

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time

*(Administrative Services)*

**ELECTORAL AND REFERENDUM AMENDMENT  
BILL (NO. 2) 1995**

**CONTENTS**

Section

1. Short title
2. Commencement
3. Amendment of the *Commonwealth Electoral Act 1918*
4. Amendment of the *Referendum (Machinery Provisions) Act 1984*
5. Entitlement to enrolment of prisoners

SCHEDULE 1

AMENDMENT OF THE COMMONWEALTH ELECTORAL ACT 1918

SCHEDULE 2

AMENDMENT OF THE REFERENDUM (MACHINERY PROVISIONS)  
ACT 1984



1993-94-95

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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## **A BILL**

FOR

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

The Parliament of Australia enacts:

### **Short title**

**1.** This Act may be cited as the *Electoral and Referendum Amendment Act (No. 2) 1995*.

**5 Commencement**

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

**Amendment of the *Commonwealth Electoral Act 1918***

3. The *Commonwealth Electoral Act 1918* is amended as set out in Schedule 1.

**Amendment of the *Referendum (Machinery Provisions) Act 1984***

4. The *Referendum (Machinery Provisions) Act 1984* is amended as set out in Schedule 2. 5

**Entitlement to enrolment of prisoners**

5.(1) A person who:

- (a) on the commencement of this Act is serving a sentence of imprisonment and is not enrolled; and 10
- (b) becomes entitled to enrolment because of the amendment made by item 5 of Schedule 1; and
- (c) was enrolled for a Subdivision when he or she began serving the sentence;

is entitled to be enrolled for: 15

- (d) that Subdivision; or
- (e) if that Subdivision no longer exists, the Subdivision with which the person has the closest connection.

(2) Subsection 99(3) of the *Commonwealth Electoral Act 1918* does not affect subsection (1) of this section. 20

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**SCHEDULE 1**

Section 3

**AMENDMENT OF THE COMMONWEALTH ELECTORAL ACT  
1918**

**1. Subparagraph 35(1)(a)(i):**

Omit “habitation”, substitute “Roll”.

**2. Subsections 92(2) to (5) (inclusive):**

Omit the subsections, substitute:

“(2) The Electoral Commission must cause reviews to be conducted of the Rolls, with a view to ascertaining such information as is required for the preparation, maintenance and revision of the Rolls.

“(3) There must be paid to the Electoral Commission, out of the Consolidated Revenue Fund, amounts equal to the sum of the expenses reasonably incurred by it in respect of reviews conducted under subsection (2).”.

Note: The heading to section 92 is altered by omitting “**Habitation**” and substituting “**Roll**”.

**3. Subsection 92(6):**

Omit “or (4)”.

**4. Paragraph 93(8)(a):**

Add at the end “or”.

**5. Paragraph 93(8)(b):**

Omit the paragraph.

**6. Subsections 94(1) and (2):**

Omit the subsections, substitute:

“(1) An elector who:

(a) is enrolled for a particular Subdivision of a Division; and

(b) has ceased to reside in Australia, or intends to cease to reside in Australia; and

(c) intends to resume residing in Australia (whether in that Subdivision or elsewhere) not later than 3 years after ceasing to reside in Australia;

may apply in writing to be treated as an eligible overseas elector. The application must be made to the Divisional Returning Officer for that Division.

“(1A) An application that is made while the elector still resides in Australia must be made within 3 months before the elector intends to cease to reside in Australia.

**SCHEDULE 1—continued**

“(1B) An application that is made after the elector ceased to reside in Australia must be made within 1 year after the day on which the elector ceased to reside in Australia.

“(2) Where an application is made under subsection (1):

- (a) the Divisional Returning Officer must annotate the Roll so as to indicate that the elector is an eligible overseas elector; and
- (b) subject to this section, the elector is entitled to be treated as an eligible overseas elector from the time when the annotation is made until it is cancelled.”.

**7. Subsection 94(3):**

Omit “subsection (1)”, substitute “subsection (2)”.

**8. Paragraph 94(5)(a):**

Omit “one month”, substitute “3 months”.

**9. Subsection 94(6):**

Omit “1 month”, substitute “3 months”.

**10. After subsection 94(6):**

Insert:

“(6A) Paragraph (5)(a) and subsection (6) do not apply to a person who is an eligible overseas elector whose application under subsection (1) was made after the person ceased to reside in Australia.”.

**11. Subsection 94(7):**

Omit the subsection, substitute:

“(7) If a person who is an eligible overseas elector again becomes resident in Australia within 3 years after ceasing to reside in Australia, the person ceases to be entitled to be treated as an eligible overseas elector at the end of 1 month after the day on which he or she again became resident in Australia.”.

**12. Subsection 94(14):**

Omit “subsection (1)” (wherever occurring), substitute “subsection (2)”.

**13. Subsection 94(15):**

Omit “subsection (1) is”, substitute “subsection (2) is”.

**14. Subsection 95(4):**

Omit “6 o'clock in the afternoon”, substitute “8 p.m.”.

**SCHEDULE 1—continued**

**15. Subsection 96(4):**

Omit “6 o’clock in the afternoon”, substitute “8 p.m.”.

**16. Subsection 96A(1):**

Omit “Subject to section 93, a”, substitute “A”.

**17. Subsection 102(2A):**

Omit “6 o’clock in the afternoon of”, substitute “8 p.m. on”.

**18. Subsection 102(4):**

Omit “6 o’clock in the afternoon of”, substitute “8 p.m. on”.

**19. Section 109:**

Repeal the section.

**20. Subsection 110(1):**

Omit “sections 108 and 109”, substitute “section 108”.

**21. After section 111:**

Insert:

**Claims may be sent by fax**

“111A.(1) A claim under this Part that is to be sent to an Australian Electoral Officer or a DRO may be sent by fax machine. This subsection does not apply to a provisional claim under section 99A or to a claim that is accompanied by a request under section 104.

“(2) If a claim is sent by a fax machine in accordance with subsection (1), references in this Act to the claim include references to the fax received by the Australian Electoral Officer or the DRO.”.

**22. Section 173:**

Omit “to the candidate, or to some person authorized by the candidate in writing to receive it”, substitute “in accordance with subsection (2) or (3)”.

**23. Section 173:**

Add at the end:

“(2) If the candidate was nominated under subsection 167(3) and the deposit was paid by a person other than the candidate, the deposit must be returned to the person who paid it, or to a person authorised in writing by the person who paid it.

“(3) In all other cases, the deposit must be returned to the candidate, or to a person authorised in writing by the candidate.”.

**SCHEDULE 1—continued**

**24. Section 177:**

Add at the end “in accordance with subsection (2) or (3)”.

**25. Section 177:**

Add at the end:

“(2) If the candidate was nominated under subsection 167(3) and the deposit was paid by a person other than the candidate, the deposit must be returned to the person who paid it, or to a person authorised in writing by the person who paid it.

“(3) In all other cases, the deposit must be returned to the candidate, or to a person authorised in writing by the candidate.

“(4) The withdrawal of consent by a candidate who was one of a number nominated under subsection 167(3) does not affect the nomination of the other candidates so nominated.”.

**26. Section 178:**

Omit “to his or her personal representatives”, substitute “in accordance with subsection (2) or (3)”.

**27. Section 178:**

Add at the end:

“(2) If the candidate was nominated under subsection 167(3) and the deposit was paid by a person other than the candidate, the deposit must be returned to the person who paid it, or to a person authorised in writing by the person who paid it.

“(3) In all other cases, the deposit must be returned to the personal representative of the candidate.”.

**28. Section 180:**

Add at the end:

“(3) If a candidate who was one of a number nominated under subsection 167(3) dies before the nominations have been declared, that death does not affect the nomination of the other candidates so nominated.”.

**29. After paragraph 184A(2)(c):**

Insert:

“(ca) because the applicant will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, the applicant is unable to travel from that place to a polling place;”.



**SCHEDULE 1—continued**

**30. Subsection 186(2):**

Omit the subsection, substitute:

“(2) In this section:

*postal voting papers* means:

- (a) a postal vote certificate printed on an envelope addressed to the DRO; and
- (b) one postal ballot-paper for a Senate election or one postal ballot-paper for a House of Representatives election, or both, as the case requires.”.

Note: The heading to section 186 is altered by omitting “**electoral materials**” and substituting “**postal voting papers**”.

**31. After subsection 200D(1):**

Insert:

“(1A) Subsection 340(1) applies in relation to an office of a DRO as if:

- (a) the reference to a polling booth were a reference to the DRO’s office; and
- (b) the reference to polling day and to all days to which the polling is adjourned were a reference to the hours specified in subsection (1) of this section.

Note: Subsection 340(1) prohibits canvassing near polling booths.”.

**32. After subsection 200D(2):**

Insert:

“(2A) Subsection 340(1) applies in relation to a pre-poll voting office as if:

- (a) the reference to a polling booth were a reference to the pre-poll voting office; and
- (b) the reference to polling day and to all days to which the polling is adjourned were a reference to the times fixed under paragraph (2)(b) of this section.

Note: Subsection 340(1) prohibits canvassing near polling booths.”.

**33. Subsection 200D(6):**

Omit “for which the elector is enrolled”, substitute “in which the elector is making the application”.

**34. Subsection 227(4):**

Omit the subsection, substitute:

“(4) The Electoral Commission:

**SCHEDULE 1—continued**

- (a) may, by notice published in the *Gazette*, determine the places that teams will visit for the purposes of this section; and
- (b) must take such steps as it thinks fit to give public notice of:
  - (i) the places determined under paragraph (a); and
  - (ii) the days and times when teams will visit for the purposes of this section.”.

**35. Subsection 227(5):**

Omit “determined under subsection (4)”, substitute “notified under paragraph (4)(b)”.

**36. Subsection 227(6):**

Omit “determined under subsection (4)”, substitute “notified under paragraph (4)(b)”.

**37. After subsection 234(1):**

Insert:

“(1A) A presiding officer who is visiting a patient under section 224 or 225 for the purpose of taking the patient’s vote must explain to the patient the effect of subsection (1) of this section.”.

**38. Subsection 266(1):**

Omit “After the close of the poll for a Division, the”, substitute “The”.

**39. After subsection 266(1):**

Insert:

“(1A) A preliminary scrutiny may commence at any time after the beginning of the Monday before the polling day.”.

**40. Section 356:**

Omit “\$100”, substitute “\$500”.

**41. Section 370:**

Repeal the section, substitute:

**Representation of parties before Court**

“370. A party to the petition may appear in person or be represented by counsel or solicitor.”.

**42. After paragraph 3 of Schedule 3:**

Insert:

**SCHEDULE 1—continued**

“3A. For each postal vote certificate not dealt with under paragraph 3, the DRO must compare the signature of the elector on the postal vote certificate with the signature of the elector on:

- (a) the elector’s application for registration as a general postal voter; or
- (b) the elector’s application for enrolment or transfer of enrolment;

and allow the scrutineers to inspect both signatures.”.

**43. Subparagraph 6(a) of Schedule 3:**

Omit “to an elector under paragraph 186(2)(a)”, substitute “under section 186 to a registered general postal voter who was registered on the ground specified in paragraph 184A(2)(e) or (f)”.

**44. Paragraph 17 of Schedule 3:**

Omit “The”, substitute “After the close of the poll, the”.

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**SCHEDULE 2**

Section 4

**AMENDMENT OF THE REFERENDUM (MACHINERY PROVISIONS) ACT 1984**

**1. Paragraph 4(2)(a):**

Omit “6 o’clock in the afternoon of”, substitute “8 p.m. on”.

**2. After subsection 36(1):**

Insert:

“(1A) A presiding officer who is visiting a patient under section 48 or 49 for the purpose of taking the patient’s vote must explain to the patient the effect of subsection (1) of this section.”.

**3. Subsection 51(4):**

Omit the subsection, substitute:

“(4) The Electoral Commission:

(a) may, by notice published in the *Gazette*, determine the places that teams will visit for the purposes of this section; and

(b) must take such steps as it thinks fit to give public notice of:

(i) the places determined under paragraph (a); and

(ii) the days and times when teams will visit for the purposes of this section.”.

**4. Subsection 51(5):**

Omit “determined under subsection (4)”, substitute “notified under paragraph (4)(b)”.

**5. Subsection 51(6):**

Omit “determined under subsection (4)”, substitute “notified under paragraph (4)(b)”.

**6. Subsection 58(2):**

Omit the subsection, substitute:

“(2) In this section:

**postal voting papers** means:

(a) a postal vote certificate printed on an envelope addressed to the DRO; and

(b) a postal-ballot paper.”.

Note: The heading to section 58 is altered by omitting “**voting materials**” and substituting “**postal voting papers**”.

**7. Subsection 73B(6):**

Omit “for which the elector is enrolled”, substitute “in which the elector is making the application”.

**SCHEDULE 2—continued**

**8. Subsection 89A(1):**

Omit “After the close of voting in a Division, the”, substitute “The”.

**9. After subsection 89A(1):**

Insert:

“(1A) A preliminary scrutiny may commence at any time after the beginning of the Monday before the voting day.”.

**10. After paragraph 3 of Schedule 4:**

Insert:

“3A. For each postal vote certificate not dealt with under paragraph 3, the DRO must compare the signature of the elector on the postal vote certificate with the signature of the elector on:

- (a) the elector’s application for registration as a general postal voter under the *Commonwealth Electoral Act 1918*; or
- (b) the elector’s application for enrolment or transfer of enrolment under the *Commonwealth Electoral Act 1918*;

and allow the scrutineers to inspect both signatures.”.

**11. Subparagraph 6(a) of Schedule 4:**

Omit “to an elector under paragraph 58(2)(a)”, substitute “under section 58 to a registered general postal voter who was registered on the ground specified in paragraph 184A(2)(e) or (f) of the *Commonwealth Electoral Act 1918*”.

**12. Paragraph 16 of Schedule 4:**

Omit “The”, substitute “After the close of voting, the”.







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