (d) provide that a declaration made under "old" section 121A of the Commonwealth Electoral Act 1918 shall be deemed to be a declaration under sub-section 38(1), and that a ballot-paper containing a vote cast pursuant to clause 38 may be enclosed in the same envelope as a vote cast pursuant to "old" section 121A of the Commonwealth Electoral Act 1918.
 - Paragraph 40(e) and (f) provide that a declaration made under "old" section 121B of the Commonwealth Electoral Act 1918 shall be deemed to be a declaration under sub-section 39(1), and a ballot-paper containing a vote cast pursuant to clause 39 may be enclosed in the same envelope as a vote cast pursuant to "old" section 121B of the Commonwealth Electoral Act 1918.
- Clause 41 - This clause makes provision for the issue of new ballot-papers in cases of spoilt ballot-papers.
- Clause 42 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for the adjournment of voting at a referendum.
- Clause 43 - This clause provides that, where voting for a referendum and an election are to be held on the same day, and the presiding officer adjourns the polling at the election pursuant to "old" sections 125 or 126 of the Commonwealth Electoral Act 1918, voting for the referendum shall be adjourned to the same day.
- Clause 44 - This clause provides that, where voting at a polling place is adjourned, only electors who are enrolled for the Subdivision for which the polling place is appointed, or who are entitled to vote for that Subdivision under clause 37, and who have not already voted, are entitled to vote during the adjourned voting.
- Clause 45 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for compulsory voting and the enforcement of the law in that regard.
- Clause 46 - This clause makes provision similar to those applying for elections as to ordinary and absent voting, and proposed to be made in respect of absent voting.
- Clause 47 - This clause provides that in clauses 48, 49 and 50, 'patient' does not include hospital out-patients.
- Clause 48 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for mobile polling booths in hospitals that are polling places.
- Clause 49 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for mobile polling booths to operate in hospitals that are not polling places but that have been declared by the Electoral commission to be special hospitals.
- Clause 50 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for voting under clauses 48 and 49.

- Clause 51 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for mobile polling teams, appointed by the Electoral Commission, to visit places in declared remote Subdivisions, for the purpose of taking votes (ordinary and absent) of electors at those places.
- Clause 52 - This clause makes provision for mobile polling when a referendum and an election are held concurrently.
- Clause 53 - This clause defines 'postal voting officer' and provides that a 'registered general postal voter' means an elector who is registered as a general postal voter pursuant to the Commonwealth Electoral Act 1918.
- Clause 54 - This clause provides for the appointment by the Electoral Commission of postal voting officers and for the declaration in the Gazette of appointed places for the purpose of postal voting.
- Clause 55 - This clause sets out the grounds for an application for a postal vote. They are the same as those set out in the Commonwealth Electoral Act 1918.
- Clause 56 - This clause sets out the rules governing a written application for a postal vote certificate and ballot-paper. They are the same as those set out in the Commonwealth Electoral Act 1918.
- Clause 57 - This clause sets out the rules governing an oral application for a postal vote certificate and ballot-paper. They are the same as those set out in the Commonwealth Electoral Act 1918.
- Clause 58 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for the dispatch of postal vote applications and postal ballot-papers to registered general postal voters.
- Clause 59 - This clause applies various election postal voting procedures to referendums in the case where an election and a referendum are held concurrently.
- Clause 60 - This clause prescribes the duties of a witness to a postal vote application and proscribes certain conduct in the witnessing of such applications - in similar terms to those in the Commonwealth Electoral Act 1918.
- Clause 61 - This clause makes provision similar to those in the Commonwealth Electoral Act 1918 for the issue of postal vote certificates and ballot-papers.
- Clause 62 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for maintenance of records of written and oral applications for postal votes, postal ballot-papers issued and for the inspection of those records and the written applications.
- Clause 63 - This clause provides for the the numbering of postal vote applications and certificates.

- Clause 64 - Sub-clauses (1) and (2) require the Divisional Returning Officer to note the issue of postal vote certificates and ballot-papers on the certified lists and advise presiding officers of the issue of certificates and ballot-papers.
- . Sub-clause 64(3) requires electors who have received a postal vote certificate and ballot-paper to deliver them to a presiding officer if they desire to vote at a polling booth.
 - . Sub-clause 64(4) provides that where a referendum is held on the same day as an election, a Divisional Returning Officer who complies with "old" sub-sections 91(1) or (2) of the Commonwealth Electoral Act 1918 is deemed to have complied with sub-clauses 61(1) and (2).
- Clause 65 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for persons claiming to vote whose names are noted on the certified list of voters as having had postal ballot-papers issued to them.
- . Sub-clause 65(5) provides that where a referendum and an election are held on the same day, declaration made under the equivalent "old" section 91A of the Commonwealth Electoral Act 1918 is deemed to be sufficient for an elector to vote at a referendum under this section.
- Clause 66 - This clause makes provision for the recording of postal votes and their return, similar to those contained in the Commonwealth Electoral Act 1918.
- Clause 67 - This clause requires an authorised witness to comply with clause 66, to ensure that the elector and others present during the casting of the vote similarly comply with that section, and refrain from disclosing the vote of the elector. Penalty: \$1000.
- Clause 68 - This clause prohibits the opening of an envelope containing a postal ballot paper by other than the appropriate Divisional Returning Officer or an officer directed to do so the Divisional Returning Officer. Penalty: \$500.
- Clause 69 - This clause provides a penalty of \$1000 for persons failing to comply with the instruction of a voter to deliver or post an envelope containing a postal ballot-papers.
- Clause 70 - This clause provides a penalty of \$1000 for inducing an elector to hand over a completed postal ballot-paper.
- Clause 71 - This clause requires persons present during the recording of a postal vote before an authorised witness to obey the directions of the witness, not to communicate with the elector in relation to his vote, not to interfere with or assist in the elector's vote, and not to see the elector's vote. Penalty: \$1000.
- Clause 72 - This clause makes provision similar to those contained in the Commonwealth Electoral Act 1918 for the preliminary scrutiny of postal ballot-papers.

- Clause 73 - This clause allows officers to correct formal errors or defects on a postal vote application or on a postal vote certificate itself.
- Clauses 74 - Make provisions similar to those contained in the Commonwealth
to 88 Electoral Act 1918 for voting in Antarctica at a referendum.
- Clause 74 - This clause defines 'transmit' and allows an elector to vote in Antarctica in accordance with this Part if he has, within 11 days of the issue of the writ, given to a Divisional Returning Officer a notice under "old" sub-section 128E(1) of the Commonwealth Electoral Act 1918. Where a referendum is held on the same day as an election and the day fixed for nomination is later than 11 days after the issue of the writ for the election, an elector must have given notice to the Divisional Returning Officer by the day fixed for nomination for the election.
- Clause 75 - This clause modifies the application of Part III to voting in Antarctica.
- Clause 76 - This clause set out the arrangements for voting in Antarctica.
- Clause 77 - This clause requires ballot-papers to be initialled by the Antarctic Returning Officer.
- Clause 78 - This clause makes provision for the conduct of voting at a referendum in Antarctica.
- Clause 79 - This clause entitles electors whose names have been transmitted as Antarctic electors to vote at the referendum.
- Clause 80 - This clause sets out the questions to be put to the voter.
- Clause 81 - This clause requires the Antarctic Returning Officer to give each eligible person claiming to vote an initialled ballot-paper.
- Clause 82 - This clause requires the Antarctic Returning Officer to mark on the list of Antarctic electors those who have received ballot-papers.
- Clause 83 - This clause applies clauses 35 and 36 as if a reference to an unoccupied compartment were a reference to an unoccupied part of the station and deletes the requirement that electors leave the booth after voting.
- Clause 84 - This clause requires the Antarctic Returning Officer to open the ballot-box at the close of voting, in the presence of his assistant, and to cause to be transmitted to the relevant Australian Electoral Officer the particulars of each elector who has voted and of his vote, and if the particulars of the vote cannot be understood, a statement to that effect and an explanation of the inability. He shall also record in writing the information transmitted.
- Clause 85 - This clause sets out the steps to be followed by the Australian Electoral Officer following receipt of details of voting in Antarctica to transmit the votes to the appropriate Divisional Returning Officers.

- Clause 86 - This clause provides for the preservation of records and ballot-papers by Antarctic Returning Officers.
- Clause 87 - This clause provides that for the purposes of provisions relating to Antarctic voting 'State' includes 'Territory'.
- Clause 88 - This clause makes provision for the case where a referendum and an election are held on the same day.
- Clause 89 - This clause provides for the result of a referendum to be ascertained by scrutiny; and enables one scrutineer to be appointed by the Governor-General for each counting centre, by each State Governor for each counting centre in his State, and by the Administrator of the Northern Territory for each counting centre in the Northern Territory;
- Clause 90 - This clause makes provision for the conduct of the scrutiny for a referendum.
- . Sub-clause 90(1) provides that the scrutiny shall commence as soon as practicable after the close of voting - in the presence of scrutineers and other approved persons.
 - . Sub-clause 90(2) to (9) make provision similar to those contained in the Commonwealth Electoral Act 1918 for the preliminary and further scrutiny of absent votes.
- Clause 91 - This clause prescribes things to be done at the scrutiny.
- . Sub-clause 91(1) provides that ballot-papers shall be examined and either or accepted rejected as informal; the number of informal ballot-papers shall be recorded; formal votes shall be counted and recorded. Following counting, ballot-papers shall be parcelled and sealed as either informal, in favour of the proposed law or not in favour of the proposed law, respectively. Where more than one referendum is held on the same day, the Electoral Commission may make other directions for the parceling of votes. Each Divisional Returning Officer shall, following the scrutiny, prepare a statement showing the number of 'Yes' votes, the number of 'No' votes and the number of informal votes;
 - . Sub-clause 91(2) requires that ballot-papers used for absent voting under clause 46 be dealt with as provided by this Act.
 - . Sub-clause 91(3) requires that postal ballot-papers be dealt with as provided by Part IV and the regulations.
 - . Sub-clause 91(4) requiring that ballot-papers used for voting under clauses 37 (provisional voting), 38 (declaration vote by person already marked as having voted), 39 (declaration vote by silent enrollee) and 65 (declaration vote by person marked as having been issued with postal vote) be dealt with as provided by those sections and the regulations.
- Clause 92 - This clause provides for objections to ballot-papers at the scrutiny by scrutineers.

Clause 93 - This clause sets out the grounds for informality.

- . Sub-clause 93(1) and (4) provide, generally, that a ballot-paper is informal if it is not authenticated by a presiding officer's initials or by a prescribed mark; it has no vote marked; it has more than one vote marked; or it has an unauthorised mark or writing on it which allows the voter, in the opinion of a Divisional Returning Officer, to be identified - other than a mark or writing by polling official etc.
- . Sub-clause 93(2) provides that, in addition, an absent vote shall be informal if it is not contained in the declaration envelope.
- . Sub-clause 93(3) allows the Divisional Returning Officer to count as formal otherwise unauthenticated ballot-papers if he is satisfied as to the authenticity of the ballot-paper.
- . Sub-clause 93(5) provides that votes under clause 65 shall not be informal except as prescribed by the regulations.
- . Sub-clause 93(6) provides that ballot-papers are not to be informal for any reason other than a reason specified in this clause or in the case of postal votes or votes under clauses 37, 38, 39 or 65 the grounds be prescribed by the regulations.
- . Sub-clause 93(7) provides a \$1000 penalty for the unauthorised marking by an officer of a ballot-paper to identify the voter.
- . Sub-clause 93(8) provides for effect to be given to a vote so far as the voter's intention is clear.

Clause 94 - This clause requires each Divisional Returning Officer after the counting of votes in his Division to prepare a written statement certifying the numbers of 'Yes' votes, 'No' votes, and informal votes and to send it to the Australian Electoral Officer.

Clause 95 - This clause provides for a recount of votes for a referendum at the direction of an Australian Electoral Officer or the Electoral Commissioner. The Electoral Commissioner is to direct a recount, whenever the Governor-General, the Governor of a State or the Administrator of the Northern Territory so request.

Clause 96 - This clause provides for the reservation of disputed ballot-papers for election by the relevant Australian Electoral Officer and permits the High Court to consider, where the validity of a referendum has been disputed, any ballot-papers so reserved. However, the Court is not, itself, to order a recount unless it is satisfied that a recount is justified.

Clause 97 - This clause requires each Australian Electoral Officer to prepare a signed statement of the number of 'Yes' votes, 'No' votes and informal votes for his State or Territory, and send it to the Electoral Commissioner.

- Clause 98 - This clause requires the Electoral Commissioner to indorse on the writ a statement showing the number of 'Yes' votes, 'No' votes and informal votes for each State, the Australian Capital Territory, the Northern Territory, and the Commonwealth, to sign the statement and to return the writ to the Governor-General. He is also required to publish a copy of his statement in the Gazette.
- Clause 99 - This clause requires the Electoral Commissioner to forward copies of his statement to State Governors and the Administrator of the Northern Territory.
- Clause 100 - This clause allows the Commonwealth, any State or the Northern Territory to dispute the validity of a referendum by petition to the High Court.
- Clause 101 - This clause requires that a petition set out the facts relied on in the dispute; contain a request asking for the relief to which the petitioner claims to be entitled; be signed by the Commonwealth Attorney-General for the Commonwealth, or the Attorney-General for a State or for the Northern Territory, as the case required; and be filed in the High Court Registry within 40 days of the publication of the Electoral Commissioner's statement in the Gazette.
- Clause 102 - This clause allows the Electoral Commission to file a petition.
- Clause 103 - This clause deals with the jurisdiction and powers on the High Court to deal with petitions.
- Clause 104 - This clause provides for inquiries by the High Court.
- . Sub-clause 104(1) permits the High Court to inquire into the identity of persons and into whether or not votes were properly admitted or rejected, but not into the correctness of any Roll.
 - . Sub-clause 104(2) provides that unless otherwise ordered by the High Court, a statement prepared by an Australian Electoral Officer of the particulars of the marking of Antarctic ballot-papers shall be conclusive evidence of the particulars.
- Clause 105 - This clause provides for notice of a petition to be given by the Attorney-General and the Electoral Commission to each other.
- Clause 106 - This clause allows the Commonwealth, a State, the Northern Territory or the Electoral Commission to be joined as a party.
- Clause 107 - This clause provides that procedures in relation to a petition shall be prescribed by Rules of Court, or in default, to be as directed by the High Court.
- Clause 108 - This clause provides that immaterial errors are not to invalidate a referendum.
- . Sub-clause 108(1) provides that any delay in taking votes, or making a statement or return, or the absence of any officer or any error or omission by an officer, that did not affect the result, shall not be a ground for the voiding of the referendum.

- Sub-clause 108(2) provides that where an elector was prevented from voting due to an error, omission or absence by an officer, the High Court shall not admit any evidence as to how the elector would have voted, for the purpose of determining whether the error etc. affected the result.

- Clause 109 - This clause requires that High Court not to admit the evidence of a witness that he was not permitted to vote during voting hours unless he satisfies the Court that he claimed to vote under a provision which entitled him to vote, and that he complied with the requirements of his Act and the regulations relating to voters as far as he was permitted.
- Clause 110 - This clause defines 'broadcast', 'broadcaster' and 'journal' for the purposes of sections 111 and 112.
- Clause 111 - This clause requires broadcasters to furnish returns to the Electoral Commission within 15 weeks after voting day setting out particulars of referendum advertisements broadcast during the referendum period. The particulars include names and addresses of those authorising advertisements, dates of advertisements, whether a charge was made, the amounts of any charges, and whether time was provided at less than normal commercial rates.
- Clause 112 - This clause requires publishers of journals to furnish returns to the Electoral Commission within 15 weeks after voting day setting out particulars of referendum advertisements published during the referendum period. The particulars include names and addresses of those authorising advertisements, dates of advertisements, whether a charge was made, the amount of any charges, and whether space was provided at less than normal commercial rates. A return is not required if the total amount charged by a publisher of a journal for all referendum advertisements published in the journal during the referendum period does not exceed \$1000.
- Clause 113 - This clause requires a printer who, during the referendum period, produced any referendum matter relating to the referendum (other than an advertisement in a journal), to furnish a return to the Electoral Commission within 15 weeks after polling day, setting out particulars of the referendum matter. 'Referendum matter' means a printed referendum advertisement, handbill, pamphlet or notice (other than an advertisement in a journal). A return is not required if the total amount charged by a printer for all referendum matter printed by him during the referendum period does not exceed \$1000.
- Clause 114 - This clause allows persons furnishing returns in cases where two or more referendums are held on the same day to simply furnish one return to cover all the referendums. Such returns comply with the Part if they set out details of a matter relating to more than one referendum without showing the extent to which the matter relates to a particular referendum. In the case of a joint election and referendum a single return under the Commonwealth Electoral Act 1918 in respect of joint election/referendum advertising is sufficient.

- Clause 115 - This clause requires the Commission to keep copies of returns in its offices in Canberra, Darwin and the State capitals and allows the public to inspect them and obtain copies.
- Clauses 116 to 136 - Make provision for offences and penalties and reflect with modifications the offences and penalties provided for under the Commonwealth Electoral Act 1918:-
- Clause 116 - Officers and scrutineers to observe secrecy.
- Clause 117 - Officers not to contravene Act, etc.
- Clause 118 - Officers not to influence the vote.
- Clause 119 - Bribery.
- Clause 120 - Interference with political liberty.
- Clause 121 - Printing and publication of an authorisation of referendum material.
- Clause 122 - Misleading or deceptive advertising and publications.
- Clause 123 - False statements to an elector.
- Clause 124 - Headings to newspaper advertisements.
- Clause 125 - Authors of reports etc. to be identified.
- Clause 126 - Voting material not to be left in a polling booth.
- Clause 127 - Signature to referendum papers.
- Clause 128 - Witnessing referendum papers.
- Clause 129 - Unauthorised marks on ballot-papers.
- Clause 130 - Other offences relating to ballot-papers and voting.
- impersonation of another person to vote or to secure a ballot-paper to which the first mentioned person is not entitled;
 - fraudulently destroying a referendum document or ballot-paper;
 - fraudulently putting any ballot-paper or other paper into a ballot-box;
 - fraudulently removing a ballot-paper from a polling booth or place of scrutiny;
 - forging ballot-papers etc. or knowingly uttering a forgery;
 - supplying ballot-papers without authority;
 - unlawfully destroying or interfering with ballot-papers or ballot-boxes;

- wilfully voting more than once at the same referendum;
- making a false or misleading statement under this Act or the regulations or induce another person to do so;
- wilfully defacing, mutilating, destroying or removing a notice, list, or other document displayed in any place by, or with the authority of an officer.

Clause 131 - Prohibition of certain behaviour near a polling booth.

Clause 132 - Officer or scutineer not to display in a polling booth a badge or emblem.

Clause 133 - Employers to allow employees leave of absence to vote at a referendum.

Clause 134 - Misconduct at public meetings.

Clause 135 - Misconduct in a polling booth.

Clause 136 - Failure to furnish returns under sections 111, 112, and 113.

Clause 137 - This clause provides for delegations by the Electoral Commission and the exercise of powers by the delegates.

Clause 138 - This clause provides for a delegation by the Electoral Commissioner and the exercise of powers by the delegates.

Clause 139 - This clause makes provision for the Supreme Court of a State or Territory to grant injunctive relief, on the application of the Electoral Commission to restrain contraventions of this Act or of other law in its application to a referendum.

Clause 140 - This clause provides that bribery is an indictable offence. However, if a Court of Summary Jurisdiction is satisfied that it is proper to do so, and the parties consent, it may hear and determine the proceedings. If the matter is determined by a Court of Summary Jurisdiction the maximum penalty it can impose is a fine not exceeding \$2000 or 12 months' imprisonment, or both; in lieu of \$5000, or 2 years or both if the matter was dealt with on indictment.

Clause 141 - This clause stipulates that referendum papers posted and properly addressed shall be deemed to have been received by the elector at the time when, in the ordinary course of post, they should have been so received.

Clause 142 - This clause provides for the preservation of ballot-papers and other referendum material until the referendum can no longer be questioned, or for 6 months following the Gazette notice of the result, or until they are no longer required for research by the Commission, whichever the later.

Clause 143 - This clause provides that, without the authority of the Governor-General, no election or referendum or vote of the electors of a State or Territory or part thereof, shall be held on the voting day for a referendum.

- Clause 144 - This clause allows the Governor-General to make regulations not inconsistent with the Act. The clause also continues in force the Electoral and Referendum Regulations as they relate to referendums.
- Clause 145 - This clause repeals the Acts specified in Schedule 2.
- Schedule 1 - This schedule sets out, in Form A, the form for a Writ for a referendum, in Form B, the Form of Ballot-paper for one referendum, and in Form C, the Form of Ballot-paper for multiple referendums.
- Schedule 2 - This schedule sets out the Acts repealed by clause 145, namely the Referendum (Constitution Alteration) Act 1906 and subsequent amending Acts.

