

LOCAL GOVERNMENT (ELECTORAL PROVISIONS) ACT.

Act No. 21, 1947.

An Act to provide for compulsory voting at elections in local government areas and in the City of Sydney; for this and certain other purposes to amend the Local Government Act, 1919, the Sydney Corporation Act, 1932, and certain other Acts; and for purposes connected therewith. [Assented to, 28th November, 1947.]

George VI.
No. 21, 1947.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Local Government (Electoral Provisions) Act, 1947." Short title and division into Parts.

(2) This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS.

PART III.—AMENDMENT OF THE SYDNEY CORPORATION ACT, 1932, AS AMENDED BY SUBSEQUENT ACTS.

PART II.

AMENDMENT OF THE LOCAL GOVERNMENT ACT, 1919, AS AMENDED BY SUBSEQUENT ACTS.

DIVISION I.—*Construction.*

2. (1) This Part shall be read and construed with the Local Government Act, 1919, as amended by subsequent Acts. Construction and citation.

F

(2)

No. 21, 1947. (2) The Local Government Act, 1919, as so amended
is in this Part referred to as the Principal Act.

DIVISION 2.—*Amendments of the Local Government Act,
1919, as amended by subsequent Acts.*

Amendment
of Act
No. 41, 1919.
New secs.
74A-74C.

3. (1) The Principal Act is amended by inserting next
after section seventy-four the following new sections and
short heading:—

Compulsory voting.

Compulsory
voting.
cf. Act No.
41, 1912,
s. 120A.

74A. At every election held in an area under this
Act it shall be the duty of every elector, who is
entitled to vote at the election, to record his vote at
the election.

Returning
officer
to mark
roll.
cf. Act No.
41, 1912,
s. 120B.

74B. The returning officer at the close of the poll at
every election shall—

- (a) from every roll for a ward or riding pre-
pared under this Act and used at the elec-
tion, indicate by a distinguishing mark on a
fair copy of that roll (which copy is herein-
after referred to as the "marked roll") the
names of the electors who appear to have
failed to record their votes at the election
for which he is returning officer;
- (b) certify each marked roll by statutory
declaration under his hand.

Notice to
electors
who have
not voted.
cf. *Ibid.*
s. 120C.

74C. (1) Within three months after the close of
the poll at every election the returning officer—

- (a) shall send by post to each elector who
appears not to have complied with the
provisions of section 74A of this Act and
whose name indicated as aforesaid appears
on any such marked roll, at the address
therein mentioned, a notice in the pre-
scribed form notifying him that he appears
to have failed to record his vote at the
election and requiring him to state the true
reason why he failed so to vote; and

(b)

(b) before sending such notice, shall insert **No. 21, 1947.**
therein—

- (i) the full name of the elector as appearing on the marked roll and his address as therein mentioned and the name of the municipality or shire and of the ward or riding for which he is enrolled and his number on the marked roll; and
- (ii) a date (not being less than twenty-one days after the date of the posting of the notice) before or on which the form at the foot of the notice duly filled up and signed by the elector is to be in the hands of the returning officer.

(2) This section shall not apply in any case where the returning officer is satisfied that the elector—

- (a) is dead; or
- (b) was absent from New South Wales on the day of the election; or
- (c) was not entitled to vote at the election.

74d. (1) Every elector to whom such a notice has been sent shall—

Replies by electors.
cf. Act No. 41,
1912, s. 120d.

- (a) fill up the form at the foot of the notice by stating in it the true reason why he failed so to record his vote;
- (b) sign the form; and
- (c) post or deliver the same so as to reach the returning officer not later than the date inserted in the notice.

(2) If any elector is unable by reason of absence from his residence or physical incapacity to fill up, sign and post or deliver the form within the time allowed pursuant to this Act—

Replies on behalf of electors.

- (a) any other elector who has personal knowledge of the facts may fill up, sign and post or deliver within that time the form duly witnessed as prescribed; and

(b)

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- (b) such filling up, signing and posting or delivery of the form may be treated as compliance by the first-mentioned elector with the provisions of this section.

Procedure on receipt of replies from electors, &c.

(3) Upon receipt within the time allowed pursuant to this Act of any such form properly filled up and signed and witnessed the returning officer shall—

- (a) make on the marked roll opposite the name of the elector to whom the form refers, a note to that effect; and
- (b) indicate in writing on the marked roll 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 record his vote at the election.

Procedure if no reply received.

(4) If in the case of any elector to whom a notice as aforesaid has been sent such form is not received by the returning officer within the time allowed pursuant to this Act, the returning officer shall make on the marked roll opposite the name of the elector a note to that effect.

Marked roll or copy thereof or extract therefrom to be evidence.
cf. Act No. 41, 1912, s. 120E.

74E. The marked roll indicating—

- (a) the names of electors who appear to have failed to vote at the election;
- (b) the names of electors from whom or on whose behalf the returning officer received within the time allowed pursuant to this Act forms properly filled up and signed;
- (c) the names of electors from whom or on whose behalf the returning officer did not within that time receive forms properly filled up and signed; and
- (d) the opinions of the returning officer,

or a copy of any such marked roll or any extract therefrom certified by the returning officer under his hand, shall in all proceedings be prima facie evidence of the contents of such marked roll or extract,

extract, and of the fact that the electors whose names appear therein marked as aforesaid did not vote at the election, and that the notice specified in this Act 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 pursuant to this Act. No. 21, 1947.

74F. Every elector who, being an elector referred to in section 74A of this Act— Penalties.
cf. Act No.
41, 1912,
s. 120F.

- (a) fails to record his vote at any election without a valid and sufficient reason for such failure (in this section the words “valid and sufficient reason” shall include an honest belief on the part of an elector that abstention from voting is part of his religious duty); or
- (b) on receipt of the notice aforesaid, fails, neglects or refuses to fill up and sign and post or deliver to the returning officer so as to reach him within the time allowed pursuant to this Act the form at the foot of the notice; or
- (c) states in such form a false reason for not having recorded his vote or in the case of an elector filling up or purporting to fill up a form on behalf of any other elector pursuant to this Act states in such form a false reason why the other elector did not vote,

shall for each such offence be liable to a penalty of not less than ten shillings and not more than two pounds, and proceedings for the enforcement of the penalty may be instituted by the council of the area concerned or by some person authorised in writing (whether generally or in any particular case) by that council.

74G. Until otherwise prescribed by ordinance the procedure in relation to the enforcement of the provisions of sections 74A to 74F, both inclusive, of this Act, and the imposition and recovery of penalties for offences against those sections shall be as set out in Schedule Eight to this Act. Procedure.
cf. *Ibid.*
s. 120H.

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Further
amendment
of Act No.
41, 1919.New
Schedule
Eight.Secs. 74A-
74G.

(2) The Principal Act is further amended by inserting next after Schedule Seven the following new Schedule:—

SCHEDULE EIGHT.

Compulsory Voting.

1. The marked roll for a ward or riding on which the returning officer is required to indicate by a distinguishing mark pursuant to section 74B of this Act, the names of the electors who appear to have failed to record their votes at the election, shall be certified by statutory declaration in accordance with Form 1 to this Schedule.

2. The notice which the returning officer is required, pursuant to section 74C of this Act, to send by post to each elector who appears to have failed to record his vote shall be in accordance with Form 2 to this Schedule.

3. The form of reply of any elector, pursuant to section 74D of this Act, shall be witnessed by an elector, or a person qualified to be an elector under this Act, and shall be in accordance with Form 3 to this Schedule.

4. Before sending the notice referred to in clause two of this Schedule the returning officer shall insert therein a date (not being less than twenty-one days after the date of the posting of the notice) before, or on which the form at the foot of the notice, duly filled up and signed by the elector and witnessed, is to be in the hands of the returning officer.

5. (a) The council of the area concerned may, pursuant to section 74F of this Act authorise in writing, in respect of the municipality or shire, some person or persons to institute proceedings for the enforcement of penalties under the said section.

(b) Each such person shall, for the purposes of this Schedule, be called a "Prosecuting Officer."

(c) Such authorisation shall be in accordance with Form 4 to this Schedule.

6. In any proceedings in a court of petty sessions against an elector for a contravention of paragraph (b) of section 74F of this Act, there shall be served on the defendant a notice, in accordance with Form 5 to this Schedule that the defendant may attend the court and answer the charge in person, or may, at any time, not less than fourteen days before the date fixed for the hearing, lodge with or send by post to the council, a statutory declaration setting out any matter which he desires to set out in answer to the charge, and unless the said council after inquiring into the truth of the statements therein set out, so far as it is practicable to do so, is satisfied with the explanation given, and authorises the withdrawal of the charge, the matter shall be proceeded with, and the said statutory declaration may thereupon be put to such use at the hearing as may be necessary and permissible for the proper determination of the offence. The notice may be printed or written on the summons. **7.**

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7. In any prosecution in a court of petty sessions in respect of any No. 21, 1947.
contravention of paragraph (a) or paragraph (b) of section 74F of
this Act, a certified extract of the marked roll in accordance with
Form 6 to this Schedule shall be lodged with the court.

FORM 1.

LOCAL GOVERNMENT ACT, 1919.

Section 74B.

..... Municipality Ward
Shire Riding

I, of
in the State of New South Wales, Returning Officer for the above-
mentioned Municipality do solemnly and sincerely declare that the
Shire
within fair copy of the roll for the abovementioned Ward with
Riding
distinguishing marks indicating the names of electors who appear to
have failed to record their votes at the election held on the
day of , 19 , was prepared by me pursuant to
section 74B of the Local Government Act, 1919.

And I make this solemn declaration conscientiously believing the
same to be true and by virtue of the provisions of the Oaths Act,
1900, as amended.

Returning Officer for the Municipality of
Shire

Declared before me at in the State
aforesaid, the day of , 19 .

Justice of the Peace.

FORM 2.

LOCAL GOVERNMENT ACT, 1919.

Section 74C.

..... Municipality Ward
Shire Riding

No. on Roll,

Notification to Elector who appears to have Failed to Vote.

To the Elector whose name and address appear on the back hereof.

You are notified that you appear to have failed to record your
vote at the election held on the day
of , 19 , and you are hereby called
upon in pursuance of section 74D of the Local Government Act,
1919, to give the true reason why you failed so to record your vote.

You

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No. 21, 1947. You are required to—

- (a) state, in the form at the foot of this notice, the true reason why you failed so to record your vote;
- (b) complete, and personally sign the form, and have it witnessed by an elector or a person qualified to be an elector under the Local Government Act, 1919; and
- (c) fold the form so that the address "The Returning Officer for the Municipality shall be visible, Shire" and post and deliver it so as to reach me on or before the*

Returning Officer for the Municipality
Shire.
 Address
 Date, , 19 .

NOTE.—If the elector to whom this notice is addressed is unable, by reason of absence from his residence or physical incapacity, to fill up, sign and post, or deliver the form at the foot hereof within the time specified in the form, any other elector who has personal knowledge of the facts may fill up, sign, and post or deliver the form, duly witnessed, within that time, and the filling up, signing, and posting or delivery of the form will be treated as compliance by the first-mentioned elector with the requirements of this notice.

* Not being less than twenty-one days after the posting of this notice.

FORM 3.

Section 74D.

Statement to be completed and returned to the Returning Officer.

Not to be detached.

I, , do hereby state that the following is the true reason why I* failed to vote at the election held on the day of , 19 .

†

Personal signature of elector.

I, the undersigned, being an elector or a person qualified to be an elector under the Local Government Act, 1919, certify that I have seen the abovenamed elector sign the above statement.

Signature of Witness.
 (In own handwriting).

Occupation
 Address
 Date , 19 .

* Where this form is filled up on behalf of an absent or physically incapacitated elector, the word "I" must be struck out, and the name of such elector inserted.

† Here set out briefly the true reason for having failed to vote.

(Back

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(Back of Forms 2 and 3.)

No. 21, 1947.

The Returning Officer for the

Municipality.
Shire.

From the Returning Officer for the

Municipality.
Shire.

M

Every elector who, being an elector referred to in section 74A of the Local Government Act, 1919, as amended—

- (a) fails to record his vote at an election without a valid and sufficient reason for such failure; or
- (b) on receipt of a notice in accordance with subsection one of section 74C of the Local Government Act, 1919, fails, neglects, or refuses to fill up, sign and post or deliver to the Returning Officer so as to reach him within the time specified in the notice, the form (duly witnessed) attached thereto; or
- (c) states in such form a false reason for not having recorded his vote, or in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, states in such form a false reason why that other elector did not vote, is guilty of an offence and liable to a penalty of not less than ten shillings and not more than two pounds.

Section 74A of the Local Government Act, 1919, as amended provides:—

At every election held in an area under this Act it shall be the duty of every elector, who is entitled to vote at the election, to record his vote at the election.

FORM 4.

LOCAL GOVERNMENT ACT, 1919.

Section 74F.

Authorisation of the Council of the

Municipality for a
Shire

Prosecuting Officer to Institute Proceedings.

The Council of the

Municipality
Shire hereby authorises

, whose signature appears hereunder, to institute proceedings for the enforcement of penalties for the contravention of any of the provisions of sections 74A to 74C, both inclusive, of the Local Government Act, 1919.

Given under the Common Seal of the Council on the day of 19, in pursuance of a resolution passed by the Council on the day of 19.

.....
Mayor (or President).

.....
Clerk.

.....
Signature of person authorised
to institute proceedings.

FORM

LOCAL GOVERNMENT ACT, 1919.

Notice to the within-named Defendant.

You may attend the court and answer the charge in person, or may, at any time, not less than fourteen (14) days before the date fixed for the hearing, lodge with or send by post to the

Municipal Council a statutory declaration setting out any matter
Shire which you desire to set out in answer to the charge, and, unless the said Council, after inquiring into the truth of the statements therein set out, so far as it is practicable to do so, is satisfied with the explanation given and authorises the withdrawal of the charge, the matter shall be proceeded with and the said statutory declaration may thereupon be put to such use at the hearing as may be necessary and permissible for the proper determination of the offence.

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FORM 6.
LOCAL GOVERNMENT ACT, 1919.
 {Municipality. Ward Riding }
EXTRACT from the Marked Roll for the abovenamed {Ward Riding } showing the names of electors who did not vote at the election held on the _____ day of _____ 19 _____.

No. on Roll.	Name and Description of Elector.	Notification to Elector, Section 74c of Local Government Act, 1919. Date sent.	Elector's Reply.				Subsequent proceedings (if any).
			Date to be in hands of Returning Officer.	Whether received by Returning Officer. (a).	Whether reason stated in reply is, in the opinion of the Returning Officer, a valid and sufficient reason for failure to vote.	7.	
1.	2.	3.	4.	5.	6.	7.	

(a) Insert in this column "Yes" and date of receipt if a reply has been received, or "No" if a reply has not been received.
 I hereby certify that the above is a true extract of the marked roll for the said {ward riding}.
 _____ Returning Officer.

Section 74E of the Local Government Act, 1919, as amended, provides:—
 The marked roll indicating—
 (a) the names of electors who appear to have failed to vote at the election;
 (b) the names of electors from whom or on whose behalf the Returning Officer received, within the time allowed pursuant to this Act, forms properly filled up and signed;
 (c) the names of electors from whom or on whose behalf the Returning Officer did not within that time receive forms properly filled up and signed; and
 (d) the opinions of the Returning Officer,
 or a copy of any such marked roll or any extract therefrom certified by the Returning Officer under his hand, shall in all proceedings be prima facie evidence of the contents of such marked roll or extract, and of the fact that the electors whose names appear therein marked as aforesaid did not vote at the election, and that the notice specified in this Act 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 pursuant to this Act.

PART

PART III.

AMENDMENT OF THE SYDNEY CORPORATION ACT, 1932, AS
AMENDED BY SUBSEQUENT ACTS.DIVISION I.—*Construction and Citation.*

Construction
and
citation.

4. (1) This Part shall be read and construed with the Sydney Corporation Act, 1932, as amended by subsequent Acts.

(2) The Sydney Corporation Act, 1932, as so amended, is in this Part referred to as the Principal Act.

(3) The Sydney Corporation Act, 1932, as amended by subsequent Acts and by this Part of this Act, may be cited as the Sydney Corporation Act, 1932-1947.

DIVISION 2.—*Amendments of the Sydney Corporation Act, 1932, as amended by subsequent Acts.*

Amendment
of Act No.
58, 1932.
New secs.
49A-49H.
Compulsory
voting.
cf. Act No. 41,
1912, s. 120A.

5. (1) The Principal Act is amended by inserting next after section forty-nine the following new sections:—

49A. At every election held in the city under this Act it shall be the duty of every citizen, who is entitled to vote at the election, to record his vote at the election.

49B. The returning officer at the close of the poll at every election shall—

(a) from the rolls for every ward used at the election indicate by a distinguishing mark on a fair copy of each of such rolls (which

copy

Returning
officer to
prepare
marked roll.
cf. *Ibid.*
s. 120B.

copy is hereinafter referred to as the "marked roll") the names of the citizens who appear to have failed to record their votes at the election for which he is returning officer;

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- (b) certify each marked roll by statutory declaration under his hand.

49c. (1) Within three months after the close of the poll at every election the returning officer—

Notice to citizens who have not voted. cf. Act No. 41, 1912, s. 120c.

- (a) shall send by post to each citizen who appears not to have complied with the provisions of section 49A of this Act and whose name indicated as aforesaid appears on any such marked roll at the address therein mentioned, a notice in the prescribed form notifying him that he appears to have failed to record his vote at the election and requiring him to state the true reason why he failed so to vote; and

- (b) before sending such notice, shall insert therein—

- (i) the full name of the citizen as appearing on the marked roll and his address as therein mentioned and the name of the ward for which he is enrolled and his number on the marked roll; and

- (ii) a date (not being less than twenty-one days after the date of the posting of the notice) before or on which the form at the foot of the notice duly filled up and signed by the citizen is to be in the hands of the returning officer.

(2) This section shall not apply in any case where the returning officer is satisfied that the citizen—

- (a) is dead; or

(b)

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- (b) was absent from New South Wales on the day of the election; or
- (c) was not entitled to vote at the election.

**Replies by
citizens.
cf. Act No.
41, 1912,
s. 120D.**

49D. (1) Every citizen to whom such a notice has been sent shall—

- (a) fill up the form at the foot of the notice by stating in it the true reason why he failed so to record his vote;
- (b) sign the form; and
- (c) post or deliver the same so as to reach the returning officer not later than the date inserted in the notice.

**Replies on
behalf of
citizens.**

(2) If any citizen is unable by reason of absence from his residence or physical incapacity to fill up, sign and post or deliver the form within the time allowed pursuant to this Act—

- (a) any other citizen who has personal knowledge of the facts may fill up, sign and post or deliver within that time the form duly witnessed as prescribed; and
- (b) such filling up, signing and posting or delivery of the form may be treated as compliance by the first-mentioned citizen with the provisions of this section.

**Procedure
on receipt
of replies
from
citizens,
&c.**

(3) Upon receipt within the time allowed pursuant to this Act of any such form properly filled up and signed and witnessed the returning officer shall—

- (a) make on the marked roll opposite the name of the citizen to whom the form refers, a note to that effect; and
- (b) indicate in writing on the marked roll opposite the name of the citizen his opinion whether or not the reason contained in the form

form is a valid and sufficient reason for the failure of the citizen to record his vote at the election. **No. 21, 1947.**

(4) If in the case of any citizen to whom a notice as aforesaid has been sent such form is not received by the returning officer within the time allowed pursuant to this Act, the returning officer shall make on the marked roll opposite the name of the citizen a note to that effect. **Procedure if no reply received.**

49E. The marked roll indicating—

(a) the names of citizens who appear to have failed to vote at the election;

(b) the names of citizens from whom or on whose behalf the returning officer received, within the time allowed pursuant to this Act, forms properly filled up and signed;

(c) the names of citizens from whom or on whose behalf the returning officer did not within that time receive forms properly filled up and signed; and

(d) the opinions of the returning officer,

or a copy of any such marked roll or any extract therefrom certified by the returning officer under his hand, shall in all proceedings be prima facie evidence of the contents of such marked roll or extract, and of the fact that the citizens whose names appear therein marked as aforesaid did not vote at the election, and that the notice specified in this Act was received by those citizens, and that those citizens did, or did not (as the case may be), comply with the requisitions contained in the notice within the time allowed pursuant to this Act. **Marked roll or copy thereof or extract therefrom to be evidence. cf. Act No. 41, 1912, s. 120E.**

49F. Every citizen who, being a citizen referred to in section 49A of this Act—

(a) fails to record his vote at any election without a valid and sufficient reason for such

failure **Penalties. cf. Ibid. s. 120F.**

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failure (in this section the words "valid and sufficient reason" shall include an honest belief on the part of a citizen that abstention from voting is part of his religious duty); or

- (b) on receipt of the notice aforesaid, fails, neglects or refuses to fill up and sign and post or deliver to the returning officer so as to reach him within the time allowed pursuant to this Act the form at the foot of the notice; or
- (c) states in such form a false reason for not having recorded his vote or in the case of a citizen filling up or purporting to fill up a form on behalf of any other citizen pursuant to this Act states in such form a false reason why the other citizen did not vote,

shall for each such offence be liable to a penalty of not less than ten shillings and not more than two pounds, and proceedings for the enforcement of the penalty may be instituted by the council or by some person authorised in writing (whether generally or in any particular case) by the council.

Opening sealed parcels containing rolls used at election.
cf. Act No. 41, 1912, s. 120g.

49g. For the purposes of this Act the returning officer at any election—

- (a) with such assistance as he may deem necessary shall open and if necessary break the seal of any parcel containing the rolls used at the election, and examine the same for the purpose of indicating on the marked roll aforesaid the names of the citizens who have not voted at the election; and
- (b) at the conclusion of the said examination and marking shall replace such rolls in the
parcels

Parcels to be enclosed in packets and sealed, &c.

parcels from which they were taken and re-seal the same, and then comply with the provisions of section forty-one of this Act. No. 21, 1947

49H. By-laws made under this Act may prescribe the procedure in relation to the enforcement of the provisions of sections 49A to 49G, both inclusive, of this Act, and the imposition and recovery of penalties for offences against those sections; and until such by-laws are made, the procedure shall be as set out in the Thirty-first Schedule to this Act. Procedure.
cf. Act No.
41, 1912,
s. 120H.

(2) The Principal Act is further amended by inserting next after the Thirtieth Schedule the following new Schedule:— Further
amendment
of Act
No. 58, 1932.

THIRTY-FIRST SCHEDULE.

Compulsory Voting.

New
Thirty-first
Schedule.

1. The marked roll for each ward on which the returning officer is required to indicate by a distinguishing mark pursuant to section 49B of this Act, the names of the citizens who appear to have failed to record their votes at the election shall be certified by statutory declaration in accordance with Form 1 to this Schedule. Secs.
49A-49H.

2. The notice which the returning officer is required, pursuant to section 49C of this Act, to send by post to each citizen who appears to have failed to record his vote shall be in accordance with Form 2 to this Schedule.

3. The form of reply of any citizen pursuant to section 49D of this Act shall be witnessed by a citizen, and shall be in accordance with Form 3 to this Schedule.

4. Before sending the notice referred to in clause two of this Schedule, the returning officer shall insert therein a date (not being less than twenty-one days after the date of the posting of the notice) before, or on which the form at the foot of the notice, duly filled up and signed by the citizen and witnessed, is to be in the hands of the returning officer.

5. (a) The council may, pursuant to section 49F of this Act, authorise in writing some person or persons to institute proceedings for the enforcement of penalties under the said section.

(b) Each such person shall, for the purposes of this Schedule, be called a "Prosecuting Officer."

(c) Such authorisation shall be in accordance with Form 4 to this Schedule.

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No. 21, 1947. 6. In any proceedings in a court of petty sessions against a citizen for a contravention of paragraph (b) of section 49F of this Act, there shall be served on the defendant a notice, in accordance with Form 5 to this Schedule, that the defendant may attend the court and answer the charge in person, or may, at any time, not less than fourteen days before the date fixed for the hearing, lodge with or send by post to the council, a statutory declaration setting out any matter which he desires to set out in answer to the charge, and unless the said council after inquiring into the truth of the statements therein set out, so far as it is practicable to do so, is satisfied with the explanation given, and authorises the withdrawal of the charge, the matter shall be proceeded with, and the said statutory declaration may thereupon be put to such use at the hearing as may be necessary and permissible for the proper determination of the offence. The notice may be printed or written on the summons.

7. In any prosecution in a court of petty sessions in respect of any contravention of paragraph (a) or paragraph (b) of section 49F of this Act, a certified extract of the marked roll in accordance with Form 6 to this Schedule shall be lodged with the court.

FORM 1.

SYDNEY CORPORATION ACT, 1932-1947.

Section 49B.

CITY OF SYDNEY. WARD.

I, _____ of _____ in the State of New South Wales, Returning Officer for the abovementioned Ward, do solemnly and sincerely declare that the within fair copy of the roll for the abovementioned Ward, with distinguishing marks indicating the names of citizens who appear to have failed to record their votes at the election held on the _____ day of 19____, was prepared by me pursuant to section 49B of the Sydney Corporation Act, 1932-1947.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1900, as amended.

.....
Returning Officer.

Declared before me at _____, in the State
aforesaid, the _____ day of _____ 19____.

.....
Justice of the Peace.

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FORM 2.

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SYDNEY CORPORATION ACT, 1932-1947.

Section 49c.

CITY OF SYDNEY. WARD.
No. on Roll

Notification to Citizen who appears to have failed to Vote.

To the citizen whose name and address appear on the back hereof.

You are notified that you appear to have failed to record your vote at the election held on the _____ day of _____, 19____, and you are hereby called upon in pursuance of section 49b of the Sydney Corporation Act, 1932-1947, to give the true reason why you failed so to record your vote.

You are required to—

- (a) state, in the form at the foot of this notice, the true reason why you failed so to record your vote;
- (b) complete and personally sign the form, and have it witnessed by a citizen; and
- (c) fold the form so that the address, "The Returning Officer, Town Hall, Sydney," shall be visible, and post or deliver it so as to reach me on or before the _____*.

.....
Returning Officer.

Address

Date, 19.....

NOTE.—If the citizen to whom this notice is addressed is unable, by reason of absence from his residence or physical incapacity, to fill up, sign and post, or deliver the form at the foot hereof within the time specified in the form, any other citizen who has personal knowledge of the facts may fill up, sign and post or deliver the form, duly witnessed, within that time, and the filling up, signing, and posting or delivery of the form will be treated as compliance by the first-mentioned citizen with the requirements of this notice.

* Not being less than twenty-one days after the posting of this notice.

FORM 3.

SYDNEY CORPORATION ACT, 1932-1947.

Section 49d.

Statement to be completed and returned to the Returning Officer.

I, _____ do hereby state that the following **Not to be detached.**
is the true reason why I * _____ failed

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No. 21, 1947. failed to vote at the election held on the _____ day of _____, 19____.

†

.....
Personal signature of Citizen.

I, the undersigned, being a citizen of the City of Sydney, certify that I have seen the abovenamed citizen sign the above statement.

.....
Signature of Witness
(in own handwriting).

Occupation

Address

Date, 19.....

* Where this form is filled up on behalf of an absent or physically incapacitated citizen the word "I" must be struck out, and the name of such citizen inserted.

† Here set out briefly the true reason for having failed to vote.

(Back of Forms 2 and 3.)

The Returning Officer,
Town Hall, Sydney.

From the Returning Officer, City of Sydney.

M

Every citizen who, being a citizen referred to in section 49A of the Sydney Corporation Act, 1932-1947—

- (a) fails to record his vote at an election without a valid and sufficient reason for such failure; or
- (b) on receipt of a notice in accordance with section 49c of the Sydney Corporation Act, 1932-1947, fails, neglects or refuses to fill up, sign and post or deliver to the returning officer so as to reach him within the time specified in the notice, the form (duly witnessed) attached thereto; or
- (c) states in such form a false reason for not having recorded his vote, or in the case of a citizen filling up or purporting to fill up a form on behalf of any other citizen, states in such form a false reason why that other citizen did not vote,

is guilty of an offence and liable to a penalty of not less than ten shillings and not more than two pounds.

Section 49A of the Sydney Corporation Act, 1932-1947, provides:—

At every election held in the city under this Act it shall be the duty of every citizen, who is entitled to vote at the election, to record his vote at the election.

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Local Government (Electoral Provisions) Act.

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No. 21, 1947.

FORM 4.

SYDNEY CORPORATION ACT, 1932-1947.

Section 49F.

*Authorisation of The Municipal Council of Sydney for a
Prosecuting Officer to Institute Proceedings.*

The Municipal Council of Sydney hereby authorises
, whose signature appears hereunder, to institute
proceedings for the enforcement of penalties for the contravention
of any of the provisions of sections 49A to 49H, both inclusive, of the
Sydney Corporation Act, 1932-1947.

Given under the Common Seal of the Council in pursuance of a
resolution passed by the Council on

The Common Seal of the
Municipal Council of Sydney
was hereunto affixed by me,
.....
Town Clerk of the City of
Sydney, this day
of 19 .

(L.S.)

.....
Town Clerk.

.....
Signature of person authorised
to institute proceedings.

FORM 5.

SYDNEY CORPORATION ACT, 1932-1947.

Notice to the within-named Defendant.

You may attend the court and answer the charge in person, or may,
at any time, not less than fourteen (14) days before the date fixed for
the hearing, lodge with or send by post to the Municipal Council of
Sydney a statutory declaration setting out any matter which you
desire to set out in answer to the charge, and, unless the said Council,
after inquiring into the truth of the statements therein set out, so far
as it is practicable to do so, is satisfied with the explanation given and
authorises the withdrawal of the charge, the matter shall be proceeded
with and the said statutory declaration may thereupon be put to such
use at the hearing as may be necessary and permissible for the proper
determination of the offence.

FORM

FORM 6.
SYDNEY CORPORATION ACT, 1932-1947.
CITY OF SYDNEY. _____ WARD.

EXTRACT from the Marked Roll for the abovenamed Ward showing the Names of Citizens who did not vote at the Election held on the _____ day of _____ 19 _____.

No. on Roll.	Name and Description of Citizen.	Notification to Citizen, Section 49c, Sydney Corporation Act, 1932-1947. Date sent.	Elector's Reply.			Subsequent proceedings (if any).
			Date to be in hands of Returning Officer.	Whether received by Returning Officer. (a)	Whether reason stated in reply is, in the opinion of the Returning Officer, a valid and sufficient reason for failure to vote.	
1.	2.	3.	4.	5.	6.	7.

(a) Insert in this column "Yes" and date of receipt if a reply has been received, or "No" if a reply has not been received. I hereby certify that the above is a true extract of the marked roll for the said ward.

_____ Returning Officer.

Section 49E of the Sydney Corporation Act, 1932-1947, provides:—

The marked roll indicating—

- (a) the names of citizens who appear to have failed to vote at the election;
 - (b) the names of citizens from whom or on whose behalf the returning officer received, within the time allowed pursuant to this Act, forms properly filled up and signed;
 - (c) the names of citizens from whom or on whose behalf the returning officer did not within that time receive forms properly filled up and signed; and
 - (d) the opinions of the returning officer,
- or a copy of any such marked roll or any extract therefrom certified by the returning officer under his hand, shall in all proceedings be prima facie evidence of the contents of such marked roll or extract, and of the fact that the citizens whose names appear therein marked as aforesaid did not vote at the election, and that the notice specified in this Act was received by those citizens, and that those citizens did, or did not (as the case may be), comply with the requisitions contained in the notice within the time allowed pursuant to this Act.

(3) The Principal Act is further amended—

No. 21, 1947.

Further amendment of Act No. 58, 1932.

(a) by omitting section thirty-three and by inserting in lieu thereof the following section:—

Subst. sec. 33.

33. Immediately before proceeding to take the poll at any polling-place the presiding officer shall exhibit for the inspection of any persons lawfully present in the polling booth the ballot-box open and empty and shall then close and lock and place the same empty and keep the same unopened upon the table at which he is to preside and in full view of all persons lawfully present in the polling booth and he shall keep in his custody the key of the said box.

Key of ballot box. cf. Act No. 41, 1912, s. 94.

(b) by omitting paragraph (b) of subsection one of section thirty-five and by inserting in lieu thereof the following paragraph:—

Sec. 35. (Mode of voting.)

(b) If such person is not, in accordance with section forty-two of this Act precluded from voting, and subject to section 35A of this Act, a presiding officer or a poll clerk shall give him a ballot-paper according to the form in the Ninth Schedule hereto, after initialling the same on the back;

(c) (i) by omitting subsection one of section 35A and by inserting in lieu thereof the following subsection:—

Sec. 35A. (Tender of second vote.)

(1) If on any person claiming to vote at any polling-place it is found that a line has been drawn through such person's name upon the roll specially provided for that polling-place as mentioned in subsection one of section thirty-five of this Act, as indicating that he has already received a ballot-paper, the presiding officer shall put to the person so claiming to vote the questions set out in subsection two of section forty-two of this Act.

Before

No. 21, 1947.

Before any such person is permitted to vote under this section he shall make and subscribe before the presiding officer a declaration in the form contained in the Eleventh Schedule hereto.

Any person who refuses to answer such questions or who fails to answer the first and second of such questions in the affirmative and the third and fourth in the negative or who does not make and subscribe before the presiding officer such declaration as aforesaid shall not be permitted to vote.

- (ii) by omitting paragraph (b) of subsection two of the same section and by inserting in lieu thereof the following new paragraph:—

(b) Every envelope containing a vote given under this section shall be retained by the presiding officer until after the close of the poll;

- (iii) by omitting from paragraph (c) of the same subsection the words “The returning officer or the officer assisting him” and by inserting in lieu thereof the words “The presiding officer”;

- (iv) by omitting from paragraph (d) of the same subsection the words “the returning officer or the officer assisting him” and by inserting in lieu thereof the words “the presiding officer”;

- (v) by omitting paragraph (e) of the same subsection and by inserting in lieu thereof the following paragraph:—

(e) At the scrutiny the presiding officer shall open the ballot-papers, and shall allow and count those which are formal, and shall reserve for the decision of the returning officer the ballot-papers which he does not allow as formal;

(vi)

(vi) by inserting after subsection three of the same section the following new subsection:—

No. 21, 1947.

(4) Every person wilfully making a false answer to any question put to him in pursuance of subsection one of this section or wilfully making a false declaration under this section shall be deemed guilty of a misdemeanour.

(d) by omitting section thirty-seven;

Sec. 37.
(Presiding officer how to vote.)

(e) by omitting section thirty-nine and by inserting in lieu thereof the following section:—

Subst. sec. 39.

39. (1) Immediately upon the close of the poll the presiding officer at the polling booth at which he presides shall in the presence and subject to the inspection of such of the scrutineers as choose to be present and the poll clerks (if any) but of no other persons, open the ballot-box and proceed to count the number of first preference votes recorded for each candidate.

Disposal of ballot boxes. cf. Act No. 41, 1912, ss. 121, 123.

(2) Immediately after ascertaining the total number of votes recorded for each candidate the presiding officer shall make up—

- (a) in one parcel the ballot-papers which have been used in voting at the polling-place;
- (b) in a second separate parcel the ballot-papers which have remained unused thereat; and
- (c) in a third separate parcel the rolls supplied to the presiding officer for use at such place, signed by him, and all books, rolls and papers kept or used by the presiding officers during the polling;

and shall seal up the said several parcels; and shall permit any of the scrutineers who may desire to do so to affix his or their seals to such parcels;

No. 21, 1947.

parcels; and shall endorse the same severally with a description of the contents thereof, and with the name of the ward and polling-place and the date of the polling and sign with his name the said endorsement, and shall promptly deliver the said parcels to the returning officer.

(3) As soon as practicable after the delivery to the returning officer of the said parcels the whole of the ballot-papers including postal ballot-papers received up to the close of the poll shall be examined and the votes counted by him in the presence of such of the scrutineers as choose to be present, and with such assistance as he may deem necessary and the result of the election shall be thereby ascertained and shall be reported to the Lord Mayor by the returning officer.

(4) The method of counting the votes to ascertain the result of the election shall be as prescribed in Schedule 10A to this Act.

Subst.
sec. 40.

(f) by omitting section forty and by inserting in lieu thereof the following section:—

Declaration
of the
election.

40. The Lord Mayor shall on or before the sixth day after the election declare in the Gazette which shall then be published expressly for the purpose, and in two newspapers, the names of the aldermen so elected for the several wards, and the town clerk shall send by post a separate notice in writing of his election to every such alderman, addressed to his usual place of abode.

Subst.
sec. 42.

(g) by omitting section forty-two and by inserting in lieu thereof the following section:—

Declaration
by voter.

42. (1) Every person claiming to vote at any polling-place shall state to the presiding officer the name under which he claims to vote, and such other particulars as the presiding officer shall require for the purpose of ascertaining upon the roll the name so given.

(2)

(2) The presiding officer shall ascertain ^{No. 21, 1947.} that the name so given by such person is upon the roll in force for the ward for which such polling-place has been appointed, and, subject to section 35A of this Act, may, if he thinks fit, and shall, if required by any scrutineer at the polling-place at which he presides, require any such person to make and subscribe before the presiding officer a declaration in the form contained in the Eleventh Schedule hereto; and may, if he thinks fit, and shall, if required so to do as aforesaid, put to any such person, before such person shall receive a ballot-paper, but not afterwards, the following questions:—

- (a) Are you the person whose name appears as number on the citizens' roll for this ward?
- (b) Are you of the full age of twenty-one years?
- (c) Have you already voted either here or elsewhere at this election?
- (d) Are you disqualified from voting?

(3) Any person who refuses to answer such questions as are put to him or who fails to answer the first and second questions in the affirmative and the third and fourth questions in the negative or who when required so to do in accordance with this section does not make and subscribe before a presiding officer such declaration as aforesaid shall not be permitted to vote:

Provided that a person shall not be debarred from voting because of errors or omissions in the entry of his name as appearing on the roll, if he satisfies the presiding officer of his identity as the person referred to by that name.

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(4) Every person wilfully making a false answer to any such question, or wilfully making a false declaration under this section, shall be deemed guilty of a misdemeanour.
