



ANNO DECIMO NONO

# ELIZABETHAE II REGINAE

A.D. 1970

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## No. 11 of 1970

An Act to provide for the holding of a referendum of certain House of Assembly electors on a question relating to trading hours of certain shops within the metropolitan area as defined, and for other purposes.

[Assented to 3rd September, 1970]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Referendum (Metropolitan Area Short title.  
Shop Trading Hours) Act, 1970".

2. In this Act, unless the contrary intention appears— Interpretation.

"Assembly district" means House of Assembly electoral district for the return of a member of the House of Assembly:

"elector" means a person whose name appears on a House of Assembly electoral roll as a resident of any place within the metropolitan area, being a House of Assembly roll in force at noon on the eleventh day of August, 1970:

"presiding officer" means officer for the time being presiding and taking the poll at any polling place on the day of the referendum:

"returning officer" means returning officer for an Assembly district:

“the Electoral Act” means the Electoral Act, 1929, as amended:

“the metropolitan area” means that area of the State which comprises the Metropolitan Planning Area within the meaning of the Planning and Development Act, 1966-1969, and the municipality of Gawler:

“the prescribed question” means the question set out in section 4 of this Act:

“the referendum” means the submission of the prescribed question to the electors who are entitled to vote under this Act:

“the Returning Officer for the State” means the Returning Officer for the State appointed and holding office under the Electoral Act.

Fixing of day for referendum.

3. (1) The Governor may by proclamation fix a day for the referendum which shall be a day not earlier than the nineteenth day of September, 1970.

(2) The Returning Officer for the State shall conduct the referendum by taking the votes of the electors on the prescribed question in accordance with the provisions of this Act.

Question to be submitted to electors

4. The prescribed question is—

Are you in favour of shops in the Metropolitan Planning Area and the municipality of Gawler being permitted to remain open for trading until 9 p.m. on Fridays?

Electors who may be admitted to vote.

5. (1) Subject to this Act, at the referendum only those electors who would be entitled to vote if the referendum were an election for the return of members to serve in the House of Assembly shall be admitted to vote.

(2) Subsection (1) of this section shall not entitle a person who is disqualified from voting to vote.

Application of Electoral Act to referendum.

6. (1) Subject to this Act, the provisions of the Electoral Act and the regulations thereunder, so far as they are appropriate and applicable, with such modifications as are necessary, apply to and in relation to the referendum as if it were an election for the return of members to serve in the House of Assembly.

(2) In the application of any provision or Part of the Electoral Act or regulations thereunder to or in relation to the referendum—

(a) a reference to a polling day shall be read as a reference to the day fixed by proclamation for the referendum;

- (b) a reference to a poll shall be read as a reference to the taking of votes of the electors for the purposes of the referendum;
- (c) a reference to an election shall be read as a reference to the referendum;
- (d) in its application to and in relation to the referendum, section 88 shall be read as if, for the passage, "If the proceedings on the day of nomination stand adjourned to polling day" in subsection (1) there were substituted the passage "As soon as practicable after the day is fixed by proclamation for the referendum, the Returning Officer for the State and";
- (e) the Returning Officer for the State and, with his approval, each returning officer, may appoint any temporary officers necessary for the purpose of making the necessary arrangements for the taking of the votes of the electors at the referendum;
- (f) a ballot-paper used for the purposes of the referendum shall be rejected as informal only for a reason specified in this Act;
- (g) the vote of an elector shall be marked on his ballot-paper in accordance with this Act and the ballot-paper shall be folded so as to conceal the vote marked thereon;
- (h) a reference to electoral matter or to electoral papers shall be read as a reference to corresponding matter or papers in relation to the referendum;
- (i) a reference to a ballot-paper, ballot-box or other thing shall be read as a reference to a ballot-paper, ballot-box or corresponding thing in relation to the referendum;
- (j) any reference to "this Act" shall be read as a reference to the provisions and Parts of the Electoral Act and the regulations thereunder which are applicable to the referendum;
- (k) a form applicable to a House of Assembly election shall be equally applicable to the referendum.

(3) Where in the opinion of the Returning Officer for the State any provision of this Act or the Electoral Act or the regulations thereunder are not relevant, appropriate or applicable and any matter relating to the referendum is not governed by any such provision, that matter shall be dealt with in such manner as the Returning Officer for the State thinks fit.

7. (1) The voting at the referendum shall be taken on the day fixed by proclamation for the referendum.

Voting at the referendum.

(2) Each elector shall vote only once at the referendum.

**Polling places.**

8. The polling places within the metropolitan area appointed and established under the Electoral Act or by notice of the Returning Officer for the State published in the *Gazette* shall be polling places for the purposes of the referendum.

**Ballot-papers.**

9. The ballot-papers to be used for the purposes of the referendum shall, subject to this Act, be issued by the Returning Officer for the State.

**Mode of voting.**

10. An elector shall mark his vote on his ballot-paper as follows:—

(a) if he is in favour of the prescribed question, he shall place the number 1 in the square opposite the word “Yes”;

or

(b) if he is not in favour of the prescribed question, he shall place the number 1 in the square opposite the word “No”.

**Persons present at polling.**

11. No person, other than the presiding officer, assistant presiding officers, poll clerks and door keepers, and authorized scrutineers (if any), the electors voting and about to vote and other persons lawfully on the premises shall enter or remain in a polling booth during polling except by permission of the presiding officer.

**Electors entitled to vote.**

12. The electoral rolls in force at noon on the eleventh day of August, 1970, shall be conclusive evidence of the right of each person enrolled thereon as an elector to vote as such unless, by his answers to the questions prescribed by section 105 of the Electoral Act, he is not entitled to vote.

**Voting compulsory.**

13. (1) It shall be the duty of every elector to record his vote at the referendum.

(2) It shall be the duty of the returning officer for each of the Assembly districts wholly or partly within the metropolitan area, at the close of the referendum in that district, to prepare a list of the names, addresses and descriptions of the electors enrolled for his Assembly district who were entitled to vote but have not voted at the referendum, and to certify the list by statutory declaration under his hand.

(3) The list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear thereon were entitled to, but did not, vote at the referendum.

(4) Within four months after the close of the referendum the Returning Officer for the State shall send by post to each elector whose name appears on the list prepared in accordance with subsection (2) of this section, at the address mentioned in that list, a notice, in the form prescribed by the regulations made under the Electoral Act notifying the elector that he appears to have failed to vote at the referendum and calling upon him to give a valid, truthful and sufficient explanation of his apparent failure so to vote: But the Returning Officer for the State need not send a notice in any case where he is satisfied that the elector—

- (a) is dead;
- (b) was ineligible to vote at the referendum;
- or
- (c) had a valid and sufficient reason for his failure to vote.

(5) Before sending any such notice, the Returning Officer for the State shall insert therein a date, being not less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Returning Officer for the State.

(6) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed to vote, sign the form, and post it so as to reach the Returning Officer for the State not later than the date inserted in the notice.

(7) If an elector is unable, by reason of absence from his place of living or physical incapacity, to fill up, sign, and post the form within the time allowed under subsection (5) of this section, any other elector who has personal knowledge of the facts may fill up, sign and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form may be treated as compliance by the first-mentioned elector with the provisions of subsection (6) of this section.

(8) Upon receipt of a form referred to in subsection (6) or subsection (7) of this section the Returning Officer for the State shall endorse on the list prepared in accordance with subsection (2) of this section, opposite the name of the elector, his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.

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

(10) The list prepared and endorsed by the returning officer for an Assembly district indicating—

- (a) the names of the electors who did not vote at the referendum;
- (b) the names of the electors from whom or on whose behalf the Returning Officer for the State received, within the time allowed under subsection (5) of this section, forms properly filled up and signed;

and

- (c) the names of the electors who failed to reply within that time,

and any extract therefrom, certified by the Returning Officer for the State under his hand, shall, in all proceedings, be *prima facie* evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the referendum, and that the notice, specified in subsection (4) of this section was received by those electors, and that those electors did or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed under subsection (5) of this section.

(11) Every elector who—

- (a) fails to vote at the referendum without a valid and sufficient reason for such failure;

or

- (b) on receipt of a notice in accordance with subsection (4) of this section, fails to fill up, sign and post within the time allowed under subsection (5) of this section the form (duly witnessed) which is attached to the notice;

or

- (c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of another elector, in pursuance of subsection (7) of this section, states in such form a false reason why that other elector did not vote,

shall be guilty of an offence and shall be liable to a penalty of not less than two dollars and not more than eight dollars.

(12) Proceedings for an offence against this section shall not be instituted except by the Returning Officer for the State or an officer authorized in that behalf in writing by the Returning Officer for the State.

**Informal  
ballot-papers.**

14. (1) A ballot-paper shall be informal and invalid if—

- (a) it is not authenticated by the initials of the presiding officer or by an official mark as prescribed;

- (b) it has no vote marked on it;
- or
- (c) it has upon it any mark or writing by which, in the opinion of the returning officer, the elector who has voted thereby can be identified.

(2) Notwithstanding any other section of this Act a ballot-paper shall not be regarded as informal or invalid for any reason other than the reasons specified in this section, but shall be given effect to according to the intention of the elector who has voted thereby so far as his intention is clear.

15. In the referendum the scrutiny shall, subject to the provisions of this Act and the Electoral Act, and the regulations thereunder, relating to absent voting and to voting by post, be conducted as follows:—

Scrutiny of votes.

- (a) Each assistant returning officer shall, in the presence of an assistant presiding officer or a poll clerk and of any authorized scrutineers who attend—
  - (i) open all ballot-boxes received from polling places within, or for, that portion of the district in which he exercises his powers;
  - (ii) reject all informal ballot-papers;
  - (iii) count the votes on all unrejected ballot-papers;
  - (iv) make out and sign a statement (which may be counter-signed by an assistant presiding officer or a poll clerk) setting out the number of votes in favour of the prescribed question, the number of votes not in favour of the prescribed question, and the number of informal ballot-papers;
  - (v) place in a separate parcel all the ballot-papers which have been rejected as informal;
  - (vi) transmit to the returning officer in some expeditious manner the following information—
    - (a) the number of votes in favour of the prescribed question;
    - (b) the number of votes not in favour of the prescribed question;and
    - (c) the total number of ballot-papers rejected as informal;

- (vii) seal up the parcels and endorse on each parcel a description of the contents thereof;
  - and
  - (viii) transmit the parcels to the returning officer with the least possible delay, together with the statement specified in subparagraph (iv) of this paragraph:
- (b) The returning officer shall open all ballot-boxes not opened by an assistant returning officer, and shall conduct the scrutiny of the ballot-papers contained therein in accordance with the foregoing provisions of this section so far as they are applicable:
- (c) The returning officer shall, in the manner prescribed by the Electoral Act and the regulations thereunder, examine, count, and deal with all ballot-papers used for voting in pursuance of—
- (i) the provisions of that Act relating to voting by post;
  - and
  - (ii) the regulations under that Act relating to absent voting:
- (d) The returning officer shall—
- (i) open the sealed parcels of ballot-papers received from the assistant returning officers in, or for, the districts for which he is returning officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an assistant returning officer in relation to the original scrutiny;
  - and
  - (ii) count the number of votes in favour of the prescribed question and the number of votes not in favour of the prescribed question:
- (e) The returning officer shall—
- (i) make out and sign a statement setting out, in respect of the district for which he is returning officer, the number of votes in favour of the prescribed question, the number of votes not in favour of the prescribed question, at each count,



and the number of informal ballot-papers, and forward the statement to the Returning Officer for the State;

(ii) place in a separate parcel all the ballot-papers which have been rejected as informal;

(iii) place in a separate parcel all the unrejected ballot-papers;

and

(iv) seal up the parcels and endorse on each parcel a description of the contents thereof.

16. As soon as convenient after the result of the referendum has been ascertained, the Returning Officer for the State shall, by notice published in the *Gazette* declare the result of the referendum.

Declaration of result of referendum.

17. Where the Returning Officer for the State is satisfied that any ballot-papers posted or delivered to him in pursuance of section 81 of the Electoral Act could not possibly affect the result of the referendum, he may declare the result of the referendum without awaiting the receipt of those ballot-papers.

Declaration of result of referendum notwithstanding outstanding ballot-papers.

18. Bribery and undue influence and the following are illegal practices:—

Illegal practices.

Any publication of an advertisement relating to the referendum, which has not at the end thereof the name and address of the person authorizing it or any issue of any notice relating to the referendum, which has not on the face thereof the name and address of the person authorizing the notice.

19. Illegal practices shall be punishable as follows:—

Punishment for illegal practices.

(a) bribery or undue influence, by a fine not exceeding four hundred dollars or by imprisonment not exceeding one year;

and

(b) any other illegal practice, by a fine not exceeding two hundred dollars or by imprisonment not exceeding six months.

20. Any person who—

Bribery.

(a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, benefit for or on account

of, or to induce, any vote or omission to vote in connection with the referendum, or any support of, or opposition to, the prescribed question or any promise of any such vote, omission, support or opposition;

(b) gives or takes any valuable consideration, advantage, recompense, reward, benefit for or on account of, or to induce, any vote or omission to vote in connection with the referendum, or any support of, or opposition to, the prescribed question or any promise of such vote, omission, support or opposition;

or

(c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit, for bribery,

shall be guilty of bribery.

**Definition of "bribery".**

**21.** Without limiting the effect of section 20 of this Act, "bribery" includes the supply of meat, drink, or entertainment and the provision of conveyance or the hire for conveyance for any elector whilst going to or returning from a polling place with a view to influencing the vote of an elector at the referendum.

**Undue Influence.**

**22.** Any person who—

(a) threatens, offers, or suggests any violence, injury, punishment, damage, loss or disadvantage to, upon or for any elector or any other person for or on account of, or to induce, any vote or omission to vote in connection with the referendum or any support of, or opposition to, the prescribed question or any promise of any such vote, omission, support or opposition;

(b) uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to, upon or for any elector or any other person for or on account of, or to induce, any vote or omission to vote in connection with the referendum or any support of, or opposition to, the prescribed question or any promise of any such vote, omission, support or opposition;

or

(c) at any time before the declaration of the result of the referendum, publishes or exposes, or causes to be published or exposed, to public view, any document, writing or printed matter containing any untrue statement calculated

to influence the vote of any elector, or orally makes any such untrue statement,

shall be guilty of undue influence.

23. Without limiting the effect of section 22 of this Act, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any elector.

Definition of "undue influence".

24. (1) A person shall not post up or exhibit, or permit to be posted up or exhibited, on any building, vehicle, vessel, hoarding or structure of any kind an electoral poster the area of which is more than one thousand two hundred square inches.

Prohibition of certain electoral posters.

Penalty: Four hundred dollars.

(2) For the purposes of this section every electoral poster any part of which is within three feet of another electoral poster shall be regarded as forming part of that other poster and the combined area of all such electoral posters shall be deemed to be the area of one such electoral poster.

(3) A person shall not write, draw, or depict any electoral matter directly on any roadway, footpath, building, vehicle, vessel, fence, hoarding or structure of any kind.

Penalty: Two hundred dollars.

(4) In this section—

"electoral matter" means any matter intended or calculated to affect the result of the referendum:

"electoral poster" means any material whatsoever on which any electoral matter is written, drawn or depicted.

25. For the purposes of ensuring compliance with section 24 of this Act, a member of the police force may, and, if so directed by the Returning Officer for the State, shall—

Removal of prohibited electoral posters.

(a) remove any electoral poster which appears to have been posted up or exhibited in contravention of subsection (1) of that section;

or

(b) obliterate electoral matter which appears to have been written, drawn, or depicted in contravention of subsection (3) of that section.

26. In any prosecution under this Act the certificate of the Returning Officer for the State that the referendum was duly held shall be conclusive evidence of that fact.

Evidentiary effect of returning officer's certificate.

**Proceedings  
for offences.**

**27. (1)** Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

(2) All proceedings for offences against this Act other than indictable offences shall be dealt with summarily.

**Regulations.**

**28.** The Governor may make regulations not inconsistent with this Act prescribing all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**Financial  
provision.**

**29.** The moneys required for the purposes of this Act shall be paid out of moneys to be provided by Parliament for those purposes.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. W. HARRISON, Governor.