

DAYLIGHT SAVING (REFERENDUM) ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 2, 1976.

An Act to provide for the submission to a referendum of the question as to whether the electors are in favour of daylight saving. [Assented to, 7th January, 1976.]

BE

Daylight Saving (Referendum).

BE it enacted by the Queen's Most Excellent Majesty, by No. 2, 1976
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. This Act may be cited as the "Daylight Saving Short title.
(Referendum) Act, 1975".

2. This Act is divided as follows :—

Division
of Act.

PART I.—PRELIMINARY.

PART II.—THE REFERENDUM.

PART III.—APPLICATION OF PARLIAMENTARY ELEC-
TORATES AND ELECTIONS ACT, 1912.

PART IV.—WRIT FOR THE REFERENDUM.

PART V.—VOTING AT THE REFERENDUM.

PART VI.—PROCEEDINGS AFTER CLOSE OF POLL.

PART VII.—ELECTORAL COMMISSIONER TO ASCERTAIN
RESULT.

PART VIII.—RETURN OF WRIT.

PART IX.—DISPUTED RETURNS.

PART X.—OFFENCES.

PART XI.—MISCELLANEOUS.

SCHEDULE.

3.

Daylight Saving (Referendum).

No. 2, 1976 3. In this Act—

Interpre-
tation.

“daylight saving” means the period in each year during which standard time is advanced to summer time pursuant to section 5 of the Standard Time Act, 1971;

“election” means an election of members of the Legislative Assembly;

“referendum” means the referendum to be conducted under this Act.

PART II.

THE REFERENDUM.

Referendum
on daylight
saving.

4. (1) The question set out on the ballot-paper relating to whether the electors are in favour of daylight saving shall be submitted by way of referendum to the electors.

(2) The question referred to in subsection (1) shall be submitted to the electors on the day that the first general election is held after the date of assent to this Act.

(3) For the purposes of this section, “general election” means an election held for the return of members of the Legislative Assembly pursuant to writs issued by the Governor upon the dissolution or expiry of the Legislative Assembly.

PART

PART III.

No. 2, 1976

APPLICATION OF PARLIAMENTARY ELECTORATES AND
ELECTIONS ACT, 1912.

5. (1) Subject to this Act, the provisions of the Parliamentary Electorates and Elections Act, 1912, and any regulations made thereunder, shall, so far as they are applicable, apply to and in respect of the referendum as if it were an election, and for the purposes of the referendum references in any such provision shall be read as follows :—

Application
of Act No.
41, 1912.

- (a) a reference to a writ shall be read as a reference to the writ for the referendum;
- (b) a reference to a polling-day shall be read as a reference to the day fixed by the writ for the referendum for the taking of the votes of the electors;
- (c) a reference to a poll shall be read as a reference to the taking of the votes of the electors for the purpose of the referendum;
- (d) a reference to an election shall be read as a reference to the referendum;
- (e) 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;
- (f) 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;
- (g) any reference to "this Act" or "this Part" shall be read as a reference to the provisions or Part, as the case may be, of the Act that are or is applicable to the referendum.

(2)

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- (2) For the purposes of the referendum—
- (a) each returning officer shall, subject to the directions of the Electoral Commissioner, make the necessary arrangements for the taking of the votes of the electors in his electoral district;
 - (b) a ballot-paper shall not be rejected as informal except for a reason specified in this Act or in the regulations made thereunder;
 - (c) the vote of an elector shall be marked on his ballot-paper in the manner directed by this Act;
 - (d) upon the adjournment of a poll by any deputy returning officer, that deputy shall forthwith give notice thereof to the returning officer; and
 - (e) where any polling stands adjourned the returning officer shall not transmit his statement of the result of the voting in his electoral district to the Electoral Commissioner until the poll so adjourned has been finally closed and the ballot-papers transmitted to the returning officer.

PART IV.

WRIT FOR THE REFERENDUM.

Issue of writ.

6. (1) A writ for the referendum may be issued by the Governor.

(2) The writ shall be directed to the Electoral Commissioner.

Form of writ, etc.

7. (1) The writ may be in or to the effect of Form A in the Schedule.

(2)

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(2) The writ shall appoint the day specified in section No. 2, 1976
4 (2) as the day for the taking of the votes of the electors and
appoint a day for the return of the writ.

8. The Electoral Commissioner shall forthwith after the receipt of the writ—
- (a) endorse on the writ the date of receipt by him;
- (b) cause to be inserted in the Gazette and in two or more newspapers circulating in the State a notification of the receipt of the writ, and of the days appointed for the taking of the votes of the electors and for the return of the writ; and
- (c) forward a copy of the writ to the returning officer for each electoral district.

Duties of
Electoral
Commis-
sioner
upon receipt
of writ.

9. (1) At the referendum only those electors who would be entitled to vote if the referendum were an election shall be admitted to vote.

Electors
who may
be admitted
to vote at
referendum.

(2) Nothing in this section shall be deemed to entitle any person who is disqualified from voting to vote.

PART V.

VOTING AT THE REFERENDUM.

10. The voting at the referendum shall, subject to this Act, be taken on the day appointed by the writ for the taking of the votes of the electors.

Voting day

11.

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No. 2, 1976 **11.** The polling-places and subdivisions appointed and established under the laws for the time being in force relating to elections shall be polling-places and subdivisions for the purposes of the referendum.

Polling-places.

12. Each elector shall vote only once at the referendum.

One vote only.

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

Voting compulsory.

(2) The provisions of sections 120B and 120C of the Parliamentary Electorates and Elections Act, 1912, shall apply at the discretion of the Electoral Commissioner.

Voting to be by ballot.

14. (1) The voting at the referendum shall be by ballot.

(2) Each elector shall mark his vote on the ballot-paper in the following manner :—

If he is in favour of daylight saving he should place the word “Yes” in the square opposite the question set out on the ballot-paper.

If he is not in favour of daylight saving he should place the word “No” in the square opposite the question set out on the ballot-paper.

Ballot-papers.

15. (1) The ballot-papers to be used at the referendum, other than those to be used for absent voting or voting by post, shall be in or to the effect of Form B in the Schedule.

(2) The ballot-papers to be used for absent voting shall be in or to the effect of Form C in the Schedule.

(3) The ballot-papers to be used for voting by post shall be in or to the effect of Form D in the Schedule.

16.

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16. Where, in any electoral district, a poll is taken for the purposes of an election on the day specified in section 4 (2) as the day for the taking of the votes for the purposes of the referendum—

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Provision applicable in respect of simultaneous poll for election and referendum.

- (a) a declaration or certificate which suffices to enable an elector to vote at the election under any provision of the Parliamentary Electorates and Elections Act, 1912, shall suffice to enable him to vote under that provision at the referendum and any reference in the declaration or certificate to the election shall be deemed to include a reference to the referendum;
- (b) an application for a postal vote certificate and postal ballot-paper for the purposes of the election shall be deemed to include an application for a postal vote certificate and postal ballot-paper for the purposes of the referendum and any reference in the application to the election shall be deemed to include a reference to the referendum;
- (c) a postal ballot-paper or an absent voter's ballot-paper or a ballot-paper to which section 106 of the Parliamentary Electorates and Elections Act, 1912, applies containing the vote of an elector at the referendum shall be enclosed in the same envelope as that in which the ballot-paper containing the vote of the elector at the election is enclosed;
- (d) an application to vote at the election before polling-day at the office of the returning officer shall, if the referendum is held after the commencement of section 7 of the Parliamentary Electorates and Elections (Amendment) Act, 1975, be deemed to include an application to vote at the referendum before polling-day at that office and any reference in the application to the election shall be deemed to include a reference to the referendum;

(e)

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- (e) a ballot-paper issued pursuant to an application referred to in paragraph (d) and containing the vote of an elector at the referendum shall be enclosed in the same envelope as that in which the ballot-paper containing the vote of the elector at the election is enclosed;
 - (f) the ballot-paper to be used at the referendum shall be issued to an elector at the same time as the ballot-paper to be used at the election is issued to that elector;
 - (g) the ballot-paper to be used at the referendum shall be of different colour to the ballot-paper to be used at the election;
 - (h) the same polling-booths and ballot-boxes may be used for the purposes of the referendum and the election;
 - (i) the same certified copy of the rolls shall be used by the returning officer and each deputy returning officer for the purposes of the referendum and the election; and
 - (j) the answers by a person claiming to vote to any questions put to him pursuant to the Parliamentary Electorates and Elections Act, 1912, may be accepted as sufficient to enable him to vote for the purposes of the referendum if they are satisfactory as regards the election.
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PART

PART VI.

No. 2, 1976

PROCEEDINGS AFTER CLOSE OF POLL.

17. As soon as is practicable after the close of the poll the returning officer and every deputy returning officer at the polling-place at which each presides shall, in the presence of the poll clerk (if any), open the ballot-box and proceed to count the number of votes recorded in favour of and the number of votes recorded against the question set out on the ballot-paper.

18. (1) A ballot-paper shall be informal if—

Informal
ballot-
papers.

- (a) it is not duly signed or initialled by the returning officer or deputy returning officer by whom it was issued;
- (b) the voter has failed to indicate his preference in respect of the question set out on the ballot-paper; or
- (c) it has upon it any mark or writing not authorised by this Act to be put upon it, which, in the opinion of the returning officer, will enable any person to identify the voter.

(2) Informal ballot-papers shall be rejected at the scrutiny.

(3) Notwithstanding anything to the contrary in this Act, a ballot-paper shall not, by reason of any marking thereon not authorised or required by this Act, be treated as informal or be rejected at the scrutiny if, in the opinion of the returning officer, the voter's preference is clearly indicated on the ballot-paper.

(4)

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No. 2, 1976 (4) Notwithstanding anything to the contrary in this Act, a ballot-paper shall not be informal by reason only of the fact that it is not duly signed or initialled by the returning officer or deputy returning officer by whom it was issued if it bears such mark as is prescribed as an official mark for the purposes of section 122A (3) of the Parliamentary Electorates and Elections Act, 1912.

Duties of
deputy
returning
officer.

19. Immediately after ascertaining the total number of votes recorded in favour of, and the total number of votes recorded against, the question set out on the ballot-paper, each deputy returning officer shall make up—

- (a) in one parcel, the ballot-papers which have been used in voting at his polling-booth during the referendum;
- (b) in a second separate parcel, the ballot-papers which have remained unused thereat; and
- (c) in a third parcel, the certified copies of rolls supplied to that deputy, signed by him, and all books, rolls and papers kept or used by him during the polling other than certified copies, books, rolls and papers required to be made up in a parcel pursuant to section 123 (c) of the Parliamentary Electorates and Elections Act, 1912.

and shall—

- (d) seal up those several parcels;
- (e) endorse them severally with a description of the contents thereof, with the name of the electoral district and polling-place and with the date of the polling;
- (f) sign with his name that endorsement: and
- (g) transmit them to the returning officer.

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20. Each deputy returning officer shall, together with the parcels referred to in section 19, transmit to the returning officer—

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Results and account of ballot-papers, etc.

- (a) a list of the total number of votes recorded in favour of, and the total number of votes recorded against, the question set out on the ballot-paper; and
- (b) an account in which that deputy shall charge himself with the number of ballot-papers originally delivered to him, and the number (if any) written out by him, specifying therein the number thereof delivered to and used by voters and the number not so delivered or left unused,

and every such list and account respectively shall be verified by the signatures of that deputy and the poll clerk (if any).

21. The returning officer shall, in respect of the polling-booth at which he himself has presided—

Returning officers' parcels.

- (a) make up in respect of that booth the like several parcels as are required under section 19 in the case of deputy returning officers;
- (b) seal up and endorse, in like manner as is required of deputy returning officers under section 19, the several parcels; and
- (c) make out in respect of that booth the like list as is required under section 20 in the case of deputy returning officers, which list shall be verified by the signatures of the returning officer and the poll clerk (if any).

22. (1) The returning officer shall, as soon as practicable after the close of the poll, with such assistance as he may deem necessary, proceed to count the number of votes recorded in favour of, and the number of votes recorded against, the question set out on all ballot-papers (not rejected as informal) used in connection with the poll for his electoral district.

Poll for the district.

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No. 2, 1976 (2) The returning officer shall as soon as practicable after the count has been completed—

- (a) prepare and sign a certificate setting out in relation to the votes recorded for his electoral district—
 - (i) the number of votes recorded in favour of the question set out on the ballot-paper;
 - (ii) the number of votes recorded against the question set out on the ballot-paper; and
 - (iii) the number of ballot-papers rejected as informal; and
- (b) transmit that certificate to the Electoral Commissioner.

(3) It shall be permissible for the returning officer to accept information as to the votes polled at Lord Howe Island which is transmitted to him by cable or wireless and which he is satisfied is authentic, instead of the list referred to in section 20.

Recount. **23.** (1) At any time before endorsing the writ the Electoral Commissioner may, if he thinks fit (and shall, if so directed by the Governor), direct the returning officer for any electoral district to make a recount of all the ballot-papers relating to his district, or any designated section of them, and thereupon the returning officer shall make the recount accordingly and include the result in the certificate referred to in section 22 (2).

(2) If the certificate referred to in section 22 (2) has already been transmitted to the Electoral Commissioner, the returning officer shall prepare and sign a further certificate setting out in relation to the votes recorded for his electoral district—

- (a) the number of votes recorded in favour of the question set out on the ballot-paper, as amended by the recount;

(b)

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(b) the number of votes recorded against the question **No. 2, 1976** set out on the ballot-paper, as amended by the recount; and

(c) the number of ballot-papers rejected as informal, as amended by the recount.

(3) A further certificate referred to in subsection (2) shall be immediately transmitted by the returning officer to the Electoral Commissioner, and when received by the Electoral Commissioner shall replace the earlier certificate transmitted by the same returning officer, which earlier certificate the Electoral Commissioner shall forthwith cancel.

(4) The returning officer conducting a recount may reverse any decision as to the allowance or admission or disallowance or rejection of any ballot-paper.

PART VII.

ELECTORAL COMMISSIONER TO ASCERTAIN RESULT.

24. (1) Upon the receipt of the certificates transmitted to him pursuant to sections 22 (2) (b) and 23 (3), the Electoral Commissioner shall with such assistance as he may deem necessary proceed to ascertain the result of the referendum in accordance with this section. Ascertainment of result of referendum.

(2) The aggregate number of votes recorded throughout the State in favour of and against the question set out on the ballot-paper shall be ascertained by adding together the respective numbers of those votes shown in the certificates (other than the certificates cancelled by the Electoral Commissioner pursuant to section 23 (3)) transmitted to the Electoral Commissioner by all the returning officers in pursuance of sections 22 (2) (b) and 23 (3).

PART

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PART VIII.

RETURN OF WRIT.

Return
of writ.**25.** (1) The Electoral Commissioner shall—

(a) endorse on the writ a statement setting out—

- (i) the number of votes recorded in favour of the question set out on the ballot-paper;
- (ii) the number of votes recorded against the question set out on the ballot-paper; and
- (iii) the number of ballot-papers rejected as informal; and

(b) sign the statement and return the writ with the statement endorsed thereon to the Governor.

(2) The Electoral Commissioner shall cause a copy of the statement to be published in the Gazette.

(3) The copy of the statement published pursuant to subsection (2) shall, subject to this Act, be conclusive evidence of the result of the referendum.

PART IX.

DISPUTED RETURNS.

Reference
to Supreme
Court.**26.** Any question respecting the validity of the referendum, or any list or certificate showing the voting on the referendum, may be referred by resolution of the Legislative Council or of the Legislative Assembly to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the question.**27.**

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27. Where any question is referred to the Supreme Court No. 2, 1976 under this Part, the President of the Legislative Council or the Speaker of the Legislative Assembly, as the case may be, shall transmit to the Prothonotary a statement of the question upon which the determination of the Court is desired. Questions.

28. The Supreme Court, in relation to a reference under this Part, shall sit as in open court, and shall have the powers conferred by the Parliamentary Electorates and Elections Act, 1912, on the Court of Disputed Returns, so far as they are applicable. Powers of Court.

29. The Electoral Commissioner shall be entitled and the Supreme Court may allow any other person to be represented and heard upon the hearing of the reference. Electoral Commissioner.

30. The procedure in relation to a reference under this Part shall be as prescribed by Rules of the Supreme Court. Procedure.

31. After hearing and determination of any reference under this Part the Prothonotary shall forthwith forward to the Clerk of the Parliaments or to the Clerk of the Legislative Assembly, as the case may be, a copy of the determination of the Supreme Court. Determination to be sent to House concerned.

32. (1) The referendum or any list or certificate showing the voting on the referendum shall not be voided on account of any delay in relation to the taking of the votes of the electors or in relation to the making of any list or certificate or on account of the absence or error of or omission by any officer which did not affect the result of the referendum. Immaterial errors not to vitiate referendum

(2)

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- No. 2, 1976 (2) Where any elector was, on account of the absence or error of or omission by any officer, prevented from voting at the referendum the Supreme Court shall not, for the purpose of determining whether the absence or error of or omission by the officer did or did not affect the result of the referendum, admit any evidence of the way in which the elector intended to vote.

PART X.

OFFENCES.

Construction of Part. **33.** The provisions of this Part shall be construed as being in addition to such of the provisions of the Parliamentary Electorates and Elections Act, 1912, as are applicable to the referendum.

Supply of meat, provisions, drink, entertainment or transport. **34.** A person shall not after the issue of a writ for the referendum and before the votes have been taken in pursuance thereof, supply to an elector any meat, provisions, drink, entertainment or transport with a view to influencing his vote in connection with the referendum.

Penalty: \$400 or imprisonment for one year.

Bribery. **35.** A person shall not give, confer or procure, or promise or offer to give, confer or procure, or attempt to procure, any money, property or benefit of any kind to, upon or for any elector or any other person—

(a) in order to influence the elector in his vote in connection with the referendum;

(b) in order to induce the elector to refrain from voting at the referendum; or

(c)

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- (c) in order to induce the elector to support or oppose No. 2, 1976 the question set out on the ballot-paper.

Penalty : \$400 or imprisonment for one year.

36. An elector shall not ask for, receive or obtain, or agree or attempt to receive or obtain, any money, property or benefit of any kind for himself or any other person upon the understanding that his vote in connection with the referendum shall be influenced thereby, or shall be given in any particular manner, or that he will refrain from voting at the referendum, or that he will support or oppose the question set out on the ballot-paper.

Penalty : \$400 or imprisonment for one year.

37. A person shall not—

Undue
influence.

- (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage to an elector or any other person—
- (i) in order to influence the elector in his vote in connection with the referendum;
 - (ii) in order to induce the elector to refrain from voting at the referendum; or
 - (iii) in order to induce the elector to support or oppose the question set out on the ballot-paper; or
- (b) use, cause, inflict or procure any violence, injury, punishment, damage, loss or disadvantage towards, to or upon any elector or any other person, for or on account of any such vote, refraining from voting, support or opposition.

Penalty : \$400 or imprisonment for one year.

38.

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No. 2, 1976 **38.** (1) A person shall not—

Misleading
advertisements, etc.

- (a) print, publish or distribute any advertisement or document containing a representation of a ballot-paper, or any representation apparently intended to represent a ballot-paper, and having thereon any directions intended or likely to mislead or improperly to interfere with any elector in or in relation to the casting of his vote at the referendum;
or
- (b) print, publish or distribute any advertisement or document containing any untrue or incorrect statement intended or likely to mislead or improperly to interfere with any elector in or in relation to the casting of his vote at the referendum.

Penalty : \$200.

(2) This section shall not prevent the printing, publishing or distributing of any advertisement or document (not otherwise illegal) which contains instructions how to vote in favour of or against the question set out on the ballot-paper, if those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

Misconduct
at public
meeting.

39. (1) A person shall not, at a public meeting to which this section applies, act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held.

Penalty : \$10.

(2) This section applies to any lawful public meeting held in relation to the referendum between the date of the issue of the writ for the referendum and the date of the return of the writ.

PART

Daylight Saving (Referendum).

PART XI.

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MISCELLANEOUS.

40. The Governor may make regulations not inconsistent ^{Regulations.} with this Act prescribing all matters which are required to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

41. Where the time allowed to do any act is insufficient ^{Alteration or extension of times allowed to do any act.} and an alteration or extension of that time and any alteration of dates consequent thereon is expedient, the Governor may, by order published in the Gazette, declare that the alteration shall be made, and thereupon the alteration shall be made and take effect accordingly.

SCHEDULE.

FORM A.

WRIT FOR THE REFERENDUM.

HER MAJESTY THE QUEEN.

To the Electoral Commissioner for New South Wales, and to all others whom it may concern:

GREETING

We command you that you cause to be submitted, according to law to the electors qualified to vote for the election of Members of the Legislative Assembly, the question,

“Are you in favour of daylight saving?”

And we appoint the following dates for the purpose of that submission:—

1. for the taking of the votes of the electors the
day of 19 .
2. for the return of the writ on or before the
day of 19 .

Witness (here insert Governor's title and the date).

By His Excellency's Command.

Governor.

SCHEDULE

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SCHEDULE—continued.

FORM B.

BALLOT-PAPER.

Daylight Saving (Referendum) Act, 1975.

Referendum on Daylight Saving.

Electoral District for which elector is enrolled

DIRECTIONS TO ELECTOR.

At present there is a period commonly called "daylight saving" by which time is advanced by one hour for the period commencing on the last Sunday in October in each year and ending on the first Sunday in March in the following year.

Are you in favour of daylight saving?

1. If *in favour* place the word "YES" in the square opposite the question.
2. If *not in favour* place the word "NO" in the square opposite the question.

FORM C.

ABSENT VOTER'S BALLOT-PAPER.

Daylight Saving (Referendum) Act, 1975.

Referendum on Daylight Saving.

Electoral District for which elector is enrolled

DIRECTIONS TO ELECTOR.

At present there is a period commonly called "daylight saving" by which time is advanced by one hour for the period commencing on the last Sunday in October in each year and ending on the first Sunday in March in the following year.

Are you in favour of daylight saving?

1. If *in favour* place the word "YES" in the square opposite the question.
2. If *not in favour* place the word "NO" in the square opposite the question.

SCHEDULE

Daylight Saving (Referendum).

SCHEDULE—*continued.*

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FORM D.

POSTAL BALLOT-PAPER.

Daylight Saving (Referendum) Act, 1975.

Referendum on Daylight Saving.

The elector must not mark his vote hereon until after he has first exhibited the ballot-paper (in blank) to the authorised witness.

Electoral District for which elector is enrolled

DIRECTIONS TO ELECTOR.

At present there is a period commonly called "daylight saving" by which time is advanced by one hour for the period commencing on the last Sunday in October in each year and ending on the first Sunday in March in the following year.

Are you in favour of daylight saving?

1. If *in favour* place the word "YES" in the square opposite the question.
2. If *not in favour* place the word "NO" in the square opposite the question.

Fold the ballot-paper so that the vote cannot be seen and place it in the envelope addressed to the Returning Officer and fasten the envelope.



SECURITIES