

1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time

*(Administrative Services)*

## A BILL

FOR

**An Act to amend the *Commonwealth Electoral Act 1918* and  
the *Referendum (Machinery Provisions) Act 1984***

The Parliament of Australia enacts:

**Short title**

1. This Act may be cited as the *Electoral and Referendum Amendment Act 1995*.

5 **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

**Schedules**

**3.** The Acts specified in the Schedules are amended as set out in the Schedules.

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**SCHEDULE 1**

Section 3

**AMENDMENTS OF THE COMMONWEALTH ELECTORAL  
ACT 1918**

**1. Subsection 4(1):**

Insert the following definition:

“ ‘**certified list of voters**’, in respect of a Division, means a list prepared and certified under subsection 208(1);”.

**2. Section 5 (definitions of “appointed Commissioner” and  
“Commissioner”):**

Omit “Chairman”, substitute “Chairperson”.

**3. Subsection 7A(1):**

Omit “provide goods or services to other organisations or to individuals”, substitute “make arrangements for the supply of goods or services to any person or body”.

Note: The heading to section 7A is altered by omitting “**related to its functions**”.

**4. After subsection 7A(1):**

Insert:

“(1A) The arrangements the Commission may make under subsection (1) may cover the same matters that may be covered by a section 84 arrangement.

“(1B) An arrangement under subsection (1) may supplement a section 84 arrangement.”.

**5. Subsection 7A(2):**

Omit the subsection, substitute:

“(2) The Commission may make arrangements for the supply of goods or services only to the extent that it can do so by using:

- (a) information or materiel in its possession, or in the possession of its officers or members of its staff, either under this Act or any other law;  
or
- (b) expertise that it has acquired, or that has been acquired by its officers or members of its staff, either under this Act or any other law.”.

**6. Section 7B:**

Omit “goods and services that it provides”, substitute “supply of goods or services”.

**7. Subsection 16(1):**

Omit the subsection, substitute:

**SCHEDULE 1—continued**

“(1) The Commission may by resolution delegate to an appointed Commissioner, an electoral officer or a member of the staff of the Commission, all or any of its powers under:

- (a) this Act, other than its powers under Part IV; or
- (b) any other law.”.

**8. Subsection 64(1):**

Omit “2 newspapers”, substitute “a newspaper”.

**9. Subparagraph 68(1)(d)(i):**

Omit “2 newspapers”, substitute “a newspaper”.

**10. Paragraph 76(13)(b):**

Omit “2 newspapers”, substitute “a newspaper”.

**11. Subsection 113(1) (definition of “private objection”):**

After “114(1)” insert “or (1A)”.

**12. Subsection 114(1):**

After “ground” insert “, other than the ground specified in paragraph 93(8)(a),”.

**13. After subsection 114(1):**

Insert:

“(1A) An elector may object to the enrolment of another person on the ground specified in paragraph 93(8)(a), whether or not the elector is enrolled in the same Subdivision as the other person.”.

**14. Subsection 115(2):**

Omit the subsection, substitute:

“(2) A private objection must be lodged with the appropriate DRO together, in the case of an objection under subsection 114(1), with an amount of \$2.”.

**15. Subsection 118(5):**

Omit “issue of the writ”, substitute “close of the Rolls”.

**16. Subsection 118(8):**

After “private objection” insert “under subsection 114(1)”.

**17. Subsections 135(1) and (3):**

Omit “de-registered” (wherever occurring), substitute “deregistered”.

Note: The heading to section 135 is altered by omitting “**de-registration**” and substituting “**deregistration**”.

**SCHEDULE 1—continued**

**18. Subsection 135(3):**

Omit “de-registration”, substitute “deregistration”.

**19. Subsection 136(2):**

Omit “de-registration”, substitute “deregistration”.

**20. Subsections 136(2) and (3):**

Omit “de-registered” (wherever occurring), substitute “deregistered”.

**21. Paragraphs 137(1)(d) and (e):**

Omit “de-registering” (wherever occurring), substitute “deregistering”.

Note: The heading to section 137 is altered by omitting “**De-registration**” and substituting “**Deregistration**”.

**22. Subsections 137(2), (5), (6) and (7):**

Omit “de-registered” (wherever occurring), substitute “deregistered”.

**23. Subsections 137(4) and (6):**

(a) Omit “de-register” (wherever occurring), substitute “deregister”.

(b) Omit “de-registration” (wherever occurring), substitute “deregistration”.

**24. Section 138:**

Omit “de-registered”, substitute “deregistered”.

Note: The heading to section 138 is replaced by the heading “**Deregistration**”.

**25. Paragraph 140(1)(c):**

Omit “de-registration”, substitute “deregistration”.

**26. Subsection 141(1) (paragraph (e) of the definition of “reviewable decision”):**

Omit “de-register”, substitute “deregister”.

**27. Paragraph 153(2)(b):**

Omit “not less than 2 newspapers”, substitute “a newspaper”.

**28. Paragraph 154(4)(b):**

Omit “not less than 2 newspapers”, substitute “a newspaper”.

**29. Paragraph 167(4)(b):**

Omit “deposited; and”, substitute “deposited.”.

**30. Paragraph 167(4)(c):**

Omit the paragraph.

**SCHEDULE 1**—continued**31. Subsection 188(1):**

After “post” insert “or arrange to be delivered”.

**32. Subsection 189(4):**

Omit the subsection, substitute:

“(4) A DRO, before making applications for postal votes available for public inspection, must remove from any application by a person whose address has been removed from the Roll under section 104, all information other than the person’s name.”.

**33. Section 208:**

Repeal the section, substitute:

**Certified lists of voters**

“208.(1) The Electoral Commissioner must arrange for the preparation of a list of voters for each Division and must certify the list.

“(2) The list must include the name of each person who:

- (a) is on the Roll for the Division; and
- (b) will be at least 18 years old on polling day.

“(3) The Electoral Commissioner must arrange for the delivery to the presiding officer at each polling place, before the start of voting, a copy of the certified list of voters for the Division for which the polling place is appointed.”.

**34. Subsection 209(3):**

Omit the subsection, substitute:

“(3) Ballot-papers must have a green background colour for House of Representatives elections and a white background colour for Senate elections and are to be printed using black type face of a kind ordinarily used in Commonwealth Government publications.”.

**35. Section 209A:**

Repeal the section, substitute:

**Official mark**

“209A. The official mark for the authentication of ballot-papers is either:

- (a) a water mark consisting of a representation of a shield having within it the letters “CA” intertwined; or
- (b) an overprinting of the paper in a particular manner, and using words, a design or a logo, approved by the Electoral Commission.”.

**SCHEDULE 1—continued**

**36. Subsection 225(1):**

Omit the subsection, substitute:

“(1) The Electoral Commission may, by notice published in the *Gazette*, at any time, declare the whole or a specified part of a hospital, not being a hospital that is a polling place, to be a special hospital for the purposes of this section.”.

**37. Subsection 226(5):**

Omit the subsection, substitute:

“(5) Subject to subsection (2A), subsection 340(1) applies in relation to a hospital that is a polling place as if the references in that subsection to a polling booth were references to the hospital.

“(5A) Subject to subsection (2A), subsection 340(1) applies in relation to a special hospital as if:

- (a) the reference in that subsection to polling day and to all days to which the polling is adjourned were a reference to the period starting 5 days before polling day and ending:
  - (i) at the end of polling day; or
  - (ii) if the poll is adjourned, at the end of the last day to which polling is adjourned; and
- (b) the references in that subsection to a polling booth were references to the special hospital.”.

**38. Paragraph 228(5)(c):**

Omit all the words after “his or her”, substitute “Division that, in accordance with subsection (5A), are received within sufficient time to be taken into account in the scrutiny.”.

**39. Section 228:**

After subsection (5) insert:

“(5A) An envelope referred to in paragraph (5)(c) is received by a DRO within sufficient time to be taken into account in the scrutiny:

- (a) if it is received by the DRO within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; or
- (b) if:
  - (i) it is received by the DRO from another DRO or from a person referred to in subsection (7) or (9) within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; and

**SCHEDULE 1—continued**

- (ii) it bears evidence that it was received, prior to the close of the poll, by that other DRO, by a pre-poll voting officer, by an Assistant Returning Officer at a place outside Australia or by a presiding officer.”.

**40. Subsection 229(1):**

After “him” insert “or her”.

**41. Subsection 229(4):**

After “certified list” (wherever occurring) insert “of voters”.

**42. Subsection 245(3):**

Omit the subsection, substitute:

“(3) Subject to subsection (4), within the period of 3 months after the polling day at each election, each DRO must:

(a) send a penalty notice by post; or

(b) arrange for a penalty notice to be delivered by other means;

to the latest known address of each elector whose name appears on the list prepared under subsection (2).”.

**43. Subsection 249(4):**

Omit the subsection, substitute:

“(4) Upon the receipt of a request made by an elector under subsection (1), the DRO must annotate the Roll for the Subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector.”.

**44. Subsection 273(17):**

Omit “shall have a casting vote but shall not otherwise vote at the election”, substitute “must decide by lot which of those candidates is elected”.

**45. Paragraph 273(20)(b):**

After “shall determine” insert “by lot”.

**46. Subsection 273(22):**

After “shall determine” insert “by lot”.

**47. Paragraph 273(31)(b):**

After “shall determine” insert “by lot”.

**48. Subsection 274(2A):**

Omit the subsection, substitute:



**SCHEDULE 1**—continued

“(2A) If, in a House of Representatives election, there are more than 2 candidates for a Division, the Australian Electoral Officer for the State or Territory that includes the Division must, in writing, direct each Assistant Returning Officer for the Division, and the Divisional Returning Officer for the Division, to conduct a count of preference votes (other than first preference votes) on the ballot-papers that, in the opinion of the Australian Electoral Officer, will best provide an indication of the candidate most likely to be elected for the Division.”.

**49. After subsection 274(2B):**

Insert:

“(2C) A Divisional Returning Officer to whom a direction is given under subsection (2A) must count the preference votes in accordance with the direction:

- (a) at the time of the fresh scrutiny under subsection (7); and
- (b) at the time at which the Divisional Returning Officer examines and counts ballot-papers recording declaration votes other than ballot-papers recording declaration votes that were examined and counted at the time of the fresh scrutiny.”.

**50. Subsection 274(7):**

Omit “The;”, substitute “The”.

**51. Subsection 274(9):**

Omit the subsection, substitute:

“(9) If, on any count other than the final count:

- (a) 2 or more candidates (**‘lowest ranking candidates’**) have an equal number of votes; and
- (b) one of them has to be excluded;

the candidate to be excluded is the candidate with less votes than any of the other lowest ranking candidates at the last count at which one of those candidates had less votes than any of the others, but, if there has been no such count, the Divisional Returning Officer must decide by lot which of them is to be excluded.”.

**52. Subsection 274(13):**

Omit the subsection.

**53. Subsection 328(1):**

After “pamphlet” (wherever occurring) insert “, poster”.

**SCHEDULE 1—continued****54. Paragraph 328(3)(a):**

Omit “a car sticker,”.

**55. Paragraph 328(3)(b):**

Omit the paragraph, substitute:

- “(b) business or visiting cards that promote the candidacy of any person in an election for the Parliament; or
- (c) letters and cards:
- (i) that bear the name and address (not being a post office box) of the sender; and
  - (ii) that do not contain a representation or purported representation of a ballot-paper for use in an election for the Parliament; or
- (d) an article included in a prescribed class of articles.”.

**56. Subsection 328(5):**

Omit the subsection, substitute:

“(5) In this section:

**‘electoral advertisement, handbill, pamphlet, poster or notice’**, means an advertisement, handbill, pamphlet, poster or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.”.

**57. Subsection 332(1):**

Omit “the author’s name and address, or the authors’ names and addresses, as the case may be, are”, substitute “each author’s name and address is”.

**58. Paragraph 332(2)(b):**

Add at the end:

“; or (c) a letter to the editor if each author’s name and the suburb or locality where the author lives are set out at the end of the letter.

Examples:

1. If the author lives in the Adelaide suburb of Maylands—“Maylands” must be set out at the end of a letter.
2. If the author lives in the country town of Kingston in South Australia—“Kingston” must be set out at the end of a letter.
3. If the author lives on a rural property in the Blackford area in South Australia—“Blackford” must be set out at the end of a letter.”.

**59. Subsection 344(2):**

After “prescribed form” insert “or approved form”.

**SCHEDULE 1**—continued

**60. Subsection 362(4):**

Omit “*Broadcasting Act 1942*”, substitute “*Broadcasting Services Act 1992*”.

**61. Section 393:**

Repeal the section.

**62. Subsection 393A(1):**

Omit “has the same meaning as in section 393”, substitute:  
“includes:

- (a) ballot-papers; and
- (b) certified lists of voters; and
- (c) certified copies of the Roll; and
- (d) declarations; and
- (e) postal vote certificates; and
- (f) pre-poll vote certificates; and
- (g) lists prepared under section 245”.

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**NOTE ABOUT SECTION HEADING**

The heading to section 13 is altered by omitting “**Chairman**” and substituting “**Chairperson**”.

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**SCHEDULE 2**

Section 3

**AMENDMENTS OF THE REFERENDUM (MACHINERY PROVISIONS) ACT 1984****1. Subsection 3(1):**

Insert the following definition:

“ ‘**certified list of voters**’, in respect of a Division, means a list prepared and certified under subsection 22(1);”.

**2. Paragraph 14(1)(b):**

Omit “at least 2 newspapers circulating”, substitute “a newspaper circulating generally”.

**3. Section 22:**

Repeal the section, substitute:

**Certified lists of voters**

“22.(1) The Electoral Commissioner must arrange for the preparation of a list of voters for each Division and must certify the list.

“(2) The list must include the name of each person who:

(a) is on the Roll for the Division; and

(b) will be at least 18 years old on voting day.

“(3) The Electoral Commissioner must arrange for the delivery to the presiding officer at each polling place, before the start of voting, a copy of the certified list of voters for the Division for which the polling place is appointed.”.

**4. Paragraph 25(1)(b):**

Omit the paragraph, substitute:

“(b) have a buff background colour.”.

**5. Section 25A:**

Repeal the section, substitute:

**Official mark**

“25A. The official mark for the authentication of ballot-papers is either:

(a) a water mark consisting of a representation of a shield having within it the letters “CA” intertwined; or

(b) an overprinting of the paper in a particular manner, and using words, a design or a logo, approved by the Electoral Commission.”.

**6. Subsection 30(4):**

After “certified list” (wherever occurring) insert “of voters”.

**SCHEDULE 2**—continued

**7. Paragraph 40(b):**

Omit “is enclosed;”, substitute “is enclosed.”.

**8. Subsection 45(3):**

Omit the subsection, substitute:

“(3) Subject to subsection (4), within the period of 3 months after the voting day at a referendum, each DRO must:

(a) send a penalty notice by post; or

(b) arrange for a penalty notice to be delivered by other means;

to the latest known address of each elector whose name appears on the list prepared under subsection (2).”.

**9. Paragraph 46A(5)(c):**

Omit all the words after “his or her”, substitute “Division that, in accordance with subsection (5A), are received within sufficient time to be taken into account in the scrutiny.”.

**10. Section 46A:**

After subsection (5) insert:

“(5A) An envelope referred to in paragraph (5)(c) is received by a DRO within sufficient time to be taken into account in the scrutiny:

(a) if it is received by the DRO within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; or

(b) if:

(i) it is received by the DRO from another DRO or from a person referred to in subsection (7) or (9) within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; and

(ii) it bears evidence that it was received, prior to the close of the poll, by that other DRO, by a pre-poll voting officer, by an Assistant Returning Officer at a place outside Australia or by a presiding officer.”.

**11. Subsection 49(1):**

Omit the subsection, substitute:

“(1) The Electoral Commission may, by notice published in the *Gazette*, at any time, declare the whole or a specified part of a hospital, not being a hospital that is a polling place, to be a special hospital for the purposes of this section.”.

**SCHEDULE 2—continued**

**12. Subsection 49A(1):**

Omit “person”, substitute “persons”.

**13. Subsection 49A(6):**

Omit “arrangments”, substitute “arrangements”.

**14. Subsection 50(2A):**

Omit “224 or 225”, substitute “48 or 49”.

**15. Subsection 61(1):**

After “post” insert “or arrange to be delivered”.

**16. Subsection 93(3):**

Omit “or (2)(b)”.

**17. Section 108A:**

Omit “*Broadcasting Act 1942*”, substitute “*Broadcasting Services Act 1992*”.

**18. Heading to Part IX:**

Omit “, PUBLISHERS AND PRINTERS”, substitute “AND PUBLISHERS”.

**19. Subsection 125(1):**

Omit “the author’s name and address, or the authors’ names and addresses, as the case may be, are”, substitute “each author’s name and address is”.

**20. Paragraph 125(2)(b):**

Add at the end:

“; or (c) a letter to the editor if each author’s name and the suburb or locality where the author lives are set out at the end of the letter.

Examples:

1. If the author lives in the Adelaide suburb of Maylands—“Maylands” must be set out at the end of a letter.
2. If the author lives in the country town of Kingston in South Australia—“Kingston” must be set out at the end of a letter.
3. If the author lives on a rural property in the Blackford area in South Australia—“Blackford” must be set out at the end of a letter.”.

**21. Section 137:**

Repeal the section.

**22. Section 142:**

Repeal the section.

**SCHEDULE 2**—continued

**23. Subsection 142A(1):**

Omit “has the same meaning as in section 142”, substitute:  
“includes:

- (a) ballot-papers; and
- (b) certified lists of voters; and
- (c) certified copies of the Roll; and
- (d) declarations; and
- (e) postal vote certificates; and
- (f) pre-poll vote certificates; and
- (g) lists prepared under section 45”.

**24. Clause 8 of Schedule 4:**

Omit “or a provisional vote ballot-paper”, substitute “, a provisional vote ballot-paper”.



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