



New South Wales

# Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 No 102

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to automatic enrolment	3
Schedule 2 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to postal voting	32
Schedule 3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at electoral offices and other appointed places	37
Schedule 4 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at declared institutions	45
Schedule 5 Miscellaneous amendments to Parliamentary Electorates and Elections Act 1912 No 41	49
Schedule 6 Amendment of other legislation	69

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New South Wales

# **Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 No 102**

Act No 102, 2009

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An Act to amend the *Parliamentary Electorates and Elections Act 1912* in relation to the preparation of electoral rolls by the Electoral Commissioner; to make miscellaneous amendments to that Act; and for other purposes. [Assented to 14 December 2009]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

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## **Schedule 1      Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to automatic enrolment**

**[1]      Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*Approved form* means a form approved by the Electoral Commissioner for the purposes of the provision in which the expression occurs.

*Driver licence* means a driver licence issued under the *Road Transport (Driver Licensing) Act 1998*.

*Photo Card* means a New South Wales Photo Card issued by the Roads and Traffic Authority under the *Photo Card Act 2005*.

**[2]      Section 3 (1)**

Omit the definitions of *Divisional returning officer*, *Officer*, *Registrar* and *Subdivision*.

**[3]      Section 3 (1)**

Omit the definitions of *Eligible overseas elector*, *Itinerant elector* and *Silent elector*.

Insert instead, respectively:

*Eligible overseas elector* means an elector under this Act who is also enrolled under section 94, 94A or 95 of the Commonwealth Act.

*Itinerant elector* means an elector under this Act who is also enrolled under section 96 of the Commonwealth Act.

*Silent elector* means an elector whose address is not recorded on a roll by operation of section 31.

**[4]      Section 3 (5)**

Omit “section 38A”. Insert instead “section 31”.

**[5]      Part 3 Qualification of electors**

Omit the Part (other than section 21).

Transfer section 21 to Part 3B of the Act (as substituted by this Act) and renumber it as section 25.

**[6] Part 3B**

Omit the Part. Insert instead:

**Part 3B Entitlement to enrol and vote**

**22 Who is entitled to be enrolled?**

- (1) A person is entitled to be enrolled for a district if:
  - (a) the person:
    - (i) has attained 18 years of age, and
    - (ii) is an Australian citizen, and
  - (b) the person lives at an address in that district and the person has lived at that address for at least one month before the enrolment.
- (2) A person, who is not entitled to be enrolled for any district under subsection (1), is entitled to be enrolled for a district if the person is enrolled under any of the following provisions of the Commonwealth Act for a Commonwealth subdivision which is included in that district:
  - (a) section 93 (1) (b) (ii)—being British subjects enrolled in relation to a Commonwealth division before 26 January 1984,
  - (b) section 94—enrolled voters leaving Australia,
  - (c) section 94A—voters enrolled outside Australia,
  - (d) section 95—spouse, de facto partner or child of eligible overseas elector,
  - (e) section 96— itinerant electors,
  - (f) section 100—age 17 enrolment.
- (3) A person who has attained 17 years of age is entitled to be enrolled for a district if the person would be entitled to enrol under subsection (1) had the person attained 18 years of age.
- (4) Subject to subsection (2), a person is not entitled to be enrolled:
  - (a) on more than one district roll, or
  - (b) in respect of any address other than the address at which the person is living at the date:
    - (i) that the person forwarded his or her claim for enrolment or transfer of enrolment, or
    - (ii) that the Electoral Commissioner enrolled the person.

**23 Entitlement to vote**

Subject to this Act, an elector who is enrolled for a district is entitled to vote at any election for the Assembly for the district.

**Note.** Section 22 of the *Constitution Act 1902* provides that persons entitled to vote at a general election of Members of the Legislative Assembly, and only those persons, are entitled to vote at a periodic election for the Legislative Council.

**24 Restrictions on entitlement to vote**

- (1) Despite section 23, an elector is not entitled to vote at an election for a district if the elector:
  - (a) has been enrolled under section 22 (3), and
  - (b) has not attained 18 years of age on the date appointed for the taking of the poll for an election.
- (2) For the purposes of this Act in its application in relation to an election, a person who has not attained 18 years of age on the date appointed for the taking of the poll for that election is taken not to be:
  - (a) entitled to be enrolled on a roll, and
  - (b) enrolled on a roll.
- (3) A person is not entitled to vote more than once at any Assembly general election, by-election or periodic Council election, or at more than one election for the Assembly or Council held on the same day.
- (4) An elector, other than a relevant elector, is not entitled to vote at an election as an elector of the district in respect of which the elector is enrolled unless the real place of living of the elector was, at some time within 3 months immediately preceding polling day for that election, within that district.
- (5) Despite anything in this Act:
  - (a) an elector who has changed address to another place within the same district is not, by reason only of that change, to be dispossessed of his or her entitlement to be enrolled for that district and to vote at an election in respect of that enrolment, and
  - (b) an elector who, within 3 months before any election, has changed address to another district, may vote at that

election for the district for which the elector is enrolled as provided by this Act for the purposes of that election.

**Note.** A person who is living at an address in a district and has lived at that address for at least one month may enrol and vote at an election for that district: see sections 22 (1) and 106.

- (6) In this section, *relevant elector* means:
- (a) an Antarctic elector, or
  - (b) an eligible overseas elector, or
  - (c) an itinerant elector.

**[7] Part 4**

Omit Part 4 (other than Division 3A). Insert instead:

## **Part 4 Enrolment and rolls**

### **Division 1 Rolls**

#### **26 Rolls for districts**

- (1) The Electoral Commissioner is to keep and maintain a roll for each district.
- (2) The roll for a district is:
  - (a) to be kept in a form determined by the Electoral Commissioner, and
  - (b) to include the surname, given name or names, date of birth, occupation (or other prescribed particulars) and sex of each elector, and
  - (c) to include the residence of the elector (except in relation to a silent elector, an eligible overseas elector or an itinerant elector), and
  - (d) to contain such other particulars as are prescribed.
- (3) In addition to any other function conferred by this Act on the Electoral Commissioner in relation to the keeping and maintenance of rolls, the Electoral Commissioner may alter any district roll by doing any of the following:
  - (a) correcting any mistake or omission in the particulars of the enrolment of an elector,
  - (b) altering the particulars of the elector on a district roll,
  - (c) removing the name of any deceased elector,

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- (d) removing the name of an elector who has been convicted and sentenced to a term of imprisonment of one year or longer and is in prison pursuant to that sentence,
  - (e) striking out the superfluous entry where the name of the same elector appears more than once on the same district roll,
  - (f) reinstating any name removed by mistake as the name of a deceased elector,
  - (g) reinstating any name removed as the result of an objection, where satisfied that the objection was based on a mistake as to fact and that the person whose enrolment was the subject of the objection is still entitled, and has continuously been entitled, to the enrolment in respect of which the objection was made,
  - (h) reinstating any other name removed by mistake or which has been accidentally omitted,
  - (i) altering any particulars of the enrolment of an elector necessitated:
    - (i) by the numbering or re-numbering or naming or re-naming of the elector's place of residence, or
    - (ii) by the naming or re-naming of a street, public place or locality, or
    - (iii) for any other similar reason.
- (4) For the avoidance of doubt, the Electoral Commissioner may keep rolls in an electronic form.

## **Division 2      Enrolment**

### **27      Compulsory enrolment: obligation to enrol and keep enrolment updated**

- (1) Every person who:
  - (a) is not enrolled for any district, and
  - (b) is entitled to be enrolled on a roll for a district (other than under section 22 (2) or (3)),must, within 21 days of becoming entitled to be enrolled, unless the person has been notified by the Electoral Commissioner that the person has been enrolled by the Electoral Commissioner:
  - (c) complete and sign a claim for enrolment in the approved form in accordance with the directions on the form, and



(d) forward the claim for enrolment to the Electoral Commissioner or to the Australian Electoral Commission.

Maximum penalty: 1 penalty unit.

**Note.** In many circumstances, a person will be automatically enrolled by the Electoral Commissioner under section 29.

(2) If an elector (including a silent elector) changes residence from one address to another address in New South Wales, the person must, within 21 days of becoming entitled to be enrolled on a roll for a district in respect of the person's new residence, unless the person has been notified by the Electoral Commissioner that the elector's enrolment has been updated:

(a) complete and sign a claim for a transfer of enrolment in the approved form in accordance with the directions on the form, and

(b) forward the claim for a transfer of enrolment to the Electoral Commissioner or to the Australian Electoral Commission.

Maximum penalty: 1 penalty unit.

**Note.** In many circumstances, an elector's enrolment will be automatically updated by the Electoral Commissioner under section 29.

(3) Every person who is entitled to be enrolled on a district roll under section 22 (3) and is not enrolled on that roll may:

(a) complete and sign a claim for enrolment in the approved form in accordance with the directions on the form, and

(b) forward the claim for enrolment to the Electoral Commissioner or to the Australian Electoral Commission.

(4) A claim for enrolment under subsection (1) or (3) or for a transfer of enrolment under subsection (2) must:

(a) unless paragraph (b) applies—be witnessed by an elector or a person entitled to be enrolled (who must sign the claim in the witness's own hand writing), or

(b) be supported by the evidence of the claimant's identity that is required by the regulations (if any).

(5) If a person forwards a claim for enrolment, or a claim for a transfer of enrolment, to the Electoral Commissioner or the Australian Electoral Commission, proceedings are not to be commenced against that person for any alleged offence against this section committed before the person forwarded the claim.

(6) If a person wishes to make a claim for enrolment, or a claim for transfer of enrolment, and a registered medical practitioner has certified, in writing, that the person is so physically incapacitated

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that the person cannot sign the claim, another person may, on behalf of the person, fill out and sign the claim in accordance with the directions of the person.

- (7) A medical practitioner's certificate referred to in subsection (6) is to be lodged with the claim to which it relates.
- (8) The regulations may:
- (a) require a claim to be supported by evidence of the claimant's identity for the purposes of subsection (4) (b), and
  - (b) impose additional requirements in relation to identification for enrolment, including requirements as to:
    - (i) the witnessing of a claim, or
    - (ii) the inclusion in a claim, or the attachment to a claim, of particulars or material regarding identification.

## **28 Means of enrolment**

The Electoral Commissioner may enrol a person on a roll for a district:

- (a) on the Electoral Commissioner's own initiative under section 29, or
- (b) in response to a claim for enrolment or a claim for a transfer of enrolment under section 30.

## **29 Enrolment by Electoral Commissioner on Electoral Commissioner's initiative**

- (1) If the Electoral Commissioner, at any time, believes that a person who is not enrolled for any district is entitled to be enrolled for a district, the Electoral Commissioner may notify the person concerned in writing (including by email, SMS text message or other electronic means) that:
- (a) the Electoral Commissioner believes that the person should be enrolled for that district, and
  - (b) the Electoral Commissioner will enrol the person for that district unless the person, within the period specified in the notice (being not less than 7 days), notifies the Electoral Commissioner that the Electoral Commissioner's belief is incorrect (and gives the reasons why that is so).
- (2) If no notification is made by the person under subsection (1) (b) within the specified period or, despite any such notification made within that period, the Electoral Commissioner still believes that

the person is entitled to be enrolled for the district, the Electoral Commissioner is to:

- (a) enrol the person for the district, and
  - (b) notify the person in writing (including by email, SMS text message or other electronic means) that he or she has been enrolled for that district.
- (3) If the Electoral Commissioner, at any time, believes that a person is incorrectly enrolled for a district (the *first district*), but that the person is entitled to be enrolled for another district (the *second district*), the Electoral Commissioner may notify the person concerned in writing (including by email, SMS text message or other electronic means) that:
- (a) the Electoral Commissioner believes that the person should not be enrolled for the first district, but should be enrolled for the second district, and
  - (b) the Electoral Commissioner will:
    - (i) remove the person's name from the roll of the first district, and
    - (ii) enrol the person for the second district, unless the person, within the period specified in the notice (being not less than 7 days), notifies the Electoral Commissioner that the Electoral Commissioner's belief is incorrect (and gives the reasons why that is so).
- (4) If no notification is made by the person under subsection (3) (b) within the specified period or, despite any such notification made within that period, the Electoral Commissioner still believes that the person is incorrectly enrolled for the first district, but is entitled to be enrolled for the second district, the Electoral Commissioner is to:
- (a) remove the person's name from the roll for the first district, and
  - (b) enrol the person for the second district, and
  - (c) notify the person in writing (including by email, SMS text message or other electronic means) of that transfer of enrolment.
- (5) If the Electoral Commissioner, at any time, believes that a person who is enrolled for a district is not entitled to be enrolled for that district, the Electoral Commissioner may notify the person

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concerned in writing (including by email, SMS text message or other electronic means) that:

- (a) the Electoral Commissioner believes that the person should not be enrolled for that district, and
  - (b) the Electoral Commissioner will remove the person's name from the roll for the district unless the person, within the period specified in the notice (being not less than 7 days), notifies the Electoral Commissioner that the Electoral Commissioner's belief is incorrect (and gives the reasons why that is so).
- (6) If no notification is made by the person under subsection (5) (b) within the specified period or, despite any such notification made within that period, the Electoral Commissioner still believes that the person is not entitled to be enrolled for the district, the Electoral Commissioner is to:
- (a) remove the person's name from the roll for the district, and
  - (b) notify the person in writing (including by email, SMS text message or other electronic means) that his or her name has been removed from the roll for that district.
- (7) The Electoral Commissioner may exercise the functions under subsections (1)–(6) on the Electoral Commissioner's own initiative.
- (8) Without limiting subsections (1)–(6), the Electoral Commissioner may form a belief by:
- (a) consulting electoral enrolment details on any roll kept under the Commonwealth Act, and
  - (b) consulting and using information collected under Division 6.
- Note.** The Electoral Commissioner may use information collected under Division 6, from bodies such as the Roads and Traffic Authority and the Registry of Births, Deaths and Marriages, to enrol persons or update their enrolment details.
- (9) Nothing in this section prevents the Electoral Commissioner enrolling a person for a district during the period of any election, including after the issue of the writ for the election.
- Note.** If a person has been enrolled for a district by the Electoral Commissioner under this section and the person believes that the person is not entitled to be enrolled for that district or is enrolled in relation to an incorrect address, the person may object to the person's own enrolment under section 32.
- Alternatively, if the person is entitled to be enrolled for another district or in relation to another address, the person could simply complete and lodge a claim for enrolment or a claim for transfer of enrolment.

**30 Enrolment by Electoral Commissioner in response to a claim**

- (1) The Electoral Commissioner, on receiving a claim for enrolment, or a claim for transfer of enrolment, on a roll for a district, subject to subsection (4), must:
  - (a) if the claim is in order and the Electoral Commissioner is satisfied that the claimant is entitled to be enrolled for the district:
    - (i) enrol the person for the district, and
    - (ii) notify the person in writing (including by email, SMS text message or other electronic means) that he or she has been enrolled for that district, and
    - (iii) in the case of a claim for a transfer of enrolment from the roll for another district—delete the name of the person from that other roll, and
  - (b) in a case where the person is already correctly enrolled for the district for which the person claimed enrolment—notify the person in writing (including by email, SMS text message or other electronic means) that, in the Electoral Commissioner’s opinion, the person’s existing enrolment is correct, and
  - (c) if the claim is not in order or the Electoral Commissioner is not satisfied that the person is entitled to be enrolled for that district—notify the person in writing that his or her claim has been rejected.
- (2) A notice of a decision given to a person by the Electoral Commissioner under subsection (1) (b) or (c) is to include:
  - (a) a statement of the reasons for the decision, and
  - (b) a statement advising the person that the person is entitled at any time within one calendar month after the issue of the notice to apply to the Local Court for an order directing that the person’s name be enrolled for the district.
- (3) Nothing in this section prevents the Electoral Commissioner enrolling a person for a district during the period of any election, including after the issue of the writ for the election.
- (4) The regulations may make provision for or with respect to the giving of notice by the Electoral Commissioner to an elector of his or her enrolment and the signing of that notice by the elector.

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**31 Silent electors: request for address not to be shown on roll**

- (1) A person may lodge a request in the approved form that the person's residential address not be shown on any roll if the person considers that having that address on a roll places or would place the personal safety of the person or of members of the person's family at risk.
- (2) A request must:
  - (a) give particulars of the relevant risk, and
  - (b) be verified by statutory declaration by the person making the request.
- (3) If the Electoral Commissioner is satisfied that having the residential address of the person making the request shown on a roll would place or places the personal safety of the person or of members of the person's family at risk, the Electoral Commissioner must ensure that the address of the person is not entered on any roll.
- (4) The Electoral Commissioner must notify the person in writing (including by email, SMS text message or other electronic means if the person has requested or consented to notification by that method) of a decision to grant or refuse a request made by a person under subsection (1).
- (5) If a person's address has been excluded or omitted from a roll kept under the Commonwealth Act by operation of section 104 of that Act:
  - (a) the Electoral Commissioner must ensure that the address of the person is not entered on any roll kept under this Act, and
  - (b) the person is taken to be a silent elector under this Act.

**Division 3 Objections**

**32 Objection**

- (1) An elector may object to the enrolment of a person (including the elector's own enrolment) on the ground that:
  - (a) the person is not entitled to be enrolled, or
  - (b) except in relation to a person who is entitled to enrol under section 22 (2) (b), (c), (d) or (e)—the address for which a person is enrolled is not the person's real place of living.

- (2) An elector's objection under subsection (1) must:
  - (a) be in writing and in the approved form, and
  - (b) be signed by the elector, and
  - (c) set out the ground for the objection, and
  - (d) be lodged with the Electoral Commissioner.
- (3) An objection on the ground that the address for which a person is enrolled is not the person's real place of living is not a sufficient ground of objection unless the objection alleges that the person objected to does not live at the address and has not lived at the address for at least one month immediately before the date of the objection.

### **33 Notice of objection**

- (1) If an objection is made under this Division, the Electoral Commissioner must notify the person whose enrolment is the subject of the objection (unless that person is the objector).
- (2) Notice under subsection (1):
  - (a) must be in the approved form, and
  - (b) may be given to the person by:
    - (i) delivering it to the person personally, or
    - (ii) sending it by post to the address specified by the person for the giving of notices or, if no such address is specified, the residential or business address of the person last known to the Electoral Commissioner, or
    - (iii) sending it by facsimile transmission to the facsimile number of the person or by email to the email address of the person.
- (3) If the Electoral Commissioner is satisfied that an objection is frivolous or vexatious, the Electoral Commissioner may dismiss the objection without giving notice of objection under subsection (1) to the person whose enrolment is the subject of the objection.

### **34 Answer to objection**

The person whose enrolment is the subject of the objection may (unless that person is the objector), orally or in writing, in the prescribed manner, answer the objection.

### **35 Determination of objection**

- (1) The Electoral Commissioner must determine the objection:
  - (a) if notice is required to be given to the person whose enrolment is the subject of the objection:
    - (i) as soon as practicable after:
      - (A) receiving the answer of the person whose enrolment is the subject of the objection (if any), and
      - (B) making any further enquiries that appear necessary to the Electoral Commissioner in relation to matters contained in the answer, or
    - (ii) if no answer is received within a period of 21 days after the giving of the notice, then immediately after the expiration of that period, or
  - (b) if no such notice is required to be given, as soon as practicable after making any further enquiries that appear necessary to the Electoral Commissioner.
- (2) If it appears to the Electoral Commissioner that the person whose enrolment is the subject of the objection is not entitled to be enrolled or is not entitled to be enrolled at the address in respect of which the objection has been made, the Electoral Commissioner must remove the person's name from the roll.
- (3) The Electoral Commissioner must notify the objector and the person whose enrolment is the subject of the objection of the Electoral Commissioner's determination.
- (4) Notice under subsection (3) may be posted to the person or persons concerned.

## **Division 4 Review of determination**

### **36 Review by Local Court**

- (1) A person:
  - (a) who has forwarded a claim for enrolment, or a claim for transfer of enrolment, to the Electoral Commissioner and has not been enrolled in accordance with that claim, or
  - (b) whose name has been removed from a roll after an objection,may apply to the Local Court for an order directing that the person be enrolled or reinstated on the roll, as the case requires.



- (2) If an objection has been rejected by the Electoral Commissioner, the person who made the objection may apply to the Local Court for an order sustaining the objection.
- (3) An application must be made within one calendar month after the issue of:
  - (a) in relation to an application under subsection (1) (a)—the notice of the rejection of the claim, or
  - (b) in relation to an application under subsection (1) (b) or (2)—the notice of the determination of the objection, as the case requires.
- (4) In relation to an application under subsection (1) (b), the person whose name has been removed from a roll must serve the objector with notice of the application, and the objector so served may appear or may in writing authorise another person to appear on his or her behalf in the determination of the application.
- (5) The regulations may make provision for or with respect to applications under this section.

**37 Power of Local Court to hear and determine applications for review**

- (1) The Local Court may hear and determine any application under this Division, and may make such order as it thinks fit as to costs, and any such costs may be recovered in the same manner as costs awarded in any other proceedings in the Local Court.
- (2) The relevant registrar of the Local Court is to send by post to the Electoral Commissioner a certified copy of the order of the Local Court, and the Electoral Commissioner is to correct the roll (if required) to give effect to the order.

**Division 6 Collection of electoral information**

**46 Collection and maintenance of electoral information**

- (1) The Electoral Commissioner is to collect such information (*electoral information*) as the Electoral Commissioner considers necessary for the preparation, maintenance and revision of rolls and is to maintain and regularly update that information.
- (2) Without limiting subsection (1), the Electoral Commissioner may collect personal information (including a person's telephone and email contact details and any other information or code used to

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identify a person) relating to a person for the purposes of determining the following:

- (a) whether the address for which the person is enrolled is the person's real place of living,
  - (b) if the person is not enrolled—whether the person is entitled to be enrolled for any district.
- (3) The Electoral Commissioner (and officers acting under the direction of the Electoral Commissioner) are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the collection, use or disclosure of personal information to the extent that personal information is collected, used or disclosed for the purposes of or in connection with this section.
- (4) In this section, **personal information** has the same meaning as in the *Privacy and Personal Information Protection Act 1998*.

#### **47 Persons who are to provide information**

- (1) The Electoral Commissioner may, by notice in writing, require any of the following persons, within the time and in the manner and form specified in the notice, to provide the information requested in the notice, being information that in the opinion of the Electoral Commissioner is required in connection with the preparation, maintenance or revision of rolls:
- (a) a person employed in a public sector service (within the meaning of the *Public Sector Employment and Management Act 2002*),
  - (b) a police officer,
  - (c) a member of staff of a council within the meaning of the *Local Government Act 1993*,
  - (d) Sydney Water Corporation,
  - (e) a distribution network service provider within the meaning of the *Electricity Supply Act 1995*,
  - (f) a university established or constituted by an Act of New South Wales,
  - (g) an elector or person entitled to be enrolled.
- (2) It is the duty of a person referred to in subsection (1) to comply with a notice under this section.

- (3) Without limiting subsection (1), the Electoral Commissioner may request:
- (a) information of a kind required by the Electoral Commissioner for any purpose relating to the rolls, or
  - (b) information as is required to enable the Electoral Commissioner to detect:
    - (i) persons or classes of persons who may be incorrectly enrolled, or
    - (ii) persons or classes of persons (whether of particular ages or otherwise) who may be entitled to enrolment, or
    - (iii) persons who, being 17 years but not 18 years of age, may be entitled to make claims under section 22 (2) (f) or (3) to have their names placed on a roll, or
    - (iv) other persons or classes of persons who may be affected by this Part or regulations made for the purposes of this Part.
- (4) The regulations may make provision for or with respect to the collection of information by persons referred to in subsection (1) (a)–(c) on behalf of the Electoral Commissioner.
- Note.** For example, a regulation may provide that the Roads and Traffic Authority in its application forms is to collect information such as mobile phone numbers and email addresses for the purposes of notifying electors under section 29.
- (5) The *Privacy and Personal Information Protection Act 1998* does not apply in relation to the disclosure of personal information to the extent that the personal information is provided under this section to the Electoral Commissioner.
- (6) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the collection, use or disclosure of personal information to the extent that the personal information is provided under this section.

**48 Privacy—non-disclosure of information**

- (1) A person who acquires information in the exercise of functions under this Division must not, directly or indirectly:
- (a) make a record of the information, or

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- (b) divulge the information to another person, except in the exercise of functions under this Division.  
Maximum penalty: 50 penalty units.
- (2) Despite subsection (1), information may be divulged:
- (a) to a particular person or persons, if the Electoral Commissioner certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
  - (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.
- (3) A person cannot be required:
- (a) to produce in any court any document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Division, or
  - (b) to divulge to any court any information that has come to the person's notice in the exercise of the person's functions under this Division.
- (4) Despite subsection (3), a person may be required to produce a document or other thing in a court or to divulge information to a court if:
- (a) the Electoral Commissioner certifies that it is necessary in the public interest to do so, or
  - (b) a person to whom the information relates (or to whom the information contained in the document or thing relates) has expressly authorised it to be divulged to or produced in the court.
- (5) A person or body to whom or which information is divulged under subsection (2), and a person or employee under the control of that person or body, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that person, body or employee were a person exercising functions under this Division and had acquired the information in the exercise of those functions.
- (6) Any document that contains information provided to the Electoral Commissioner under this Division, and any database maintained by the Electoral Commissioner for the purposes of this Division, are not subject to the *Freedom of Information Act 1989*.

- (7) The annual report of the Commission is to include a report on any disclosure of information under subsection (2) (a) or (4) (a) during the reporting year.

**Note.** Subsections (2) (a) and (4) (a) allow information to be divulged or documents or other things produced in a court if the Electoral Commissioner certifies that it is necessary in the public interest to do so.

- (8) In this section:

***court*** includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

***produce*** includes permit access to.

**Note.** Division 5 deals with public inspection of rolls and the provision of enrolment information to parties, members of parliament, candidates and members of the public.

## **Division 7      Miscellaneous**

### **49    Arrangement with Commonwealth**

- (1) The Governor may arrange with the Governor-General of the Commonwealth for either or both of the following:

- (a) a joint enrolment process,
- (b) the exchange of information necessary for the preparation, maintenance and revision of rolls,

under this Act and the Commonwealth Act.

- (2) The Electoral Commissioner and officers acting under the direction of the Electoral Commissioner are exempt from any requirements of the *Privacy and Personal Information Protection Act 1998* relating to the collection, use or disclosure of personal information to the extent that personal information is furnished to the Australian Electoral Commission:

- (a) for the purposes of or in connection with any arrangement referred to in this section, or
- (b) for any other purpose relating to rolls under this Act or the Commonwealth Act.

### **50    Witness to application must be satisfied of truth of statements**

A person must not witness any claim for enrolment or transfer of enrolment unless the person:

- (a) is satisfied as to the identity of the claimant, and

- (b) has seen the claimant sign the claim, and
- (c) is satisfied that the statements contained in the claim are true.

Maximum penalty: 10 penalty units.

**51 Failure to transmit claim**

A person who accepts the custody of a claim for enrolment or transfer of enrolment for transmission on behalf of any other person to the Electoral Commissioner must immediately transmit the claim to the Electoral Commissioner.

Maximum penalty: 10 penalty units.

**52 Correction of errors**

- (1) If any accidental or unavoidable impediment, misfeasance or omission has happened in the preparation or transmission or printing of any roll under this Part, the Governor may by order:
  - (a) take all such measures as may be necessary for removing the impediment or rectifying such misfeasance or omission, or
  - (b) declare any such roll to be valid despite the impediment, misfeasance or omission.
- (2) Every such order must state specifically the nature of the impediment, misfeasance or omission and must be published in the Gazette.
- (3) Nothing in this section prevents the Electoral Commissioner exercising any of the Electoral Commissioner's functions under any other provision of this Act in relation to the preparation and maintenance of rolls.

**[8] Part 4, Division 5**

Re-number and transfer Division 3A of Part 4 as Division 5 of that Part (as substituted by this Act), with sections numbered consecutively starting from section 38 and with cross-references to sections of that Part (and to other sections repealed and re-enacted by this Schedule) in those transferred provisions re-numbered accordingly.

**[9] Section 99 Questions to be put to voter**

Omit "section 20 (6)" from section 99 (5) (b). Insert instead "section 24".

**[10] Section 99 (5)**

Insert "in the election for the district" after "claim to vote".

**[11] Section 99A Person whose residence is not on the roll**

Omit “a subdivision”. Insert instead “the district”.

**[12] Section 99A**

Omit “an elector to whom section 38A applies”.

Insert instead “a silent elector”.

**[13] Section 103A Vote of person whose residence is not shown on the roll**

Omit “section 38A” wherever occurring in section 103A (4) and (5).

Insert instead “section 31”.

**[14] Section 106 Provisional voting**

Omit section 106 (1), (1A) and (2). Insert instead:

**(1) Person already marked off roll**

If, at a polling place at any election, any elector:

- (a) is recorded (on the authorised copy of the roll used at the polling place) as having received a ballot paper, and
  - (b) claims not to have received a ballot paper,
- the elector is to be permitted to vote if the elector makes a declaration in the approved form before an election official at the polling place.

**(2) Person omitted from roll**

If, at a polling place in a district at any election, a person, who was enrolled for the district, but whose name was omitted from the roll for the district (for any reason), claims to be entitled to enrol for the district, the person is to be permitted to vote if:

- (a) where the person has a driver licence or a Photo Card in the person’s possession:
  - (i) the person:
    - (A) completes and signs a claim for enrolment in the approved form in accordance with the directions on the form and submits it to an election official at the polling place, and
    - (B) provides to that election official as proof of identity a driver licence or a Photo Card, and
    - (C) makes a declaration in the approved form before that election official, and

- (ii) the election official is satisfied that:
    - (A) the claim for enrolment has been properly completed, and
    - (B) the person is who the person claims to be, and
    - (C) the proof of identity provided shows that person's residence is the same as the place named in the claim for enrolment as the person's residence, or
  - (b) where the person does not have a driver licence or a Photo Card in the person's possession, the person makes a declaration in the approved form before an election official at the polling place.
- (2A) **Person enrolling for first time etc**
- If, at a polling place in a district at any election, a person, who is not enrolled for any district, claims to be entitled to enrol for the district, the person is to be permitted to vote if:
- (a) the person:
    - (i) completes and signs a claim for enrolment in the approved form in accordance with the directions on the form and submits it to an election official at the polling place, and
    - (ii) provides to that election official as proof of identity a driver licence or a Photo Card, and
    - (iii) makes a declaration in the approved form before that election official, and
  - (b) the election official is satisfied that:
    - (i) the claim for enrolment has been properly completed, and
    - (ii) the person is who the person claims to be, and
    - (iii) the proof of identity provided shows that the person's residence is the same as the place named in the claim for enrolment as the person's residence.

**Note.** If a person cannot produce a driver licence or a Photo Card the person will not be permitted to vote under this subsection.



**(2B) Person transferring enrolment**

If, at a polling place in a district at any election, a person is enrolled for another district, but claims to be entitled to enrol for the district, the person is to be permitted to vote if:

- (a) the person:
  - (i) completes and signs a claim for a transfer of enrolment in the approved form in accordance with the directions on the form and submits it to an election official at the polling place, and
  - (ii) provides to that election official as proof of identity a driver licence or a Photo Card, and
  - (iii) makes a declaration in the approved form before that election official, and
- (b) the election official is satisfied that:
  - (i) the claim for a transfer of enrolment has been properly completed, and
  - (ii) the person is who the person claims to be, and
  - (iii) the proof of identity provided shows that the person's residence is the same as the place named in the claim for a transfer of enrolment as the person's residence.

**Note.** If a person cannot produce a driver licence or a Photo Card the person will not be permitted to vote under this subsection.

**(2C) Persons enrolled after issue of writ etc**

If, at a polling place in a district at any election, a person, who is enrolled for the district, but who's name does not appear on the authorised copy of the roll at the polling place, is to be permitted to vote if the person makes a declaration in the approved form before an election official.

**Note.** The Electoral Commissioner may enrol a person at any time, including after the issue of a writ for an election. However, the authorised copy of a roll at a polling place only contains the names of persons who were enrolled as at the date of the issue of the writ (see section 89).

**(2D) A claim for enrolment or for a transfer of enrolment under this section must:**

- (a) unless paragraph (b) applies—be witnessed by an elector or a person entitled to be enrolled (who must sign the claim in the witness's own hand writing), or
- (b) be supported by the evidence of the claimant's identity that is required by the regulations made under section 27 (4) (b) and (8) (if any).

**[15] Section 106 (3) (e)**

Omit “that the person whose name is signed to the declaration is entitled to vote, and that the declaration is duly attested, he or she shall accept the ballot paper for further scrutiny, but otherwise he or she shall reject the ballot paper without opening the envelope.”.

Insert instead:

that:

- (a) the person who signed to the declaration:
  - (i) in relation to a declaration made under subsection (2) (b) or (2C)—is entitled to vote, or
  - (ii) in any other case—was, on the day of polling, entitled to be enrolled for the district, and
- (b) the declaration is duly attested, he or she is to accept the ballot paper for further scrutiny, but otherwise he or she must reject the ballot paper without opening the envelope.

**[16] Section 106 (4)**

Omit the subsection. Insert instead:

- (4) The polling place manager must, immediately after the close of the poll, send to the Electoral Commissioner any claim for enrolment and claim for transfer of enrolment submitted to an election official under this section.

**[17] Section 114ZW Preliminary scrutiny of ballot papers of certain electors under this Division**

Omit “subdivision of the” from section 114ZW (1).

**[18] Section 115A**

Insert after section 115:

**115A Provisional absent voting**

**(1) Person enrolling for first time etc**

If, at a polling place in a district at any election, a person, who is not enrolled for any district, claims to be entitled to enrol for another district, the person is to be permitted to vote if:

- (a) the person:
  - (i) completes and signs a claim for enrolment in the approved form in accordance with the directions on

- the form and submits it to an election official at the polling place, and
- (ii) provides to that election official as proof of identity a driver licence or a Photo Card, and
- (iii) makes a declaration in the approved form before that election official, and
- (b) the election official is satisfied that:
  - (i) the claim for enrolment has been properly completed, and
  - (ii) the person is who the person claims to be, and
  - (iii) the proof of identity provided shows that the person's residence is the same as the place named in the claim for enrolment as the person's residence.

**Note.** If a person cannot produce a driver licence or a Photo Card the person will not be permitted to vote under this subsection.

(2) **Person transferring enrolment**

If, at a polling place in a district at any election, a person is enrolled for the district, but claims to be entitled to enrol for another district, the person is to be permitted to vote if:

- (a) the person:
  - (i) completes and signs a claim for a transfer of enrolment in the approved form in accordance with the directions on the form and submits it to an election official at the polling place, and
  - (ii) provides to that election official as proof of identity a driver licence or a Photo Card, and
  - (iii) makes a declaration in the approved form before that election official, and
- (b) the election official is satisfied that:
  - (i) the claim for a transfer of enrolment has been properly completed, and
  - (ii) the person is who the person claims to be, and
  - (iii) the proof of identity provided shows that the person's residence is the same as the place named in the claim for a transfer of enrolment as the person's residence.

**Note.** If a person cannot produce a driver licence or a Photo Card the person will not be permitted to vote under this subsection.

- (3) The polling place manager must, immediately after the close of the poll, send to the Electoral Commissioner any claim for

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enrolment and claim for transfer of enrolment submitted to an election official under this section.

- (4) Section 115 (1) (d)–(h), (2), (2A), (2B) and (3) extend to the casting of the person’s vote under this section as if the person were an elector.
- (5) The returning officer (or a person authorised by the returning officer) must send each ballot paper containing a vote under this section to the returning officer for the district for which the voter declares that he or she is entitled to be enrolled.
- (6) Immediately after the close of the poll, the returning officer or another election official is, in writing (including by facsimile transmission, email or other electronic means), to send to each returning officer to whom envelopes containing ballot papers have been forwarded under subsection (5), advice of the number of envelopes so forwarded.

**[19] Section 117A**

Insert after section 117:

**117A Preliminary scrutiny of provisional absent voters’ ballot papers**

- (1) The returning officer for the district sent an envelope containing a ballot paper of a person voting under section 115A (or the election official assisting the returning officer) is, in the presence of the scrutineers, to examine the declaration on the envelope, and if the returning officer (after making such enquiries as he or she may deem necessary) is satisfied that the declaration is in order and the person who made the declaration:
  - (a) was, on the day of polling, entitled to enrol for the district—is to accept the ballot paper for further scrutiny, or
  - (b) was, on the day of polling, not entitled to enrol for the district, but was enrolled for some other district—is to arrange for the envelope to be promptly delivered to the returning officer for the district for which the person was enrolled to be dealt with in the manner set out in subsection (4),  
but otherwise must reject the ballot paper without opening the envelope.
- (2) Despite subsections (1) and (4), a ballot paper is not to be rejected for further scrutiny by a returning officer (the *scrutinising returning officer*) only because the relevant declaration is not attested if, before the declaration of the poll, the returning officer

for the district in which the declaration was made has in accordance with section 116 (2) sent advice in writing to the scrutinising returning officer that an envelope containing the ballot paper has been forwarded in accordance with section 116 (1).

- (3) If the returning officer (or the election official assisting him or her) accepts a ballot paper for further scrutiny, he or she is to open the envelope without destroying the declaration and extract the ballot paper and, without unfolding it, place the ballot paper in the ballot box.
- (4) The returning officer for a district to whom an envelope is forwarded under subsection (1) (b) (or the election official assisting him or her) is, if the person whose name is signed to the declaration on the envelope is enrolled for the district and the declaration is duly attested, to open the envelope and withdraw any ballot paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot paper or allowing any other person to do so:
  - (a) in the case of any ballot paper for a periodic Council election, is to accept the ballot paper for further scrutiny and place it in the ballot box, or
  - (b) in the case of any ballot paper for an Assembly election, is to disallow the ballot paper,but otherwise must reject the ballot paper without opening the envelope.

**[20] Section 118 Further scrutiny**

Insert “and the ballot papers of persons voting under section 115A” after “absent voters’ ballot papers” wherever occurring in section 118 (1).

**[21] Section 118 (1)**

Omit “section 117”. Insert instead “section 117 or 117A”.

**[22] Section 119 Decision of returning officer re validity of ballot paper**

Insert after section 119 (a):

- (a1) any ballot paper to which section 115A applies,

**[23] Section 131A Votes at adjourned poll**

Omit “within a subdivision or subdivisions”.

**[24] Section 131A**

Omit “the subdivision or subdivisions”. Insert instead “the district”.

**[25] Section 181 Penalty for disobedience**

Omit “registrar, or other”.

**[26] Section 182 Rolls—business hours for registrars and correction of errors etc**

Omit the section.

**[27] Schedule 19**

Omit the Schedule. Insert instead:

**Schedule 19 Enforcement of compulsory obligation to enrol**

(Section 27)

**1 Notification in respect of offence**

The Electoral Commissioner, if satisfied that a person has failed to comply with the requirements of section 27, must notify the person in the prescribed form of the failure, and inform the person that he or she may reply by statutory declaration, setting out any facts relevant to the matter, and that he or she has the option of having the matter dealt with either by the Electoral Commissioner or by the Local Court.

**2 Action when person has elected to have matter dealt with by Electoral Commissioner**

The Electoral Commissioner:

- (a) is to consider all the facts (including the statements contained in any statutory declaration submitted by the person), and
- (b) may make such further inquiry as he or she deems necessary, and
- (c) if satisfied that the person concerned is in default or has contravened the provisions of section 27, may make an order imposing on that person a penalty not exceeding \$55 for a first offence, and not exceeding \$55 for any subsequent offence, setting the time allowed for payment.

**3 Penalty to be debt due to Crown**

Any penalty so imposed by the Electoral Commissioner is a debt due to the Crown.

**4 Notification of imposition of penalty**

The Electoral Commissioner is to notify the person in the prescribed form that a penalty has been imposed.

**5 Enforcement of penalties**

Any order made by the Electoral Commissioner imposing a penalty may be filed in the Local Court, and the order then has effect and is enforceable as if it were an order of that Court.

**6 Proceedings where matter not dealt with by Electoral Commissioner**

If a person to whom notice pursuant to clause 1 has been sent fails, within the time allowed, to reply, or does not within that time consent to the matter being dealt with by the Electoral Commissioner, the Electoral Commissioner, if satisfied that the person has contravened section 27, is to cause proceedings to be instituted against the person in the Local Court.

**7 Statutory declaration to be brought to notice of Local Court**

If, in any case in which proceedings are instituted in the Local Court, the Electoral Commissioner has received from the person concerned a statutory declaration under clause 1 the Electoral Commissioner, as far as it is practicable and necessary to do so, is to inquire into the truth of the statements set out in the declaration, and must, unless the prosecution is withdrawn, cause the declaration to be brought to the notice of the Local Court.

**8 Local Court to consider statutory declaration**

The Local Court shall at the hearing of the case consider the statutory declaration (whether the defendant is present or not) as if the matter set out in the declaration had been given in evidence before it.

**9 Declaration by prosecuting officer to be considered by Local Court**

- (1) In any prosecution in respect of any contravention of section 27 the prosecuting officer may lodge with the Local Court a statutory declaration in support of the charge.
- (2) If such a statutory declaration has been lodged:
  - (a) it is not necessary for the prosecuting officer to attend at the hearing, and

- (b) the Local Court is to proceed with the hearing and determination of the case in the prosecuting officer's absence, and
- (c) the Local Court is to consider the statutory declaration as if the matter set out in the declaration had been given in evidence before it.

**10 Document purporting to be statutory declaration**

For the purposes of clauses 8 and 9, any document purporting to be a statutory declaration is to be accepted as such by the Local Court without proof of the signatures on the document or proof of the authority of the person before whom the document purports to have been made to take statutory declarations.



## **Schedule 2 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to postal voting**

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*General postal voter* means an elector who:

- (a) has been granted general postal voter status under section 114AA, or
- (b) is taken to be a general postal voter under that section.

**[2] Section 114A Application for a postal vote certificate and postal ballot paper**

Omit “vote, or” from section 114A (1) (g). Insert instead “vote,”.

**[3] Section 114A (1) (i) and (j)**

Insert after section 114A (1) (h):

- (i) is a person with a disability (within the meaning of the *Anti-Discrimination Act 1977*), or
- (j) believes that attending a polling place on polling day will place the personal safety of the person or of members of the person’s family at risk,

**[4] Section 114A (1)**

Omit “or the returning officer for the district for which the elector is enrolled or, if the elector has reason to believe that the application may not reach the Electoral Commissioner or that returning officer so as to enable him or her to receive from the Electoral Commissioner or that returning officer the postal vote certificate and the postal ballot paper in time to permit him or her to vote at the election, to some other district returning officer”.

**[5] Section 114A (2) (b) and (c)**

Omit the paragraphs.

**[6] Section 114A (2AA)**

Omit the subsection.

**[7] Section 114A (2A)**

Omit “or the returning officer to whom it is addressed”.

**[8] Section 114A (4)**

Insert after section 114A (3):

- (4) An application under subsection (1) may be made to the Electoral Commissioner through the Commission's website in accordance with the directions of the Commission.

**[9] Section 114AA General postal voters**

Omit "or a declared institution under section 114ZN" from paragraph (b) (i) of the definition of *prescribed elector* in section 114AA (1).

**[10] Section 114AA (1), paragraph (e) of definition of "prescribed elector"**

Omit "section 32 (3)". Insert instead "section 27 (6)".

**[11] Section 114AA (1), paragraph (g) of definition of "prescribed elector"**

Omit "elector, or". Insert instead "elector,".

**[12] Section 114AA (1), definition of "prescribed elector"**

Insert after section 114AA (1) (g):

- (g1) an elector who is a person with a disability (within the meaning of the *Anti-Discrimination Act 1977*), or

**[13] Section 114AA (1)**

Omit the definition of *register*.

**[14] Section 114AA (2)–(9)**

Omit section 114AA (2)–(18). Insert instead:

- (2) A prescribed elector may apply in the approved form to the Electoral Commissioner to be a general postal voter for the district for which the elector is enrolled.
- (3) The Electoral Commissioner, in response to an application under this section:
  - (a) may:
    - (i) accept the application and grant the elector general postal voter status, or
    - (ii) reject the application, and
  - (b) must advise the person in writing of that decision.

- (4) An application under subsection (2) in relation to an elector to whom paragraph (e) or (f) of the definition of *prescribed elector* in subsection (1) applies may be made by another person acting on behalf of the elector.
- (5) The certificate referred to in paragraph (f) of the definition of *prescribed elector* in subsection (1) is to be lodged with the application under subsection (2) to which it relates.
- (6) The Electoral Commissioner may determine that an elector to whom paragraph (a1) of the definition of *prescribed elector* in subsection (1) applies is granted general postal voter status only during the period that the elector has specified as the period during which the elector will not be within the State.
- (7) The Electoral Commissioner may withdraw general postal voter status from an elector in such circumstances as are prescribed.
- (8) A person must not make, and a person must not induce another person to make, any false statement in, or in connection with, an application under subsection (2) or in any declaration contained in, or made in connection with, such an application.  
Maximum penalty: 10 penalty units or imprisonment for 6 months, or both.
- (9) An elector who is a registered general postal voter under the Commonwealth Act is taken to be a general postal voter under this Act.

**[15] Section 114AB Dispatch of ballot papers to general postal voters**

Omit “registered general postal voter for a subdivision of the district”.

Insert instead “general postal voter for the district”.

**[16] Section 114D Issue of certificate and ballot paper**

Omit “or a returning officer” and “or returning officer” wherever occurring in section 114D (1) and (2).

**[17] Section 114D (3)**

Omit the subsection.

**[18] Section 114E**

Omit the section. Insert instead:

**114E Retention of applications**

- (1) The Electoral Commissioner must ensure that all applications for postal vote certificates and postal ballot papers for an election

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(and, in relation to applications made through the Commission's website, records of such applications) are kept securely until the latest of the following:

- (a) the period of 6 months after the day of polling has expired,
  - (b) the period during which the validity of the election may be disputed under this Act has expired,
  - (c) if a petition has or petitions have been filed under section 155—the Court of Disputed Returns has determined the matters referred to in the petition or petitions,
  - (d) if the Electoral Commissioner has consented to the use of the papers and materials in the parcels for research or analysis—the conclusion of that research or analysis.
- (2) On the expiry of the Electoral Commissioner's obligation under subsection (1), he or she may cause those applications and records to be destroyed.

**[19] Section 114F Postal ballot papers to be initialled**

Insert “(by hand or by electronic or mechanical means)” after “election official”.

**[20] Section 114G Returning officer to notify issue of postal vote certificates and postal ballot papers**

Omit the section.

**[21] Section 114GA Person claiming to vote, whose name is noted under section 114G**

Omit the section.

**[22] Section 114H Directions for postal voting**

Omit “registered general postal voter” from section 114H (1) (b).

Insert instead “general postal voter”.

**[23] Section 114L Preliminary scrutiny of postal ballot papers**

Omit “shall produce all applications for postal vote certificates and postal ballot papers, and”.

**[24] Section 114L (a)**

Omit the paragraph.

Parliamentary Electorates and Elections Amendment (Automatic  
Enrolment) Act 2009 No 102

Schedule 2      Amendment of Parliamentary Electorates and Elections Act 1912 No 41  
relating to postal voting

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**[25] Section 114L (b) (i) and (ii)**

Omit the subparagraphs. Insert instead:

- (i) the postal vote certificate has been properly signed by the elector who made the application for the certificate,
- (ii) the signature on the certificate purports to have been witnessed by an authorised witness,

**[26] Section 114N Spoilt postal ballot paper**

Omit “or returning officer who issued the same” and “or returning officer (as the case may be)”.

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## **Schedule 3      Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at electoral offices and other appointed places**

**[1] Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*Interstate or overseas pre-poll voting officer* means a person appointed as an interstate or overseas pre-poll voting officer under Division 5 of Part 3A.

*Pre-poll voting place* means a place referred to in section 114P (2) (d).

**[2] Section 3 (1), definition of “Postal voting officer”**

Omit the definition.

**[3] Section 3 (1), definition of “Pre-poll voting officer”**

Omit the definition. Insert instead:

*Pre-poll voting officer* means:

- (a) in relation to a pre-poll voting place within a district:
  - (i) the returning officer for the district, or
  - (ii) an election official assigned by the returning officer for the district to conduct pre-poll voting, and
- (b) in relation to a pre-poll voting place not within a district—  
an interstate or overseas pre-poll voting officer.

**[4] Part 3A, Division 5**

Omit the Division. Insert instead:

### **Division 5      Interstate or overseas pre-poll voting officers**

**21AJ Interstate or overseas pre-poll voting officers**

- (1) The Electoral Commissioner may, by instrument in writing, appoint appropriate persons to be:
  - (a) interstate or overseas pre-poll voting officers, or
  - (b) deputy interstate or overseas pre-poll voting officers,at a pre-poll voting place outside New South Wales (whether overseas or in Australia) for the purposes of all elections.

Schedule 3 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at electoral offices and other appointed places

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- (2) A deputy interstate or overseas pre-poll voting officer may act as, and is taken to be, the interstate or overseas pre-poll voting officer during the illness or absence of the interstate or overseas pre-poll voting officer or during a vacancy in the office of the interstate or overseas pre-poll voting officer.
- (3) This section does not prevent the appointment of a person as an interstate or overseas pre-poll voting officer to fill a vacancy in that office.

**21AK Appointment of assistants for interstate or overseas pre-poll voting officer**

An interstate or overseas pre-poll voting officer may appoint persons to act as his or her assistants in the exercise of the officer's functions.

**[5] Section 21AL Definition of "appointed official"**

Omit "a postal voting officer" and "deputy postal voting officer" wherever occurring in paragraphs (b) and (d) of the definition of *appointed official*.

Insert instead "an interstate or overseas pre-poll voting officer" and "deputy interstate or overseas pre-poll voting officer", respectively.

**[6] Sections 67A, 125A (2) and 129D (2)**

Omit "11," wherever occurring.

**[7] Section 114NA Application of this Division**

Omit the section.

**[8] Part 5, Division 10, heading**

Omit the heading. Insert instead:

**Division 10 Pre-poll voting (electoral offices and appointed places inside and outside NSW)**

**[9] Section 114P Application for permission to vote before polling day**

Omit "vote, or" from section 114P (1) (f). Insert instead "vote,".

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**[10] Section 114P (1) (h) and (i)**

Insert after section 114P (1) (g):

- (h) is a person with a disability (within the meaning of the *Anti-Discrimination Act 1977*), or
- (i) believes that attending a polling place on polling day will place the personal safety of the person or of members of the person's family at risk,

**[11] Section 114P (6)**

Insert "(whether within or outside the State and whether in Australia or overseas)" after "places".

**[12] Section 114PA**

Insert after section 114P:

**114PA Procedure for voting before polling day—voting in elector's district**

- (1) This section applies to voting under this Division where:
  - (a) a person makes an application under section 114P at a pre-poll voting place in the State, and
  - (b) the person is enrolled for the district in which the pre-poll voting place is situated.
- (2) Division 8 (other than sections 95–98, 106 (2), (2A) and (2B), 108 and 109) extends to voting to which this section applies subject to the following modifications:
  - (a) references to polling places are taken to be references to pre-poll voting places,
  - (b) references to polling place managers and election officials are taken to be references to pre-poll voting officers at the pre-poll voting places.
- (3) The Electoral Commissioner is to ensure that each pre-poll voting place in the State is provided with sufficient authorised copies of the roll for the district in which the place is situated for the purposes of this section.
- (4) The pre-poll voting officer is to ensure the security of any ballot boxes used for the purpose of this section.
- (5) Unless the Electoral Commissioner has specified another earlier time, as soon as practicable after 6 pm on the day preceding polling day the pre-poll voting officer for the pre-poll voting



place (if not the returning officer) must, in the presence of any other election official assisting the officer and any scrutineers who are present:

- (a) publicly close, fasten, seal and take charge of any ballot box used by the officer for the purposes of this section, and
  - (b) with the least possible delay, forward it for the purposes of scrutiny to the returning officer for the district concerned.
- (6) At the scrutiny the returning officer is to:
- (a) produce any ballot boxes that have been delivered to him or her in accordance with subsection (5), and
  - (b) remove the ballot papers from the ballot boxes, and
  - (c) open those ballot papers and count those that are formal.
- (7) Without affecting subsection (2), the provisions of this section apply in addition to, and without derogation from, the application of any other provision of this Act. However, any such other provision applies with any necessary modifications.

**[13] Section 114Q Procedure for voting before polling day—voting other than in elector’s district (including outside NSW)**

Insert before section 114Q (1):

- (1A) This section applies to voting under this Division where:
- (a) an elector makes an application under section 114P at a pre-poll voting place in the State and the elector is not enrolled for the district in which the pre-poll voting place is situated, or
  - (b) an elector makes an application under section 114P at a pre-poll voting place not in the State.

**[14] Section 114QA Ballot papers etc forwarded to district for which elector enrolled**

Insert at the end of the section:

- (2) If a ballot paper is returned to a pre-poll voting officer at a pre-poll voting place outside the State, the pre-poll voting officer must deal with the ballot paper in the same manner as that in which a returning officer is required by section 116 to deal with an absent voter’s ballot paper.

**[15] Section 114R**

Insert after section 114QA:

**114R Provisional pre-poll voting**

**(1) Entitlement to provisional pre-poll vote**

The following persons may apply to any pre-poll voting officer at a pre-poll voting place for permission to vote before polling day under this section:

- (a) a person who is not enrolled for any district, but claims to be entitled to enrol for a district, and to whom section 114P would apply if that person were so enrolled,
- (b) a person who is enrolled for a district, but claims to be entitled to enrol for another district, and to whom section 114P applies.

**(2) Information to be given to pre-poll voting officer**

A person making an application under this section must give the following information to the pre-poll voting officer to whom the application is made:

- (a) the district for which the person claims to be entitled to enrol (and, if relevant, the district for which the person is enrolled),
- (b) the ground on which the person is making the application,
- (c) any matters prescribed by the regulations.

**(3) Questions may be put to voter**

After such an application is made to a pre-poll voting officer, he or she may, and, if requested to do so by any scrutineer, must, put to the person who made the application any of the questions prescribed by section 100 (1) which are applicable to the case, and, if the person answers the questions satisfactorily or if no questions are put to the person, the person is to be permitted to vote in accordance with this section.

**(4) Provisional pre-poll vote within district**

If the person makes an application to a pre-poll voting officer at a pre-poll voting place that is in the district for which the person claims to be entitled to be enrolled, section 106 (2), (2A) and (2B) extend to the casting and scrutiny of the person's vote, subject to the following modifications:

- (a) references to polling places are taken to be references to pre-poll voting places,

(b) references to polling place managers and election officials are taken to be references to pre-poll voting officers at the pre-poll voting places.

(5) **Provisional pre-poll vote outside district**

If the person makes an application to a pre-poll voting officer at a pre-poll voting place that is not in the district for which the person claims to be entitled to be enrolled, sections 115A and 117A–119 extend to the casting and scrutiny of the person’s vote, subject to the following modifications:

(a) references to polling places are taken to be references to pre-poll voting places,

(b) references to polling place managers and election officials are taken to be references to pre-poll voting officers at the pre-poll voting places.

(6) Section 114P (2) and (3)–(5) apply in relation to an application made under this section as if it were an application made under section 114P (1).

**[16] Section 114S Returning officer to notify polling place managers that elector has voted before polling day**

Omit the section.

**[17] Sections 114T (1) and 114U (1), (2) and (4) (b) and (d)**

Omit “section 114Q” wherever occurring. Insert instead “this Division”.

**[18] Section 114W Duty of persons present when elector votes under this Division**

Omit “a place at which voting under section 114Q takes place for the purpose of voting under that section”.

Insert instead “at a pre-poll voting place for the purpose of voting under this Division”.

**[19] Section 114X Preliminary scrutiny of ballot papers of electors under section 114Q**

Omit section 114X (2). Insert instead:

(2) The returning officer must allow the scrutineers to examine the unopened envelopes and, if the returning officer is satisfied:

(a) that a person of the same name and description as the person whose name is signed to the declaration is enrolled for the district and that the declaration is properly attested—must remove the ballot paper from the envelope

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- and, without unfolding the ballot paper or allowing any other person to do so, place the ballot paper in a locked and sealed ballot box for further scrutiny, or
- (b) that the person whose name is signed to the declaration is enrolled for some other district than that for which the person declared he or she is enrolled—must arrange for the envelope to be promptly delivered to the returning officer for the district for which the person is enrolled to be dealt with in the manner set out in subsection (3), or
  - (c) that the person whose name is signed to the declaration is not enrolled for any district—must disallow the ballot paper without opening the envelope.
- (2A) The returning officer for a district to whom an envelope is forwarded under subsection (2) (b) or an election official assisting the returning officer must:
- (a) if the person whose name is signed to the declaration on the envelope is enrolled for the district and the declaration is properly attested, open the envelope and withdraw any ballot paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot paper or allowing any other person to do so:
    - (i) in the case of any ballot paper for a periodic Council election, accept the ballot paper for further scrutiny and place it in the ballot box, or
    - (ii) in the case of any ballot paper for an Assembly election, disallow the ballot paper, or
  - (b) in any other case—reject the ballot paper without opening the envelope.

**[20] Part 5, Division 11 Voting by post (interstate and overseas)**

Omit the Division.

**[21] Sections 122 (1) (a) and 122A (3)**

Omit “, pre-poll voting officer or postal voting officer” wherever occurring.

Insert instead “or pre-poll voting officer”.

**[22] Section 129E Lists and accounts of ballot papers**

Omit “in the notification given to him or her pursuant to section 114ZG (3) and” from section 129E (1) (a).

Parliamentary Electorates and Elections Amendment (Automatic  
Enrolment) Act 2009 No 102

Schedule 3      Amendment of Parliamentary Electorates and Elections Act 1912 No 41  
relating to pre-poll voting at electoral offices and other appointed places

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**[23] Section 135 Violation of secrecy by officers**

Omit “, postal voting officer, deputy postal voting officer”.

**[24] Section 135A Electoral official to vacate office upon becoming a candidate**

Omit “a postal voting officer, a deputy postal voting officer, a pre-poll voting officer, an assistant appointed for the purposes of Division 11” from section 135A (1).

Insert instead “a pre-poll voting officer”.

**[25] Schedule 4 Ballot paper**

Omit “114ZB,”.

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## **Schedule 4      Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at declared institutions**

**[1]      Section 114ZO Taking of poll at declared institutions**

Omit “, on any one or more of the fifth, fourth and third days preceding polling day,” from section 114ZO (2).

Insert instead “, on any day during the 7 days before polling day appointed by the Electoral Commissioner.”.

**[2]      Sections 114ZP (1) (a) and (2), 114ZQ and 114ZS (1) (b) (i)**

Omit “an inpatient or inmate” wherever occurring.

Insert instead “a temporary or permanent resident or an inpatient”.

**[3]      Sections 114ZQA and 114ZQB**

Insert after section 114ZQ:

**114ZQA      Procedure for voting at declared institutions—general**

- (1) The pre-poll voting officers are to afford an elector entitled to vote under this Division the opportunity to record his or her vote by visiting the elector at the declared institution of which the elector is, for the time being, a temporary or permanent resident or an inpatient.
- (2) A visit to an elector must not be made under this Division if the pre-poll voting officer is informed, by a legally qualified medical practitioner or member of the staff of the declared institution of which the elector is, for the time being, a temporary or permanent resident or an inpatient, that the visit is forbidden, on medical grounds, by a legally qualified medical practitioner.

**114ZQB      Procedure for voting at declared institutions—voting in elector’s district**

- (1) This section applies to voting by an elector under this Division where the elector is enrolled for the district in which the declared institution is situated.
- (2) Division 8 (other than sections 95–98, 106 (2), (2A) and (2B) and 109) extends to voting to which this section applies subject to the following modifications:
  - (a) references to polling places are taken to be references to declared institutions,

- (b) references to polling place managers and election officials are taken to be references to pre-poll voting officers at the declared institution.
- (3) Section 114ZR (6A) and (6B) extend to voting under this section.
- (4) The Electoral Commissioner is to ensure that each returning officer is provided with sufficient authorised copies of the roll for the district in which a declared institution is situated for the purposes of this section.
- (5) The pre-poll voting officers assigned under section 114ZO to take the poll at a declared institution must ensure the security of any ballot boxes used for the purposes of this section.
- (6) As soon as practicable after the completion of voting at a declared institution, the pre-poll voting officers assigned under section 114ZO to take the poll at the institution must, in the presence of any other election official assisting the officers and any scrutineers who are present:
  - (a) publicly close, fasten, seal and take charge of the ballot box used by the officers for the purposes of this section, and
  - (b) with the least possible delay, forward it for the purposes of scrutiny to the returning officer for the district in which the declared institution is situated.
- (7) At the scrutiny the returning officer is to:
  - (a) produce any ballot boxes that have been delivered to him or her in accordance with subsection (6), and
  - (b) remove the ballot papers from the ballot boxes, and
  - (c) open those ballot papers and count those that are formal.
- (8) Without affecting subsection (2), the provisions of this section apply in addition to, and without derogation from, the application of any other provision of this Act. However, any such other provision applies with any necessary modifications.

**[4] Section 114ZR Procedure for voting at declared institutions—voting other than in elector’s district**

Omit section 114ZR (1) and (2). Insert instead:

- (1) This section applies to voting by an elector under this Division where the elector is not enrolled for the district in which the declared institution is situated.

**[5] Section 114ZR (10)**

Omit the subsection. Insert instead:

- (10) As soon as practicable after the receipt by a returning officer of a ballot paper under subsection (5) or (8), the returning officer is to deal with the ballot paper in the same manner as that in which he or she is required by section 116 to deal with an absent voter's ballot paper.

**[6] Section 114ZR (11)**

Omit the subsection.

**[7] Section 114ZU Penalty for unlawfully marking ballot paper etc**

Insert "114ZQB," before "114ZR".

**[8] Section 114ZU (c)**

Insert at the end of section 114ZU (b):

, or

- (c) is a person appointed by that elector under section 108 (1) or is a pre-poll voting officer acting in accordance with section 108 (2) (as extended by section 114ZQB (2)).

**[9] Section 114ZV Duty of persons present when elector votes under this Division**

Insert "108 (as extended by section 114ZQB (2)) or in section" after "section" in section 114ZV (b).

**[10] Section 114ZW Preliminary scrutiny of ballot papers of certain electors under this Division**

Omit section 114ZW (2). Insert instead:

- (2) The returning officer is to examine the declaration on the envelope containing the elector's ballot paper, and if the returning officer is satisfied that:
- (a) the elector is enrolled for the district for which the returning officer is appointed—he or she is to accept the ballot paper for further scrutiny, or
  - (b) the elector is enrolled for some other district—he or she is to arrange for the envelope to be promptly delivered to the returning officer for the district for which the person is enrolled to be dealt with in the manner set out in subsection (2A), or



Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 No 102

Schedule 4 Amendment of Parliamentary Electorates and Elections Act 1912 No 41 relating to pre-poll voting at declared institutions

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- (c) the person whose signed the declaration is not enrolled for any district—he or she is to disallow the ballot paper without opening the envelope.
- (2A) The returning officer for a district to whom an envelope is forwarded under subsection (2) (b), or an election official assisting the returning officer, must:
- (a) if the person who signed the declaration on the envelope is enrolled for the district and the declaration is properly attested, open the envelope and withdraw any ballot paper contained in the envelope and, without, as far as practicable, inspecting or unfolding the ballot paper or allowing any other person to do so:
    - (i) in the case of any ballot paper for a periodic Council election, accept the ballot paper for further scrutiny and place it in the ballot box, or
    - (ii) in the case of any ballot paper for an Assembly election, disallow the ballot paper, and
  - (b) in any other case—reject the ballot paper without opening the envelope.

## **Schedule 5 Miscellaneous amendments to Parliamentary Electorates and Elections Act 1912 No 41**

### **[1] Section 3 Definitions**

Omit the definition of *Antarctic elector* from section 3 (1). Insert instead:

*Antarctic elector* means an elector who is on the polling day for an election:

- (a) in the Australian Antarctic Territory, including Macquarie Island and the Territory of Heard Island and McDonald Islands, or
- (b) on a ship in transit to or from a place mentioned in paragraph (a) that has been declared by the Electoral Commissioner to be an Antarctic ship.

### **[2] Section 3 (1)**

Insert in alphabetical order:

*Authorised copy of a roll*, in relation to an election, means an authorised copy of a roll referred to in section 89 (3).

*Voting directions* means directions or suggestions (whether express or implied) in relation to the casting of votes.

### **[3] Section 21AE Election officials**

Omit section 21AE (3). Insert instead:

- (3) A person is not qualified for appointment as an election official unless:
  - (a) if the person resides in the State—the person is enrolled for a district, or
  - (b) in any other case—the person is enrolled in any other State or Territory of the Commonwealth as an elector for the House of Representatives.
- (4) A person is not ineligible for appointment as an election official for a district merely because the person is not enrolled as an elector on the roll for the district.

**[4] Section 21AM Delegation**

Insert at the end of section 21AM (1) (c):

, or

- (d) an officer or member of staff of an electoral commission or electoral office of the Commonwealth or of a State or Territory.

**[5] Section 21AM (2) (c)**

Insert at the end of section 21AM (2) (b):

, or

- (c) an officer or member of staff of an electoral commission or electoral office of the Commonwealth or of a State or Territory.

**[6] Section 66JA Distribution of information to electors about registered parties**

Omit “and at any public library or other place determined by the Electoral Commissioner” from section 66JA (4).

**[7] Section 74 Duties of Electoral Commissioner on receipt of writ**

Omit “forthwith give public notice of” from section 74 (1).

Insert instead “as soon as is reasonably practicable publicly advertise (in such manner as the Electoral Commissioner thinks fit)”.

**[8] Section 74 (1) (c)**

Omit “within the district concerned”.

**[9] Section 74 (1) (c1)**

Insert after section 74 (1) (c):

- (c1) a facsimile number and an email address (to be appointed by the Commissioner) at which the Commissioner will receive nomination papers for the election to which the writ relates, and the time by which they must be received, and

**[10] Section 74 (2)**

Omit the subsection.

**[11] Section 74D Duties of Electoral Commissioner on receipt of writ**

Omit “forthwith give public notice of” from section 74D (1).

Insert instead “as soon as is reasonably practicable publicly advertise (in such manner as the Electoral Commissioner thinks fit)”.

**[12] Section 74D (1) (b1)**

Insert after section 74 (1) (b):

- (b1) a facsimile number and an email address (to be appointed by the Electoral Commissioner) at which the Electoral Commissioner will receive nomination papers for the election to which the writ relates, and the time by which they must be received, and

**[13] Section 74D (2)**

Omit the subsection.

**[14] Section 79 Nomination of Assembly candidates**

Insert “as at 6 pm on the date of issue of the writ for an election for a district” after “any district” in section 79 (1).

**[15] Section 79 (2) (b)**

Insert “as at 6 pm on the date of issue of the writ for the election” after “the district”.

**[16] Section 79 (3AA) and (3AB)**

Insert after section 79 (3):

- (3AA) A nomination paper may be delivered under this section by transmitting it by facsimile or email.
- (3AB) A nomination paper is not validly transmitted by email unless:
  - (a) an image of the completed nomination paper signed by the candidate and the registered officer or nominators concerned is included in or attached to the email, and
  - (b) that image includes an image of the actual signatures as appearing on the nomination paper.

**[17] Section 79 (3A) and (4)**

Insert after “enrolled.” and before “(Signed)” wherever occurring:

I specify that my given name should be printed on the ballot papers for the election in the following form:

**Note.** An alternative form of a candidate’s given name may only be:

- (a) an initial standing for that name, or
- (b) a commonly accepted variation of the name (including an abbreviation or truncation of that name or an alternative form of that name), or
- (c) a commonly used other name specific to the candidate by which the candidate is usually identified (if the Electoral Commissioner is satisfied that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified).

**[18] Section 79 (4B)**

Insert after section 79 (4A):

(4B) A given name of a candidate specified in a nomination paper under subsection (3A) or (4) as the form in which that name should be printed on the ballot papers for the election may differ from the candidate’s given name as it appears on the roll only to the extent that the given name is specified by:

- (a) an initial standing for that name, or
- (b) a commonly accepted variation of the name (including an abbreviation or truncation of that name or an alternative form of that name), or
- (c) a commonly used other name specific to the candidate by which the candidate is usually identified (if the Electoral Commissioner is satisfied that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified).

**[19] Section 79 (7A)**

Omit “at the time of the delivery of the nomination paper”.

Insert instead “, by 12 noon on the day of nomination,”.

**[20] Section 79A Withdrawal of nomination for Assembly election**

Insert at the end of the section:

- (2) A notice may be delivered to the Electoral Commissioner under this section by transmitting it by facsimile or email to the facsimile number or email address referred to in section 74 (1) (c1).

- (3) A notice is not validly transmitted by email unless:
- (a) an image of the completed notice signed by the candidate is included in or attached to the email, and
  - (b) that image includes an image of the actual signature as appearing on the notice.

**[21] Section 80 Proceedings on nomination day if one candidate only**

Omit “publish the declaration in a newspaper published or circulating” from section 80 (3).

Insert instead “as soon as is reasonably practicable publicly advertise the declaration”.

**[22] Section 81 When poll to be taken**

Omit “publish in a newspaper published or circulating” from section 81 (4).

Insert instead “as soon as is reasonably practicable publicly advertise”.

**[23] Section 81B Nomination of Council candidates**

Insert “as at 6 pm on the date of issue of the writ for a periodic Council election” after “a district” in section 81B (1).

**[24] Section 81B (2) (b)**

Insert “as at 6 pm on the date of issue of the writ for the election” after “a roll”.

**[25] Section 81B (3AA) and (3AB)**

Insert after section 81B (3):

- (3AA) A nomination paper may be delivered under this section by transmitting it by facsimile or email.
- (3AB) A nomination paper is not validly transmitted by email unless:
  - (a) an image of the completed nomination paper signed by the candidate and the registered officer or nominators concerned is included in or attached to the email, and
  - (b) that image includes an image of the actual signatures as appearing on the nomination paper.

**[26] Section 81B (3A) and (4)**

Omit the following wherever occurring:

<b>*Name in full of person nominated</b>	<b>Date of birth</b>	<b>Place of residence as enrolled</b>	<b>**Signature of person nominated</b>
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\* Underline surname.

\*\* The signature of the person nominated must appear opposite the person's name to signify the person's consent to nomination and to certify that the place of residence stated opposite the person's name is the person's place of residence as enrolled.

Insert instead:

<b>*Name in full of person nominated</b>	<b>Date of birth</b>	<b>Place of residence as enrolled</b>	<b>**Signature of person nominated</b>	<b>***Form of given name of person nominated to appear on ballot papers</b>
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\* Underline surname.

\*\* The signature of the person nominated must appear opposite the person's name to signify the person's consent to nomination and to certify that the place of residence stated opposite the person's name is the person's place of residence as enrolled.

\*\*\*An alternative form of a candidate's given name may only be:

- (a) an initial standing for that name, or
- (b) a commonly accepted variation of the name (including an abbreviation or truncation of that name or an alternative form of that name), or
- (c) a commonly used other name specific to the candidate by which the candidate is usually identified (if the Electoral Commissioner is satisfied that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified).

**[27] Section 81B (4B)**

Insert after section 81B (4A):

- (4B) A given name of a candidate specified in a nomination paper under subsection (3A) or (4) as the form in which that name is to be printed on the ballot papers for the election may differ from the candidate's given name as it appears on the roll only to the extent that the given name is specified by:
- (a) an initial standing for that name, or
  - (b) a commonly accepted variation of the name (including an abbreviation or truncation of that name or an alternative form of that name), or
  - (c) a commonly used other name specific to the candidate by which the candidate is usually identified (if the Electoral Commissioner is satisfied that the proposed name is a commonly used other name specific to the candidate by which the candidate is usually identified).

**[28] Section 81C Grouping of candidates**

Omit "to be published, at least one week before the day for the taking of the poll in the election, in one or more newspapers circulating throughout New South Wales" from section 81C (7) (d).

Insert instead "to be publicly advertised at least one week before the day for the taking of the poll in the election".

**[29] Section 81F Deposit for periodic Council election**

Omit "at the time of the delivery of the nomination paper" from section 81F (1).

Insert instead ", by 12 noon on the day of nomination,".

**[30] Section 81G Withdrawal of nomination for a periodic Council election**

Insert after section 81G (2):

- (3) A notice may be delivered to the Electoral Commissioner under this section by transmitting it by facsimile or email to the facsimile number or email address referred to in section 74D (1) (b1).
- (4) A notice is not validly transmitted by email unless:
  - (a) an image of the completed notice signed by the candidate is included in or attached to the email, and
  - (b) that image includes an image of the actual signature as appearing on the notice.



**[31] Section 81H Proceedings after close of nominations**

Omit “publish the declaration in some newspaper circulating in the State” wherever occurring in section 81H (1) and (2).

Insert instead “publicly advertise the declaration”.

**[32] Section 81H (3)**

Omit “publish in some newspaper circulating in the State”.

Insert instead “publicly advertise”.

**[33] Section 82A**

Omit the section. Insert instead:

**82A Returning officer to determine order in which candidates’ names are to appear on ballot paper**

If after noon on the day of nomination there are 2 or more candidates for election for a district, the returning officer is to determine the order in which the candidates’ names are to appear on the ballot papers by randomly selecting the names of candidates in a manner specified by the Electoral Commissioner (including by electronic means).

**[34] Section 83 Printing of ballot papers**

Insert after section 83 (b):

- (b1) the given name of each candidate is to be in the form specified in the candidate’s nomination paper (as provided by section 79 (4B)),

**[35] Section 83B Printing of ballot papers**

Omit section 83B (5) (c)–(e). Insert instead:

- (c) the given name of each candidate:
  - (i) is to be in the form specified in the candidate’s nomination paper (as provided by section 81B (4B)), and
  - (ii) is to be in less conspicuous type than the type in which the candidate’s surname is printed, and
  - (iii) may be printed on a line after the line on which the candidate’s surname is printed,

**[36] Section 87B**

Insert after section 87A:

**87B Mobile booths for pre-poll voting in remote districts**

**(1) Electoral Commissioner's functions**

The Electoral Commissioner:

- (a) may declare a district to be a remote district for the purposes of this section, and
- (b) may determine the places in that district that a team will visit for the purposes of this section, and
- (c) may determine the days and times when a team will visit those places (such a day must be after the day of nomination and before polling day or a day to which the polling is adjourned), and
- (d) must take such steps as the Electoral Commissioner thinks fit to give public notice of:
  - (i) the places determined under paragraph (b), and
  - (ii) the days and times determined under paragraph (c) when a team will visit those places for the purposes of this section.

**(2) Teams**

A team consists of 2 or more election officials, one of whom must be a pre-poll voting officer who is designated by the Electoral Commissioner as team leader. The team leader is to exercise the functions of the pre-poll voting officer under the following provisions of this section.

**(3) Visits and variation of places, days or times**

A team must make a visit or visits as notified under subsection (1) (d), but, if the team is unable for reasonable cause, or the pre-poll voting officer considers it inappropriate, to make such a visit, the officer may substitute another place, day or time for the visit and, in that event, must:

- (a) take such steps as he or she thinks fit to give public notice of the substituted place, day or time, and
- (b) inform the Electoral Commissioner.

**(4) Failure to visit does not invalidate election result**

Any failure by a team to make a visit in accordance with this section does not invalidate the result of the election.

**(5) Voting**

At any time when a team is at a place for the purposes of taking votes under this section in an election:

- (a) the pre-poll voting officer must have a pre-poll ballot box, ballot papers and such other things as are necessary for the votes of electors to be taken at the place, and
- (b) every person at the place who is entitled to vote in the election for the remote district concerned is entitled to have his or her vote taken under this section, and
- (c) for the purposes of, and in connection with, the taking of votes under this section:
  - (i) the place is taken to be a pre-poll voting place, and
  - (ii) the pre-poll voting officer is taken to be the pre-poll voting officer at that pre-poll voting place, and
- (d) an elector's vote is, so far as is reasonably practicable, to be taken and dealt with in all respects as if the vote were recorded at a pre-poll voting place under usual conditions, but section 114P is to be disregarded in relation to:
  - (i) the qualifications to vote before election day, and
  - (ii) pre-poll voting times.

**(6) Ballot box to be secured and forwarded to returning officer**

At the end of the last visit made by a team for the purposes of this section, the pre-poll voting officer must, in the presence of any other election official assisting the officer and any scrutineers who are present:

- (a) publicly close, fasten, seal and take charge of the ballot box used by the officer for the purposes of this section, and
- (b) with the least possible delay, forward it for the purposes of scrutiny to the returning officer for the district concerned.

**(7) Relationship of this section to other provisions**

In relation to a district declared by the Electoral Commissioner to be a remote district, and without affecting subsection (5) (d), the provisions of this section apply in addition to, and without derogation from, the application of any other provision of this Act. However, any such other provision applies with any necessary modifications.

- [37] Section 89 Polling place managers to be furnished with copies of rolls and ballot papers**  
Omit section 89 (1) (a). Insert instead:
- (a) provide for use at each polling place sufficient authorised copies of the roll for the district in which the poll is to be taken, and
- [38] Section 89 (1A) (a)**  
Omit the paragraph. Insert instead:
- (a) at least one printed authorised copy of the roll for his or her district, and
- [39] Section 89 (2) (b)**  
Omit the paragraph.
- [40] Section 89 (3)**  
Omit the subsection. Insert instead:
- (3) An *authorised copy of the roll* referred to in subsections (1) and (1A) is a printed or electronic copy of the roll of the electors for the district as at the date of the issue of the writ for the election for which the polling place has been declared to be a polling place, but does not include the names of any elector who will not have attained the age of 18 years on polling day.
- [41] Section 102A**  
Insert after section 102:
- 102A Marking of roll**
- Immediately on delivering a ballot paper to a voter, an election official must, in a manner specified by the Electoral Commissioner, record that delivery on the printed or electronic authorised copy of the roll.
- [42] Section 104A**  
Insert after section 104:
- 104A Ballot papers may be photocopied, written or otherwise reproduced**
- (1) If a polling place does not have or runs out of ballot papers printed in accordance with section 83 or 83B, the returning officer, polling place manager or other election official in charge

at the time may have the ballot paper reproduced (including by photocopying or by copies being obtained by use of facsimile or email).

- (2) A ballot paper so reproduced is still required to be in or to the effect of the form prescribed in Schedule 4 or 4A, as the case requires, and is to be in the same general format as the ballot paper printed in accordance with section 83 or 83B.
- (3) A ballot paper so reproduced and complying with subsection (2) is as valid as a ballot paper printed in accordance with section 83 or 83B.

**[43] Section 112 False answer to questions etc or multiple voting**

Omit “twice” from section 112 (1) (d). Insert instead “more than once”.

**[44] Section 120C Penalty notices for certain offences**

Omit “by leaving it at, or sending it by post to, the residence of the elector set out on the roll used at the election” from section 120C (1).

**[45] Section 120C (1A)**

Insert after section 120C (1):

- (1A) A penalty notice may be served personally or by post.

**[46] Section 120C (2) (b)**

Omit “\$25”. Insert instead “\$55”.

**[47] Section 120F Offences relating to failure to vote**

Omit “0.5 penalty unit” wherever occurring in section 120F (1) and (2).

Insert instead “1 penalty unit”.

**[48] Section 120J Additional provisions applicable where polling day for Assembly and periodic Council elections is same day**

Omit “the copy of the printed roll and the certified copies of rolls in force” from section 120J (j).

Insert instead “the authorised copies of the rolls”.

**[49] Section 123 Sealing and transmission by polling place managers of separate parcels of ballot papers etc**

Insert “and” after “election,” in section 123 (a).

**[50] Section 123 (c)**

Omit “the certified copies of rolls”.

Insert instead “any printed authorised copies of the rolls”.

**[51] Section 123 (d)**

Insert at the end of section 123 (c):

and

- (d) if, in accordance with section 102A, a recording has been made on an electronic authorised copy of the roll, or on another file, on a computer at the polling place to show the delivery of a ballot paper to a voter—in a fourth separate parcel, a copy of the electronic authorised copy of the roll, or other file, so marked by that recording (such as on a memory stick or a disc as directed by the Electoral Commissioner),

**[52] Section 125 Returning officers’ parcels**

Insert “and, if relevant, copies of the electronic authorised copy of the roll, or other files, showing the delivery of ballot papers to voters at such polling booths” after “such polling booths”.

**[53] Section 125A Parcels of postal, pre-poll or absent ballot papers etc**

Omit section 125A (3). Insert instead:

- (3) Section 127 applies to parcels referred to in subsection (1) as if they were parcels of marked and unmarked ballot papers referred to in that section.

**[54] Section 126 Declaration of poll**

Omit section 126 (2B). Insert instead:

- (2B) As soon as practicable after being notified of the result of the election, the Electoral Commissioner must announce the result of the election by notice:
  - (a) published in a newspaper circulating in the State, or
  - (b) displayed on the Commission’s Internet website.

**[55] Section 127**

Omit sections 127–129. Insert instead:

**127 Security of election materials**

- (1) The returning officer, after a declaration that a candidate has been duly elected, is to:
  - (a) parcel the marked and unmarked ballot papers, authorised copies of the roll and other papers and materials used in the election in the manner specified by the Electoral Commissioner, and
  - (b) forward the parcels to the Electoral Commissioner.
- (2) The Electoral Commissioner must have the parcels kept securely until the latest of the following:
  - (a) the period of 6 months after the day of polling has expired,
  - (b) the period during which the validity of the election may be disputed under this Act has expired,
  - (c) if a petition has or petitions have been filed under section 155—the Court of Disputed Returns has determined the matters referred to in the petition or petitions,
  - (d) if the Electoral Commissioner has consented to the use of the papers and materials in the parcels for research or analysis—the conclusion of that research or analysis.
- (3) On the expiry of the Electoral Commissioner’s obligation under subsection (2), he or she may cause the parcels and their contents to be destroyed.

**[56] Section 129C Sealing and transmission of separate parcels of ballot papers etc**

Insert “and” after “polling,” in section 129C (1) (a).

**[57] Section 129C (1) (c)**

Omit “the certified copies”. Insert instead “any printed authorised copies”.

**[58] Section 129C (1) (c1)**

Insert at the end of section 129C (1) (c):

- and
- (c1) if, in accordance with section 102A, a recording has been made on an electronic authorised copy of the roll, or on another file, on a computer at the polling place to show the delivery of a ballot paper to a voter—in a fourth separate

parcel, a copy of the electronic authorised copy of the roll, or other file, so marked by that recording (such as on a memory stick or a disc as directed by the Electoral Commissioner),

**[59] Section 129C (2)**

Omit “(1) (c) does”. Insert instead “(1) (c) and (c1) do”.

**[60] Section 129G Declaration of poll**

Omit section 129G (3). Insert instead:

- (3) As soon as practicable after the count has been completed, the Electoral Commissioner must announce the result of the election by notice:
  - (a) published in a newspaper circulating in the State, or
  - (b) displayed on the Commission’s Internet website.

**[61] Section 129H**

Omit sections 129H–129J. Insert instead:

**129H Security of election materials**

- (1) The Electoral Commissioner, after a declaration that candidates have been duly elected, must have the marked and unmarked ballot papers, authorised copies of the roll and other papers and materials used in the election kept securely until the latest of the following:
  - (a) the period of 6 months after the day of polling has expired,
  - (b) the period during which the validity of the election may be disputed under this Act has expired,
  - (c) if a petition has or petitions have been filed under section 155—the Court of Disputed Returns has determined the matters referred to in the petition or petitions,
  - (d) if the Electoral Commissioner has consented to the use of the papers and materials in the parcels for research or analysis—the conclusion of that research or analysis.
- (2) On the expiry of the Electoral Commissioner’s obligation under subsection (1), he or she may cause those papers and materials to be destroyed.



**[62] Section 138**

Insert after section 137:

**138 Electoral information**

- (1) After an election, the Commission must ensure that the following information is publicly available:
  - (a) the number of first preference votes given for each candidate,
  - (b) in relation to a periodic Council election—the number of first preference votes given for each group,
  - (c) the details of distribution of preference votes.
- (2) After an election, the Commission must ensure that:
  - (a) each registered party that so requests, and
  - (b) each member of Parliament who is not a member of a registered party and who makes a request in respect of the member's district,is provided with electoral information containing the names and the addresses of electors who voted (other than silent electors and itinerant electors), whether they voted personally or by post and, if they voted at a polling place for the district for which the electors were enrolled, the location of that polling place.
- (3) Electoral information provided under subsection (2) must only be used in connection with an election.
- (4) A person must not use, or cause or permit the use of, electoral information provided under this section for any purpose other than in connection with an election.

Maximum penalty: 1,000 penalty units.

**[63] Section 151B Exhibition of posters**

Omit section 151B (1). Insert instead:

**(1) Posters at polling place**

A person must not, at any time on the day of polling for an election, display or cause to be displayed any poster of any size:

- (a) within a polling place, or
- (b) within 6 metres of an entrance to a polling place, or
- (c) on the exterior of a building used as a polling place.

Maximum penalty: 3 penalty units.

(2) **Posters in grounds of enclosure of polling place**

Without limiting subsection (1), a person must not, at any time on the day of polling for an election, display or cause to be displayed any poster exceeding 8,000 square centimetres in area within the grounds of an enclosure in which a building used for polling is situated.

Maximum penalty: 3 penalty units.

(2AA) **Posters on boundary of enclosure of polling place**

A person must not, at any time on the day of polling for an election, display or cause to be displayed any poster exceeding 8,000 square centimetres in area on the outer wall, fence or other boundary of the grounds of an enclosure in which a building used for polling is situated.

Maximum penalty: 3 penalty units.

**[64] Section 151B (4)**

Insert after section 151B (3):

- (4) Subsection (2A) (a) does not apply in relation to a poster:
- (a) on the outer wall, fence or other boundary of the grounds of an enclosure in which a building used for polling is situated, or
  - (b) within the grounds of an enclosure in which a building used for polling is situated, or
  - (c) on a vehicle on a road or road related area (within the meaning of the *Road Transport (General) Act 2005*), or
  - (d) fixed or attached to a table or stall on a footpath or other public place at any time on the day of polling for an election.

**[65] Section 151B (6), definition of “the prescribed size”**

Omit the definition.

**[66] Section 151B (8)**

Insert after section 151B (7):

(8) **Extension of poster offence provisions to pre-poll voting places**

For the purposes of subsection (1):

- (a) a reference to a polling place is taken to include a reference to a pre-poll voting place, and

- (b) in relation to such a pre-poll voting place, a reference to “at any time on the day of polling for an election” is taken to be a reference to “during the hours appointed for that place under section 114P”.

**[67] Section 151EA**

Insert after section 151E:

**151EA Authorisation of advertisements on electronic billboards, digital road signs etc to be displayed**

A person must not display any matter, being an advertisement or notice, containing any electoral matter (within the meaning of section 151B), on an electronic billboard, digital road sign or other similar device, unless the matter contains, in visible, legible characters, the name and address of the person on whose instructions the matter was displayed.

Maximum penalty: 5 penalty units or imprisonment for 6 months.

**[68] Section 151G Registration of electoral material**

Omit “ticket” wherever occurring in section 151G (8) (a), (c), (d) and (e).

Insert instead “voting directions”.

**[69] Section 151GA Registration of electoral matter involving joint voting directions**

Omit “ticket” wherever occurring in section 151GA (1) and (2).

Insert instead “voting directions”.

**[70] Section 151H Prohibition of canvassing near polling places**

Omit section 151H (1) (e).

**[71] Part 5, Division 18**

Omit the Division. Insert instead:

**Division 18 Polling in Antarctica**

**154AA Electoral Commissioner to approve procedures for voting in Antarctica**

The Electoral Commissioner is to approve procedures to enable:

- (a) any Antarctic elector, where practicable, to vote at an election, and

- (b) any vote cast in accordance with procedures approved under this section to be transmitted to the Electoral Commissioner.

**154AB Entitlement to vote in Antarctica**

Any elector enabled to vote under procedures approved under section 154AA is entitled to vote in accordance with those procedures.

**154AC Votes from Antarctica to be counted with postal votes**

Any vote cast by an elector and transmitted to the Electoral Commissioner in accordance with procedures approved under section 154AA is to be counted with the postal votes for that election.

**154AD Requirements for voting procedures in Antarctica**

Procedures approved under section 154AA are, as far as practicable, to provide for authentication of the vote of an elector and the preservation of the secrecy of that vote.

**154AE Votes from Antarctica not to be disclosed**

Any person who becomes aware of how an elector, voting in accordance with procedures approved under section 154AA, voted is not to disclose this information to any other person except in accordance with an approved procedure.

Maximum penalty: 0.5 penalty unit.

**[72] Section 163 Inquiries by Court**

Omit section 163 (2).

**[73] Section 180 Summary penalties for neglect**

Omit the section.

**[74] Schedule 22 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Parliamentary Electorates and Elections Amendment (Automatic  
Enrolment) Act 2009*

**[75] Schedule 22, Part 3**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009**

**9 Persons enrolled for a subdivision taken to be enrolled for a district**

A person who was enrolled for a subdivision of a district immediately before the commencement of Schedule 1 [7] to the *Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009* is taken, on the commencement of that item, to be enrolled for that district.

**10 Commonwealth roll for purposes of election**

- (1) The Electoral Commissioner may request that the Australian Electoral Officer for New South Wales certify, sign and transmit to the Electoral Commissioner a printed copy of the roll for each Commonwealth subdivision in a district as in force on a specified date.
- (2) A copy of the roll so transmitted to the Electoral Commissioner may be used by the Electoral Commissioner to compile a roll for the electoral district which includes the Commonwealth subdivision.
- (3) The regulations may make provision for or with respect to the supply and certification of a composite roll for a district made up of all rolls for Commonwealth subdivisions within that district.
- (4) A copy of a roll referred to in this clause must not contain any particulars relating to a person's occupation.

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## **Schedule 6 Amendment of other legislation**

### **6.1 Geographical Names Act 1966 No 13**

#### **Section 2 Definitions**

Omit “or subdivision” from the definition of *Place*.

### **6.2 Government Information (Public Access) Act 2009 No 52**

#### **Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure**

Insert in alphabetical order in clause 1:

*Parliamentary Electorates and Elections Act 1912*—section 48  
(Privacy—non-disclosure of information)

### **6.3 Local Government Act 1993 No 30**

#### **[1] Section 210A Consultation, public notice and exhibition of proposals regarding ward boundaries**

Omit “subdivisions” from section 210A (1) (a). Insert instead “districts”.

#### **[2] Section 266 Who has the right to be enrolled as an elector?**

Omit “section 21” from section 266 (2). Insert instead “section 25”.

### **6.4 Local Government (General) Regulation 2005**

#### **Clause 393**

Insert after clause 392A:

#### **393 Electoral information**

- (1) After an election, the Electoral Commission must ensure that:
  - (a) each registered political party that so requests, and
  - (b) each councillor and mayor who is not a member of a registered political party and who makes a request in respect of the councillor’s and mayor’s ward or area, as appropriate,

is provided with electoral information containing the names and the addresses of electors who voted (other than silent electors), whether they voted personally or by post and, if they voted at a polling place for the ward or area for which the electors were enrolled, the location of that polling place.

- (2) The provisions of section 138 (3) and (4) of the *Parliamentary Electorates and Elections Act 1912* are adopted in connection with electoral information provided under subclause (1) as set out in subclauses (3) and (4), including the penalty set out at the end of subclause (4).

**Note.** Section 748 (3) and (4) of the Act provide for the creation of offences in connection with elections and polls by adopting, with such modifications as are necessary, any of the provisions of the *Parliamentary Electorates and Elections Act 1912*, and for the penalty for such an offence not to exceed the penalty for the corresponding offence in that Act.

- (3) Electoral information provided under subclause (1) must only be used in connection with an election.
- (4) A person must not use, or cause or permit the use of, electoral information provided under this clause for any purpose other than in connection with an election.

Maximum penalty: 1,000 penalty units.

## **6.5 Parliamentary Electorates and Elections Act 1912 No 41**

### **Section 48 Privacy—non-disclosure of information**

Omit section 48 (6).

## **6.6 Parliamentary Electorates and Elections Amendment Act 2006 No 68**

### **[1] Schedule 5, heading**

Omit the heading to Schedule 5. Insert instead:

## **Schedule 5 Amendment of Part 4 of Principal Act**

**[2] Schedule 5 [3]**

Omit:

**[3] Section 21E**

Insert after section 21D:

**21E Contributions from local councils for cost of maintaining the roll**

Insert instead:

**[3] Section 49A**

Insert after section 49:

**49A Contributions from local councils for cost of maintaining the roll**

**[3] Schedule 5 [3], proposed section 49A (as amended by item [2])**

Omit “section 21B”. Insert instead “section 49”.

[Second reading speech made in Legislative Council on 12 November 2009  
Agreement in principle speech made in Legislative Assembly on 1 December 2009]

BY AUTHORITY