



Commonwealth Electoral Act 1918

Act No. 27 of 1918 as amended

This compilation was prepared on 16 May 2005
taking into account amendments up to Act No. 38 of 2005

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,
Attorney-General's Department, Canberra

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An Act to Consolidate and Amend the Law relating to Parliamentary Elections and for other purposes

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Commonwealth Electoral Act 1918*.

2 Commencement [see Note 1]

The several Parts and sections of this Act shall commence on such dates as are respectively fixed by proclamation.

3 Repeal [see Note 2]

- (1) The several Parts and sections of the following Acts, namely: the *Commonwealth Electoral Act 1902*, the *Commonwealth Electoral Act 1905*, the *Commonwealth Electoral Act 1906*, the *Disputed Elections and Qualifications Act 1907*, the *Commonwealth Electoral Act 1909*, the *Commonwealth Electoral Act 1911*, the *Commonwealth Franchise Act 1902*, and the *Electoral Divisions Act 1903*, are repealed as from such dates as are respectively fixed by proclamation.
- (2) All appointments, divisions, subdivisions, polling places, electoral rolls, regulations, notices, proceedings, and all other matters and things duly appointed, made, commenced, or done under the Acts hereby repealed and in force, current, operative, or pending at the commencement of this Act shall, subject to this Act, be of the same force or effect in all respects as if this Act had been in force when they were so appointed, made, commenced, or done, and they had been respectively appointed, made, commenced, or done hereunder.

4 Interpretation

(1) In this Act unless the contrary intention appears:

abbreviation of the name of a political party means a shortened version, or an acronym, of the party's name and does not include an alternative name of the party.

Antarctic elector means an elector who is entitled under Part XVII to be treated as an Antarctic elector.

Approved means approved by the Electoral Commission by notice published in the *Gazette*.

Australia includes:

- (a) Norfolk Island; and
- (b) the Territory of Cocos (Keeling) Islands; and
- (c) the Territory of Christmas Island.

Australian Capital Territory includes the Jervis Bay Territory.

Census means a Census of the population taken under section 8 of the *Census and Statistics Act 1905*.

certified list of voters, in respect of a Division, means a list prepared and certified under subsection 208(1).

child of a person includes:

- (a) an ex-nuptial child of the person; and
- (b) a child adopted by the person.

Compartment, in relation to a polling booth, means a compartment constructed in the polling booth in pursuance of section 206.

Controller-General of Prisons means the Controller-General or other principal officer of a State or Territory having control of the prisons and gaols of the State or Territory.

courier service means a service that provides for the collection, at the request of a person using the service, of an article from a place specified by or on behalf of that person and the delivery of the article to another place so specified, being a service approved by an Australian Electoral Officer or by the Electoral Commissioner.

declaration vote means:

- (a) a postal vote;
- (b) a pre-poll vote;
- (c) an absent vote; or
- (d) a provisional vote.

Deputy Electoral Commissioner means the Deputy Electoral Commissioner referred to in section 19.

Division means an Electoral Division for the election of a member of the House of Representatives.

DRO means Divisional Returning Officer.

Elector means any person whose name appears on a Roll as an elector.

Electoral Commission means the Australian Electoral Commission established by section 6.

Electoral Commissioner means the Electoral Commissioner referred to in section 18.

electoral matter means matter which is intended or likely to affect voting in an election.

Eligible overseas elector means an elector who is entitled under section 94 or 95 to be treated as an eligible overseas elector.

facsimile, in relation to a nomination paper, means:

- (a) a copy of a nomination paper that has been reproduced by facsimile telegraphy or any other means; or
- (b) a copy of a copy referred to in paragraph (a).

General election means a general election of the members of the House of Representatives.

Hospital includes a convalescent home or an institution similar to a hospital or to a convalescent home.

House of Representatives election means an election of a member of the House of Representatives.

Section 4

Issuing point, in relation to a polling booth, means a place within the polling booth at which ballot-papers are issued to persons voting at the booth.

Itinerant elector means an elector who is entitled under section 96 to be treated as an itinerant elector.

Justice of the Peace means a Justice of the Peace of the Commonwealth, or part of the Commonwealth, or of a State, or part of a State.

Northern Territory includes the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

nursing home means an institution (other than a hospital) in which infirm, ill or disabled persons needing continuing nursing care are provided with accommodation and nursing care.

officer includes the Electoral Commissioner, the Deputy Electoral Commissioner, the Australian Electoral Officer for a State or Territory, a Divisional Returning Officer, an Assistant Returning Officer, an Assistant Divisional Returning Officer, an Antarctic Returning Officer, an Assistant Antarctic Returning Officer, a presiding officer, a deputy presiding officer, a substitute presiding officer, an assistant presiding officer, a pre-poll voting officer, an electoral visitor, a mobile polling team leader and a mobile polling team member.

Organization includes:

- (a) a body corporate;
- (b) an association or other body of persons;
- (c) an association that consists of 2 or more organizations within the meaning of the preceding paragraphs; and
- (d) a part of an organization within the meaning of a preceding paragraph.

Part, in relation to an organization, includes:

- (a) a branch or division of the organization; and
- (b) a part of a part of the organization.

police officer means a member of the Australian Federal Police or of the police force of a State or Territory.

Political party means an organization the object or activity, or one of the objects or activities, of which is the promotion of the election to the Senate or to the House of Representatives of a candidate or candidates endorsed by it.

Polling booth means a building, structure, vehicle or enclosure, or a part of a building, structure, vehicle or enclosure, provided at a polling place, in pursuance of paragraph 203(1)(a), for the purpose of taking votes during polling.

polling official means a deputy presiding officer or an assistant presiding officer.

Polling place means a place appointed as a polling place in pursuance of section 80.

pre-poll voting office for an election means a place declared by the Electoral Commission under subsection 200D(2) to be a pre-poll voting office for the election.

pre-poll voting officer means:

- (a) an Assistant Divisional Returning Officer; or
- (b) an officer appointed under section 200B.

prescribed authority means:

- (a) the Agency Head of an Agency (within the meaning of the *Public Service Act 1999*) that is specified in regulations made for the purposes of this definition; or
- (b) the chief executive officer of an authority of the Commonwealth that is specified in regulations made for the purposes of this definition.

provisional vote means a vote cast under section 235.

real place of living includes the place of living to which a person, when temporarily living elsewhere, has a fixed intention of returning for the purpose of continuing to live at that place.

Registered medical practitioner means a person registered or licensed as a medical practitioner under the law of a State or Territory, being a law that provides for the registration or licensing of medical practitioners.

Section 4

Registered political party means a political party that is registered under Part XI.

Register of Political Parties means the Register of Political Parties established under section 125.

Registrar-General means the Registrar-General or other Principal Officer of a State who is charged with the duty of registering deaths occurring and marriages celebrated in the State.

Returning Officer includes Divisional Returning Officer, Assistant Returning Officer and Assistant Divisional Returning Officer.

Roll means an Electoral Roll under this Act.

Senate election means an election of Senators for a State or Territory.

Special hospital means a special hospital within the meaning of section 225.

spouse, in relation to a person (the **relevant person**), includes a person who, although not legally married to the relevant person, lives with the relevant person as the spouse of the relevant person on a permanent and bona fide domestic basis.

Subdivision means a subdivision of a Division.

substitute presiding officer means a person holding an appointment under section 204.

Territory means the Australian Capital Territory or the Northern Territory.

video recording includes a video recording that is recorded on means other than a videotape.

- (2) For the purposes of this Act, an organization shall be taken to endorse a candidate in an election if a part of the organization, or an organization of which the first-mentioned organization is a part, endorses the candidate in that election.
- (3) A reference in this Act to age 17 enrolment shall be read as a reference to enrolment in pursuance of section 100.

- (4) Where a Division is not divided into Subdivisions, a reference in this Act to a Subdivision shall, in relation to that Division, be read as a reference to that Division.
- (5) In this Act, unless the contrary intention appears:
- (a) a reference to a Division shall be read as including a reference to the Northern Territory; and
 - (b) a reference to a Subdivision shall be read as including a reference to a District of that Territory specified in a notice published under subsection 79(1).
- (5A) If Part IV commences to apply to the Northern Territory in accordance with section 55A, subsection (5) shall, on and from the day of the first determination in relation to the Northern Territory under section 73 or 76 after that commencement, have effect as if:
- (a) paragraph (a) were omitted; and
 - (b) the words “of that Territory” were omitted from paragraph (b).
- (6) This Act extends to:
- (a) Norfolk Island; and
 - (b) the Territory of Cocos (Keeling) Islands; and
 - (c) the Territory of Christmas Island.
- (7) In relation to a Senate election, a provision of this Act that:
- (a) provides for the giving of a document to; or
 - (b) confers a power or function on;
- the Australian Electoral Officer shall be taken to refer to the Australian Electoral Officer for the State or Territory in which the election is to be conducted.
- (8) In relation to an election of a member of the House of Representatives for a Division, a provision of this Act that:
- (a) provides for the giving of a document to; or
 - (b) confers a power or function on;
- the Divisional Returning Officer shall be taken to refer to the Divisional Returning Officer for that Division.
- (9) Without limiting the generality of the definition of *electoral matter* in subsection (1), matter shall be taken to be intended or likely to
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Section 4A

affect voting in an election if it contains an express or implicit reference to, or comment on:

- (a) the election;
 - (b) the Government, the Opposition, a previous Government or a previous Opposition;
 - (c) the Government or Opposition, or a previous Government or Opposition, of a State or Territory;
 - (d) a member or former member of the Parliament of the Commonwealth or a State or of the legislature of a Territory;
 - (e) a political party, a branch or division of a political party or a candidate or group of candidates in the election; or
 - (f) an issue submitted to, or otherwise before, the electors in connection with the election.
- (10) In this Act, a reference to the principal office of the Electoral Commission in a place is a reference to the office for the time being declared by the Electoral Commissioner, by notice published in the *Gazette*, to be the principal office of the Commission in that place.

4A Extraterritorial operation of Act

This Act extends to officers outside Australia.

4B Act to bind Crown

This Act binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

4C Registered officer of political party

- (1) Subject to subsection (2), a reference in this Act to the registered officer of a registered political party is a reference to the person shown in the Register of Political Parties as the registered officer of the party.
- (2) A reference in Part XIV or XVI to the registered officer of a registered political party includes a reference to a person for the

time being nominated by the registered officer of a party as a deputy registered officer of the party for the purposes of this Act.

- (3) A nomination under subsection (2):
- (a) shall be in writing, signed by the registered officer and lodged with the Commission;
 - (b) shall specify the name and address of the person nominated and bear the signature of that person; and
 - (c) may be revoked at any time by the registered officer by written notice lodged with the Commission.

4D Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part II—Administration

Division 1—Preliminary

5 Interpretation

In this Part:

acting Commissioner includes a person acting as the Electoral Commissioner.

appointed Commissioner means the Chairman or the non-judicial appointee.

Chairperson means the Chairperson of the Commission.

Commission means the Commission established by section 6.

Commissioner means a member of the Commission, and includes the Chairman.

electoral matters means matters relating to Parliamentary elections, elections and ballots under the *Workplace Relations Act 1996* and referendums.

electoral officer means the Electoral Commissioner, the Deputy Electoral Commissioner or an Australian Electoral Officer for a State.

eligible Judge means:

- (a) a Judge, other than the Chief Justice, of the Federal Court of Australia who has been a Judge of that Court for a period of at least 3 years; or
- (b) a former Judge of that Court who was such a Judge for a period of at least 3 years.

non-judicial appointee means the Commissioner referred to in paragraph 6(2)(c).

Parliamentary matters includes matters relating to the role and functions of the Parliament.

5A Application of Part in relation to Northern Territory

This Part has effect as if a reference to a State included a reference to the Northern Territory.

Division 2—The Australian Electoral Commission

6 Establishment of Commission

- (1) There is established by this section a Commission by the name of the Australian Electoral Commission.
- (2) The Commission shall consist of:
 - (a) a Chairperson;
 - (b) the Electoral Commissioner; and
 - (c) one other member.
- (3) The Chairperson and the non-judicial appointee shall be appointed by the Governor-General and shall hold office on a part-time basis.
- (4) The person appointed as Chairperson shall be a person whose name is included in a list of the names of 3 eligible Judges submitted to the Governor-General for the purposes of this section by the Chief Justice of the Federal Court of Australia.
- (5) A person shall not be appointed as the non-judicial appointee unless the person is the holder of:
 - (a) an office of Agency Head (within the meaning of the *Public Service Act 1999*); or
 - (b) an office established by or under an Act and having, in the opinion of the Governor-General, a status equivalent to that of an office referred to in paragraph (a).
- (6) The performance of the functions or the exercise of the powers of the Commission is not affected by reason only of there being one vacancy in the membership of the Commission.

7 Functions and Powers of Commission

- (1) The functions of the Commission are:
 - (a) to perform functions that are permitted or required to be performed by or under this Act, not being functions that:
 - (i) a specified person or body, or the holder of a specified office, is expressly permitted or required to perform; or

- (ii) consist of the appointment of a person to an office; and
 - (b) to consider, and report to the Minister on, electoral matters referred to it by the Minister and such other electoral matters as it thinks fit; and
 - (c) to promote public awareness of electoral and Parliamentary matters by means of the conduct of education and information programs and by other means; and
 - (d) to provide information and advice on electoral matters to the Parliament, the Government, Departments and authorities of the Commonwealth; and
 - (e) to conduct and promote research into electoral matters and other matters that relate to its functions; and
 - (f) to publish material on matters that relate to its functions; and
 - (fa) to provide, in cases approved by the Minister for Foreign Affairs and Trade, assistance in matters relating to elections and referendums (including the secondment of personnel and the supply or loan of materiel) to authorities of foreign countries or to foreign organisations; and
 - (g) to perform such other functions as are conferred on it by or under any law of the Commonwealth.
- (2) The Commission may perform any of the functions referred to in paragraphs (1)(b) to (f) (inclusive) in conjunction with the electoral authorities of a State, of the Australian Capital Territory or of the Northern Territory.
- (3) The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.

7A Supply of goods and services

- (1) Subject to this section, the Commission may make arrangements for the supply of goods or services to any person or body. The arrangements that may be made by the Commission include an arrangement under which an authorised person enters into an agreement, on behalf of the Commonwealth, for the supply of goods or services to a person or body. For this purpose, ***authorised person*** means a person who is authorised in writing by the Commission to enter into agreements under this subsection.

Section 7B

- (1A) The arrangements the Commission may make under subsection (1) may cover the same matters that may be covered by a section 84 arrangement.
- (1B) An arrangement under subsection (1) may supplement a section 84 arrangement.
- (2) The Commission may make arrangements for the supply of goods or services only to the extent that it can do so by using:
 - (a) information or materiel in its possession or in the possession of its officers or members of its staff, either under this Act or any other law; or
 - (b) expertise that it has acquired or that has been acquired by its officers or members of its staff, either under this Act or any other law.

7B Fees for goods and services

Unless otherwise provided by or under this Act or another Act, reasonable fees may be charged for goods or services supplied under section 7A.

8 Tenure and terms of office

- (1) Subject to this Division, an appointed Commissioner holds office for such period, not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (3) Where:
 - (a) at any time, a person who is the non-judicial appointee holds an office of a kind referred to in paragraph 6(5)(a);
 - (b) the person ceases to be the holder of that office; and
 - (c) the person does not, immediately upon ceasing to hold that office, commence to hold another such office;the person shall cease to be a Commissioner.
- (4) Where:
 - (a) a person who was appointed as the non-judicial appointee by virtue of holding an office referred to in paragraph 6(5)(b) ceases to hold that office; and

- (b) the person does not, immediately upon ceasing to hold that office, commence to hold an office of a kind referred to in paragraph 6(5)(a);
the person shall cease to be a Commissioner.
- (5) An appointed Commissioner holds office on such terms and conditions not provided for by this Act as are determined by the Governor-General.

9 Leave of absence

The Commission may grant the non-judicial appointee leave of absence from a meeting of the Commission.

10 Resignation

An appointed Commissioner may resign by delivering to the Governor-General a signed notice of resignation.

11 Disclosure of interests

- (1) A Commissioner or an acting Commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Commission.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Commission and the Commissioner or acting Commissioner shall not, unless the Minister otherwise determines:
 - (a) be present during any deliberation of the Commission with respect to that matter; or
 - (b) take part in any decision of the Commission with respect to that matter.

12 Termination of appointment

If the non-judicial appointee:

- (a) is absent, except on leave granted by the Commission in accordance with section 9, from 3 consecutive meetings of the Commission; or

Section 13

(b) fails, without reasonable excuse, to comply with his or her obligations under section 11;
the Governor-General shall terminate the appointment of the non-judicial appointee.

13 Acting Chairperson

- (1) The Governor-General may appoint a person to act as Chairperson:
 - (a) during a vacancy in the office of Chairperson, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Governor-General may at any time terminate an appointment made under subsection (1).
- (3) Where a person is acting as Chairperson in accordance with paragraph (1)(b) and the office of Chairperson becomes vacant while that person is so acting, that person may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of a person to act as Chairperson ceases to have effect if the person delivers to the Governor-General a signed notice of resignation.
- (5) A person acting as Chairperson has, and may exercise, all the powers and shall perform all the functions of the Chairperson.
- (6) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had passed.

14 Acting non-judicial appointee

- (1) The Governor-General may appoint a person to act as the non-judicial appointee:
 - (a) during a vacancy in the office of the non-judicial appointee, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the non-judicial appointee is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office;but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Governor-General may at any time terminate an appointment made under subsection (1).
- (3) Where a person is acting as the non-judicial appointee in accordance with paragraph (1)(b) and the office of the non-judicial appointee becomes vacant while that person is so acting, that person may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of a person to act as the non-judicial appointee ceases to have effect if the person delivers to the Governor-General a signed notice of resignation.
- (5) A person acting as the non-judicial appointee has, and may exercise, all the powers and shall perform all the functions of the non-judicial appointee.
- (6) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had passed.

Section 14A

14A Remuneration

- (1A) This section applies to:
- (a) a person who is acting as Chairperson or as the non-judicial appointee; or
 - (b) the Chairperson, if he or she is a former Judge of the Federal Court of Australia.
- (1) A person to whom this section applies is to be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, the person shall be paid such remuneration as is prescribed.
- (2) The person shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

15 Meetings of Commission

- (1) The Chairperson may, at any time, convene a meeting of the Commission.
- (2) The Chairperson shall convene such meetings of the Commission as, in his or her opinion, are necessary for the efficient performance of its functions.
- (3) At a meeting of the Commission, 2 Commissioners constitute a quorum.
- (4) The Chairperson shall preside at all meetings of the Commission at which he or she is present.
- (5) If the Chairperson is not present at a meeting of the Commission, the Commissioners present shall elect one of their number to preside at that meeting.
- (6) Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the Commissioners present and voting.

- (7) The person presiding at a meeting of the Commission has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.
- (8) If, at any meeting of the Commission at which 2 Commissioners only are present, not being a meeting from which a Commissioner is absent by reason of section 11, the Commissioners differ in opinion on any matter, the determination of that matter shall be postponed to a full meeting of the Commission.
- (9) The Commission may regulate the conduct of proceedings at its meetings as it thinks fit.
- (10) In this section:
 - (a) a reference to the Chairperson shall, if a person is acting as Chairperson, be construed as a reference to the person so acting; and
 - (b) a reference to a Commissioner shall, if a person is acting as the Chairperson, the non-judicial appointee or the Electoral Commissioner, be construed as including a reference to the person so acting.

16 Delegation by Commission

- (1) The Commission may by resolution delegate to an appointed Commissioner, an electoral officer or a member of the staff of the Commission all or any of its powers under:
 - (a) this Act, other than its powers under Part IV; or
 - (b) any other law.
- (2) A certificate signed by the Chairperson stating any matter with respect to a delegation of a power under this section is *prima facie* evidence of that matter.
- (3) A document purporting to be a certificate under subsection (2) shall, unless the contrary is established, be taken to be such a certificate.

Section 17

17 Reports by the Commission

- (1) The Commission shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report of the operations of the Commission during the year that ended on that 30 June.
- (1A) A report under subsection (1) in relation to the operations of the Commission for the year ending on 30 June 2001, and for each subsequent year, must include particulars for that year of:
 - (a) each person or organisation to whom the Commission has provided a copy of a Roll under subsection 91(4A); and
 - (b) in respect of any Roll provided under paragraph 91(4A)(e)—the purpose for which the information was provided.
- (2) The Commission shall, as soon as practicable after the polling day in:
 - (a) a general election and any Senate election that had the same polling day as that general election; or
 - (b) a Senate election (other than a Senate election referred to in paragraph (a));prepare and furnish to the Minister a report of the operation of Part XX in relation to that election or those elections.
- (2A) A report under subsection (2) in relation to an election must include a list of the names of all persons who, in the opinion of the Commission, are or may be required to furnish a return under subsection 305(1), 305A(1) or 309(4) in relation to that election.
- (2B) The Commission may prepare and furnish to the Minister, otherwise than under subsection (2), such reports on the operation of Part XX as the Commission thinks appropriate.
- (2C) Subject to section 17A, the Commission must include in any report under this section particulars of the operation of subsection 316(2A) since the preparation of the last report under this section that included particulars of the operation of that subsection.
- (3) Section 34C of the *Acts Interpretation Act 1901* does not apply in relation to a report under subsection (2).

- (4) The Minister shall cause a copy of a report furnished under subsection (1), (2) or (2B) to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (5) A report under this section need not include particulars of a matter if those particulars have been included in an earlier report under this section.

17A Certain particulars not to be included in reports

- (1) A report under section 17 must not include particulars of any information given in evidence or contained in documents or other things produced in compliance with a notice under subsection 316(2A), being a notice served on a prescribed person or an officer of a prescribed person, unless, in the opinion of the Electoral Commission, the information relates to an offence that has, or may have been, committed against section 315.
- (2) In this section:

prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).

Division 3—Electoral Commissioner, Deputy Electoral Commissioner and Australian Electoral Officers for States

18 Electoral Commissioner

- (1) There shall be an Electoral Commissioner.
- (2) The Electoral Commissioner shall be the chief executive officer of the Commission and shall have such other functions, and such powers, as are conferred upon him or her by or under any law of the Commonwealth.
- (3) The Electoral Commissioner may give written directions to officers with respect to the performance of their functions, and the exercise of their powers, under this Act.

19 Deputy Electoral Commissioner

- (1) There shall be a Deputy Electoral Commissioner.
- (2) The Deputy Electoral Commissioner shall perform such duties as the Electoral Commissioner directs.
- (3) Subject to subsection (4), the Deputy Electoral Commissioner shall act as the Electoral Commissioner:
 - (a) during a vacancy in the office of the Electoral Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Electoral Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office.
- (4) The Deputy Electoral Commissioner shall not act as the Electoral Commissioner during a vacancy in the office of Electoral Commissioner while a person appointed under section 26 is acting in that office.

- (5) A person acting as the Electoral Commissioner has, and may exercise, all the powers and shall perform all the functions of the Electoral Commissioner.

20 Australian Electoral Officers for States

- (1) There shall be an Australian Electoral Officer for each State who shall, subject to the directions of the Electoral Commissioner, be the principal electoral officer in the State.
- (2) An Australian Electoral Officer for a State shall have such other functions, and such powers, as are conferred on him or her by any law of the Commonwealth or of a Territory.
- (3) An Australian Electoral Officer for a State may, subject to any directions given by the Electoral Commissioner, give written directions to officers with respect to the performance of their functions and the exercise of their powers under this Act in, or in relation to, the State.

21 Terms and conditions of appointment etc.

- (1) An electoral officer shall be appointed by the Governor-General.
- (2) Subject to this Act, an electoral officer holds office for such period, not exceeding 7 years, as is specified in the instrument of appointment, but is eligible for re-appointment.
- (4) An electoral officer holds office on such terms and conditions not provided for by this Act as are determined by the Governor-General.

22 Remuneration

- (1) An electoral officer shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the officer shall be paid such remuneration as is prescribed.
- (2) An electoral officer shall be paid such allowances (if any) as are prescribed.

Part II Administration

Division 3 Electoral Commissioner, Deputy Electoral Commissioner and Australian Electoral Officers for States

Section 23

- (3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

23 Leave of absence

- (1) An electoral officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Commission may grant an electoral officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Commission determines.

24 Resignation

An electoral officer may resign by delivering to the Governor-General a signed notice of resignation.

25 Termination of appointment

- (1) The Governor-General may terminate the appointment of an electoral officer by reason of misbehaviour or physical or mental incapacity.
- (2) If an electoral officer:
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) engages in paid employment outside the duties of his or her office without the approval of the Commission;
- the Governor-General shall terminate the appointment of the electoral officer.
- (3) If the Electoral Commissioner, or the Deputy Electoral Commissioner while acting as the Electoral Commissioner, fails, without reasonable excuse, to comply with his or her obligations under section 11, the Governor-General shall terminate his or her appointment as Electoral Commissioner or Deputy Electoral Commissioner, as the case may be.

26 Acting Electoral Commissioner

- (1) The Governor-General may appoint a person to act as the Electoral Commissioner:
 - (a) during a vacancy in the office of the Electoral Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when:
 - (i) the Electoral Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office; and
 - (ii) no person is acting as the Electoral Commissioner by virtue of holding the office of, or acting as, the Deputy Electoral Commissioner;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Governor-General may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting under subsection (1); and
 - (b) at any time terminate an appointment made under subsection (1).
- (3) Where a person is acting as the Electoral Commissioner in accordance with paragraph (1)(b) and the office of the Electoral Commissioner becomes vacant while that person is so acting, that person may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of a person to act as the Electoral Commissioner ceases to have effect if the person delivers to the Governor-General a signed notice of resignation.
- (5) A person acting as the Electoral Commissioner has, and may exercise, all the powers and shall perform all the functions of the Electoral Commissioner.

Part II Administration

Division 3 Electoral Commissioner, Deputy Electoral Commissioner and Australian Electoral Officers for States

Section 27

- (6) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had passed.

27 Acting Deputy Electoral Commissioner

- (1) The Governor-General may appoint a person to act as the Deputy Electoral Commissioner:
- (a) during a vacancy in the office of the Deputy Electoral Commissioner, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Deputy Electoral Commissioner is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office;
- but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Governor-General may:
- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting under subsection (1); and
 - (b) at any time terminate an appointment made under subsection (1).
- (3) Where a person is acting as the Deputy Electoral Commissioner in accordance with paragraph (1)(b) and the office of the Deputy Electoral Commissioner becomes vacant while that person is so acting, that person may continue so to act until the Governor-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.
- (4) The appointment of a person to act as the Deputy Electoral Commissioner ceases to have effect if the person delivers to the Governor-General a signed notice of resignation.
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- (5) A person acting as the Deputy Electoral Commissioner has, and may exercise, all the powers and shall perform all the functions of the Deputy Electoral Commissioner.
- (6) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had passed.

28 Delegation by Electoral Commissioner

The Electoral Commissioner may by signed instrument delegate to the Deputy Electoral Commissioner or an Australian Electoral Officer for a State or Territory all or any of the powers of the Electoral Commissioner under this Act, other than the powers conferred by Parts III and IV.

Division 4—Staff of the Commission

29 Staff

- (1) Subject to subsection (2), the staff of the Commission shall consist of:
 - (a) persons engaged under the *Public Service Act 1999* (including such persons holding offices established by this Division); and
 - (b) persons employed or engaged by the Commission under this Division.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Electoral Commissioner and the APS employees assisting the Electoral Commissioner together constitute a Statutory Agency; and
 - (b) the Electoral Commissioner is the Head of that Statutory Agency.

30 Australian Electoral Officer for the Australian Capital Territory

- (1) The Commission shall, for the purposes of each election, appoint an Australian Electoral Officer for the Australian Capital Territory and such an appointment shall terminate upon the completion of the election.
- (2) The Commission may appoint a person to act as Australian Electoral Officer for the Australian Capital Territory during any period, or during all periods, when the Australian Electoral Officer for the Territory is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office.
- (3) The appointment of a person to act as Australian Electoral Officer for the Australian Capital Territory ceases to have effect if the person delivers to the Commission a signed notice of resignation.
- (4) A person acting as Australian Electoral Officer for the Australian Capital Territory has, and may exercise, all the powers and shall perform all the functions of the Australian Electoral Officer for the Territory.

- (5) The validity of anything done by or in relation to a person purporting to act under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had passed.

31 Assistant Australian Electoral Officers for States

- (1) The Commission shall appoint an Assistant Australian Electoral Officer for each State.
- (2) An Assistant Australian Electoral Officer for a State shall assist the Australian Electoral Officer for the State.
- (3) An Assistant Australian Electoral Officer for a State shall act as Australian Electoral Officer for the State:
- (a) during a vacancy in the office of Australian Electoral Officer for the State, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the Australian Electoral Officer for the State is absent from duty or from Australia or is, for any other reason, unable to perform the functions of the office.
- (4) A person acting as Australian Electoral Officer for the Australian Capital Territory has, and may exercise, all the powers and shall perform all the functions of the Australian Electoral Officer for the State.

32 Divisional Returning Officers

- (1) There shall be a Divisional Returning Officer for each Division, who shall be charged with the duty of giving effect to this Act within or for the Division subject to the directions of the Electoral Commissioner and the Australian Electoral Officer for the State or, if the Division is, or is part of, the Australian Capital Territory, the directions of the Electoral Commissioner.

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- (2) A Divisional Returning Officer for a Division may, subject to any directions given by the Electoral Commissioner and, if the Division is part of a State, the Australian Electoral Officer for the State, give written directions to officers with respect to the performance of their functions and the exercise of their powers under this Act in, or in relation to, the Division.

33 Assistant Returning Officers

- (1) The Commission may, for the purposes of a particular election, appoint a person to be an Assistant Returning Officer:
 - (a) for a portion of a Division; or
 - (b) at a place outside Australia;and any such appointment shall terminate upon the completion of the election.
- (2) A person appointed to be an Assistant Returning Officer for a portion of a Division may, subject to the control of the Divisional Returning Officer, perform the functions and exercise the powers of the Divisional Returning Officer (other than those relating to postal voting) in, or in relation to, that portion of the Division.
- (3) A person appointed to be an Assistant Returning Officer at a place outside Australia may, subject to the control of the Electoral Commissioner, perform such functions and exercise such powers as are conferred on the person by this Act.

34 Assistant Divisional Returning Officers

- (1) A person may be appointed to be an Assistant Divisional Returning Officer for a Subdivision.
- (2) The Electoral Commissioner may appoint an Assistant Divisional Returning Officer for a District referred to in subsection 79(2).
- (3) A person appointed to be an Assistant Divisional Returning Officer for a Subdivision may, subject to the control of the Divisional Returning Officer for the Division in which the Subdivision is situated, perform the functions and exercise the powers of the Divisional Returning Officer in relation to that Subdivision.

35 Employment of additional staff, consultants etc.

- (1) The Commission may, on behalf of the Commonwealth, employ, under agreements in writing:
 - (a) such temporary staff as the Commission thinks necessary for the purposes of:
 - (i) the conduct of an election, referendum, ballot or Roll review; or
 - (ii) the conduct of education and information programs referred to in paragraph 7(1)(c); and
 - (b) such senior executive staff as the Commission thinks necessary to assist the Commission in the performance of its functions and otherwise for the purposes of this Act.
- (2) The Commission may, on behalf of the Commonwealth, engage, under agreements in writing, persons having suitable qualifications and experience as consultants to, or to perform services for, the Commission.
- (3) The terms and conditions of employment of persons employed under subsection (1) are such as are from time to time determined by the Commission.
- (4) The terms and conditions of engagement of persons engaged under subsection (2) are such as are from time to time determined by the Commission.

Division 5—Miscellaneous

36 Candidates not to be officers

No candidate shall be appointed an officer, and an officer who becomes a candidate shall thereby vacate his or her office.

37 Keeping of forms

All Divisional Returning Officers and Assistant Divisional Returning Officers shall keep forms of claim for enrolment and transfer and such other forms as are prescribed, and shall without fee supply them to the public and assist the public in their proper use.

38 Offices of Divisional Returning Officers

The office of a Divisional Returning Officer shall, unless the Commission otherwise directs, be located within the Division.

Part III—Representation in the Parliament

Division 1AA—Interpretation

38A Interpretation

In this Part, unless the contrary intention appears:

Northern Territory does not include the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island.

Territory means the Australian Capital Territory, the Northern Territory or an external territory other than Norfolk Island.

Division 1—Choosing of senators for Queensland

39 Senators to be directly chosen by people of State etc.

- (1) Senators for the State of Queensland shall be directly chosen by the people of the State voting as one electorate.
- (2) The Parliament of the State of Queensland may not make laws pursuant to section 7 of the Constitution dividing the State into divisions and determining the number of senators to be chosen for each division.

Division 2—Representation of the Territories in the Senate

40 Representation of the Territories in the Senate

- (1) Subject to subsection (2), the Australian Capital Territory and the Northern Territory shall each be represented in the Senate by 2 senators for the Territory directly chosen by the people of the Territory voting as one electorate.
- (2) Where the number of members of the House of Representatives to be chosen in the Australian Capital Territory or the Northern Territory at a general election is 6 or more, that Territory shall, on and from the day of the general election, be represented in the Senate by one senator for every 2 members of the House of Representatives to be chosen in that Territory.
- (3) Where the number of members of the House of Representatives to be chosen in the Australian Capital Territory or the Northern Territory at a general election is an odd number, subsection (2) applies as if the number were reduced by one.
- (4) Subject to subsection (5), a Territory (other than the Australian Capital Territory and the Northern Territory) is not entitled to separate representation in the Senate.
- (5) Where 2 or more members of the House of Representatives are to be chosen in a Territory (other than the Australian Capital Territory or the Northern Territory) at a general election, that Territory shall, on and from the day of the general election, be represented in the Senate by one senator for every 2 members of the House of Representatives to be chosen in that Territory.
- (6) Where the number of members of the House of Representatives to be chosen in a Territory (other than the Australian Capital Territory or the Northern Territory) at a general election is an odd number, subsection (5) applies as if the number were reduced by one.
- (7) Until the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island becomes entitled to separate representation in the Senate under subsection (5), this section has effect as if the

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Territory of Cocos (Keeling) Islands or the Territory of Christmas Island, as the case may be, were a part of the Northern Territory.

41 Powers, privileges and immunities of senator for Territory

- (1) A senator for a Territory has all the powers, privileges and immunities of a senator for a State and:
 - (a) shall be included in the whole number of the senators for the purpose of ascertaining the number of senators necessary to constitute a meeting of the Senate for the exercise of its powers and, if present, shall be counted for the purpose of determining whether the necessary number of senators are present; and
 - (b) has a vote on all questions arising in the Senate.
- (2) The provisions contained in sections 16, 19 and 20 and sections 42 to 48 (inclusive) of the Constitution, to the extent (if any) to which they do not apply, by virtue of the Constitution, in relation to a senator for a Territory, apply, by force of this subsection, in relation to such a senator in the same way as they apply in relation to a senator for a State.

42 Term of service of senator for Territory

The term of service of a senator for a Territory commences on the day of his or her election and expires at the close of the day immediately before the polling day for the next general election.

43 Time of elections of senators for Territories

An election of the senators for each Territory shall be held at the same time as each general election.

44 Casual vacancies in places of senators for Territories

- (1) If the place of a Senator for the Australian Capital Territory becomes vacant before the expiration of his or her term of service, the Legislative Assembly for the Australian Capital Territory shall choose a person to hold the place until the expiration of the term, but if the Legislative Assembly is not in session when the vacancy is notified, the Chief Minister for the Australian Capital Territory

may appoint a person to hold the place until the expiration of 14 days from the beginning of the next session of the Legislative Assembly or the expiration of the term, whichever first happens.

- (2) If the place of a senator for the Northern Territory becomes vacant before the expiration of his or her term of service, the Legislative Assembly of the Territory shall choose a person to hold the place until the expiration of the term, but if the Legislative Assembly is not in session when the vacancy is notified, the Administrator of the Territory, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of 14 days from the beginning of the next session of the Legislative Assembly or the expiration of the term, whichever first happens.
- (2A) If the place of a senator for a Territory other than the Northern Territory or the Australian Capital Territory becomes vacant before the expiration of his or her term of service, the members of the Senate and the House of Representatives, sitting and voting together at a joint sitting convened by the Governor-General, shall choose a person to hold the place until the expiration of the term, but if the Parliament is not in session when the vacancy is notified, the Governor-General may appoint a person to hold the place until the expiration of 14 days from the beginning of the next session of the Parliament or the expiration of the term, whichever first happens.
- (3) Where a vacancy has at any time occurred in the place of a senator chosen by the people of a Territory and, when chosen, the senator was publicly recognized by a particular political party as being an endorsed candidate of that party and publicly represented himself or herself to be such a candidate, a person chosen or appointed under this section in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, shall, unless there is no member of that party available to be chosen or appointed, be a member of that party.
- (4) Where:
 - (a) in accordance with subsection (3), a person who is a member of a particular political party is chosen or appointed to hold the place of a senator whose place had become vacant; and

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- (b) before commencing to hold the place, the person ceases to be a member of that party (otherwise than by reason of the party having ceased to exist);
the person shall be deemed not to have been so chosen or appointed and the vacancy shall be again notified in accordance with subsection (5).
- (5) Whenever the place of a senator for a Territory becomes vacant before the expiration of his or her term of service:
- (a) in the case of a senator for the Australian Capital Territory—the President of the Senate shall notify the Chief Minister for the Australian Capital Territory of the vacancy;
 - (b) in the case of a senator for the Northern Territory—the President of the Senate shall notify the Administrator of the Northern Territory of the vacancy; and
 - (c) in the case of a senator for a Territory other than the Northern Territory or the Australian Capital Territory—the President of the Senate shall notify the Governor-General of the vacancy.
- (6) The name of any senator chosen or appointed under subsection (1) or (2) shall be certified by the Chief Minister for the Australian Capital Territory or the Administrator of the Northern Territory, as the case may be, to the Governor-General.
- (6A) The name of any senator chosen by the members of the Senate and the House of Representatives under subsection (2A) shall be certified by the President of the Senate to the Governor-General.
- (7) Except in so far as the contrary intention appears in this section, an expression that is used in this section and in section 15 of the Constitution has, in this section, the same meaning as in section 15 of the Constitution.

Division 3—Representation of the States and Territories in the House of Representatives

45 Interpretation

- (1) In this Division, *people of the Commonwealth* does not include the people of any Territory that is referred to in section 122 of the Constitution.
- (2) For the avoidance of doubt, a resident of Norfolk Island who is one of the people of a State for the purposes of sections 7 and 24 of the Constitution is not one of the people of Norfolk Island for the purposes of subsection (1).

46 Ascertainment of numbers of people of Commonwealth, States and Territories

- (1) If a House of Representatives has continued for a period of 12 months after the day of the first meeting of that House, the Electoral Commissioner must ascertain the number of the people of each of the following:
 - (a) the Commonwealth;
 - (b) each of the States;
 - (c) the Australian Capital Territory;
 - (d) the Northern Territory;
 - (e) the Territory of Cocos (Keeling) Islands;
 - (f) the Territory of Christmas Island;
 - (g) each of the other Territories.
- (1A) The Electoral Commissioner must ascertain the numbers under subsection (1) on:
 - (a) the first day (the *reference day*) after the end of the period of 12 months referred to in that subsection; or
 - (b) if the reference day is a Saturday, a Sunday or a public holiday in the Australian Capital Territory—the next day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

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- (1B) The Electoral Commissioner must ascertain the numbers under subsection (1) using the statistics for the following populations that the Australian Statistician has, most recently before the reference day, compiled and published in a regular series under the *Census and Statistics Act 1905*:
- (a) the population of each State;
 - (b) the population of the Australian Capital Territory (not including the Jervis Bay Territory);
 - (c) the population of the Northern Territory;
 - (d) the population of the Jervis Bay Territory;
 - (e) the population of the Territory of Cocos (Keeling) Islands;
 - (f) the population of the Territory of Christmas Island;
 - (g) the population of each of the other Territories.
- (1C) The reference in subsection (1B) to statistics being published includes a reference to statistics being published electronically or in an electronic format.
- (2) People on the Roll of electors for a Territory because of subsection 95AA(3) are people of that Territory for the purposes of subsection (1) of this section.

47 Supply of statistical information by Australian Statistician

- (1) The Australian Statistician must, on request by the Electoral Commissioner, supply the Electoral Commissioner with:
- (a) the statistics referred to in subsection 46(1B); and
 - (b) the following information in relation to each of the Australian Capital Territory and the Northern Territory:
 - (i) the Australian Statistician's estimate of the net undercount for that Territory at the last Census;
 - (ii) the standard error of the measure of that estimate of the net undercount;
 - (iii) the upper and lower limits of the 95% confidence interval for the measure of that estimate of the net undercount; and
 - (c) any other statistical information that the Electoral Commissioner requires for the purposes of this Division.
- (2) For the purposes of this section:
-

- (a) the *standard error* of the measure of the estimate of the net undercount for a Territory at the last Census is the standard error estimate of the sampling error of the estimate of the net undercount as determined by the Australian Statistician; and
- (b) the *upper limit of the 95% confidence interval* for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount increased by a number equal to twice the standard error of the measure of that estimate of the net undercount; and
- (c) the *lower limit of the 95% confidence interval* for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount less a number equal to twice the standard error of the measure of that estimate of the net undercount; and
- (d) the Australian Statistician is to determine the following as population numbers (rather than as percentages or factors):
 - (i) the Australian Statistician's estimate of the net undercount for a Territory at the last Census;
 - (ii) the standard error of the measure of that estimate of the net undercount.

48 Determination of number of members of House of Representatives to be chosen in States and Territories

- (1) Subject to subsection (2G), the Electoral Commissioner shall, as soon as possible after he or she has ascertained, in accordance with section 46, the numbers of the people of the Commonwealth and of the several States and Territories:
 - (a) determine, in accordance with subsection (2), the number of members of the House of Representatives to be chosen in the several States at a general election; and
 - (b) determine, in accordance with subsections (2A), (2B), (2C) and (2F), the number of members (if any) of the House of Representatives to be chosen in the several Territories at a general election.
- (2) The number of members of the House of Representatives to be chosen in the several States at a general election shall, subject to

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the Constitution, be determined by the Electoral Commissioner in the following manner:

- (a) a quota shall be ascertained by dividing the number of people of the Commonwealth, as ascertained in accordance with section 46, by twice the number of the senators for the States;
 - (b) the number of members to be chosen in each State shall be determined by dividing the number of people of the State, as ascertained in accordance with section 46, by the quota and, if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.
- (2A) The Electoral Commissioner shall divide the number of people of each Territory, as ascertained in accordance with section 46, by the quota ascertained under paragraph (2)(a) and, subject to subsections (2B), (2C) and (2F), shall determine:
- (a) if the result of the division is less than or equal to 0.5—that no member of the House of Representatives be chosen in the Territory at a general election;
 - (b) if the result of the division is greater than 0.5 and less than or equal to 1.5—that one member of the House of Representatives be chosen in the Territory at a general election; or
 - (c) in any other case—that the number of members of the House of Representatives to be chosen in the Territory at a general election is the number ascertained by the division or, if there is a remainder greater than one-half of the quota, that number increased by one.
- (2B) At least one member of the House of Representatives shall be chosen in the Australian Capital Territory and in the Northern Territory at a general election.
- (2C) Subject to subsection (2F), if the Electoral Commissioner determines that, at a general election, no member of the House of Representatives is to be chosen in either or both of the following Territories:
- (a) the Territory of Cocos (Keeling) Islands;
 - (b) the Territory of Christmas Island;
- the following provisions shall have effect:

- (c) the ascertainment under section 46, and the determinations under this section, in respect of that Territory or those Territories, as the case may be, and in respect of the Northern Territory shall be deemed never to have been made;
 - (d) that Territory, or those Territories, as the case may be, shall be taken to be part of the Northern Territory;
 - (e) subject to subsection (2G), the Electoral Commissioner shall, as soon as possible:
 - (i) ascertain, under section 46, the number of the people of the Northern Territory; and
 - (ii) determine, under this section, the number of members of the House of Representatives to be chosen in the Northern Territory at a general election.
- (2D) To avoid doubt, subsection 46(1A) does not apply to the ascertainment of the number of the people of the Northern Territory under subparagraph (2C)(e)(i) of this section.
- Note: Subsection 46(1A) might otherwise require the fresh ascertainment of the number of the people of the Northern Territory under subparagraph (2C)(e)(i) of this section to be made immediately after the end of the 12 month period referred to in subsection 46(1).
- (2E) This subsection applies if:
- (a) apart from this subsection and subsection (2F), the result of dividing the number of the people of the Australian Capital Territory or the Northern Territory, as ascertained in accordance with section 46, by the quota ascertained under paragraph (2)(a) is:
 - (i) a whole number (the *relevant whole number*); and
 - (ii) a remainder that is less than or equal to one-half of that quota; and
 - (b) the difference between:
 - (i) the number obtained by multiplying that quota by the sum of the relevant whole number and one-half; and
 - (ii) the number of the people of the Territory, as ascertained in accordance with section 46;is less than or equal to twice the standard error of the measure of the Australian Statistician's estimate of the net undercount for that Territory at the last Census.

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- (2F) If subsection (2E) applies to the Australian Capital Territory or the Northern Territory:
- (a) the determination made under subsection (1) in accordance with:
 - (i) subsection (2A); or
 - (ii) subparagraph (2C)(e)(ii);in respect of that Territory is taken never to have been made; and
 - (b) the number of the people of that Territory, as ascertained in accordance with section 46, is taken to be increased by a number equal to twice the standard error referred to in paragraph (2E)(b); and
 - (c) subject to subsection (2G), the Electoral Commissioner must, as soon as possible, determine under this section the number of members of the House of Representatives to be chosen in that Territory at a general election.

Note: In certain circumstances, the number of the people of the Northern Territory will have been re-ascertained in accordance with section 46 because of the operation of subsection (2C).

- (2G) The determinations made under subsection (1), and paragraphs (2C)(e) and (2F)(c), must be made within 1 month after the end of the period of 12 months referred to in subsection 46(1).
- (3) Notwithstanding anything contained in any other law, but subject to the Constitution and to section 39B and Part VII of the *Judiciary Act 1903*, a decision by the Electoral Commissioner made, or purporting to be made, under subsection (1):
- (a) is final and conclusive;
 - (b) shall not be challenged, appealed against, reviewed, quashed, set aside or called in question in any court or tribunal on any ground; and
 - (c) is not subject to mandamus, prohibition, certiorari or injunction, or the making of a declaratory or other order, in any court on any ground.
- (4) A determination under subsection (1) shall be made by instrument in writing.

(5) In this section:

standard error of the measure of the Australian Statistician's estimate of the net undercount for a Territory in the last Census means the standard error estimate of the sampling error for that estimate of the net undercount that the Australian Statistician supplies to the Electoral Commissioner under paragraph 47(1)(b).

48A Northern Territory to elect 2 members of the House of Representatives in the next election

(1) The determination made by the Electoral Commissioner under subsection 48(1) on 19 February 2003 (the *2003 determination*) is set aside, on and from the day on which this section commences (the *commencement day*), to the extent to which that determination relates to the Northern Territory.

(2) To avoid doubt:

- (a) for the purposes of section 50, the number of members of the House of Representatives to be chosen in the Northern Territory at a general election that is held:
- (i) on or after the commencement day; and
 - (ii) before the first determination that is made by the Electoral Commissioner under subsection 48(1) after the commencement day;

is to be in accordance with the determination made by the Electoral Commissioner under subsection 48(1) most recently before the 2003 determination; and

- (b) for the purposes of section 86, 2 new Divisions are taken to be created for the Northern Territory on the commencement day.

Note 1: The 2003 determination specified that there would be 1 member of the House of Representatives to be chosen in the Northern Territory at a general election.

Note 2: The determination the Electoral Commissioner made under subsection 48(1) most recently before the 2003 determination was the determination made on 9 December 1999. That determination specified that there would be 2 members of the House of Representatives to be chosen in the Northern Territory at a general election.

Section 49

49 Notification of determination

- (1) The Electoral Commissioner shall, forthwith after he or she has determined, in accordance with section 48, the number of members of the House of Representatives to be chosen in the several States and Territories at a general election:
- (a) forward to the Minister a certificate setting out:
 - (i) the number, ascertained under section 46, of the people of each of the following:
 - (A) the Commonwealth;
 - (B) each of the States;
 - (C) the Australian Capital Territory;
 - (D) the Northern Territory;
 - (E) the Territory of Cocos (Keeling) Islands;
 - (F) the Territory of Christmas Island;
 - (G) each of the other Territories; and
 - (ii) the number of members of the House of Representatives so determined by him or her; and
 - (iii) details of any adjustments that were made to the statistical information supplied by the Australian Statistician in arriving at the numbers referred to in subparagraph (i) in order to give effect to the provisions of this Division; and
 - (iv) any calculations involved in arriving at those numbers, making those adjustments or determining the number of members of the House of Representatives to be chosen in a State or Territory at a general election; and
 - (b) cause a copy of the certificate to be published forthwith in the *Gazette*.

Note: Subparagraph (a)(iii)—Adjustments may be necessary to give effect, for example, to the subsection 4(1) definition of the *Australian Capital Territory*, to subsection 45(2), to subsection 46(2) or to subsection 48(2C) or (2F).

- (1A) The certificate must be published in the *Gazette* within 1 month after the end of the period of 12 months referred to in subsection 46(1).

- (2) The Minister shall cause copies of the certificate to be laid before each House of the Parliament within 5 sitting days of that House after receiving the certificate.

50 Number of members of House of Representatives to be chosen in States and Territories

The number of members of the House of Representatives to be chosen in each State and Territory at a general election shall be in accordance with the last determination made under subsection 48(1) before that general election.

51 Choice of member for Territory

Subject to subsection 95AA(3), a member of the House of Representatives representing a Territory shall be directly chosen by the people of the Territory.

53 Powers, privileges and immunities of member for Territory

- (1) A member of the House of Representatives chosen in a Territory has all the powers, privileges and immunities of a member of the House of Representatives chosen in a State and:
- (a) shall be included in the whole number of the members of the House of Representatives for the purpose of ascertaining the number of members necessary to constitute a meeting of the House for the exercise of its powers and, if present, shall be counted for the purpose of determining whether the necessary number of members are present; and
 - (b) has a vote on all questions arising in the House.
- (2) The provisions contained in sections 32, 33, 37 and 38 and sections 42 to 48 (inclusive) of the Constitution, to the extent (if any) to which they do not apply, by virtue of the Constitution, in relation to a member of the House of Representatives chosen in a Territory, apply, by force of this subsection, in relation to such a member in the same way as they apply in relation to a member of the House of Representatives chosen in a State.

Part III Representation in the Parliament

Division 3 Representation of the States and Territories in the House of Representatives

Section 54

54 Time of elections of members for Territories

An election of the members of the House of Representatives to be chosen in a Territory shall be held at the same time as each general election.

Part IV—Electoral Divisions

55 Interpretation

- (1) In this Part:

average divisional enrolment, in relation to a State or the Australian Capital Territory, means:

- (a) subject to paragraph (b), the number ascertained by dividing the number of electors enrolled in the State or Territory by the number of Divisions into which the State or Territory is for the time being distributed; or
- (b) in a case where the number ascertained in accordance with paragraph (a) includes a fraction—the number so ascertained:
 - (i) if the fraction is less than one-half—reduced to the nearest whole number; or
 - (ii) if the fraction is one-half or more—increased to the nearest whole number.

Territory means the Australian Capital Territory.

- (2) A person:

- (a) whose name has been placed on a Roll in pursuance of a claim made under section 100; and
 - (b) who has not attained 18 years of age;
- shall be taken, for the purposes of this Part, not to be an elector.

55A Application to Northern Territory

If, under subsection 48(2A), the Electoral Commissioner determines that the number of members of the House of Representatives to be chosen in the Northern Territory at a general election is 2 or a greater number, this Part shall, on and from the making of the determination, apply to the Northern Territory as if:

- (a) a reference to a State included a reference to the Northern Territory; and
- (b) a reference to a determination under subsection 48(1) were a reference to a determination under subsection 48(2A).

Section 56

56 States and Australian Capital Territory to be distributed into Electoral Divisions

Each State and the Australian Capital Territory shall be distributed into Electoral Divisions.

56A Certain Territories to be included in same Division

Until the Electoral Commissioner, under subsection 48(2A), determines that a member of the House of Representatives be chosen in the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island at a general election, any distribution or redistribution of the Northern Territory into electoral divisions under this Act shall be such that those territories are included in the same Division.

57 One member to be chosen for each Electoral Division

One member of the House of Representatives shall be chosen for each Electoral Division.

58 Monthly ascertainment of enrolment etc.

- (1) The Electoral Commissioner shall, forthwith after the end of each month:
 - (a) ascertain, in respect of each State and the Australian Capital Territory, as at the close of a day in the month, the number of electors enrolled in each Division;
 - (b) determine, in respect of each State and the Australian Capital Territory, as at the close of that day in the month:
 - (i) the average divisional enrolment; and
 - (ii) the extent to which the number of electors enrolled in each Division differs from the average divisional enrolment; and
 - (c) cause a statement setting out the matters so ascertained and determined to be published forthwith in the *Gazette*.
- (2) Nothing in subsection (1) shall be taken to require a determination under that subsection to be made in respect of the several States

and the Australian Capital Territory as at the close of the same day in a month.

- (3) A determination under subsection (1) shall be made by instrument in writing.

59 Times at which redistributions are to commence

- (1) A redistribution of a State or the Australian Capital Territory into Divisions shall commence whenever the Electoral Commission so directs by notice published in the *Gazette*.
- (2) Subject to subsections (3) and (5), a direction under subsection (1) shall be made in relation to a State:
- (a) forthwith after the making of a determination under subsection 48(1) that results in an alteration of the number of members of the House of Representatives to be chosen in the State at a general election;
 - (b) whenever it appears to the Electoral Commission, from statements published under subsection 58(1), that more than one-third of the Divisions in the State are, and have, for a period of more than 2 months, been, malapportioned Divisions; and
 - (c) if a period of 7 years after the day on which the State was last distributed into Electoral Divisions by a determination under subsection 73(1) expires, within 30 days after the expiration of the period of 7 years;
- and not otherwise.
- (3) A direction under subsection (1) shall not be made in relation to a State by virtue of paragraph (2)(b) or (c):
- (a) if the State is undergoing redistribution into Divisions; or
 - (b) within one year before the date of expiry of a House of Representatives by effluxion of time.
- (4) If a period of 7 years after the day on which a State was last distributed into Electoral Divisions by a determination under subsection 73(1) expires within one year before the date of expiry of a House of Representatives by effluxion of time, subsection (2) of this section has effect, in relation to the expiration of that first-mentioned period, as if the reference in paragraph (c) to
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within 30 days after the expiration of the period of 7 years were a reference to within 30 days after the day of the first meeting of the next following House of Representatives.

(5) Where:

- (a) a direction under subsection (1) is, but for this subsection, required by subsection (2) (including that subsection as affected by subsection (4)) to be made in relation to a State at any time within 13 months after the day of the first meeting of a House of Representatives;
- (b) a determination under subsection 48(1) has not been made after the day of that first meeting; and
- (c) the Electoral Commission is of the opinion that the next following determination under subsection 48(1) will or may result in an alteration of the number of members of the House of Representatives to be chosen in the State at a general election;

the Electoral Commission may, by notice published in the *Gazette*, direct that subsection (2) does not apply in relation to the State until the making of the determination referred to in paragraph (c).

(6) Where:

- (a) a State is undergoing redistribution into Divisions; and
- (b) a direction under subsection (1) is made in relation to the State by virtue of paragraph (2)(a);

the redistribution of the State into Divisions, being the redistribution referred to in paragraph (a) of this subsection, is, by force of this subsection, terminated.

(7) Subject to subsections (8) and (9A), a direction under subsection (1) shall be made in relation to the Australian Capital Territory:

- (aa) forthwith after the making of a determination under subsection 48(1) that results in an alteration of the number of members of the House of Representatives to be chosen in the Territory at a general election; and
- (a) whenever it appears to the Electoral Commission, from statements published under subsection 58(1), that a Division in the Territory is, and has, for a period of more than 2 months, been, a malapportioned Division; and

- (b) if a period of 7 years after the day on which the Territory was last distributed into Electoral Divisions by a determination under subsection 73(1) expires, within 30 days after the expiration of the period of 7 years;
and not otherwise.
- (8) A direction under subsection (1) shall not be made in relation to the Australian Capital Territory by virtue of paragraph (7)(a) or (b):
- (a) if the Territory is undergoing redistribution into Divisions; or
 - (b) within one year before the date of expiry of a House of Representatives by effluxion of time.
- (9) If a period of 7 years after the day on which the Australian Capital Territory was last distributed into Electoral Divisions by a determination under subsection 73(1) expires within one year before the date of expiry of a House of Representatives by effluxion of time, subsection (7) of this section has effect, in relation to the expiration of that first-mentioned period, as if the reference in paragraph (b) to within 30 days after the expiration of the period of 7 years were a reference to within 30 days after the day of the first meeting of the next following House of Representatives.
- (9A) Where:
- (a) a direction under subsection (1) is, but for this subsection, required by subsection (7) (including that subsection as affected by subsection (9)) to be made in relation to the Australian Capital Territory at any time within 13 months after the day of the first meeting of a House of Representatives; and
 - (b) a determination under subsection 48(1) has not been made after the day of that first meeting; and
 - (c) the Electoral Commission is of the opinion that the next following determination under subsection 48(1) will or may result in an alteration of the number of members of the House of Representatives to be chosen in the Territory at a general election;
- the Electoral Commission may, by notice published in the *Gazette*, direct that subsection (7) does not apply in relation to the Territory until the making of the determination referred to in paragraph (c).

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- (9B) Where:
- (a) the Australian Capital Territory is undergoing redistribution into Divisions; and
 - (b) a direction under subsection (1) is made in relation to the Territory by virtue of paragraph (7)(aa);
- the redistribution of the Territory into Divisions, being the redistribution referred to in paragraph (a), is, by force of this subsection, terminated.
- (10) A reference in this section to a malapportioned Division is a reference to a Division in a State or the Australian Capital Territory in which the number of electors enrolled differs from the average divisional enrolment of the State or Territory to a greater extent than one-tenth more or one-tenth less.
- (11) For the purposes of this section, a State or the Australian Capital Territory is undergoing redistribution into Divisions if:
- (a) a redistribution of the State or Territory into Divisions has commenced by virtue of a direction under subsection (1);
 - (b) the redistribution of the State or Territory has not been terminated under subsection (6) or (9B), as the case requires; and
 - (c) the State or Territory has not been distributed into Electoral Divisions as a result of the redistribution so commenced.

60 Redistribution Committee

- (1) For the purposes of each redistribution of a State, the Electoral Commission shall, as soon as practicable after the commencement of the redistribution, appoint, by instrument in writing, a Redistribution Committee for the State.
- (2) Subject to subsections (3), (3A) and (4), the members of a Redistribution Committee for a State shall be:
- (a) the Electoral Commissioner; and
 - (b) the Australian Electoral Officer for the State; and
 - (c) either:
 - (i) the Surveyor-General for the State; or
 - (ii) if there is no office of Surveyor-General for the State—the person nominated by the relevant State Minister as

the person holding the office equivalent to the office of Surveyor-General for the State; and

(d) the Auditor-General of the State.

(3) If the Surveyor-General for the State is not available to serve as a member of the Redistribution Committee, the Electoral Commission shall appoint:

(a) in a case where there is a Deputy Surveyor-General for the State who is available to serve as a member of the Redistribution Committee—a Deputy Surveyor-General for the State who is so available; or

(b) in any other case—a person nominated for the purpose by the Governor-General, being a senior person appointed or engaged under the *Public Service Act 1999* from the State;

as a member of the Redistribution Committee in lieu of the Surveyor-General for the State.

(3A) If:

(a) the person nominated under subparagraph (2)(c)(ii) is not available to serve as a member of the Redistribution Committee; or

(b) no nomination is in force under that subparagraph;

the Electoral Commission must appoint:

(c) a person who:

(i) is available to serve as a member of the Redistribution Committee; and

(ii) has been nominated by the relevant State Minister as a person holding an office equivalent to an office of Deputy Surveyor-General for the State; or

(d) if there is no such person—a senior person appointed or engaged under the *Public Service Act 1999* from the State nominated for the purpose by the Governor-General;

as a member of the Redistribution Committee.

(3B) For the purposes of this section, an office is equivalent to an office of Surveyor-General for a State if, in the opinion of the relevant State Minister, the functions of the office are the same as, substantially the same as, or include, functions that would be performed by a Surveyor-General for the State.

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- (3C) For the purposes of this section, an office is equivalent to an office of Deputy Surveyor-General for a State if, in the opinion of the relevant State Minister, the functions of the office are the same as, substantially the same as, or include, functions that would be performed by a Deputy Surveyor-General for the State.
- (4) If the Auditor-General of the State is not available to serve as a member of the Redistribution Committee, the Electoral Commission shall appoint:
- (a) in a case where there is a Deputy Auditor-General of the State who is available to serve as a member of the Redistribution Committee—a Deputy Auditor-General of the State who is so available; or
 - (b) in any other case—a person nominated for the purpose by the Governor-General, being a senior person appointed or engaged under the *Public Service Act 1999* from the State; as a member of the Redistribution Committee in lieu of the Auditor-General of the State.
- (5) Subject to subsection (6), the performance of the functions, and the exercise of the powers, of a Redistribution Committee for a State are not affected by reason only of there being a vacancy, or a change or changes, in the membership of the Redistribution Committee.
- (6) Where, within any period of not more than 30 days (being a period before the making under subsection 66(1) of a proposed redistribution of the State by the Redistribution Committee), 2 or more persons who are members of the Redistribution Committee die or become unable, by reason of physical or mental incapacity, to serve or continue to serve as members of the Redistribution Committee, the Electoral Commission shall, by instrument in writing, revoke the appointment of the Redistribution Committee and appoint, for the purposes of the redistribution, another Redistribution Committee for the State in accordance with subsections (2), (3), (3A) and (4).
- (7) Where, in pursuance of subsection (6), the Electoral Commission revokes the appointment of a Redistribution Committee for a State and appoints another Redistribution Committee for the State, the provisions of this Part apply as if the first-mentioned Redistribution Committee had never been appointed.
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- (7A) This section applies to the Australian Capital Territory as if:
- (a) references in this section to a State included references to the Australian Capital Territory; and
 - (b) the reference in paragraph (2)(b) to “the Australian Electoral Officer for the State” were a reference to “the senior Divisional Returning Officer for the Australian Capital Territory”.
- (7B) For the purposes of the redistribution, the Electoral Commission must determine in writing which of the Divisional Returning Officers for the Divisions in the Australian Capital Territory is to be the senior Divisional Returning Officer for the Territory.
- (8) In this section:
- relevant State Minister*, in relation to a State, means:
- (a) the Minister of State of that State who has responsibility, or the principal responsibility, for matters relating to land surveying and mapping in that State; or
 - (b) another Minister of State of that State acting for and on behalf of the Minister referred to in paragraph (a).

62 Proceedings at meetings of Redistribution Committee etc.

- (1) The Electoral Commissioner may, at any time, convene a meeting of a Redistribution Committee for a State or the Australian Capital Territory.
- (2) The Electoral Commissioner shall preside at all meetings of a Redistribution Committee at which he or she is present.
- (3) If the Electoral Commissioner is not present at a meeting of a Redistribution Committee for a State, the Australian Electoral Officer for the State shall preside.
- (4) If the Electoral Commissioner is not present at a meeting of a Redistribution Committee for the Australian Capital Territory, the senior Divisional Returning Officer for the Territory shall preside.
- (5) At a meeting of a Redistribution Committee, 3 members constitute a quorum.

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- (6) Questions arising at a meeting of a Redistribution Committee shall be determined by a majority of the votes of the members present and voting.
- (7) The member presiding at a meeting of a Redistribution Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (8) A Redistribution Committee may regulate the conduct of proceedings at its meetings as it thinks fit.
- (9) A Redistribution Committee may inform itself on any matter in such manner as it thinks fit and may consult with such persons as it thinks fit.
- (10) The Electoral Commission shall, on request by a Redistribution Committee, supply the Redistribution Committee with all such information, and provide the Redistribution Committee with all such assistance, as it requires for the purposes of this Part.

63 Sub-committees

- (1) A Redistribution Committee for a State or the Australian Capital Territory may, by instrument in writing, appoint sub-committees to assist it.
- (2) A sub-committee shall consist of 3 members of the Redistribution Committee.

63A Projection time for equality of enrolments

- (1) This section defines the *projection time* for the purpose of applying sections 66 and 73 in relation to a redistribution (the *current redistribution*) of a State or Territory.
- (2) The projection time is the end of the period of 3 years and 6 months after the starting time for the projection, unless the Electoral Commission determines an earlier time under subsection (3) of this section.
- (3) If the Electoral Commission is of the opinion that a further redistribution of the State or Territory will or may be required, as a result of a determination under section 48, sooner than 7 years after

the starting time for the projection, the Electoral Commission may determine that the projection time will be a time that is half-way between:

- (a) the starting time for the projection; and
 - (b) the time when, in the opinion of the Electoral Commission, the further redistribution will or may be required.
- (4) A determination under subsection (3) must be published in the *Gazette* not later than the time when a notice is published in the *Gazette* under subsection 64(1) in relation to the current redistribution.
- (5) In this section:

starting time for the projection means the time of making the determination referred to in subsection 73(4).

64 Suggestions and comments relating to redistribution

- (1) As soon as practicable after the commencement of a redistribution of a State or the Australian Capital Territory, the Electoral Commissioner must publish a notice in the *Gazette* and in 2 newspapers circulating throughout the State or Territory (or, if there is only 1 such newspaper, in that newspaper):
- (a) inviting written suggestions relating to the redistribution of the State or Territory to be lodged with the Redistribution Committee for the State or Territory before 6 pm on the 5th Friday after publication of the notice in the *Gazette*; and
 - (b) inviting written comments on suggestions lodged under paragraph (a) to be lodged with the Redistribution Committee for the State or Territory before 6 pm on the 7th Friday after publication of the notice in the *Gazette*.
- (2) The notice in the *Gazette* must be published on a Wednesday. The notice need not be published on the same day in the newspapers.
- (3) The Redistribution Committee must cause copies of the suggestions lodged under paragraph (1)(a) to be made available for perusal, starting on the 5th Monday after publication of the notice in the *Gazette*. The copies must be made available at:
- (a) the office of the Australian Electoral Officer for the State, in the case of a redistribution of a State; or

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- (b) the office of the senior Divisional Returning Officer for the Australian Capital Territory, in the case of a redistribution of the Australian Capital Territory.
- (4) The Redistribution Committee must consider all the suggestions and comments lodged with it under subsection (1).

65 Quota

- (1) For the purposes of each redistribution of a State or the Australian Capital Territory, the Electoral Commissioner shall, by instrument in writing, determine, in accordance with subsection (2), the quota of electors for the State or Territory.
- (2) As soon as practicable after the redistribution commences, the quota of electors for a State or the Australian Capital Territory shall be determined by the Electoral Commissioner by dividing the number, as nearly as can be ascertained by him or her, of electors enrolled in the State or Territory at the end of the day on which the redistribution commenced by the number of members of the House of Representatives to be chosen in the State or Territory at a general election and:
 - (a) if the number so obtained includes a fraction that is less than one-half—reducing that number to the nearest whole number; or
 - (b) if the number so obtained includes a fraction that is one-half or more—increasing that number to the nearest whole number.

66 Redistribution Committee to make proposed redistribution

- (1) A Redistribution Committee for a State or the Australian Capital Territory shall, in accordance with subsections (2), (3) and (4), make a proposed redistribution of the State or Territory.
- (2) The proposed redistribution shall propose the distribution of the State or Territory into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen in the State or Territory at a general election.

- (3) In making the proposed redistribution, the Redistribution Committee:
- (a) shall, as far as practicable, endeavour to ensure that, if the State or Territory were redistributed in accordance with the proposed redistribution, the number of electors enrolled in each Electoral Division in the State or Territory would not, at the projection time determined under section 63A, be less than 96.5% or more than 103.5% of the average divisional enrolment of that State or Territory at that time; and
 - (b) subject to paragraph (a), shall give due consideration, in relation to each proposed Electoral Division, to:
 - (i) community of interests within the proposed Electoral Division, including economic, social and regional interests;
 - (ii) means of communication and travel within the proposed Electoral Division;
 - (iv) the physical features and area of the proposed Electoral Division; and
 - (v) the boundaries of existing Divisions in the State or Territory;
- and subject thereto the quota of electors for the State or Territory shall be the basis for the proposed redistribution, and the Redistribution Committee may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-tenth more or one-tenth less.
- (3A) When applying subsection (3), the Redistribution Committee must treat the matter in subparagraph (3)(b)(v) as subordinate to the matters in subparagraphs (3)(b)(i), (ii) and (iv).
- (4) In a proposed redistribution of the Australian Capital Territory, the whole of the Jervis Bay Territory shall be included in one proposed Electoral Division.

67 Reasons for proposed redistribution

A Redistribution Committee for a State or the Australian Capital Territory shall state, in writing, its reasons for the proposed redistribution made by it under subsection 66(1) and any member

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of the Redistribution Committee who disagrees with the proposed redistribution may state in writing the reasons for his or her disagreement.

67A Outline of proposed redistribution

At any time before the publication of the notice referred to in paragraph 68(1)(c), a Redistribution Committee for a State or the Australian Capital Territory may, whether by issuing a statement to the media or otherwise, make publicly known the outline of its plan for the proposed redistribution of the State or Territory.

68 Notice of proposed redistribution

- (1) A Redistribution Committee for a State or the Australian Capital Territory shall, as soon as practicable after it has made its proposed redistribution of the State or Territory:
 - (a) cause a map or maps showing the names and boundaries of each proposed Electoral Division in the State or Territory to be exhibited at each office of the Electoral Commission in the State or Territory;
 - (b) cause copies of:
 - (i) the suggestions and comments lodged under subsection 64(1);
 - (ii) descriptions (whether by reference to a map or plan or otherwise) of the boundaries of each proposed Electoral Division;
 - (iii) its reasons for the proposed redistribution; and
 - (iv) if a member of the Redistribution Committee has stated in writing reasons for his or her disagreement with the proposed redistribution—those reasons;to be made available for perusal at each office of the Electoral Commission in the State or Territory;
 - (c) by notice published in the *Gazette* on a Friday, invite public attention to the exhibition of the map or maps referred to in paragraph (a) and to the availability for perusal of copies of the suggestions and comments, descriptions and reasons referred to in paragraph (b); and

- (d) cause to be published in:
 - (i) 2 newspapers circulating throughout the State or Territory; and
 - (ii) such regional newspapers circulating in the region or regions affected by the proposed redistribution as the Redistribution Committee determines;a notice in writing inviting public attention to the availability for perusal of copies of the comments and suggestions, descriptions and reasons referred to in paragraph (b), together with:
 - (iii) in the case of a notice published in a newspaper referred to in subparagraph (i), a map or maps showing the names and boundaries of each proposed Electoral Division in the State or Territory; and
 - (iv) in the case of a notice published in a regional newspaper, a map or maps showing the effects of the proposed redistribution in the region or regions in which that newspaper circulates.
- (2) A notice published under paragraph (1)(c) or (d) must include a statement:
 - (a) inviting written objections against the proposed redistribution to be lodged with the Electoral Commission before 6 pm on the 4th Friday after publication of the notice in the *Gazette* under paragraph (1)(c); and
 - (b) inviting written comments on objections lodged under subsection 69(1) to be lodged with the Electoral Commission before 6 pm on the 6th Friday after publication of the notice in the *Gazette*.

69 Objections against proposed redistribution

- (1) A person or organization may, within the period allowed under paragraph 68(2)(a), lodge with the Electoral Commission a written objection against the proposed redistribution.
- (2) The Electoral Commission must cause copies of the objections lodged under subsection (1) to be made available for perusal, starting on the 5th Monday after publication in the *Gazette* of the notice referred to in paragraph 68(1)(c).

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- (3) A person or organisation may, within the period allowed under paragraph 68(2)(b), lodge with the Electoral Commission written comments on objections lodged under subsection (1) of this section.
- (4) The Electoral Commission must cause copies of the comments lodged under subsection (3) to be made available for perusal, starting on the 7th Monday after publication in the *Gazette* of the notice referred to in paragraph 68(1)(c).
- (5) The documents required to be made available for perusal under subsections (2) and (4) must be made available at:
 - (a) in the case of a redistribution of a State—the office of the Australian Electoral Officer for the State; and
 - (b) in the case of a redistribution of the Australian Capital Territory—the office of the senior Divisional Returning Officer for the Territory.

70 Augmented Electoral Commission

- (1) For the purposes of each redistribution of a State or the Australian Capital Territory, there is established by this subsection an augmented Electoral Commission for the State or Territory.
- (2) The members of an augmented Electoral Commission for a State or the Australian Capital Territory shall be:
 - (a) the Chairperson of the Electoral Commission;
 - (b) the member of the Electoral Commission referred to in paragraph 6(2)(c); and
 - (c) the members of the Redistribution Committee for the State or Territory.
- (3) Subject to subsection (4), the performance of the functions, and the exercise of the powers, of an augmented Electoral Commission for a State or the Australian Capital Territory are not affected by reason only of there being a vacancy or vacancies, or a change or changes, in the membership of the augmented Electoral Commission.
- (4) Where, within any period (in paragraph (b) referred to as the *relevant period*) of not more than 30 days (being a period after the making under subsection 66(1) of a proposed redistribution of the

State or Territory by the Redistribution Committee for the State or Territory), 2 or more persons who are members of the augmented Electoral Commission die or become unable, by reason of physical or mental incapacity, to serve or continue to serve as members of the augmented Electoral Commission:

- (a) the augmented Electoral Commission must reconsider all objections and comments lodged with the Electoral Commission under section 69 in relation to the proposed redistribution, being objections and comments that had previously been considered by the augmented Electoral Commission;
- (b) subsection 72(2) has effect as if the reference in that subsection to 60 days after the expiration of the period referred to in section 69 were a reference to 60 days after the expiration of the relevant period.

71 Proceedings at meetings of augmented Electoral Commission etc.

- (1) The Chairperson of the Electoral Commission may, at any time, convene a meeting of an augmented Electoral Commission for a State or the Australian Capital Territory.
- (2) The Chairperson of the Electoral Commission shall preside at all meetings of an augmented Electoral Commission at which he or she is present.
- (3) If the Chairperson of the Electoral Commission is not present at a meeting of an augmented Electoral Commission:
 - (a) the Electoral Commissioner shall preside; or
 - (b) if the Electoral Commissioner is not present at the meeting—the members present shall appoint one of their number to preside.
- (4) At a meeting of an augmented Electoral Commission, 4 members constitute a quorum.
- (5) Subject to subsection (6), questions arising at a meeting of an augmented Electoral Commission shall be determined by a majority of the votes of the members present and voting.
- (6) A determination under subsection 73(1) shall not be made unless not less than 4 members of the augmented Electoral Commission,

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of whom not less than 2 are members of the Electoral Commission, vote in favour of the making of the determination.

- (7) Subject to subsection (8), the member presiding at a meeting of an augmented Electoral Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (8) The casting vote of the member presiding at a meeting of an augmented Electoral Commission shall not be used to vote in favour of the making of a determination under subsection 73(1).
- (9) An augmented Electoral Commission may regulate the conduct of proceedings at its meetings as it thinks fit.
- (10) Subject to section 72, an augmented Electoral Commission may inform itself on any matter in such manner as it thinks fit.
- (11) The Electoral Commission shall, on request by an augmented Electoral Commission, supply the augmented Electoral Commission with all such information, and provide the augmented Electoral Commission with all such assistance, as it requires for the purposes of this Part.

72 Consideration of objections

- (1) An augmented Electoral Commission for a State or the Australian Capital Territory shall consider all initial objections, initial comments and further objections.
- (2) The augmented Electoral Commission shall complete its consideration of the initial objections and any further objections as soon as is practicable and, in any event, before the expiration of the period of 60 days after the expiration of the period referred to in subsection 69(3).
- (3) The augmented Electoral Commission shall hold an inquiry into an objection unless it is of the opinion that:
 - (a) the matters raised in the objection were raised, or are substantially the same as matters that were raised, in:
 - (i) suggestions relating to the redistribution lodged with the Redistribution Committee for the State or Territory in pursuance of paragraph 64(1)(a); or

- (ii) comments lodged with the Redistribution Committee in pursuance of paragraph 64(1)(b); or
 - (b) the objection is frivolous or vexatious.
- (4) The augmented Electoral Commission may hold one inquiry into a number of initial objections.
- (5) Proceedings before the augmented Electoral Commission at an inquiry into an initial objection shall be held in public.
- (6) At an inquiry into an initial objection, submissions in relation to the objection may be made to the augmented Electoral Commission by any person or organisation.
- (7) At an inquiry into an initial objection, the augmented Electoral Commission shall consider all of the submissions made to it in relation to the objection.
- (8) The augmented Electoral Commission is not bound by the legal rules of evidence and may regulate the conduct of proceedings at an inquiry into an initial objection as it thinks fit.
- (9) Without limiting the generality of subsection (8), the manner in which submissions may be made to the augmented Electoral Commission, the time within which submissions may be made to the augmented Electoral Commission and the extent to which the augmented Electoral Commission may be addressed, and the persons by whom it may be addressed, on any submission are within the absolute discretion of the augmented Electoral Commission.
- (10) As soon as is practicable after the augmented Electoral Commission has concluded its inquiries into initial objections, it shall:
 - (a) make a proposed redistribution of the State or Territory; and
 - (b) make a public announcement, in accordance with subsection (12), whether by the issuing of a statement to the media or by some other expeditious means.
- (11) Section 66 applies to the making of a proposed redistribution under subsection (10) as if a reference in that section to a Redistribution Committee were a reference to an augmented Electoral Commission.

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- (12) The public announcement referred to in subsection (10) shall include:
- (a) the substance of the findings or conclusions of the augmented Electoral Commission concerning the initial objections and concerning the Redistribution Committee proposal;
 - (b) the augmented Electoral Commission proposal;
 - (c) a statement whether, in the opinion of the augmented Electoral Commission, its proposal is significantly different from the Redistribution Committee proposal; and
 - (d) if, in the opinion of the augmented Electoral Commission, its proposal is significantly different from the Redistribution Committee proposal—a statement to the effect that:
 - (i) any person or organisation may forthwith lodge with the Electoral Commission a written further objection; and
 - (ii) subject to subsection (3), the augmented Electoral Commission will hold an inquiry into a further objection.
- (13) If the public announcement made pursuant to subsection (10) includes a statement under paragraph (12)(d):
- (a) any person or organisation may, forthwith upon the making of the public announcement, lodge with the Electoral Commission a written further objection;
 - (b) subject to subsection (3), the augmented Electoral Commission shall hold an inquiry into a further objection; and
 - (c) subsections (3), (4), (5), (6), (7), (8) and (9) apply to an inquiry into a further objection as if the further objection were an initial objection.
- (14) In this section:

augmented Electoral Commission proposal means the redistribution proposed by the augmented Electoral Commission under subsection (10).

initial comments means comments lodged with the Electoral Commission under subsection 69(3).

initial objection means an objection against the Redistribution Committee proposal lodged with the Electoral Commission under section 69.

further objection means an objection against the augmented Electoral Commission proposal lodged with the Electoral Commission under paragraph (13)(a).

Redistribution Committee proposal means the redistribution proposed by the Redistribution Committee under section 66.

73 Redistribution of State or Australian Capital Territory

- (1) An augmented Electoral Commission for a State or the Australian Capital Territory shall, in accordance with subsections (3), (4) and (5), determine, by notice published in the *Gazette*, the names and boundaries of the Electoral Divisions into which the State or Territory is to be distributed and, subject to subsections (6) and (7), those Electoral Divisions shall, until altered by a determination under this subsection or subsection 76(6), be the Divisions in the State or Territory.
- (2) The augmented Electoral Commission shall make a determination under subsection (1) as soon as practicable after it has considered, in accordance with section 72, all the initial objections and any further objections.
- (3) The determination shall distribute the State or Territory into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen in the State or Territory at a general election.
- (4) In making the determination, the augmented Electoral Commission:
 - (a) shall, as far as practicable, endeavour to ensure that the number of electors enrolled in each Electoral Division in the State or Territory will not, at the projection time determined under section 63A, be less than 96.5% or more than 103.5% of the average divisional enrolment of that State or Territory at that time; and

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- (b) subject to paragraph (a), shall give due consideration, in relation to each Electoral Division, to:
 - (i) community of interests within the Electoral Division, including economic, social and regional interests;
 - (ii) means of communication and travel within the Electoral Division;
 - (iv) the physical features and area of the Electoral Division; and
 - (v) the boundaries of existing Divisions in the State or Territory;

and subject thereto the quota of electors for the State or Territory shall be the basis for the redistribution, and the augmented Electoral Commission may adopt a margin of allowance, to be used whenever necessary, but in no case shall the quota be departed from to a greater extent than one-tenth more or one-tenth less.

- (4A) When applying subsection (4), the augmented Electoral Commission must treat the matter in subparagraph (4)(b)(v) as subordinate to the matters in subparagraphs (4)(b)(i), (ii) and (iv).
- (5) In a redistribution of the Australian Capital Territory, the whole of the Jervis Bay Territory shall be included in one Electoral Division.
- (6) Until the next following expiration or dissolution of the House of Representatives, the redistribution does not affect the election of a new member to fill a vacancy happening in the House of Representatives.
- (7) For the purposes of any such election, the Divisions that existed before the redistribution, and the Rolls for those Divisions, continue to have full force and effect, notwithstanding the redistribution and that new Rolls have been prepared for the new Divisions.
- (8) The augmented Electoral Commission may, when it makes a determination under subsection (1), make a public announcement as to:
 - (a) the substance of its findings or conclusions concerning the initial objections and any further objections; and

(b) its determination.

(9) In this section:

initial objection has the same meaning as in section 72.

further objection has the same meaning as in section 72.

74 Reasons for determination made by augmented Electoral Commission

An augmented Electoral Commission for a State or the Australian Capital Territory shall state, in writing, its reasons for the determination made by it under subsection 73(1) and any member of the augmented Electoral Commission who disagrees with the determination may state in writing the reasons for his or her disagreement.

75 Copies of certain documents to be forwarded to Minister

- (1) The Electoral Commission shall, as soon as practicable after an augmented Electoral Commission for a State or the Australian Capital Territory has determined under subsection 73(1) the names and boundaries of the Electoral Divisions into which the State or Territory is to be distributed, forward to the Minister a copy of:
- (a) the suggestions relating to the redistribution of the State or Territory lodged with the Redistribution Committee for the State or Territory in pursuance of paragraph 64(1)(a);
 - (b) the comments lodged with the Redistribution Committee in pursuance of paragraph 64(1)(b);
 - (c) the proposed redistribution made by the Redistribution Committee and its reasons for the proposed redistribution;
 - (d) if a member of the Redistribution Committee has stated in writing the reasons for his or her disagreement with the proposed redistribution—those reasons;
 - (e) the objections and comments lodged with the Electoral Commission under section 69;
 - (ea) the written record (if any) of the proceedings at any inquiry held under subsection 72(3);

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- (f) the determination of the augmented Electoral Commission under subsection 73(1) and its reasons for the determination; and
 - (g) if a member of the augmented Electoral Commission has stated in writing the reasons for his or her disagreement with the determination made by the augmented Electoral Commission—those reasons.
- (2) The Minister shall cause copies of the suggestions, comments, proposed redistribution, reasons, objections, written record and determination referred to in subsection (1) to be laid before each House of the Parliament within 5 sitting days of that House after receiving a copy of them.

76 Mini-redistribution

- (1) Where, on a day (in this section referred to as the *relevant day*) on which the Governor-General causes writs (in this section referred to as the *writs*) for a general election to be issued, the number (in this section referred to as the *present entitlement of the State*) of members of the House of Representatives to be chosen in a State at the general election differs from the number (in this section referred to as the *previous entitlement of the State*) of Divisions in accordance with which the State is for the time being distributed, a redistribution of the State into Divisions shall take place under this section.
- (2) For the purposes of the redistribution, the Electoral Commissioner and the Australian Electoral Officer for the State shall be the Redistribution Commissioners for the State.
- (3) Forthwith after the issue of the writs, the Redistribution Commissioners for the State shall, subject to subsections (4) and (5):
- (a) in a case where the present entitlement of the State is greater than the previous entitlement of the State:
 - (i) prepare a list of all possible pairs of contiguous Divisions in the State;
 - (ii) ascertain the number of electors enrolled in each possible pair of contiguous Divisions;

- (iii) set aside the pair of contiguous Divisions that has the greatest number of electors enrolled;
 - (iv) if the difference between the present entitlement of the State and the previous entitlement of the State is 2—delete from the list all possible pairs of contiguous Divisions containing a Division included in the pair of contiguous Divisions set aside in pursuance of subparagraph (iii) and set aside the pair of contiguous Divisions remaining on the list that has the greatest number of electors enrolled; and
 - (v) if the difference between the present entitlement of the State and the previous entitlement of the State is greater than 2—continue successively deleting from the list all possible pairs of contiguous Divisions containing a Division included in a pair of contiguous Divisions set aside in pursuance of subparagraph (iv) or of this subparagraph, and setting aside the pair of contiguous Divisions remaining on the list that has the greatest number of electors enrolled, until the number of pairs of contiguous Divisions set aside in pursuance of this paragraph is equal to the difference between the present entitlement of the State and the previous entitlement of the State; and
- (b) in a case where the present entitlement of the State is less than the previous entitlement of the State:
- (i) prepare a list of all possible pairs of contiguous Divisions in the State;
 - (ii) ascertain the number of electors enrolled in each possible pair of contiguous Divisions;
 - (iii) set aside the pair of contiguous Divisions that has the smallest number of electors enrolled;
 - (iv) if the difference between the present entitlement of the State and the previous entitlement of the State is 2—delete from the list all possible pairs of contiguous Divisions containing a Division included in the pair of contiguous Divisions set aside in pursuance of subparagraph (iii) and set aside the pair of contiguous Divisions remaining on the list that has the smallest number of electors enrolled; and
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- (v) if the difference between the present entitlement of the State and the previous entitlement of the State is greater than 2—continue successively deleting from the list all possible pairs of contiguous Divisions containing a Division included in a pair of contiguous Divisions set aside in pursuance of subparagraph (iv) or of this subparagraph, and setting aside the pair of contiguous Divisions remaining on the list that has the smallest number of electors enrolled, until the number of pairs of contiguous Divisions set aside in pursuance of this paragraph is equal to the difference between the present entitlement of the State and the previous entitlement of the State.
- (4) Where, on or remaining on a list prepared in pursuance of paragraph (3)(a), there are 2 or more pairs of contiguous Divisions (in this subsection referred to as the *relevant pairs of contiguous Divisions*) that have the same number of electors enrolled and there is no other pair of contiguous Divisions that has a greater number of electors enrolled, the pair of contiguous Divisions to be set aside in pursuance of that paragraph shall be determined from amongst the relevant pairs of contiguous Divisions by lot.
- (5) Where, on or remaining on a list prepared in pursuance of paragraph (3)(b), there are 2 or more pairs of contiguous Divisions (in this subsection referred to as the *relevant pairs of contiguous Divisions*) that have the same number of electors enrolled and there is no other pair of contiguous Divisions that has a smaller number of electors enrolled, the pair of contiguous Divisions to be set aside in pursuance of that paragraph shall be determined from amongst the relevant pairs of contiguous Divisions by lot.
- (6) The Redistribution Commissioners shall, in accordance with subsections (8) to (12) (inclusive), determine, by instrument in writing, the names and boundaries of the Electoral Divisions into which the State is to be distributed, and those Electoral Divisions shall, until altered by a determination under this subsection or subsection 73(1), be the Divisions in the State.
- (7) The Redistribution Commissioners shall make a determination under subsection (6) as soon as practicable after they have, in accordance with subsection (3), set aside a number of pairs of

contiguous Divisions in the State equal to the difference between the present entitlement of the State and the previous entitlement of the State and, in any event, before the expiration of the period of 7 days after the relevant day.

- (8) The names and boundaries of the Divisions not included in a pair of contiguous Divisions set aside under subsection (3) shall not be altered.
 - (9) Where the present entitlement of the State is greater than the previous entitlement of the State, each pair of contiguous Divisions set aside in pursuance of paragraph (3)(a) shall be distributed into 3 Electoral Divisions in the following manner:
 - (a) the Population Census Collection Districts in the pair of contiguous Divisions, or the parts of such Districts that are within those Divisions, in the pair of contiguous Divisions shall be the basis for the redistribution and shall be allocated amongst the 3 Electoral Divisions without alteration;
 - (b) each Electoral Division shall, as far as practicable, contain the same number of electors enrolled;
 - (c) except in so far as discontinuous or separate boundaries are necessary for the purpose of including an island in an Electoral Division, the boundaries of each Electoral Division shall form an unbroken line.
 - (10) The 3 Electoral Divisions so formed from the pair of contiguous Divisions shall, as far as practicable, be named in the following manner:
 - (a) the Electoral Division that contains the greatest number of electors who were enrolled in one of the Divisions included in the pair of contiguous Divisions shall be given the name of that Division;
 - (b) the Electoral Division that contains the greatest number of electors who were enrolled in the other Division included in the pair of contiguous Divisions shall be given the name of that other Division;
 - (c) the Electoral Division remaining to be named after the application of paragraphs (a) and (b) shall have a name consisting of the names of each Division included in the pair of contiguous Divisions arranged in alphabetical order and hyphenated.
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- (11) Where the present entitlement of the State is less than the previous entitlement of the State, each pair of contiguous Divisions set aside in pursuance of paragraph (3)(b) shall be distributed into one Electoral Division.
- (12) The Electoral Division so formed from the pair of contiguous Divisions shall have a name consisting of the names of each Division included in the pair of contiguous Divisions arranged in alphabetical order and hyphenated.
- (13) The Redistribution Commissioners shall, forthwith after the making of the determination under subsection (6):
 - (a) forward to the Minister a copy of the determination; and
 - (b) cause a copy of the determination to be published forthwith in the *Gazette* and in 2 newspapers circulating throughout the State.
- (14) The Minister shall cause copies of the determination to be laid before each House of the Parliament within 5 sitting days of that House after he or she receives a copy of the determination.
- (15) The number of electors enrolled in each pair of contiguous Divisions in the State and in each Subdivision in each Division in the State shall, in so far as it is necessary to do so for the purposes of this section, be ascertained using only the last statement published under subsection 58(1) before the relevant day.
- (16) Two Divisions in a State shall be taken, for the purposes of this section, to be contiguous Divisions if the boundaries of the Divisions actually touch in at least one place.
- (16A) This section applies to the Australian Capital Territory as if:
 - (a) a reference to a State were a reference to the Australian Capital Territory;
 - (b) except in subsection (2), a reference to the Australian Electoral Officer for a State were a reference to the Electoral Commissioner; and
 - (c) subsection (2) were omitted and the following subsections substituted:
 - “(2) For the purposes of the redistribution, the Electoral Commissioner and the senior Divisional Returning

Officer for the Territory shall be the Redistribution Commissioners for the Territory.

“(2A) In this section, *senior Divisional Returning Officer for the Territory* has the same meaning as in section 60.”.

- (17) In this section, *Population Census Collection District* means an area designated by the Australian Bureau of Statistics as a Population Census Collection District for the purposes of the taking of the Census.

76A Application of section 76 to Northern Territory

If:

- (a) this Part applies to the Northern Territory because of section 55A;
- (b) the Northern Territory constitutes a single Division; and
- (c) a redistribution of the Territory is required by subsection 76(1);

section 76 has effect, in its application to the Northern Territory, as if:

- (d) subsections (3), (4) and (5) were omitted;
- (e) subsections (6) to (12) (inclusive) were omitted and the following subsections substituted:

“(6) The Redistribution Commissioners shall, by instrument in writing, determine the names and boundaries of the Electoral Divisions into which the State is to be distributed, and those Electoral Divisions shall, until altered by a determination under this subsection or subsection 73(1), be the Divisions in the State.

“(7) The Redistribution Commissioners shall make a determination under subsection (6) as soon as practicable and, in any event, within 7 days after the relevant day.

“(8) In making a redistribution under subsection (6), the Redistribution Commissioners shall observe the following requirements:

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- (a) the Population Census Collection Districts in the State, or the parts of such districts that are within the State, shall be the basis for the distribution;
 - (b) each Electoral Division shall, as far as practicable, contain the same number of electors enrolled;
 - (c) except where discontinuous or separate boundaries are necessary for the purpose of including an island in an Electoral Division, the boundaries of each Electoral Division shall form an unbroken line.
- “(9) The name to be given to each Electoral Division is within the discretion of the Redistribution Commissioners.”; and
- (f) subsections (15) and (16) were omitted.

77 Decisions under Part final etc.

- (1) Notwithstanding anything contained in any other law, but subject to the Constitution and to section 39B and Part VII of the *Judiciary Act 1903*, a decision by the Electoral Commissioner, the Electoral Commission, a Redistribution Committee for a State or the Australian Capital Territory, an augmented Electoral Commission for a State or the Australian Capital Territory or the Redistribution Commissioners for a State or the Australian Capital Territory made, or purporting to be made, under this Part (whether in the exercise of a discretion or not):
 - (a) is final and conclusive;
 - (b) shall not be challenged, appealed against, reviewed, quashed, set aside or called in question in any court or tribunal on any ground; and
 - (c) is not subject to mandamus, prohibition, certiorari or injunction, or the making of a declaratory or other order, in any court on any ground.

- (2) Without limiting the generality of subsection (1), the provisions of this Part (other than sections 56, 57 and 65, subsections 71(6) and (8), 73(1) and (3) to (7) (inclusive) and 76(1) to (6) (inclusive), (8) to (12) (inclusive) and (15) and (16), section 78 and this section) are directory only and any failure to comply with them, whether in whole or in part, shall not invalidate a decision of a kind referred to in subsection (1).
- (3) A reference in subsection (1) to a decision made under this Part includes a reference to a refusal or failure to make a decision under this Part.

78 Improper influence

A person shall not improperly seek to influence a member of a Redistribution Committee for a State or the Australian Capital Territory, a member of an augmented Electoral Commission for a State or the Australian Capital Territory or a Redistribution Commissioner for a State or the Australian Capital Territory in the performance of his or her duties under this Part.

Penalty: \$2,000 or imprisonment for 12 months, or both.

Part V—Subdivisions and polling places

79 Subdivisions

- (1) Subject to subsection (2), the Electoral Commission may, by notice published in the *Gazette*:
 - (a) divide a Division into such Subdivisions (if any) as are specified and set out the boundaries of each Subdivision so specified; and
 - (b) divide the Northern Territory into such Districts as are specified and set out the boundaries of each District so specified.
- (2) The Territory of Cocos (Keeling) Islands shall be one District of the Division of the Northern Territory and the Territory of Christmas Island shall be one District of the Division of that Territory.
- (3) If the Northern Territory is distributed into Electoral Divisions under section 73 or under section 76, as it has effect by virtue of section 76A, this section shall have effect, after the distribution, as if:
 - (a) a reference in paragraph (1)(a) to a Division were a reference to a Division other than a Division in the Northern Territory;
 - (b) the words “the Northern Territory” were omitted from paragraph (1)(b) and the words “each Division in the Northern Territory” were substituted; and
 - (c) subsection (2) were omitted and the following subsection substituted:

“(2) The Territory of Christmas Island and the Territory of Cocos (Keeling) Islands shall each be a District of the Division in which they are included.”.

80 Polling places

- (1) The Electoral Commission may, by notice published in the *Gazette*:
 - (a) appoint, by name, such polling places for each Division as it considers necessary;
 - (b) declare polling places appointed under paragraph (a) in respect of a Division to be polling places for a specified Subdivision of that Division; and
 - (c) abolish any polling place.
- (2) No polling place for a Division shall be abolished after the issue of a writ relating, in whole or in part, to the taking of a poll in that Division and before the time appointed for its return.
- (3) The Electoral Commission shall, on at least one occasion after the issue of a writ relating, in whole or in part, to the taking of a poll in a Division but before the date fixed for the polling, if it is practicable to do so, publish in a newspaper circulating in that Division a notice:
 - (a) setting out all polling places in that Division; and
 - (b) setting out all places that were polling places for that Division at the later of:
 - (i) the time of the last election for which a poll was taken in that Division; and
 - (ii) the time of the last referendum (within the meaning of the *Referendum (Machinery Provisions) Act 1984*);but that have been abolished since that time.

Part VI—Electoral Rolls

81 Electoral Rolls

- (1) There shall be a Roll of the electors for each State and for each Territory.

82 Subdivision Rolls, Division Rolls and State and Territory Rolls

- (1) There shall be a Roll for each Division.
- (2) There shall be a separate Roll for each Subdivision.
- (3) All the Subdivision Rolls for a Division shall together form the Roll for the Division.
- (4) All the Division Rolls for a State or a Territory shall together form the Roll for that State or Territory, as the case requires.

83 Form of Rolls

- (1) Subject to subsection (2) and section 104, the Rolls may be in the prescribed form, and shall set out the surname, Christian or given names and place of living of each elector and such further particulars as are prescribed.
- (2) Where an elector is an eligible overseas elector or an itinerant elector, the Roll shall not set out the place of living of the elector.

84 Arrangement with States

- (1) The Governor-General may arrange with the Governor of a State, the Administrator of the Northern Territory or the Chief Minister of the Australian Capital Territory for, or for the carrying out of a procedure relating to, the preparation, alteration or revision of the Rolls, in any manner consistent with the provisions of this Act, jointly by the Commonwealth and the State, jointly by the Commonwealth and the Northern Territory or jointly by the Commonwealth and the Australian Capital Territory, as the case

may be, whether for the purpose of the Rolls being used as Electoral Rolls for State elections, Northern Territory elections or Australian Capital Territory elections, as the case may be, as well as for Commonwealth elections, or for any other purpose.

- (2) When any such arrangement has been made, the Rolls may contain:
- (a) the names and descriptions of persons who are not entitled to be enrolled thereon as electors of the Commonwealth provided that it is clearly indicated in the prescribed manner that those persons are not enrolled thereon as Commonwealth electors;
 - (b) distinguishing marks against the names of persons enrolled as Commonwealth electors, to show that those persons are or are not also enrolled as State electors, Australian Capital Territory electors or Northern Territory electors; and
 - (c) other particulars in addition to the prescribed particulars;
- and for the purposes of this Act the names, descriptions, marks, and particulars so contained shall not be deemed part of the Roll.

85 New Rolls to be prepared upon Proclamation

- (1) New Rolls for any Subdivision, Division, State or Territory shall be prepared whenever directed by proclamation.
- (2) The proclamation may specify the manner in which the Rolls shall be prepared; and may require every person entitled to enrolment on any new Roll, otherwise than by virtue of section 94, 94A, 95 or 96, to sign and send to the proper officer in accordance with the regulations a form of claim for enrolment and otherwise to comply with the regulations relating to compulsory enrolment:

Provided that an elector enrolled for the Subdivision in which he or she lives, in pursuance of a claim signed by him or her, shall not be required to sign and send in any further claim for enrolment in connexion with the preparation of a new Roll.

86 New Rolls on creation of new Divisions etc.

- (1) Where:
- (a) a Division is divided into Subdivisions;

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- (b) a new Division or a new Subdivision is created; or
 - (c) the boundaries of an existing Division or of an existing Subdivision are altered;
- new Rolls shall be prepared in respect of each Division or Subdivision created or otherwise affected by reason of the circumstance referred to in paragraph (a), (b) or (c) by making any necessary transfer of electors between Rolls for existing Divisions or Subdivisions or between Rolls for existing Divisions or Subdivisions and Rolls for new Divisions or Subdivisions.
- (2) A transfer of electors for the purposes of subsection (1) between one Roll and another Roll shall be effected by removing the names and other particulars of the electors from the Roll on which the names of those electors are presently entered and entering the names and other particulars of those electors on the Roll to which those electors are to be transferred.
 - (3) Where, for the purposes of subsection (1), electors are transferred between Rolls:
 - (a) in a case where, in the opinion of the relevant officer, a reasonably effective notification of that transfer can be given by notice published in a newspaper—the relevant officer shall cause notice of that transfer to be so published in that newspaper; and
 - (b) in a case to which paragraph (a) does not apply—the relevant officer:
 - (i) must cause a notice of that transfer to be delivered to the address of each elector affected by the transfer; and
 - (ii) may cause a notice of that transfer to be delivered to other addresses.
 - (4) In subsection (3), *relevant officer*, in relation to an elector transferred for the purposes of subsection (1), means:
 - (a) where the transfer is a transfer between Rolls for Divisions or Subdivisions in a State or the Northern Territory—the Australian Electoral Officer for that State or the Northern Territory; and
 - (b) where the transfer is a transfer between Rolls for Divisions or Subdivisions in the Australian Capital Territory—the Electoral Commissioner.
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87 Additions etc. to new Rolls

Upon the receipt by the Divisional Returning Officer of a new Roll for a Subdivision, the Divisional Returning Officer, or if there is an Assistant Divisional Returning Officer for the Subdivision, the Assistant Divisional Returning Officer, shall:

- (a) make additions, alterations, and corrections therein; and
- (b) remove names therefrom;

pursuant to claims or notifications received between the date of the proclamation directing the preparation of new Rolls pursuant to section 85, or the date upon which there occurs a circumstance necessitating the preparation of new Rolls pursuant to section 86, as the case may be, and the date of the notification that the Rolls have been prepared, where the additions, alterations or corrections have not already been made in, or the removals have not been made from, the Rolls.

88 Objections and notices to have effect in relation to new Rolls

Where objections have been lodged or notices of objection have been issued and action in respect of those objections or notices has not been completed prior to the notification of the preparation, pursuant to section 85 or 86, of new Rolls, the objections or notices shall have effect in relation to the new Rolls as if such Rolls had been in existence at the time of the lodging of the objections or the issuing of the notices.

89 Printing of Rolls

- (1) Rolls shall be printed whenever the Electoral Commission so directs but so that the Rolls are printed at least once during the period of 2 years after the commencement of the first session of the Parliament after a general election.
- (2) Supplemental Rolls, setting out additions since the latest print of the Rolls, shall be prepared and printed at such times as the Electoral Commission directs.

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90 Commission to determine manner and form of access to Rolls etc.

- (1) The Electoral Commission may determine the manner and form in which information is to be provided under this Part.
- (2) Without limiting subsection (1), the Electoral Commission may determine that the information is to be provided electronically or in electronic form.
- (3) If the Electoral Commission:
 - (a) makes a copy of a Roll available for public inspection in a particular form; or
 - (b) gives a copy of a Roll to a person or organisation in a particular form;the copy is to be a copy of the most up-to-date version of the Roll that is available in that form.
- (4) A reference in this section to information being provided includes a reference to:
 - (a) a copy of a Roll being made available for public inspection; and
 - (b) a copy of a Roll or certified list of voters being given to a person or organisation.

90A Inspection etc. of Rolls

Access at office of Divisional Returning Officer etc.

- (1) A copy of the Roll for a Division is to be available, at any time during ordinary office hours, for public inspection without fee at:
 - (a) the office of each Divisional Returning Officer; and
 - (b) the office of each Assistant Divisional Returning Officer; and
 - (c) such other places (if any) as the Electoral Commission determines.

Access at capital city office of the Electoral Commission

- (2) A copy of the following are to be available, at any time during ordinary business hours, for public inspection without fee at each capital city office of the Electoral Commission:
 - (a) the Roll for each State and Territory;

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- (b) any other Roll specified in a direction given by the Electoral Commissioner for the purpose of this paragraph.
- (3) The capital city offices of the Electoral Commission are:
- (a) the principal office of the Commission in Canberra; and
 - (b) such other places (if any) in Canberra as the Electoral Commission determines; and
 - (c) the principal office of the Commission in the capital city of each State; and
 - (d) the principal office of the Commission in Darwin.

Other access

- (4) The Electoral Commission may make a copy of a Roll available for public inspection without fee in any other way that the Electoral Commission considers appropriate.

90B Information on Rolls and certified lists of voters to be provided to particular people and organisations

- (1) The following table sets out the persons and organisations to whom the Electoral Commission must give information in relation to the Rolls and certified lists of voters and specifies the information to be given and the circumstances in which it is to be given:

Provision of information on Rolls and certified lists of voters			
Item	Person or organisation	Information to be given	Circumstances in which information is to be given
1	a candidate in a House of Representatives election	a copy of the certified list of voters for the Division for which the candidate is seeking election	(a) as soon as practicable after the close of the Rolls; and (b) without charge.
2	a registered political party	(a) a copy of the latest print of the Roll for each State and Territory; and (b) a copy of the Roll for each State and Territory	(a) as soon as practicable after a general election; and (b) without charge; and (c) subject to subsection (3).

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Provision of information on Rolls and certified lists of voters			
Item	Person or organisation	Information to be given	Circumstances in which information is to be given
3	a registered political party	a copy of the habitation index for each Division	(a) as soon as practicable after a general election; and (b) without charge; and (c) subject to subsection (3).
4	a registered political party	a copy of a habitation index	(a) on request by the party; and (b) without charge; and (c) subject to subsection (3).
4A	a registered political party	voting information (as defined in subsection (10)) in relation to the election	(a) on request by the party; and (b) without charge; and (c) subject to subsection (3).
5	a registered political party with a member who is a Senator or a member of the House of Representatives	a copy of a Roll See also subsection (2).	(a) on request by the party; and (b) without charge; and (c) subject to subsection (3).
6	any other registered political party	a copy of a Roll See also subsection (2).	(a) on request by the party; and (b) on payment of the fee (if any) payable under subsection (9); and (c) subject to subsection (3).
7	a Senator for a State or Territory	3 copies of the certified list of voters for each Division in the State or Territory used in a Senate election	(a) as soon as practicable after the result of the Senate election is declared under section 283; and (b) without charge.

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Provision of information on Rolls and certified lists of voters			
Item	Person or organisation	Information to be given	Circumstances in which information is to be given
8	a Senator for a State or Territory	(a) 3 copies of the latest print of the Roll for the State or Territory; and (b) a copy of the Roll for the State or Territory	(a) as soon as practicable after a general election; and (b) without charge.
9	a Senator for a State or Territory	3 copies of the certified list of voters for an election of a member of the House of Representatives for a Division in the State or Territory	(a) as soon as practicable after the member of the House of Representatives is declared elected for the Division under section 284; and (b) without charge; and (c) the Senator is not entitled to a copy of the same list under item 7.
10	a Senator for a State or Territory	a copy of the Roll for any Division in that State or Territory See also subsection (2).	(a) on request by the Senator; and (b) without charge.
10A	a Senator for a State or Territory (other than a member of a registered political party)	voting information (as defined in subsection (10)) in relation to the election in which the Senator was elected	(a) on request by the Senator; and (b) without charge.
11	a member of the House of Representatives	3 copies of the certified list of voters for the Division for which the member is elected	(a) as soon as practicable after the member is declared elected under section 284; and (b) without charge.

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Provision of information on Rolls and certified lists of voters			
Item	Person or organisation	Information to be given	Circumstances in which information is to be given
12	a member of the House of Representatives	(a) 3 copies of the latest print of the Roll for the Division for which the member was elected; and (b) a copy of the Roll for the Division for which the member is elected	(a) as soon as practicable after a general election; and (b) without charge.
13	a member of the House of Representatives	3 copies of the certified list of voters for the Division for which the member is elected that is provided for the purposes of paragraph 203(1)(b) for a Senate election	(a) as soon as practicable after the result of the Senate election is declared under section 283; and (b) without charge; and (c) the Senator is not entitled to a copy of the same list under item 11.
14	a member of the House of Representatives	a copy of the Roll for the Division for which the member is elected See also subsection (2).	(a) on request by the member; and (b) without charge.
14A	a member of the House of Representatives for a Division (other than a member of a registered political party)	voting information (as defined in subsection (10)) in relation to the election in which the member was elected	(a) on request by the member; and (b) without charge.

Provision of information on Rolls and certified lists of voters

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
15	a member of the House of Representatives elected for a Division that is affected by a redistribution	a copy of the Roll for any Division that, after the redistribution, includes the Division, or a part of the Division, for which the member is elected See also subsection (2).	(a) on request by the member; and (b) without charge.
16	an electoral authority of a State or Territory	(a) any information on a Roll; and (b) any other information that an arrangement under section 84 allows or requires the Electoral Commission to provide to the authority	(a) an arrangement under section 84 allows or requires the information to be provided to the authority; and (b) on payment of the fee (if any) payable under subsection (9).

Electoral Commission may provide additional information in some circumstances

- (2) If the Electoral Commission provides a copy of a Roll to a person or organisation under item 5, 6, 10, 14 or 15, the Electoral Commission may also provide any additional information held by the Electoral Commission about a person whose name is included on the Roll. The additional information is to be provided without charge.

Note: For **additional information**, see subsection (10).

Registered political parties for a State or Territory only if the party has branch or division for that State or Territory

- (3) In spite of subsection (1), the Electoral Commission need not give a registered political party information in relation to persons enrolled in a State or Territory unless a branch or division of the party is organised on the basis of that State or Territory.

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Information on Rolls may be provided to particular people and organisations

- (4) The following table sets out the persons and organisations to whom the Electoral Commission may give information in relation to the Rolls and specifies the information that may be given and the circumstances in which it may be given:

Provision of information on Rolls			
Item	Person or organisation	Information that may be given	Circumstances in which information may be given
1	the persons or organisations (if any) that the Electoral Commission determines are appropriate	a copy of a Roll	(a) as soon as practicable after a general election; and (b) without charge.
2	any person or organisation that conducts medical research or provides a health screening program	(a) a copy of a Roll (or an extract of a Roll); and (b) if the Electoral Commission wishes— information about: (i) the sex of; or (ii) the age range that covers; a person included on the Roll See also subsection (5).	(a) on request by the person or organisation; and (b) on payment of the fee (if any) payable under subsection (9).
3	any other person or organisation	a copy of a Roll (or an extract of a Roll)	(a) on request by the person or organisation; and (b) on payment of the fee (if any) payable under subsection (9).

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Provision of information on Rolls			
Item	Person or organisation	Information that may be given	Circumstances in which information may be given
4	a prescribed authority	(a) any information on a Roll; and (b) if the Electoral Commission wishes— information about: (i) the sex of; or (ii) the date of birth of; or (iii) the occupation of; a person whose name is included on the Roll	(a) the provision of the information is authorised by the regulations; and (b) on payment of the fee (if any) payable under subsection (9).

Item 2 age ranges

- (5) The Electoral Commission may determine the age ranges to be used for the purposes of item 2 in the table in subsection (4) in a particular case. However, each age range must cover at least 2 years.

Information about person whose address is not included on Roll

- (6) The Electoral Commission must not include in information given under subsection (1) or (4) information about a person whose address has been excluded or deleted from a Roll under section 104.

Restriction on disclosure of information about occupation, sex or date of birth

- (7) Except as otherwise provided by this Act, the Electoral Commission must not give a person information which discloses particulars of the occupation, sex or date of birth of an elector.
- (8) If an arrangement under section 84 allows information to be given to an electoral authority of a State or Territory, the Electoral

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Commission may also give that electoral authority information that discloses particulars of the sex or date of birth of an elector who is enrolled in another State or Territory.

Fee

- (9) The Electoral Commission may charge a fee that covers the cost to the Commission of providing information under:
- (a) item 6 or 16 in the table in subsection (1); or
 - (b) item 2, 3 or 4 in the table in subsection (4).

Definitions

- (10) In this section:

additional information about a person included on a Roll means the following:

- (a) the person's postal address;
- (b) the person's sex;
- (c) the person's date of birth;
- (d) the person's salutation;
- (e) the census district in which the person lives;
- (f) the most recent enrolment date and enrolment transaction number for the person;
- (g) whether the person is:
 - (i) not entitled to be enrolled as an elector of the Commonwealth; or
 - (ii) not also enrolled as a State elector, Australian Capital Territory elector or Northern Territory elector; or
 - (iii) less than 18 years old;
- (h) whether the person is a general postal voter;
- (i) whether the person has only recently been enrolled;
- (j) whether the person has re-enrolled and, if so:
 - (i) the Division and State or Territory in which they were previously enrolled; and
 - (ii) the enrolment transaction number for the person's previous enrolment;
- (k) the electoral district for the purposes of State or Territory elections in which the person lives;

- (l) the local government area in which the person lives;
- (m) the Australia Post delivery point identifier for each address of the person.

habitation index, in relation to a Division, means a list of electors for the Division arranged, in a manner determined by the Electoral Commission, by reference to the respective places of living of the electors whose names are on the Roll for the Division.

voting information, in relation to an election, means information that:

- (a) contains the names and addresses of the electors who voted at the election (other than itinerant electors, eligible overseas electors and electors whose addresses have been excluded from the Roll under section 104); and
- (b) indicates whether or not each of those electors voted at a polling place; and
- (c) if the elector voted at a polling place for the Division for which the elector was enrolled, indicates the location of the polling place.

91A Use of information from Roll and habitation index

- (1) If information is given to a person or organisation under section 90B, a person must not use the information except for a purpose that is a permitted purpose in relation to the person or organisation the information is given to.

Penalty: 100 penalty units.

- (1A) The permitted purposes in relation to a Senator or member of the House of Representatives are:
 - (a) any purpose in connection with an election or referendum; and
 - (aa) research regarding electoral matters; and
 - (b) monitoring the accuracy of information contained in a Roll; and
 - (c) the performance by the Senator or member of his or her functions as a Senator or member in relation to a person or persons enrolled for the Division, State or Territory to which the tape or disk relates.

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- (2) The permitted purposes in relation to a political party are:
- (a) any purpose in connection with an election or referendum;
and
 - (aa) research regarding electoral matters; and
 - (b) monitoring the accuracy of information contained in a Roll;
and
 - (c) the performance by a senator or member of the House of Representatives who is a member of the party of his or her functions as a senator or member in relation to a person or persons enrolled for the Division, State or Territory to which the tape or disk relates.

- (2AA) The permitted purposes in relation to a prescribed authority are:
- (a) monitoring the accuracy of information contained on a Roll;
and
 - (b) any other purpose that is prescribed for the prescribed authority.

- (2A) The permitted purposes in relation to a person or organisation other than a Senator, member of the House of Representatives, political party or prescribed authority are:
- (a) any purpose in connection with an election or referendum;
and
 - (b) monitoring the accuracy of information contained in a Roll;
and
 - (c) any other purpose that is prescribed.

- (2B) For information provided under item 16 of the table in subsection 90B(1), the only permitted purposes in relation to an electoral authority of a State or Territory are:
- (a) any purpose in connection with an election or referendum;
and
 - (b) monitoring the accuracy of information contained in a Roll.

- (3) In this section:

election means:

- (a) a Senate election;
- (b) a House of Representatives election;

- (c) a State election;
- (d) a Territory election; or
- (e) a local government election.

referendum means a referendum conducted under a law of the Commonwealth or of a State or Territory.

91B Prohibition of disclosure or commercial use of Roll or habitation index

- (1) For the purposes of this section, information is protected information in relation to a person if the person knows, or has reasonable grounds for believing, that the information has been obtained under section 90B.
- (2) A person must not disclose protected information unless the disclosure would be a use of the information for a permitted purpose under section 91A.

Penalty: 1,000 penalty units.

- (3) A person shall not use protected information for a commercial purpose.

Penalty: 1,000 penalty units.

92 Roll reviews

- (1) All officers in the service of the Commonwealth, all police, statistical, and electoral officers in the service of any State or Territory, officers in the service of any local governing body, and all occupiers of habitations shall upon application furnish to the Electoral Commission or to any officer acting under its direction all such information as the Electoral Commission requires in connexion with the preparation, maintenance or revision of the Rolls.
- (2) The Electoral Commission must cause reviews to be conducted of the Rolls, with a view to ascertaining such information as is required for the preparation, maintenance and revision of the Rolls.

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- (3) There must be paid to the Electoral Commission, out of the Consolidated Revenue Fund, amounts equal to the sum of the expenses reasonably incurred by it in respect of reviews conducted under subsection (2).
- (6) The Consolidated Revenue Fund is appropriated as necessary for the purposes of subsection (3).
- (7) The Minister for Finance may make advances to the Electoral Commission on account of the amount that is expected to become payable under this section to the Commission.
- (8) Amounts payable to the Electoral Commission under this section shall be paid in such amounts, and at such times, as the Minister for Finance determines.

Part VII—Qualifications and disqualifications for enrolment and for voting

93 Persons entitled to enrolment and to vote [see Note 3]

- (1) Subject to subsections (7) and (8) and to Part VIII, all persons:
 - (a) who have attained 18 years of age; and
 - (b) who are:
 - (i) Australian citizens; or
 - (ii) persons (other than Australian citizens) who would, if the relevant citizenship law had continued in force, be British subjects within the meaning of that relevant citizenship law and whose names were, immediately before 26 January 1984:
 - (A) on the roll for a Division; or
 - (B) on a roll kept for the purposes of the *Australian Capital Territory Representation (House of Representatives) Act 1973* or the *Northern Territory Representation Act 1922*;shall be entitled to enrolment.
- (2) Subject to subsections (3), (4) and (5), an elector whose name is on the Roll for a Division is entitled to vote at elections of Members of the Senate for the State that includes that Division and at elections of Members of House of Representatives for that Division.
- (3) An elector:
 - (a) whose name has been placed on a Roll in pursuance of a claim made under section 100; and
 - (b) who has not attained 18 years of age on the date fixed for the polling in an election;is not entitled to vote at that election.
- (4) Notwithstanding section 100 or any enrolment in pursuance of a claim made under that section, for the purposes of this Act in its application in relation to an election, a person who has not attained

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18 years of age on the date fixed for the polling in that election shall not be taken to be:

- (a) entitled to be enrolled on a Roll; or
 - (b) enrolled on a Roll.
- (5) A person is not entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day.
- (7) A person who is:
- (a) within the meaning of the *Migration Act 1958*, the holder of a temporary visa; or
 - (b) an unlawful non-citizen under that Act;
- is not entitled to enrolment under Part VIII.
- (8) A person who:
- (a) by reason of being of unsound mind, is incapable of understanding the nature and significance of enrolment and voting; or
 - (b) is serving a sentence of 3 years or longer for an offence against the law of the Commonwealth or of a State or Territory; or
 - (c) has been convicted of treason or treachery and has not been pardoned;
- is not entitled to have his or her name placed on or retained on any Roll or to vote at any Senate election or House of Representatives election.
- (8AA) Paragraph (8)(b) applies whether the person started serving the sentence before, on or after the commencement of Schedule 1 to the *Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004*.
- (8A) In subsection (1), **relevant citizenship law** means the *Australian Citizenship Act 1948* as amended and in force immediately before the day fixed by Proclamation for the purposes of subsection 2(2) of the *Australian Citizenship Amendment Act 1984* and the regulations in force immediately before that day under the *Australian Citizenship Act 1948* as so amended and in force.

- (10) The reference in subsection (8) to treason or treachery includes a reference to treason or treachery committed in relation to the Crown in right of a State or the Northern Territory or in relation to the government of a State or the Northern Territory.

93A Power to refuse to include in the Roll inappropriate names

- (1) This section applies to the inclusion of a person's name in a Roll under a provision of this Part.
- (2) A Divisional Returning Officer or Australian Electoral Officer may refuse to include a person's name in a Roll if the Divisional Returning Officer or Australian Electoral Officer considers that the name:
- (a) is fictitious, frivolous, offensive or obscene; or
 - (b) is not the name by which the person is usually known; or
 - (c) is not written in the alphabet used for the English language.
- (3) A Divisional Returning Officer or Australian Electoral Officer may refuse to include a person's name in a Roll if including the name in the Roll would be contrary to the public interest.
- (4) A Divisional Returning Officer or Australian Electoral Officer who decides under this section to refuse to include a person's name in a Roll must notify the person in writing of that decision.

94 Enrolled voters leaving Australia

- (1) An elector who:
- (a) is enrolled for a particular Subdivision of a Division; and
 - (b) has ceased to reside in Australia, or intends to cease to reside in Australia; and
 - (c) intends to resume residing in Australia (whether in that Subdivision or elsewhere) not later than 6 years after ceasing to reside in Australia;
- may apply to be treated as an eligible overseas elector. The application must be in the approved form and signed by the elector, and must be made to the Divisional Returning Officer for that Division.

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- (1A) An application that is made while the elector still resides in Australia must be made within 3 months before the elector intends to cease to reside in Australia.
- (1B) An application that is made after the elector ceased to reside in Australia must be made within 3 years after the day on which the elector ceased to reside in Australia.
- (2) Where an application is made under subsection (1):
 - (a) the Divisional Returning Officer must annotate the Roll so as to indicate that the elector is an eligible overseas elector; and
 - (b) subject to this section, the elector is entitled to be treated as an eligible overseas elector from the time when the annotation is made until it is cancelled.
- (3) Notwithstanding anything in subsection 99(1) or (2), while a person is entitled to be treated as an eligible overseas elector by virtue of an annotation under subsection (2) to the Roll for a Subdivision, the person is entitled to:
 - (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (4) Where a person applies under subsection (1) to the Divisional Returning Officer for a Division to be treated as an eligible overseas elector and the person's name is not on the Roll for a Subdivision of the Division, the Divisional Returning Officer shall refuse the application and give notice in writing of the decision to the person making the application.
- (5) A person who has applied under subsection (1) shall, as soon as practicable, give written notice to the Divisional Returning Officer to whom the application was made of the occurrence of any of the following circumstances:
 - (a) the person does not cease to reside in Australia within 3 months after the day on which the application was made;
 - (b) within 6 years after ceasing to reside in Australia, the person again becomes resident in Australia;
 - (c) the person abandons the intention to become resident again in Australia within 6 years after ceasing to reside in Australia;
 - (d) the person ceases to be entitled to enrolment.

- (6) Subject to subsection (13), if a person who is an eligible overseas elector does not cease to reside in Australia within 3 months after the day on which he or she applied under subsection (1) to be treated as an eligible overseas elector, the person ceases to be entitled to be treated as an eligible overseas elector.
- (6A) Paragraph (5)(a) and subsection (6) do not apply to a person who is an eligible overseas elector whose application under subsection (1) was made after the person ceased to reside in Australia.
- (7) If a person who is an eligible overseas elector again becomes resident in Australia within 6 years after ceasing to reside in Australia, the person ceases to be entitled to be treated as an eligible overseas elector at the end of 1 month after the day on which he or she again became resident in Australia.
- (8) Where a person who is an eligible overseas elector in relation to a Subdivision by virtue of this section:
- (a) ceases to have the intention to resume residing in Australia within the period (in this subsection referred to as the *relevant period*) of 6 years after the day on which he or she ceased to reside in Australia; and
 - (b) intends to resume residing in Australia at some time after the expiration of the relevant period;
- and applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.
- (9) Where a person who:
- (a) is being treated as an eligible overseas elector in relation to a Subdivision for a further period (in this subsection referred to as the *relevant period*) of 1 year in pursuance of an application made under subsection (8) or under this subsection; and

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- (b) intends to resume residing in Australia;
applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.
- (10) An application under subsection (8) or (9) shall be in writing and signed by the applicant.
- (11) Where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9):
- (a) resumes residing in Australia; or
 - (b) ceases to have the intention to resume residing in Australia;
- the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer for the Division for which he or she is enrolled of the happening of the event referred to in paragraph (a) or (b), as the case may be.
- (12) Subject to subsection (13), where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) resumes residing in Australia, the person ceases to be entitled to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (13) A person ceases to be entitled to be treated as an eligible overseas elector under this section if:
- (a) the person gives notice under paragraph (5)(c) and does not make an application under subsection (8);
 - (b) the person gives notice under paragraph (11)(b);
 - (c) while the person is being so treated, a general election is held at which he or she neither votes nor applies for a postal vote;
 - (d) the person ceases to be entitled to enrolment;
 - (e) except where:
 - (i) the person has given notice under paragraph (5)(b); or

- (ii) the person has made an application under subsection (8);
the period of 6 years commencing on the day on which the person ceased to reside in Australia expires; or
 - (f) in a case where:
 - (i) the person is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) for a further period (in this paragraph referred to as the *relevant period*) of 1 year; and
 - (ii) the person does not make an application under subsection (9) to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period;
the relevant period expires.
- (14) Where the Divisional Returning Officer for the Division on the Roll for a Subdivision of which an annotation in relation to a person under subsection (2) has been made becomes aware that the person has ceased to be entitled to be treated as an eligible overseas elector under this section by virtue of subsection (6), (7), (12) or (13), the DRO shall:
- (a) if the person ceases to be eligible otherwise than by virtue of paragraph (13)(d) and the person resides in the Division at the time when he or she ceases to be entitled to be treated as an eligible overseas elector under this section—cancel the annotation made in relation to the person under subsection (2); or
 - (b) in any other case—cancel the enrolment of the person on the Roll for the Subdivision.
- (15) If, after an application is made by a person under subsection (1) to be treated as an eligible overseas elector and before an annotation under subsection (2) is made in relation to the person, an event occurs by reason of which, if the annotation had been made, the person would have ceased to be entitled to be treated as an eligible overseas elector under subsection (6), (7) or (13), whether immediately or otherwise, then:
- (a) where the annotation was not made before the Divisional Returning Officer to whom the application was made became

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aware of the happening of the event—the Divisional Returning Officer shall not make the annotation; or

- (b) where the annotation is made—the annotation or the enrolment of the person, as the case requires, ceases to be in force immediately after the annotation is made.

(16) In this section:

Australia does not include Norfolk Island.

94A Enrolment from outside Australia

(1) A person may apply to the Australian Electoral Officer for a State for enrolment for a Subdivision in that State if, at the time of making the application:

- (a) the person has ceased to reside in Australia; and
- (b) the person is not enrolled; and
- (c) the person is not qualified for enrolment, but would be so qualified if he or she resided at an address in a Subdivision of a Division, and had done so for at least a month; and
- (d) the person intends to resume residing in Australia not later than 6 years after he or she ceased to reside in Australia.

(2) The application:

- (a) must be in the approved form; and
- (b) must be signed by the person; and
- (c) must be attested to by a person referred to in paragraph 98(2)(c) (but see subsection (2A)); and
- (d) must be made within 3 years of the day on which the person making the application ceased to reside in Australia.

(2A) An application that does not meet the requirement in paragraph (2)(c) is taken to meet that requirement for the purposes of this Act if:

- (a) the application is accompanied by a signed statement by the person making the application setting out why the person was unable to meet the requirement; and
- (b) the Australian Electoral Officer is satisfied that the person made reasonable efforts to comply with the requirement; and

- (c) the application is accompanied by a photocopy, that is certified by the person to be a true copy, of a part of the person's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the person's name, date of birth and signature; and
 - (iii) a photograph of the person.
- (3) The Australian Electoral Officer must cause the person's name to be added to the Roll:
 - (a) for the Subdivision for which the person last had an entitlement to be enrolled; or
 - (b) if the person has never had such an entitlement, for a Subdivision for which any of the person's next of kin is enrolled; or
 - (c) if neither paragraph (a) nor (b) applies, for the Subdivision in which the person was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the person has closest connection.
- (4) If:
 - (a) the application was received by an Australian Electoral Officer after 8 pm on the day of the close of the Rolls for an election to be held in a Division; and
 - (b) the application relates to a Subdivision of that Division;the person's name must not be added to the Roll for the Subdivision until after the close of the poll for that election.
- (5) The Australian Electoral Officer must notify the person in writing:
 - (a) of a decision to grant or refuse the application; or
 - (aa) of a decision to refuse the application because it:
 - (i) does not meet the requirement in paragraph (2)(c); and
 - (ii) is not taken to meet that requirement because of subsection (2A); or
 - (b) of the Australian Electoral Officer's opinion that the application cannot be proceeded with because of subsection (4).
- (6) If the application is granted, the Australian Electoral Officer must forward the application to the relevant Divisional Returning

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Officer, who must treat the application as if it were a valid application under subsection 94(1) by the person to be treated as an eligible overseas elector.

95 Eligibility of spouse or child of eligible overseas elector [see Note 4]

- (1) Where a person:
- (a) who is the spouse or child of a person who is an eligible overseas elector by virtue of section 94 in relation to a Subdivision (in this subsection referred to as the *relevant Subdivision*);
 - (b) who is living at a place outside Australia so as to be with or near the eligible overseas elector;
 - (c) who had not attained 18 years of age when he or she last ceased to reside in Australia;
 - (d) whose name is not, and has not been, on a Roll;
 - (e) who is not qualified for enrolment under section 93 but would be so qualified if he or she resided at an address in a Subdivision of a Division; and
 - (f) who intends to resume residing in Australia not later than 6 years after the day on which he or she attained 18 years of age;

applies to the Divisional Returning Officer for the Division that includes the relevant Subdivision to have his or her name placed on the Roll for the relevant Subdivision and to be treated as an eligible overseas elector, the Divisional Returning Officer to whom the application is made shall, subject to subsection (4):

- (g) add the name of the person to the Roll for the relevant Subdivision; and
 - (h) annotate the Roll for the relevant Subdivision so as to indicate that the person is an eligible overseas elector;
- and, subject to subsections (7), (12) and (13), the person is entitled to be treated as an eligible overseas elector from the time when the annotation is made until it is cancelled.

- (2) The application must be:
- (a) in the approved form; and
 - (b) signed by the person; and

- (c) attested to by a person referred to in paragraph 98(2)(c) (but see subsection (2A)).
- (2A) An application that does not meet the requirement in paragraph (2)(c) is taken to meet that requirement for the purposes of this Act if:
- (a) the application is accompanied by a signed statement by the person making the application setting out why the person was unable to meet the requirement; and
 - (b) the Divisional Returning Officer is satisfied that the person made reasonable efforts to comply with the requirement; and
 - (c) the application is accompanied by a photocopy, that is certified by the person to be a true copy, of a part of the person's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the person's name, date of birth and signature; and
 - (iii) a photograph of the person.
- (3) Notwithstanding anything contained in subsection 99(1) or (2), while a person is entitled to be treated as an eligible overseas elector by virtue of an annotation under subsection (1) to the Roll for a Subdivision, the person is entitled to:
- (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (4) Where an application under this section is received by a Divisional Returning Officer after 8 p.m. on the day of the close of the Rolls for an election to be held in the Division, the name of the applicant shall not be added to the Roll for a Subdivision, and the annotation of the Roll under subsection (1) in relation to the applicant shall not be made, until after the close of the polling at that election.
- (5) The Divisional Returning Officer must notify the person in writing:
- (a) of a decision to grant or refuse the application; or
 - (b) of a decision to refuse the application because it:
 - (i) does not meet the requirement in paragraph (2)(c); and
 - (ii) is not taken to meet that requirement because of subsection (2A); or
-

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- (c) of the Divisional Returning Officer's opinion that the application cannot be proceeded with because of subsection (4).
- (6) Where a person who has applied under subsection (1) to be treated as an eligible overseas elector:
 - (a) resumes residing in Australia within 6 years after the day on which he or she attained 18 years of age;
 - (b) ceases to have the intention to resume residing in Australia within 6 years after the day on which he or she attained 18 years of age; or
 - (c) ceases to be qualified for enrolment;the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer to whom the application under subsection (1) to be treated as an eligible overseas elector was made of the happening of the event referred to in paragraph (a), (b) or (c), as the case may be.
- (7) Subject to subsection (13), where a person who is being treated as an eligible overseas elector under this section resumes residing in Australia within 6 years after the day on which he or she attained 18 years of age, the person ceases to be eligible to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (8) Where a person who is an eligible overseas elector in relation to a Subdivision by virtue of this section:
 - (a) ceases to have the intention to resume residing in Australia within the period (in this subsection referred to as the *relevant period*) of 6 years after the day on which he or she attained 18 years of age; and
 - (b) intends to resume residing in Australia at some time after the expiration of the relevant period;applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision

so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.

- (9) Where a person who:
- (a) is being treated as an eligible overseas elector in relation to a Subdivision for a further period (in this subsection referred to as the *relevant period*) of 1 year in pursuance of an application made under subsection (8) or under this subsection; and
 - (b) intends to resume residing in Australia;
- applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.
- (10) An application under subsection (8) or (9) shall be in writing and signed by the applicant.
- (11) Where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9):
- (a) resumes residing in Australia; or
 - (b) ceases to have the intention to resume residing in Australia;
- the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer for the Division for which he or she is enrolled of the happening of the event referred to in paragraph (a) or (b), as the case may be.
- (12) Subject to subsection (13), where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) resumes residing in Australia, the person ceases to be entitled to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (13) A person ceases to be entitled to be treated as an eligible overseas elector under this section if:
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- (a) the person gives notice under paragraph (6)(b) and does not make an application under subsection (8);
 - (b) the person gives notice under paragraph (11)(b);
 - (c) while the person is being so treated, a general election is held at which the person neither votes nor applies for a postal vote;
 - (d) the person ceases to be entitled to enrolment;
 - (e) except where:
 - (i) the person has given notice under paragraph (6)(b); or
 - (ii) the person has made an application under subsection (8);the period of 6 years commencing on the day on which the person attained the age of 18 years expires; or
 - (f) in a case where:
 - (i) the person is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) for a further period (in this paragraph referred to as the *relevant period*) of 1 year; and
 - (ii) the person does not make an application under subsection (9) to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period;the relevant period expires.
- (14) Where the Divisional Returning Officer for the Division on the Roll for a Subdivision of which an annotation in relation to a person under subsection (1) has been made becomes aware that the person has ceased to be entitled to be treated as an eligible overseas elector under this section by virtue of subsection (7), (12) or (13), the DRO shall:
- (a) if the person ceases to be eligible otherwise than by virtue of paragraph (13)(d) and the person resides in the Division at the time when he or she ceases to be entitled to be treated as an eligible overseas elector under this section—cancel the annotation made in relation to the person under subsection (1); or
 - (b) in any other case—cancel the enrolment of the person on the Roll for the Subdivision.

- (15) If, after an application is made by a person under subsection (1) to be treated as an eligible overseas elector and before the person's name is added to the Roll and an annotation under paragraph (1)(h) is made in relation to the person, an event occurs by reason of which, if the name had been so added and the annotation so made, the person would have ceased to be entitled to be treated as an eligible overseas elector under subsection (7) or (13), whether immediately or otherwise, then:
- (a) where the name was not added to the Roll, and the annotation was not made, before the Divisional Returning Officer to whom the application was made became aware of the happening of the event—the Divisional Returning Officer shall not add the name to the Roll under this section or make the annotation; or
 - (b) where the name is added to the Roll and the annotation is made—the person ceases to be entitled to be treated as an eligible overseas elector immediately after the name is added and the annotation is made.

- (17) In this section:

Australia does not include Norfolk Island.

95AA Norfolk Island electors

- (1) In this section:

exclusive Territory means an internal Territory that neither:

- (a) includes another Territory; nor
- (b) is included in another Territory;

under section 4 (if any).

inclusive Territory means an internal Territory that, under section 4, includes another Territory.

one-Territory Division means:

- (a) a Division that is an exclusive Territory; or
- (b) a Division that is one of the Divisions into which an exclusive Territory is distributed; or
- (c) a Division that:

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- (i) is one of the Divisions into which an inclusive Territory is distributed; and
- (ii) does not include a Territory that, under section 4, is included in that inclusive Territory.

qualified Norfolk Islander means a person who:

- (a) resides in Norfolk Island; and
- (b) would be qualified for enrolment under section 93 if he or she lived at an address in a Subdivision and had lived at that address for a period of one month last past; and
- (c) is not entitled to be enrolled for a Subdivision under section 94, 94A or 95.

State does not include a Territory.

Territory means:

- (a) an internal Territory; or
 - (b) an external Territory.
- (2) Subject to subsection (4), a qualified Norfolk Islander who is one of the people of a State for the purposes of sections 7 and 24 of the Constitution is entitled to be enrolled for:
- (a) the Subdivision in that State for which he or she last had an entitlement to be enrolled; or
 - (b) if he or she never had such an entitlement—a Subdivision in that State for which any of his or her next of kin is enrolled; or
 - (c) if neither paragraph (a) nor (b) applies—the Subdivision in that State in which he or she was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies—a Subdivision in that State with which he or she has a close connection.
- (3) Subject to subsection (4), a qualified Norfolk Islander who is not one of the people of any State for the purposes of sections 7 and 24 of the Constitution is entitled to be enrolled for a Subdivision of a one-Territory Division.
- (4) A qualified Norfolk Islander is not entitled to be enrolled for more than one Subdivision at the same time.

95AB Presumption about certain Norfolk Island electors

If:

- (a) a qualified Norfolk Islander (within the meaning of section 95AA) claims to be one of the people of a State for the purposes of sections 7 and 24 of the Constitution; and
- (b) at least one paragraph of subsection 95AA(2) applies in relation to the claimant and the State; and
- (c) there is no decision by a court that the claimant is not one of those people;

then, for the purposes of section 95AA and subsection 95AC(2), a Divisional Returning Officer must take the claimant to be one of those people.

95AC Rolls relating to Norfolk Island electors

- (1) A Divisional Returning Officer who, under section 95AA, causes the name of a person to be added to the Roll must annotate the Roll so as to indicate that the person is enrolled under that section.
- (2) A Divisional Returning Officer for a Division must conduct a review of the Roll for a Subdivision of that Division in relation to electors to whom an annotation under subsection (1) applies if directed to do so by the Electoral Commission and, upon completion of the review, make such alterations to the Roll as he or she thinks necessary to ensure that persons on that Roll under section 95AA are entitled to be so.

96 Itinerant electors

- (1) A person who:
 - (a) is in Australia; and
 - (b) because the person does not reside in any Subdivision, is not entitled to be enrolled for any Subdivision;may apply to the Australian Electoral Officer for a State for enrolment under this section for a Subdivision in that State.
- (2) The application must be:
 - (a) in the approved form; and
 - (b) signed by the applicant; and

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- (c) attested to by a person referred to in paragraph 98(2)(c).
- (2A) The Australian Electoral Officer shall cause the name of the applicant to be added to the Roll:
- (a) for the Subdivision for which the applicant last had an entitlement to be enrolled;
 - (b) if the person has never had such an entitlement, for a Subdivision for which any of the applicant's next of kin is enrolled;
 - (c) if neither paragraph (a) nor paragraph (b) applies, for the Subdivision in which the applicant was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the applicant has the closest connection.
- (2B) The Australian Electoral Officer shall also annotate the Roll so as to indicate that the person is an itinerant elector.
- (2C) Until an annotation under subsection (2B) is cancelled, the person to whom the annotation relates is entitled to be treated as an itinerant elector.
- (3) Notwithstanding anything contained in subsection 99(1) or (2), while a person is entitled to be treated as an itinerant elector by virtue of an annotation under subsection (2B) to the Roll for a Subdivision, the person is entitled to:
- (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (4) Where an application under this section is received by an Australian Electoral Officer after 8 p.m. on the day of the close of the Rolls for an election to be held in the Division to a Subdivision of which the application relates, the name of the applicant shall not be added to the Roll for the Subdivision, and the annotation of the Roll under subsection (2B) in relation to the applicant shall not be made, until after the close of the polling at that election.
- (5) Where an Australian Electoral Officer:
- (a) grants or refuses an application made under subsection (1); or

- (b) is of the opinion that an application made under that subsection cannot be proceeded with because of the operation of subsection (4);
the Australian Electoral Officer shall notify the applicant in writing of that decision or opinion, as the case may be.
- (6) Where an Australian Electoral Officer notifies a person under subsection (5) of a decision to refuse an application made under subsection (1), the notice shall include a statement to the effect that a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if he or she is dissatisfied with the decision, make an application to the Administrative Appeals Tribunal for review of the decision.
- (7) Where a person who has applied under subsection (1) to be treated as an itinerant elector:
- (a) resides in a Subdivision for a period of 1 month or longer;
 - (b) forms the intention to depart from Australia and to remain outside Australia for a period of 1 month or longer; or
 - (c) ceases to be entitled to enrolment;
- the person shall, as soon as practicable, give notice in writing to the Australian Electoral Officer to whom the application under subsection (1) was made of the happening of the event referred to in paragraph (a), (b) or (c), as the case may be.
- (8) Subject to subsection (9), where a person who is being treated as an itinerant elector under this section resides in a Subdivision for a period of 1 month or longer, the person ceases to be eligible to be treated as an itinerant elector under this section on the expiration of that period of 1 month.
- (9) A person ceases to be entitled to be treated as an itinerant elector under this section if:
- (a) while the person is being so treated, a general election is held at which the person neither votes nor applies for a postal vote;
 - (b) the person ceases to be entitled to enrolment; or
 - (c) the person departs from Australia and remains outside Australia for a period of 1 month or longer.

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- (10) Where the Australian Electoral Officer who has caused the name of a person to be added to the Roll for a Subdivision of a Division under this section becomes aware that the person has ceased to be entitled to be treated as an itinerant elector under this section by virtue of subsection (8) or (9), he or she must:
- (a) if the person ceases to be entitled otherwise than because of paragraph (9)(b) and the Australian Electoral Officer is aware that the person resides in the Division—cause the annotation made in relation to the person under subsection (2B) to be cancelled; or
 - (b) in any other case—cause the enrolment of the person on the Roll for the Subdivision to be cancelled.
- (11) If, after an application is made by a person under this section to be treated as an itinerant elector and before the person's name is added to the Roll and an annotation under subsection (2B) is made in relation to the person, an event occurs by reason of which, if the name had been so added and the annotation so made, the person would cease to be entitled to be treated as an itinerant elector under this section, whether immediately or otherwise, then:
- (a) where the name was not added to the Roll, and the annotation was not made, before the Australian Electoral Officer to whom the application was made became aware of the happening of the event—the Australian Electoral Officer shall not cause the name to be added to the Roll under this section or cause the annotation to be made; or
 - (b) where the name is added to the Roll and the annotation is made—the person ceases to be entitled to be treated as an itinerant elector immediately after the name is added and the annotation is made.
- (12) For the purposes of this section, a person shall be taken to reside at a place if, and only if, the person has his or her real place of living at that place.
- (13) In this section:
- Australia* does not include Norfolk Island.

96A Enrolment of prisoners

- (1) Subject to section 93, a person who is serving a sentence of imprisonment is entitled to remain enrolled for the Subdivision (if any) for which the person was enrolled when he or she began serving the sentence.
- (2) An eligible person who is serving a sentence of imprisonment but who was not enrolled when he or she began serving the sentence is entitled to be enrolled for:
 - (a) the Subdivision for which the person was entitled to be enrolled at that time;
 - (b) if the person was not so entitled, a Subdivision for which any of the person's next of kin is enrolled;
 - (c) if neither of paragraphs (a) and (b) is applicable, the Subdivision in which the person was born; and
 - (d) if none of the preceding paragraphs is applicable, the Subdivision with which the person has the closest connection.
- (3) In subsection (2), *eligible person* means a person who, under section 93, is entitled to enrolment.

97 Application of Part

- (1) This Part applies in relation to the Australian Capital Territory as if:
 - (a) references in the preceding sections of this Part to a State were references to the Australian Capital Territory; and
 - (b) references in the preceding sections of this Part to an Australian Electoral Officer for a State were references to the Electoral Commissioner.
- (1A) This Part applies to the Northern Territory as if the Territory were a State.
- (2) This Part applies in relation to a Subdivision in relation to which an Assistant Divisional Returning Officer is appointed as if references in the preceding sections of this Part, in relation to a Subdivision, to a Divisional Returning Officer were references to an Assistant Divisional Returning Officer.

Part VIII—Enrolment

98 Addition of names to Rolls

- (1) Names may be added to Rolls pursuant to claims for enrolment or transfer of enrolment or claims for age 17 enrolment.
- (2) A claim shall:
 - (a) be in the approved form;
 - (b) subject to subsection (3), be signed by the claimant; and
 - (c) be attested by an elector or a person entitled to enrolment, who shall sign the claim as witness in his or her own handwriting.
- (3) Where a person wishes to make a claim for enrolment, for transfer of enrolment or for age 17 enrolment and a registered medical practitioner has certified, in writing, that the person is so physically incapacitated 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 first-mentioned person.
- (4) A claim shall be completed in accordance with the directions contained in the form approved for the purposes of subsection (2).
- (5) A certificate referred to in subsection (3) shall be lodged with the claim to which it relates.

98A Refusal to include in the Roll inappropriate names

- (1) This section applies to the inclusion in a Roll, or transfer to a Roll, of a person's name under a provision of this Part.
- (2) A Divisional Returning Officer or Australian Electoral Officer may refuse to include in a Roll, or transfer to a Roll, a person's name if the Divisional Returning Officer or Australian Electoral Officer considers that the name:
 - (a) is fictitious, frivolous, offensive or obscene; or
 - (b) is not the name by which the person is usually known; or
 - (c) is not written in the alphabet used for the English language.

- (3) A Divisional Returning Officer or Australian Electoral Officer may refuse to include in a Roll, or transfer to a Roll, a person's name if including the name in the Roll, or transferring it to the Roll, would be contrary to the public interest.
- (4) A Divisional Returning Officer or Australian Electoral Officer who decides under this section to refuse to include a person's name in a Roll must notify the person in writing of that decision.

99 Claims for enrolment or transfer of enrolment

- (1) Any person qualified for enrolment, who lives at an address in a Subdivision, and has lived at that address for a period of one month last past, shall be entitled, in respect of residence at that address, to have his or her name placed on the Roll for that Subdivision.
- (2) Any elector whose name is on the Roll for any Subdivision and who lives at an address in any other Subdivision, and has lived at that address for a period of one month last past, shall be entitled, in respect of residence at that address, to have his or her name transferred to the Roll for the Subdivision in which he or she lives.
- (3) Subject to sections 94, 94A, 95, 95AA, 96 and 96A and Part XVII, a person is not entitled to have his or her name placed on the Roll:
 - (a) for more than one Subdivision;
 - (b) for a Subdivision other than the Subdivision in which the person lives; or
 - (c) in respect of an address other than the address at which the person is living when the claim is lodged.
- (4) In spite of any other provision of this Act:
 - (a) a Senator is entitled to have his or her name placed on the Roll for any Subdivision of any Division in the State or Territory the Senator represents instead of the Subdivision in which the Senator lives;
 - (b) a member of the House of Representatives is entitled to have his or her name placed on the Roll for any Subdivision of the Division the member represents instead of the Subdivision in which the member lives; and

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- (c) a Senator or member whose name is enrolled under this subsection may vote as an elector of the Subdivision for which he or she is so enrolled.
- (5) The validity of any enrolment shall not in any case be questioned on the ground that the person enrolled has not in fact lived at the relevant address in the Subdivision for a period of one month.

99A Provisional claim for enrolment by applicant for citizenship

- (1) A person who:
 - (a) applies for a certificate of Australian citizenship under section 13 of the *Australian Citizenship Act 1948*; and
 - (b) would, if he or she were an Australian citizen, be entitled, in respect of residence at an address, to enrolment for a subdivision;may make a provisional claim for enrolment for that subdivision.
- (2) If a person who has made a provisional claim for enrolment for a subdivision, either under subsection (1) or under this subsection:
 - (a) is living at an address in another subdivision; and
 - (b) has lived at that address for the period of one month last past;the person may make a provisional claim for enrolment for that other subdivision.
- (3) If a person makes a provisional claim for enrolment under subsection (2), any previous provisional claim for enrolment by that person has no effect.
- (4) A claim must be:
 - (a) in the approved form; and
 - (b) subject to subsection (5), signed by the claimant; and
 - (c) attested to by an elector or a person entitled to enrolment, who must sign the claim as witness in his or her own handwriting; and
 - (d) lodged:
 - (i) if the claim is made under subsection (1)—together with the claimant's application for a certificate of Australian citizenship; or

- (ii) if the claim is made under subsection (2)—with any Australian Electoral Officer or DRO.
- (5) If:
- (a) a person wishes to make a provisional claim for enrolment; and
 - (b) a registered medical practitioner has certified, in writing, that the person is so physically incapacitated 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 first-mentioned person.
- (6) The Secretary of the Department of Immigration, Local Government and Ethnic Affairs must:
- (a) send to the Electoral Commissioner, as soon as practicable, any provisional claim for enrolment lodged by a person under subparagraph (4)(d)(i); and
 - (b) inform the Electoral Commissioner, as soon as practicable, whether or not a certificate of Australian citizenship has been granted to the person.
- (7) If a person who has made a provisional claim for enrolment for a subdivision is granted a certificate of Australian citizenship, the provisional claim is taken to be a claim for enrolment for the subdivision, made by the person on the day on which the person is granted the certificate of citizenship.
- (8) If a person who has made a provisional claim for enrolment is refused a certificate of Australian citizenship, the provisional claim has no effect.

100 Claims for age 17 enrolment

- (1) A person who:
- (a) is 17 years of age; and
 - (b) would be entitled, in respect of residence at an address, to be enrolled for a Subdivision if he or she were 18 years of age;
- may send or deliver a claim to have his or her name placed on the Roll for that Subdivision to any Divisional Returning Officer or Australian Electoral Officer.

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- (2) A claim made under subsection (1) shall be treated as a claim for enrolment for the Subdivision to which the claim relates and the provisions of sections 102, 103 and 104 apply in relation to the claim as if the person making the claim were 18 years of age and the claim were made pursuant to section 101.
- (3) For the purposes of sections 389 and 390, a claim made under subsection (1) shall be taken to be a claim for enrolment.

101 Compulsory enrolment and transfer

- (1) Subject to subsection (5A), every person who is entitled to be enrolled for any Subdivision, otherwise than by virtue of section 94, 94A, 95, 96 or 100, whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll, shall forthwith fill in and sign a claim and send or deliver the claim to any Divisional Returning Officer or Australian Electoral Officer.
- (1A) A person who is entitled to be enrolled for any Subdivision under section 95AA may fill in and sign a claim and send or deliver it to any Divisional Returning Officer or Australian Electoral Officer.
- (2) Where a person sends or delivers a claim for enrolment (including a claim for age 17 enrolment), or for transfer of enrolment, to a Divisional Returning Officer for a Division other than the Division (in this subsection referred to as the *proper Division*) on the Roll for a Subdivision of which the person is entitled to be enrolled, the Divisional Returning Officer shall note on the claim the date of its receipt, subject to subsection 102(2A), and forthwith send the claim and any documents sent or delivered by the person with the claim to the Divisional Returning Officer for the proper Division.
- (3) Where a person sends or delivers a claim for enrolment (including a claim for age 17 enrolment), or for transfer of enrolment, to an Australian Electoral Officer, the Australian Electoral Officer shall note on the claim the date of its receipt and, subject to subsection 102(2A), forthwith send the claim and any documents sent or delivered by the person with the claim to the Divisional Returning Officer for the Division on the Roll for a Subdivision of which the person is entitled to be enrolled.

- (4) Subject to subsection (5A), every person who is entitled to have his or her name placed on the Roll for any Subdivision whether by way of enrolment or transfer of enrolment, and whose name is not on the Roll upon the expiration of 21 days from the date upon which the person became so entitled, or at any subsequent date while the person continues to be so entitled, shall be guilty of an offence unless he or she proves that the non-enrolment is not in consequence of his or her failure to send or deliver to a Divisional Returning Officer or an Australian Electoral Officer, a claim, duly filled in and signed in accordance with the directions printed thereon.

Note: A defendant bears a legal burden in relation to the defence in subsection (4) (see section 13.4 of the *Criminal Code*).

- (5) Subject to subsection (5A), if a person enrolled for a Subdivision (including a person whose address, in accordance with a request made under section 104, is not entered on a Roll):
- (a) has changed his or her place of living from one address in that Subdivision to another address in the same Subdivision; and
 - (b) has lived at the new address for a period of one month;
- the person must, within 21 days after the end of the period referred to in paragraph (b), give written notice of the new address to the Divisional Returning Officer for the Division that includes that Subdivision.

- (5A) Subsections (1), (4) and (5) do not apply to a qualified Norfolk Islander within the meaning of section 95AA.

Note: A defendant bears an evidential burden in relation to the defence in subsection (5A) (see subsection 13.3(3) of the *Criminal Code*).

- (6) A person who fails to comply with subsection (1), (4) or (5) is guilty of an offence punishable on conviction by a fine not exceeding 1 penalty unit.
- (6AA) An offence against subsection (6) relating to a failure to comply with subsection (1) or (5) is an offence of strict liability.
- Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (6AB) An offence against subsection (6) relating to a failure to comply with subsection (4) is an offence of absolute liability.

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Note: For *absolute liability*, see section 6.2 of the *Criminal Code*.

- (6A) Subsection (6) does not apply to a person who fails to comply with subsection (5) if the person has not reached the age of 18 years.

Note: A defendant bears an evidential burden in relation to the defence in subsection (6A) (see subsection 13.3(3) of the *Criminal Code*).

- (7) Where a person sends or delivers a claim for enrolment, or for transfer of enrolment, to a Divisional Returning Officer or an Australian Electoral Officer, proceedings shall not be instituted against that person for any offence against subsection (1) or (4) committed before the claim was so sent or delivered.

102 Action on receipt of claim

- (1) Subject to subsection (4), where, pursuant to section 101, a Divisional Returning Officer for a Division receives a claim for enrolment or transfer of enrolment for that Division, the Divisional Returning Officer shall:
- (a) note on the claim the date of its receipt;
 - (b) if the claim is in order and the officer is satisfied that the claimant is entitled, in respect of residence at an address, to be enrolled for a Subdivision of that Division, forthwith:
 - (i) enter on the Roll for the Subdivision the name of the claimant and the other particulars required by section 83;
 - (ii) notify the claimant in writing that he or she has been enrolled for that Subdivision;
 - (iii) in the case of a claim for transfer of an enrolment from the Roll for another Subdivision in that Division—delete the name of the claimant from the Roll for the last-mentioned Subdivision; and
 - (iv) in the case of a claim for transfer of enrolment from a Subdivision not included in that Division—give notice of the transfer to the Divisional Returning Officer for the Division that includes the last-mentioned Sub-division; and
 - (ba) if the claim is in order but the officer is satisfied that the claimant is already properly enrolled in respect of residence at the address in the Subdivision for which he or she is

- entitled to be enrolled—notify the claimant, in writing, that he or she has been enrolled for that Subdivision; and
- (c) if the claim is not in order or the officer is not satisfied that the claimant is entitled, in respect of residence at an address, to be enrolled in a Subdivision of that Division—notify the claimant in writing that the claim has been rejected.
- (1A) Before dealing with a claim under paragraph (1)(b), (ba) or (c), a Divisional Returning Officer may make any inquiries the officer thinks necessary.
- (2) Where a Divisional Returning Officer for a Division receives notice, pursuant to subparagraph (1)(b)(iv), of the transfer of a person's enrolment from a Subdivision in that Division, the Divisional Returning Officer shall delete the name of, and particulars relating to, the person from the Roll for the Subdivision.
- (2A) This subsection applies during the period commencing on a public announcement that an election will be held or the issue of the writ or writs for the election, whichever is the earlier, and ending at 8 p.m. on the day on which the Rolls for the election close.
- (2B) At any time when subsection (2A) applies, a Divisional Returning Officer may, with the concurrence of the Australian Electoral Officer for the State, and in accordance with such directions (if any) as are given by the Electoral Commissioner, deal with a claim for enrolment or transfer of enrolment received by the Divisional Returning Officer or by another Divisional Returning Officer for a Division in the same State.
- (2C) Where a claim for enrolment or transfer of enrolment for a Division is dealt with by the Divisional Returning Officer for another Division, subsection (1) applies as if the Divisional Returning Officer were the Divisional Returning Officer for the first-mentioned Division.
- (2D) At any time when subsection (2A) applies, the Australian Electoral Officer for a State may, in accordance with such directions (if any) as are given by the Electoral Commissioner, deal with a claim for enrolment or transfer of enrolment received by the Australian Electoral Officer, by any Divisional Returning Officer in that State or by an Australian Electoral Officer or Divisional Returning Officer in another State.
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- (2E) Where a claim for enrolment or transfer of enrolment is dealt with by an Australian Electoral Officer, subsection (1) applies as if the Australian Electoral Officer were the Divisional Returning Officer for the Division for which the claim is made.
- (3) Notice of a decision given to a claimant by a Divisional Returning Officer under paragraph (1)(c) shall include:
- (a) a statement of the reasons for the decision; and
 - (b) a statement setting out the rights of the claimant to have the decision reviewed under Part X.
- (4) A claim under section 101 by a person to have his or her name placed on the Roll for a Subdivision received during the period commencing at 8 p.m. on the day on which the Rolls for an election to be held in the Subdivision close and ending on the close of polling at the election shall not be considered until after the expiration of that period.
- (4A) This subsection applies to a claim under section 101 if:
- (a) the claim is received during the period referred to in subsection (4);
 - (b) the Australian Postal Corporation has notified the Electoral Commission in writing that:
 - (i) the delivery of mail identified in the notification was delayed by an industrial dispute affecting a specified post office or mail exchange; and
 - (ii) but for the industrial dispute, that mail would, in the ordinary course of post, have been delivered before the commencement of the period referred to in subsection (4); and
 - (c) the claim is included in the mail identified in the notification.
- (4B) In spite of subsection (4):
- (a) a claim to which subsection (4A) applies shall be regarded as having been received before the commencement of the period referred to in subsection (4); and
 - (b) if the claimant's name is entered on the Roll in accordance with the claim, the enrolment shall, in relation to any vote recorded by the claimant in an election, be regarded as having been effected before the commencement of the period referred to in subsection (4).

- (5) A name may, at any time, be removed from a Roll pursuant to a notice of transfer of enrolment.

103 Penalty on officer neglecting to enrol claimants

- (1) Any officer who receives a claim for enrolment or transfer of enrolment and who fails to do everything necessary on his or her part to be done to secure the enrolment of the claimant in pursuance of the claim shall be guilty of an offence.

Penalty: \$1,000.

- (2) Subsection (1) does not apply if the officer has a just excuse for the failure.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

104 Request for address not to be shown on Roll

- (1) Where a person considers that having his or her address shown on the Roll for a Subdivision would place the personal safety of the person or of members of the person's family at risk, he or she may lodge with the claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment a request, in the approved form, that his or her address not be entered on the Roll for the Subdivision for which enrolment is claimed.

- (2) Where:

(a) the address of a person is included in the particulars relating to the person that are entered on the Roll for a Subdivision; and

(b) the person considers that having his or her address so shown places the personal safety of the person or of members of his or her family at risk;

the person may lodge with the DRO keeping the Roll for the Subdivision a request, in the approved form, that his or her address be deleted from the particulars that are entered on that Roll.

- (3) A request under subsection (1) or (2) shall give particulars of the relevant risk and shall be verified by statutory declaration by the person making the request or some other person.

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- (4) Where:
- (a) a request has been made under subsection (1) or (2); and
 - (b) the DRO for the Division that includes the Subdivision on the Roll for which the person making the request is to be or has been enrolled, as the case may be, is satisfied that having the address of the person making the request shown on the Roll for the Subdivision would place or places the personal safety of the person or members of the person's family at risk;
- the DRO:
- (c) in a case where the request was lodged under subsection (1)—shall not include the address of the person in the particulars relating to the person that are entered on the Roll for the Subdivision; and
 - (d) in a case where the request is lodged under subsection (2)—shall delete the address of the person from the particulars relating to the person that are entered on the Roll for the Subdivision.
- (5) Where a DRO grants or refuses a request made by a person under subsection (1) or (2), the DRO shall notify the person in writing of the decision.
- (6) Notwithstanding anything contained in section 107, where an address is deleted from a Roll in pursuance of subsection (4), the address so deleted shall be obliterated.
- (7) A DRO for a Division shall, when directed to do so by the Electoral Commission, conduct a review of the Roll for a Subdivision of that Division in relation to electors whose addresses are not shown on the Roll by virtue of this section.
- (8) If, after such a review, the DRO is not satisfied that the personal safety of an elector whose address is not shown on the Roll, or of the elector's family, would be at risk if the elector's address were shown on the Roll, the DRO must notify the elector in writing that the DRO has decided that the elector's address should be entered on the Roll.

- (9) If:
- (a) the decision that the elector's address should be entered on the Roll has not been set aside under subsection 120(3), or by the Administrative Appeals Tribunal or a court; and
 - (b) it is no longer possible for the decision to be so set aside;
- the DRO must enter the elector's address on the Roll.
- (10) For the purposes of this Act, if the address of a person is not shown on the Roll for a Subdivision because of a request made by the person under subsection (1) or (2), the name of the person is taken to have been placed on the Roll:
- (a) if the person has not given notice of a change of address under subsection 101(5)—in respect of the address that would have been shown on the Roll had the request not been made; or
 - (b) if the person gives notice of a change of address under subsection 101(5)—in respect of the new address.

105 Alteration of Rolls

- (1) In addition to other powers of alteration conferred by this Act, a Divisional Returning Officer may alter any Roll kept by the officer by:
- (a) correcting any mistake or omission in the particulars of the enrolment of an elector;
 - (b) altering, on the written application of an elector, the original name of the elector on the same Subdivision Roll;
 - (ba) altering, in response to a written notice given by an elector, the original address of the elector on the same Subdivision Roll;
 - (c) removing the name of any deceased elector;
 - (d) striking out the superfluous entry where the name of the same elector appears more than once on the same Subdivision Roll;
 - (e) reinstating any name removed by mistake as the name of a deceased elector;
 - (f) where the officer is satisfied that an objection against the enrolment of an elector whose name has been deleted from the Roll as a result of the objection was based on a mistake of

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fact and that the person objected to still retains and has continuously retained his or her right to the enrolment in respect of which the objection was made—reinstating on the Roll the name of the elector;

- (g) reinstating any other name removed by mistake; and
 - (h) where the name of a street or any other part of an address that appears on the Roll is changed—substituting the new name or other part of the address for the name or other part of the address so appearing.
- (1A) If the address of an elector is altered under paragraph (1)(ba) or (h), then, after the alteration, this Act has effect as if the elector's name had been placed on the Roll in respect of the address as altered.
- (2) Where the name of an elector has, pursuant to a claim, been incorrectly placed on the Roll for a Subdivision other than the Subdivision in which the elector was living at the date of the claim, and the elector was entitled on that date to be enrolled for the Subdivision in which he or she was living:
- (a) if the 2 Subdivisions are both in the same Division, the Divisional Returning Officer may remove the name of the elector from the Roll on which the elector is enrolled and place the name of the elector on the Roll for the Subdivision in which the elector is living and notify the elector of the change of enrolment; and
 - (b) if the 2 Subdivisions are not in the same Division, the Australian Electoral Officer shall forward a certificate setting forth the facts to the Divisional Returning Officer for the Division for which the elector is enrolled, and the Divisional Returning Officer for the Division in which the elector is living, and thereupon the Divisional Returning Officer for the Division for which the elector is enrolled shall remove the name of the elector from that Roll and the Divisional Returning Officer for the Division in which the elector is living shall place the name of the elector on the Roll for the Subdivision in which the elector is living and notify the elector of the change of enrolment.

- (3) An alteration to a Roll in pursuance of subsection (1) or (2) may be made at any time.
- (3A) Despite subsection (3), the address of an elector must not be altered under paragraph (1)(ba) unless the Divisional Returning Officer is satisfied that the elector has lived at the new address for a period of at least one month.
- (4) If a vote is:
- (a) admitted to further scrutiny at a preliminary scrutiny of declaration votes because of paragraph 12 of Schedule 3; or
 - (b) admitted to further scrutiny at a preliminary scrutiny conducted under section 89A of the *Referendum (Machinery Provisions) Act 1984* because of paragraph 11 of Schedule 4 to that Act;
- the Divisional Returning Officer for the relevant Division must:
- (c) as soon as practicable, review the elector's entitlement to have the elector's name entered on the Roll for a Subdivision in that Division; and
 - (d) if the Divisional Returning Officer is satisfied, as a result of the review, that the elector's name was removed from the roll for the Division because of an error or mistake—enter the elector's name on the Roll for the Subdivision for which, but for the error or mistake, the name would have appeared.

106 Incorrect enrolment

Where a person, whose name has been placed on the Roll for a Division, is not entitled to enrol for that Division and that person secured enrolment pursuant to a claim in which the person made a false statement, the Divisional Returning Officer for that Division, upon receipt of a certificate from the Australian Electoral Officer setting forth the facts, may, at any time between the date of the issue of the writ for an election for that Division, and before the close of the polling at that election, remove the name of that person from that Roll.

107 Alterations to be initialled

Every alteration of a Roll shall be made in such a manner that the original entry shall not be obliterated, and the reason for each alteration and the date thereof shall be set against the alteration, together with the initials of the Divisional Returning Officer or of the person who makes the alteration on behalf of the Divisional Returning Officer.

108 Lists of deaths to be forwarded

The Registrar-General shall as soon as practicable after the beginning of each month or at such other times as are arranged with the Electoral Commissioner:

- (a) forward to each Divisional Returning Officer in the State (either direct or through the Australian Electoral Officer for the State as may be arranged) a list of the names, addresses, occupations, ages, and sexes and dates of death of all persons of the age of 17 years or upwards whose deaths have been registered during the preceding month in respect of the Division for which the Divisional Returning Officer has been appointed;
- (b) forward to the Australian Electoral Officer for the State any information that the Registrar-General is required to forward under an agreement entered into for the purposes of this Act between the Electoral Commission and a Minister of the State or the Registrar-General.

109 Lists of convictions to be forwarded

The Controller-General of Prisons shall as soon as practicable after the beginning of each month forward to the Australian Electoral Officer a list of the names, addresses, occupations, and sexes of all persons who during the preceding month have been convicted in the State and are serving a sentence of 3 years or longer for any offence.

110 Officers to act on receipt of information

- (1) The Australian Electoral Officer or the Divisional Returning Officer, as the case requires, shall, upon receipt of information pursuant to sections 108 and 109, take action under this Act to effect such alterations of the Rolls as are necessary.
- (2) An officer shall not take action under subsection (1) to remove the name of an elector, other than a deceased elector, from the Roll otherwise than by way of an objection under Part IX.

111 Computer records relating to Roll

- (1) Where, but for this subsection, a Divisional Returning Officer is required or permitted under this Act or the regulations to record particulars (including make an annotation) in a written form on a Roll, the officer may do so by recording or storing those particulars, or causing those particulars to be recorded or stored, on a mechanical, electrical or other device approved by the Commission.
- (2) Where a Divisional Returning Officer is required or permitted under this Act or the regulations to vary or remove particulars which, but for this section, would be on a Roll but which have been recorded or stored in accordance with this section, the officer shall do so by varying or removing the particulars so recorded or stored, or causing the particulars so recorded or stored to be varied or removed, as the case may be.
- (4) Where a Divisional Returning Officer who is required under this Act or the regulations to enter particulars on, vary particulars on, or remove particulars from, a Roll complies with the requirement by taking action in accordance with this section, the officer shall, for the purposes of this Act, including any provisions imposing obligations on the officer, be taken to have entered those particulars on the Roll, varied those particulars or removed those particulars, as the case may be.
- (5) Section 107 does not apply to alterations of a Roll made in pursuance of this section.

Section 111A

111A Claims may be sent by fax

- (1) A claim under this Part that is to be sent to an Australian Electoral Officer or a DRO may be sent by fax machine. This subsection does not apply to a provisional claim under section 99A or to a claim that is accompanied by a request under section 104.
- (2) If a claim is sent by a fax machine in accordance with subsection (1), references in this Act to the claim include references to the fax received by the Australian Electoral Officer or the DRO.

112 Application of Part

- (1) This Part applies in relation to the Australian Capital Territory as if:
 - (a) references in the preceding sections of this Part to a State were references to the Australian Capital Territory; and
 - (b) references in the preceding sections of this Part to an Australian Electoral Officer for a State were references to the Electoral Commissioner.
- (1A) This Part applies to the Northern Territory as if the Territory were a State.
- (2) This Part applies in relation to a Subdivision in relation to which an Assistant Divisional Returning Officer is appointed as if references in the preceding sections of this Part, in relation to a Subdivision, to a Divisional Returning Officer were references to an Assistant Divisional Returning Officer.

Part IX—Objections

113 Interpretation

- (1) In this Part:

Antarctic elector means an elector whose name has been retained on the relevant Roll under Part XVII.

appropriate DRO means the DRO for the Division for which the challenged elector is enrolled.

challenged elector means the person to whose enrolment an objection relates.

challenged enrolment means the enrolment to which an objection relates.

official objection means an objection by a DRO under subsection 114(2) or (4).

private objection means an objection under subsection 114(1), (1A) or (1B).

relevant Subdivision means the Subdivision for which the challenged elector is enrolled.

- (2) Where there is an Assistant Divisional Returning Officer for a Subdivision, a reference in this Part to the DRO for the Division that includes the Subdivision shall be read as a reference to the Assistant Divisional Returning Officer.

114 Objection to enrolment

- (1) A person enrolled for a Subdivision may object to the enrolment of another person for that Subdivision on the ground, other than the ground specified in paragraph 93(8)(a), that the other person is not entitled to be enrolled for that Subdivision.

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- (1A) An elector may object to the enrolment of another person on the ground specified in paragraph 93(8)(a), whether or not the elector is enrolled in the same Subdivision as the other person.
- (1B) A person enrolled for a Subdivision may object to the enrolment of another person for that Subdivision on the ground that:
 - (a) the other person's name has been placed on the Roll for that Subdivision in respect of a particular address; and
 - (b) at the date of the objection, the other person does not live at that address, and has not lived at that address for a period of at least one month; and
 - (c) the other person is not an Antarctic elector.
- (1C) A person must not object under subsection (1) to the enrolment of another person if the person could object under subsection (1B) to the enrolment of the other person.
- (2) The DRO for a Division shall object to the enrolment of a person for a Subdivision of that Division if there are reasonable grounds for believing that the person is not entitled to be enrolled for that Subdivision.
- (3) A DRO shall not object on the ground set out in paragraph 93(8)(a).
- (4) The DRO for a Division must object to the enrolment of a person for a Subdivision of that Division if:
 - (a) the person's name has been placed on the Roll for that Subdivision in respect of a particular address; and
 - (b) at the date of the objection, there are reasonable grounds for believing that the person does not live at that address, and has not lived at that address for a period of at least one month; and
 - (c) the person is not an Antarctic elector.
- (5) The DRO for a Division must not object under subsection (2) to the enrolment of a person if the DRO could object under subsection (4) to the enrolment of the person.

115 Form and manner of objection

- (1) An objection shall be in writing in the approved form.
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- (2) A private objection must be lodged with the appropriate DRO together, in the case of an objection under subsection 114(1) or (1B), with an amount of \$2.

116 Notice of objection

- (1) The DRO shall give notice of an objection to the challenged elector.
- (2) A notice under subsection (1):
- (a) shall be in the approved form;
 - (b) shall:
 - (i) in the case of a private objection—set out the name and address of the objector;
 - (ii) in the case of an official objection—set out the official title of the objector;
 - (iii) set out the ground or grounds of the objection; and
 - (iv) set out the steps to be taken by the elector if the elector wishes to answer the objection; and
 - (c) may be given to the challenged elector by posting it to that elector at:
 - (i) a place notified by that elector to the DRO as the place to which notices under this Act may be sent;
 - (ii) if there is no such place, the place at which the DRO believes the elector to be living; or
 - (iii) if neither of subparagraphs (i) and (ii) applies, the place shown on the Roll as the elector's place of residence.
- (3) If the DRO is satisfied that an objection is frivolous or vexatious, the DRO may dismiss the objection without giving notice to the challenged elector.
- (4) If:
- (a) an objection is made on the ground specified in paragraph 93(8)(a); and
 - (b) the objection is not supported by a certificate of a medical practitioner;
- the DRO shall dismiss the objection without giving notice to the challenged elector.

117 Answer to objection

The challenged elector may answer an objection:

- (a) orally to the DRO at the office of the DRO or by telephone to the DRO; or
- (b) in writing.

118 Determination of objection

- (1) A DRO shall determine an objection as soon as practicable after:
 - (a) the receipt by the officer of the answer of the challenged elector; or
 - (b) the end of 20 days after the giving of the notice; whichever is the earlier.
- (2) Before determining an objection, a DRO may make any inquiries the officer considers necessary to ascertain the facts in relation to the objection.
- (3) In the case of an objection under subsection 114(1), (1A) or (2), if it appears to the DRO that the challenged elector is not entitled to be enrolled for the relevant Subdivision, the DRO shall remove the elector's name from the Roll for that Subdivision.
- (4) The DRO shall not remove an elector's name from the Roll on the ground specified in paragraph 93(8)(a) unless the objection is accompanied by a certificate of a medical practitioner stating that, in the opinion of the medical practitioner, the elector, because of unsoundness of mind, is incapable of understanding the nature and significance of enrolment and voting.
- (4A) In the case of an objection under subsection 114(1B) or (4), if it appears to the DRO that:
 - (a) the challenged elector's name has been placed on the Roll for the relevant Subdivision in respect of a particular address; and
 - (b) at the date of the objection, the challenged elector did not live at that address, and had not lived at that address for a period of at least one month; and
 - (c) the challenged elector is not an Antarctic elector;

the DRO must remove the elector's name from the Roll for that Subdivision.

- (5) The DRO shall not remove an elector's name from the Roll for a Subdivision in accordance with the requirements of subsection (3) or (4A) during the period between the close of the Rolls for an election in the Subdivision and the close of the polling at the election.
- (6) The DRO shall give to the objector and to the challenged elector written notice in the approved form of the decision of the DRO on an objection.
- (7) Notice under subsection (6) may be given to the challenged elector by posting it to the elector at the address to which notice of the objection was posted.
- (8) Where, as a result of a private objection under subsection 114(1) or (1B), an elector's name is removed from the Roll, the amount of \$2 lodged with the objection shall be repaid to the objector.

Part X—Review of decisions

120 Review by Australian Electoral Officer

- (1) Where a Divisional Returning Officer for a Division:
 - (a) notifies a person under section 102 that a claim by the person for enrolment, for transfer of enrolment or for age 17 enrolment has been rejected; or
 - (b) notifies a person under section 118 that the person's name has been removed from a Roll in pursuance of an objection; the person may, before the expiration of the period of 28 days commencing on the day on which the notification is given, request the Divisional Returning Officer, in writing, to refer the claim or the objection, as the case may be, to the Australian Electoral Officer for the State that includes that Division for review.
- (2) Where a Divisional Returning Officer for a Division notifies a person who has objected, under section 114, to an enrolment that the objection has been dismissed, the person objecting may, before the expiration of the period of 28 days commencing on the day on which the notification is given, request the Divisional Returning Officer, in writing, to refer the objection to the Australian Electoral Officer for the State that includes that Division for review.
- (3) Where a Divisional Returning Officer for a Division:
 - (aa) notifies a person under subsection 93A(4) or 98A(4) that the Divisional Returning Officer has refused to include in a Roll, or transfer to a Roll, the person's name; or
 - (a) notifies a person under subsection 95(5) that an application made by the person under subsection 95(1) has been refused; or
 - (b) notifies a person under subsection 104(5) that a request made by the person under subsection 104(1) or (2) has been refused; or
 - (ba) notifies a person under subsection 104(8) that the Divisional Returning Officer has decided that the person's address should be entered on the Roll; or

- (bb) notifies a person of a decision made by the Divisional Returning Officer under section 105 to alter any entry in relation to the person on a Roll kept by the officer (including a decision to add or remove a person's name from the Roll); or
- (c) notifies a person under subsection 185(6) that the person has not been registered as a general postal voter; or
- (ca) notifies a person under subsection 185C(2) that the registration of the person as a general postal voter has been cancelled;

the person may, before the expiration of the period of 28 days commencing on the day on which the notification is given, request the Divisional Returning Officer, in writing, to refer:

- (d) the decision by the Divisional Returning Officer under section 93A or 98A to refuse to include in a Roll, or transfer to a Roll, the person's name; or
- (e) the application made by the person under subsection 95(1); or
- (f) the request made by the person under subsection 104(1) or (2); or
- (fa) the decision by the Divisional Returning Officer under subsection 104(8) that the person's address should be entered on the Roll; or
- (fb) the decision made by the Divisional Returning Officer under section 105 to alter the entry on the Roll; or
- (g) the application made by the person under subsection 184A(1); or
- (h) the cancellation of the person's registration as a general postal voter;

as the case may be, to the Australian Electoral Officer for the State that includes that Division for review.

- (4) Where a Divisional Returning Officer for a Division in a State receives a request under subsection (1), (2) or (3), the officer shall forthwith forward to the Australian Electoral Officer for the State a copy of the request, together with:
 - (a) any relevant application made under subsection 95(1); and
 - (b) any relevant claim form lodged under section 98; and
 - (c) any relevant notice under section 102; and

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- (d) any relevant request made under subsection 104(1) or (2);
and
 - (da) a written statement of the reasons for the decision under subsection 104(8) that the person's address should be entered on the Roll; and
 - (db) a written statement of the reasons for the decision under section 105 to alter the entry on the Roll; and
 - (e) any relevant objection lodged under section 114; and
 - (f) any relevant notice given under section 116; and
 - (g) any relevant answer to an objection under section 117; and
 - (h) any relevant notice given under section 117; and
 - (j) any relevant application made under section 184A, and a written statement of the reasons for not registering the person as a general postal voter; and
 - (ja) if the request relates to the cancellation of the registration of a person as a general postal voter, a written statement of the reasons for the cancellation; and
 - (k) such other information as the officer thinks relevant to the review of the claim or objection, as the case may be.
- (5) Where an Australian Electoral Officer receives a copy of a request under subsection (4), the Australian Electoral Officer shall, without delay, review the decision of the Divisional Returning Officer to which the request relates.
- (6) For the purpose of reviewing a decision made by a Divisional Returning Officer, the Australian Electoral Officer may exercise all of the powers and discretions that are conferred by this Act on the Divisional Returning Officer and shall make a decision in writing:
- (a) affirming the decision under review; or
 - (b) setting aside the decision under review and making a decision in substitution for the decision so set aside.
- (7) Where an Australian Electoral Officer makes a decision under subsection (6) in relation to a request made under subsection (1), (2) or (3), the officer shall cause a copy of the decision to be given to:
- (a) the person who made the request;
 - (b) the Divisional Returning Officer in relation to whose decision the request was made;

- (c) in a case where an objector made the request in relation to a decision upon an objection—the person objected to; and
 - (d) in a case where a person objected to made the request in relation to a decision upon an objection—the objector.
- (8) Where an Australian Electoral Officer causes a copy of a decision made under subsection (6) to be given to a person under subsection (7), the copy shall be accompanied by a written statement to the effect that a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with the decision, make an application to the Administrative Appeals Tribunal for review of the decision.
- (9) Any failure to comply with the requirement of subsection (8) in relation to a decision does not affect the validity of the decision.

121 Review by Administrative Appeals Tribunal

- (1) Application may be made to the Administrative Appeals Tribunal for review of:
- (a) a decision made by an Australian Electoral Officer refusing an application made under subsection 94A(1) or 96(1); or
 - (b) a decision made by an Australian Electoral Officer under subsection 120(6); or
 - (c) a decision made by an Australian Electoral Officer under section 93A or 98A to refuse to include in a Roll, or transfer to a Roll, the person's name; or
 - (d) a decision made by a Divisional Returning Officer under section 105 to alter a Roll kept by the officer (including a decision to add or remove a person's name from the Roll).
- (2) In this section, *decision* has the same meaning as it has in the *Administrative Appeals Tribunal Act 1975*.

122 Application of Part

- (1) This Part applies in relation to the Australian Capital Territory as if:
- (a) references in the preceding sections of this Part to a State were references to the Australian Capital Territory; and

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- (b) references in the preceding sections of this Part to an Australian Electoral Officer were references to the Electoral Commissioner.
- (1A) This Part applies to the Northern Territory as if the Territory were a State.
- (2) This Part applies in relation to a Subdivision in relation to which an Assistant Divisional Returning Officer is appointed as if references in this Part, in relation to a Subdivision, to a Divisional Returning Officer were references to an Assistant Divisional Returning Officer.

Part XI—Registration of political parties

123 Interpretation

- (1) In this Part, unless the contrary intention appears:

address does not include a postal address that consists of a post office box number.

Commission means the Electoral Commission.

eligible political party means a political party that:

- (a) either:
- (i) is a Parliamentary party; or
 - (ii) has at least 500 members; and
- (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.

Parliamentary party means a political party at least one member of which is a member of the Parliament of the Commonwealth.

secretary, in relation to a political party, means the person who holds the office (however described) the duties of which involve responsibility for the carrying out of the administration, and for the conduct of the correspondence, of the party.

- (2) For the purposes of this Part, 2 political parties shall be taken to be related if:
- (a) one is a part of the other; or
 - (b) both are parts of the same political party.
- (3) A reference in this Part to a member of a political party is a reference to a person who is both:
- (a) a member of the political party or a related political party; and
 - (b) entitled to enrolment under this Act.

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124 Registration of political parties

Subject to this Part, an eligible political party may be registered under this Part for the purposes of this Act.

125 Register of Political Parties

The Commission shall establish and maintain a Register, to be known as the Register of Political Parties, containing a list of the political parties that are registered under this Part.

126 Application for registration

- (1) An application for the registration of an eligible political party may be made to the Commission by:
 - (a) in the case of a Parliamentary party:
 - (i) the secretary of the party; or
 - (ii) the member, or all the members, of the Commonwealth Parliament who is a member, or who are members, of the party; or
 - (b) in the case of a political party other than a Parliamentary party—10 members of the party, of whom one is the secretary of the party.

However, where a member of a Parliamentary party:

- (c) who is a member of the Commonwealth Parliament; and
- (d) who has previously made an application for the registration of that Parliamentary party (the *first party*);

makes an application for the registration of another party, the Commission must not proceed with the application for the registration of that other party unless the Commission is satisfied that the member is no longer a member of the first party. If the Commission is so satisfied, the Commission must take any action required by section 136 immediately.

- (2) An application for the registration of an eligible political party shall be in writing, signed by the applicant or applicants and by the person who is to be the registered officer of the party, and shall:
 - (a) set out the name of the party;
 - (b) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name—set out that abbreviation;

- (c) set out the name and address of the person who is to be the registered officer of the party for the purposes of this Act;
 - (ca) include a list of the names of the 500 members of the party to be relied on for the purposes of registration;
 - (d) state whether or not the party wishes to receive moneys under Division 3 of Part XX;
 - (e) set out the name and address of the applicant or the names and addresses of the applicants and particulars of the capacity in which the applicant or each applicant makes the application; and
 - (f) be accompanied by a copy of the constitution of the party; and
 - (g) be accompanied by a fee of \$500.
- (2A) Two or more parties cannot rely on the same member for the purpose of qualifying or continuing to qualify as an eligible political party. The following provisions apply accordingly:
- (a) a member who is relied on by 2 or more parties may nominate the party entitled to rely on the member, but if a party is not nominated after the Commission has given the member at least 30 days to do so, the member is not entitled to be relied on by any of those parties;
 - (b) the members on whom a registered party relies may be changed at any time by an amendment of the Register of Political Parties;
 - (c) the registration of a party is not to be cancelled because of this subsection unless the Commission has taken action to determine whether the party should be deregistered because of paragraph 137(1)(a), (b) or (c).
- (3) Upon receipt of an application for the registration of a political party, the Commission shall deal with the application in accordance with this Part and determine whether the party can be registered.

127 Party not to be registered during election

During the period commencing on the day of the issue of the writ for a Senate election or a House of Representatives election and ending on the day on which the writ is returned, no action shall be

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taken in relation to any application for the registration of a political party, including any action by the Administrative Appeals Tribunal in respect of a decision of the Commission that relates to such an application.

129 Parties with certain names not to be registered

The Commission shall refuse an application for the registration of a political party if, in its opinion, the name of the party or the abbreviation of its name that it wishes to be able to use for the purposes of this Act (if any):

- (a) comprises more than 6 words;
- (b) is obscene;
- (c) is the name, or is an abbreviation or acronym of the name, of another political party (not being a political party that is related to the party to which the application relates) that is a recognised political party;
- (d) so nearly resembles the name, or an abbreviation or acronym of the name, of another political party (not being a political party that is related to the party to which the application relates) that is a recognised political party that it is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be; or
- (da) is one that a reasonable person would think suggests that a connection or relationship exists between the party and a registered party if that connection or relationship does not in fact exist; or
- (e) comprises the words “Independent Party” or comprises or contains the word “Independent” and:
 - (i) the name, or an abbreviation or acronym of the name, of a recognised political party; or
 - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be.

(2) In this section:

recognised political party means a political party that is:

- (a) a Parliamentary party; or
- (b) a registered party; or
- (c) registered or recognised for the purposes of the law of a State or a Territory relating to elections and that has endorsed a candidate, under the party's current name, in an election for the Parliament of the State or Assembly of the Territory in the previous 5 years.

130 Different levels of party may be registered

The Commission may register an eligible political party notwithstanding that a political party that is related to it has been registered.

131 Variation of application

- (1) Where, after initial consideration of an application for the registration of a political party, the Commission is of the opinion that it is required to refuse the application but that the applicant or applicants might be prepared to vary the application in such a way that it would not be so required, the Commission shall give the applicant or applicants written notice that it is of that opinion, setting out the reasons for its opinion and the terms of the provisions of subsections (2) and (3).
- (2) Where notice is given under subsection (1) in relation to an application, the Commission is not required to give further consideration to the application unless and until notice is lodged with it under subsection (3).
- (3) Where notice is given under subsection (1) in relation to an application for the registration of a political party, the applicant or applicants may lodge with the Commission a written request, signed by the applicant or applicants, to:
 - (a) vary the application in a manner specified in the request; or
 - (b) proceed with the application in the form in which it was lodged;and the Commission shall comply with the request.

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- (4) If a request is made under subsection (3) to vary an application, the application as varied is to be treated for the purposes of this section as if it were a new application.

132 Procedure for dealing with application

- (1) If:
- (a) an application for registration is lodged with the Commission; and
 - (b) the Commission does not give a notice under subsection 131(1) in respect of that application;
- the Commission must, as soon as practicable, publish in the *Gazette* and in each State and Territory in a newspaper circulating generally in that State or Territory a notice of the application.
- (2) A notice under subsection (1) in relation to an application shall:
- (a) set out the particulars specified in the application in accordance with subsection 126(2); and
 - (b) invite any persons who believe that the application:
 - (i) does not relate to an eligible political party;
 - (ii) is not in accordance with section 126; or
 - (iv) should be refused under section 129;to submit written particulars of the grounds for that belief to the Commission within 1 month after the date of the publication of the notice in the *Gazette*.
- (3) Particulars submitted by a person under subsection (2) shall be signed by, and specify an address of, that person.
- (4) Particulars submitted under paragraph (2)(b) shall, as soon as practicable, be made available at the principal office of the Commission in Canberra for inspection by members of the public.
- (5) The Commission shall:
- (a) give a copy of all of the particulars (if any) submitted under paragraph (2)(b) to the person who is to be the registered officer of the party concerned; and
 - (b) at the same time, give to the person a notice inviting the person to submit a reply to the particulars to the Commission within the time specified in the notice.

- (6) A reply submitted under subsection (5) shall, as soon as practicable, be made available at the principal office of the Commission in Canberra for inspection by members of the public.
- (7) The Commission shall not register a political party unless:
 - (a) it has published notice of the application for registration in accordance with this section;
 - (b) a period of at least one month has elapsed after the date of publication of notice of the application in the *Gazette*;
 - (c) where particulars have been submitted under paragraph (2)(b), either:
 - (i) the time specified in a notice under subsection (5) has expired; or
 - (ii) a reply to the particulars has been received; and
 - (d) the Commission has considered those particulars (if any) and any reply to the particulars.

132A Commission to give reasons for decisions under this Part

- (1) The Commission must:
 - (a) give the parties to an application under section 126 written notice of the reasons for its decision in relation to the application if it decides not to register the party concerned; and
 - (b) take such steps as the Commission considers appropriate to publicise those reasons.
- (2) For the purposes of subsection (1), the parties to the application are:
 - (a) the applicant; and
 - (b) any person who submits particulars in relation to the application under subsection 132(2).

133 Registration

- (1) Where the Commission determines that a political party an application for the registration of which has been made should be registered, it shall:
 - (a) register the party by entering in the Register:

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- (i) the name of the party;
 - (ii) if an abbreviation of the name of the party was set out in the application—that abbreviation;
 - (iii) the name and address of the person who has been nominated as the registered officer of the party for the purposes of this Act; and
 - (iv) where the party has in its application stated that it wishes to receive moneys under Division 3 of Part XX—a statement indicating that the party so wishes;
- (b) give written notice to the applicant or applicants that it has registered the party;
 - (c) if any person or persons submitted particulars in response to the invitation referred to in paragraph 132(2)(b) in relation to the application—give written notice to that person or those persons that it has registered the party, setting out in the notice to each person the reasons for rejecting the reasons particulars of which were so submitted by the person; and
 - (d) publish in the *Gazette* notice of the registration of the party.
- (2) Where a statement is entered in the Register that a political party wishes to receive moneys under Division 3 of Part XX, that party shall, for the purposes of Part XX, be taken to have been registered for public funding.
 - (3) Where the Commission determines that an application for the registration of a political party should be refused, it shall give the applicant or applicants written notice that it has refused the application, setting out the reasons for its so refusing.

134 Changes to Register

- (1) Where a political party is registered under this Part, an application may be made to the Commission, by:
 - (a) in the case of a Parliamentary party—either the secretary of the party or all the members of the Commonwealth Parliament who are members of, or the member of that Parliament who is a member of, the party; or

- (b) in the case of a political party other than a Parliamentary party—3 members of the party;
- to change the Register by:
- (c) changing the name of the party to a name specified in the application;
 - (d) if an abbreviation of the name of the party is entered in the Register—changing that abbreviation to an abbreviation specified in the application;
 - (e) if an abbreviation of the name of the party is not entered in the Register—entering in the Register an abbreviation of the name of the party, being an abbreviation specified in the application;
 - (f) entering in, or removing from, the Register a statement that the party wishes to receive moneys under Division 3 of Part XX; or
 - (g) substituting for the name of the registered officer entered in the Register the name of a person specified in the application.
- (1A) Where a political party is registered under this Part, the registered officer of the party may apply to the Commission to change the Register by substituting for the address of the registered officer entered in the Register the address specified in the application.
- (2) An application under subsection (1):
- (a) shall be in writing, signed by the applicant or applicants;
 - (b) in the case of an application to substitute the name of a person as the name of the registered officer of a political party, shall be signed by that person and may be signed by the registered officer; and
 - (c) shall set out the name and address of the applicant or the names and addresses of the applicants and particulars of the capacity in which the applicant or each applicant makes the application; and
 - (d) for the purposes of paragraph (1)(c), (d) or (e)—must be accompanied by a fee of \$500.
- (2A) An application under subsection (1A) shall be signed by the applicant.
- (3) Upon receipt of an application under subsection (1) or (1A), the Commission shall deal with the application in accordance with this
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Part and determine whether the change requested in the application should be made.

- (4) In respect of an application under subsection (1) for a change referred to in paragraph (1)(c), (d) or (e), sections 127, 129, 131 and 132 apply in relation to the application as if:
 - (a) a reference in those sections to an application for registration were a reference to an application for that change;
 - (b) subparagraph (2)(b)(i) were omitted from section 132; and
 - (c) a reference in subparagraph 132(2)(b)(ii) to section 126 were a reference to this section.
- (5) Where an application under subsection (1) to substitute the name of a person for the name of the registered officer of a political party is not signed by the registered officer, the Commission shall:
 - (a) give the registered officer written notice of the application for the change and invite the registered officer, if he or she considers that there are reasons why the change should not be made, to submit written particulars of those reasons to the Commission within 7 days after the date on which the notice was given; and
 - (b) consider any particulars submitted in response to the invitation referred to in paragraph (a).
- (6) Where the Commission determines that an application under subsection (1) or (1A) should be granted, it shall:
 - (a) change the Register accordingly;
 - (b) give the applicant or applicants written notice that it has made the change;
 - (c) in the case of a change referred to in paragraph (1)(c), (d) or (e) in respect of which any person or persons submitted particulars in response to the invitation referred to in paragraph 132(2)(b) in its application by virtue of subsection (4)—give written notice to that person or those persons that it has made the change, setting out in the notice to each person the reasons for rejecting the reasons particulars of which were so submitted by the person;
 - (d) in the case of an application to substitute the name of a person for the name of the registered officer of the party, being an application in respect of which the registered officer

- submitted particulars under paragraph (5)(a)—give written notice to that registered officer that it has made the change setting out the reasons for rejecting the reasons particulars of which were so submitted; and
- (e) publish in the *Gazette* notice of the change.
- (7) Where the Commission determines that an application under subsection (1) or (1A) should be refused it shall give the applicant or applicants written notice that it has so determined.
- (8) The Commission must:
- (a) give an applicant who makes an application under subsection (1) to change the Register in the way referred to in paragraph (1)(c), (d) or (e) written notice of the reasons for its decision in relation to the application if it refuses to grant the application; and
 - (b) take such steps as the Commission considers appropriate to publicise those reasons.

134A Objection to continued use of name

- (1) If:
- (aa) one registered political party (the *parent party*) was registered under section 126 before another registered party (the *second party*); and
 - (a) the Commission is satisfied that:
 - (i) the name of the parent party is the same as, or relevantly similar to, the name of the second party and the parties are not related at the time of the objection; or
 - (ii) the name of the second party is one that a reasonable person would think suggests that a connection or relationship exists between the second party and the parent party and that connection or relationship does not in fact exist; and
 - (iii) the second party was registered after the commencement of this section; and
 - (b) the registered officer of the parent party objects in writing to the continued use of the name by the second party;
- the Commission must:
- (d) uphold the objection; and

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- (e) notify the registered officer of the second party, at the address specified in the Register, that the second party will be deregistered under section 137 if:
 - (i) it does not make an application under section 134 for a change of name within 1 month of the date of the notice; or
 - (ii) it makes such an application, but the application is refused.
- (2) For the purposes of paragraph (1)(a), the name of a party is *relevantly similar* to the name of another party if, in the opinion of the Commission, the name so nearly resembles the name of the other party that it is likely to be confused with or mistaken for that name.
- (2A) The Commission must:
 - (a) give the parties to an objection under this section written notice of the reasons for its decision in relation to the objection if it upholds the objection; and
 - (b) take such steps as the Commission considers appropriate to publicise those reasons.
- (2B) For the purposes of subsection (2A), the parties to the objection are:
 - (a) the registered officer of the parent party; and
 - (b) the registered officer of the second party.
- (3) In this section:

name, in relation to a registered political party, means:

 - (a) the name of the party that is entered in the Register; or
 - (b) the abbreviation, entered in the Register, of the name of the party.

135 Voluntary deregistration

- (1) A political party that is registered under this Part shall be deregistered by the Commission if an application to do so is made to the Commission by a person or persons who are entitled to make an application for a change to the Register under section 134 in relation to the party.

- (2) An application under subsection (1) shall:
 - (a) be in writing, signed by the applicant or applicants; and
 - (b) set out the name and address of the applicant or the names and addresses of the applicants and particulars of the capacity in which the applicant or each applicant makes the application.
- (3) Where a political party is deregistered under subsection (1), that party, or a party that has a name that so nearly resembles the name of the deregistered party that it is likely to be confused with or mistaken for that name, is ineligible for registration under this Part until after the general election next following the deregistration.

136 Deregistration of party failing to endorse candidates or ceasing to be a Parliamentary party

- (1) A registered political party is liable to deregistration if:
 - (aa) the party has been registered for more than 4 years and during that time has not endorsed a candidate for any election; or
 - (a) a period of 4 years has elapsed since the polling day in the last election for which the party endorsed a candidate; or
 - (b) in the case of a party that was a Parliamentary party when it was registered:
 - (i) the party has ceased to be a Parliamentary party; and
 - (ii) the party has fewer than 500 members.
 - (1A) If a party becomes liable to deregistration, the Commission shall:
 - (a) deregister the party;
 - (b) give written notice of the deregistration to the person who was the registered officer of the party immediately before the deregistration; and
 - (c) cause notice of the deregistration to be published in the *Gazette*.
 - (2) Where a political party is deregistered under subsection (1A), that party, or a party that has a name that so nearly resembles the name of the deregistered party that it is likely to be confused with or mistaken for that name, is ineligible for registration under this Part until after the general election next following the deregistration.
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- (3) A Parliamentary party shall not be deregistered under this section.

137 Deregistration of political party on other grounds

- (1) If the Commission is satisfied on reasonable grounds that:
- (a) a political party registered under this Part has ceased to exist (whether by amalgamation with another political party or otherwise); or
 - (b) a political party so registered, not being a Parliamentary party, has ceased to have at least 500 members; or
 - (c) the registration of a political party so registered was obtained by fraud or misrepresentation; or
 - (ca) an objection against the continued use of a name (within the meaning of section 134A) by a political party so registered has been upheld under section 134A, but an application to change the party's name:
 - (i) was not made under section 134 within one month of the upholding of the objection; or
 - (ii) was so made within one month of the upholding of the objection, but was later refused; or
 - (cb) the registered officer of a registered political party has failed to comply with a notice under section 138A (Review of eligibility of parties to remain in the Register);
- the Commission shall:
- (d) give the registered officer of the party notice, in writing, that it is considering deregistering the party under this section setting out its reasons for considering doing so and the terms of the provisions of subsections (2), (3), (4) and (5); and
 - (e) publish a notice in the *Gazette* that it is considering deregistering the party under this section, specifying the paragraph of this subsection by reason of which it is considering doing so.
- (2) Where a notice is given under paragraph (1)(d) in relation to a political party, the registered officer of the party or 10 members of the party may, within 1 month after the date on which the notice was given, lodge with the Commission a statement, in writing, signed by the registered officer or by those members of the party, as the case may be, setting out reasons why the party should not be deregistered under this section.

- (3) Where a statement lodged under subsection (2) is signed by 10 members of a political party, the statement shall set out the names and addresses of those members and contain a statement that they are members of that party.
- (4) Where a notice is given under paragraph (1)(d) in relation to a political party and a statement is not lodged under subsection (2) in response to that notice, the Commission shall deregister the party and publish a notice of the deregistration in the *Gazette*.
- (5) Where, in response to a notice given under paragraph (1)(d) in relation to a political party, a statement is lodged under subsection (2), the Commission shall consider that statement and determine whether the political party should be deregistered for the reason set out in that notice.
- (6) Where, under subsection (5), the Commission determines that a political party should be deregistered, it shall:
 - (a) deregister the party;
 - (b) give the person who was the last registered officer of the party written notice of the deregistration, setting out its reasons for rejecting the reasons set out in the statement lodged under subsection (2); and
 - (c) publish a notice of the deregistration in the *Gazette*.
- (7) Where, under subsection (5), the Commission determines that a political party should not be deregistered under this section, it shall give the registered officer of the party written notice of its determination.

138 Deregistration

Where a political party is deregistered under section 135, 136 or 137, the Commission shall cause the particulars on the Register that relate to that party to be cancelled.

138A Review of eligibility of parties to remain in the Register

- (1) The Electoral Commission may review the Register to determine whether one or more of the parties included in the Register:
 - (a) is an eligible political party; or
 - (b) should be deregistered under section 136 or 137.

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- (2) The Electoral Commission may do so at any time other than during the period that:
 - (a) starts on the day of the issue of a writ for a Senate election or House of Representatives election; and
 - (b) ends on the day on which the writ is returned.
- (3) For the purposes of reviewing the Register, the Electoral Commission may give a written notice to the registered officer of a registered political party requesting specified information on the party's eligibility to be registered under this Part.
- (4) The notice must specify a period within which the information must be provided. The period must be at least 2 months.
- (5) The registered officer must comply with the notice within the specified period. However, the Electoral Commission may extend that period.

Note: A failure to comply with the notice may lead to deregistration (see paragraph 137(1)(cb)).

139 Inspection of Register

The Register shall be open for public inspection, without fee, during ordinary office hours at the principal office of the Commission in Canberra.

140 Service of documents

- (1) Where the Commission is required by this Part to give a written notice to:
 - (a) an applicant or applicants for registration;
 - (b) the registered officer of a political party;
 - (c) the person who was the registered officer of a political party immediately before its deregistration;
 - (d) a person who submitted particulars to it; or
 - (e) a person who made an application under subsection 141(2);that notice shall be given by being posted by pre-paid post as a letter addressed to:

- (f) the person nominated as the registered officer in the application for registration at his or her address shown in the application;
 - (g) the registered officer of the political party at his or her address set out in the Register;
 - (h) the last registered officer of the party at his or her address shown in the Register;
 - (j) the person who submitted the particulars at the address specified in the particulars; or
 - (k) the person who made the application under subsection 141(2) at the address specified in the application;
- as the case may be.
- (2) Where a person is, or persons are, entitled by this Part to make an application to the Commission, the person or persons shall do so by causing the application to be lodged at the principal office of the Commission in Canberra, in the capital city of a State or in Darwin.
 - (3) Where a person is, or persons are, entitled by this Part to lodge a document (other than an application) with the Commission, the person or persons shall do so by causing the documents to be lodged at the principal office of the Commission in Canberra.

141 Review of certain decisions

- (1) In this section:

Commission does not include a delegate of the Commission.

decision has the same meaning as it has in the *Administrative Appeals Tribunal Act 1975*.

person includes a political party.

reviewable decision means a decision of the Commission, or of a delegate of the Commission:

- (a) to register a political party under this Part; or
- (b) to refuse an application for the registration of a political party under this Part; or
- (c) to grant an application under subsection 134(1); or
- (ca) to uphold an objection under subsection 134A(1); or

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- (cb) to refuse to uphold an objection under subsection 134A(1); or
 - (d) to refuse an application under subsection 134(1); or
 - (e) to deregister a political party under subsection 137(6).
- (2) Where a delegate of the Commission makes a reviewable decision, a person affected by the decision who is dissatisfied with the decision may, within the period of 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Commission (either before or after the expiration of that period) allows, make a written application to the Commission for the review of the decision by the Commission, specifying in the application an address of the applicant.
- (3) There shall be set out in the application under subsection (2) the reasons for making the application.
- (4) Upon the receipt of an application under subsection (2) for the review of a reviewable decision, the Commission shall review that decision and shall make a decision:
- (a) affirming the decision under review;
 - (b) varying the decision under review; or
 - (c) setting aside the decision under review and making a decision in substitution for the decision so set aside.
- (5) Application may be made to the Administrative Appeals Tribunal for review of a reviewable decision made by the Commission or a decision under subsection (2) or (4).
- (6) For the purposes of a review referred to in subsection (5), the Administrative Appeals Tribunal is to be constituted by 3 members, at least one of whom is a Judge of the Federal Court of Australia.
- (6A) Subsection 21(1AA) of the *Administrative Appeals Tribunal Act 1975* does not apply in relation to a review referred to in subsection (5) of this section.
- (7) Where the Commission makes a decision under subsection (4), it shall give written notice of that decision to:
- (a) the person, or each person, to whom written notice of the reviewable decision to which the decision of the Commission relates was given under this Part; and

- (b) the person who made the application for the review of that reviewable decision.
- (8) Where a delegate of the Commission makes a reviewable decision, a written notice of the decision given to a person or persons under this Part shall include a statement to the effect that:
- (a) a person affected by the decision may, if dissatisfied with the decision, seek a review of the decision by the Commission in accordance with subsection (2); and
 - (b) a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with a decision made by the Commission upon that review make application to the Administrative Appeals Tribunal for review of the decision made by the Commission.
- (9) Where the Commission makes a reviewable decision or a decision under subsection (2) or (4), a written notice of the decision given to a person or persons under this Part shall include a statement to the effect that a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if dissatisfied with the decision, make an application to the Administrative Appeals Tribunal for review of the decision.
- (10) Any failure to comply with the requirement of subsection (8) or (9) in relation to a decision does not affect the validity of the decision.

Part XIII—Writs for elections

151 Issue of writs for election of Senators for Territories

- (1) The Governor-General may cause writs to be issued for elections of Senators for Territories.
- (2) The writs for the elections of Senators for Territories in accordance with section 43 shall be issued within 10 days from the expiry of the House of Representatives or from the proclamation of a dissolution of the House of Representatives.

152 Forms of writs [*see* Note 5]

- (1) Writs for the election of Senators for States, Senators for Territories or Members of the House of Representatives may be in the Form A, Form AA or Form B respectively in Schedule 1, shall be signed by the Governor of a State, the Governor-General or the Speaker, as the case requires, and shall fix the date for:
 - (a) the close of the Rolls;
 - (b) the nomination;
 - (c) the polling; and
 - (d) the return of the writ.
- (2) For the purposes of this Act a writ shall be deemed to have been issued at the hour of 6 o'clock in the afternoon of the day on which the writ was issued.

153 Writs for election of Senators

- (1) A writ for the election of Senators shall be addressed to the Australian Electoral Officer for the State or Territory for which the election is to be held.
- (2) Where a writ for an election of Senators is received by the Australian Electoral Officer for a State or Territory under subsection (1), the officer shall:
 - (a) endorse on the writ the date of its receipt;

- (b) advertise receipt of, and particulars of, the writ:
 - (i) in not less than 2 newspapers circulating generally in the State or Territory; or
 - (ii) if there is only one newspaper circulating generally in the State or Territory—in that newspaper;
- (c) take such steps as the officer considers appropriate to advise each Divisional Returning Officer in the State or Territory of the dates fixed by the writ; and
- (d) give such directions as the officer considers appropriate to each Divisional Returning Officer in relation to the holding of the election.

154 Writs for election of members of House of Representatives

- (1) A writ for the election of a Member of the House of Representatives or for a general election for the House of Representatives shall be addressed to the Electoral Commissioner.
- (2) Only 8 writs shall be issued for each general election, namely:
 - (a) a writ that relates to the members to be elected from New South Wales;
 - (b) a writ that relates to the members to be elected from Victoria;
 - (c) a writ that relates to the members to be elected from Queensland;
 - (d) a writ that relates to the members to be elected from South Australia;
 - (e) a writ that relates to the members to be elected from Western Australia;
 - (f) a writ that relates to the members to be elected from Tasmania;
 - (g) a writ that relates to the members to be elected from the Australian Capital Territory; and
 - (h) a writ that relates to the member to be elected from the Northern Territory.
- (2A) If, under subsection 48(2A), the Electoral Commissioner makes a determination that the number of members of the House of Representatives to be chosen in the Northern Territory at a general election is 2 or a greater number, subsection (2) of this section shall have effect, after the making of that determination, as if the

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word “member” were omitted from paragraph (2)(h) and the word “members” substituted.

- (3) The 8 writs issued for a general election shall be issued on the same day.
- (4) Where a writ for an election to be held in a Division, or each Division, in a State or Territory is received by the Electoral Commissioner under subsection (1), the Commissioner shall:
 - (a) endorse on the writ the date of its receipt;
 - (b) advertise receipt of, and particulars of, the writ:
 - (i) in not less than 2 newspapers circulating generally in the State or Territory; or
 - (ii) if there is only one newspaper circulating generally in the State or Territory—in that newspaper;
 - (c) take such steps as the Commissioner considers appropriate to advise the Divisional Returning Officer or each Divisional Returning Officer, as the case requires, of the particulars of the writ, including the dates fixed by the writ; and
 - (d) give such directions as the Commissioner considers appropriate to the Divisional Returning Officer or each Divisional Returning Officer, as the case requires, in relation to the holding of the election.
- (5) Where a writ for an election to be held in a Division or Divisions is received by the Electoral Commissioner under subsection (1), the Commissioner may, where he or she considers it appropriate, advertise receipt of, and particulars of, the writ, in a newspaper or newspapers circulating in the Division or in some or all of the Divisions, as the case requires.

155 Date for close of Rolls

The date fixed for the close of the Rolls shall be 7 days after the date of the writ.

156 Date of nomination

- (1) Subject to subsection (2), the date fixed for the nomination of the candidates shall not be less than 10 days nor more than 27 days after the date of the writ.

- (2) Where a candidate for an election dies, after being nominated and before 12 o'clock noon on the day fixed by the writ as the date of nomination for the election, the day fixed as the date of nomination for the election shall, except for the purposes of section 157, be taken to be the day next succeeding the day so fixed.

157 Date of polling

The date fixed for the polling shall not be less than 23 days nor more than 31 days after the date of nomination.

158 Polling to be on a Saturday

The day fixed for the polling shall be a Saturday.

159 Date of return of writ

The date fixed for the return of the writ shall not be more than 100 days after the issue of the writ.

160 General election to be held on same day

In the case of a general election for the House of Representatives the same day shall be fixed for the polling in each Division, and all writs shall be made returnable on the same day.

161 Application of Part

This Part applies in relation to a Subdivision in relation to which an Assistant Divisional Returning Officer is appointed as if references in this Part, in relation to a Subdivision, to a Divisional Returning Officer were references to an Assistant Divisional Returning Officer.

Part XIV—The nominations

162 Candidates must be nominated

No person shall be capable of being elected as a Senator or a Member of the House of Representatives unless duly nominated.

163 Qualifications for nomination *[see Note 6]*

- (1) A person who:
 - (a) has reached the age of 18 years;
 - (b) is an Australian citizen; and
 - (c) is either:
 - (i) an elector entitled to vote at a House of Representatives election; or
 - (ii) a person qualified to become such an elector;is qualified to be elected as a Senator or a member of the House of Representatives.
- (2) A person is not entitled to be nominated for election as a Senator or a member of the House of Representatives unless the person is qualified under subsection (1).

164 State and Territory members not entitled to be nominated

A person who is, at the hour of nomination, a member of:

- (a) the Parliament of a State;
- (b) the Legislative Assembly of the Northern Territory of Australia; or
- (c) the Legislative Assembly for the Australian Capital Territory;

is not capable of being nominated as a Senator or as a Member of the House of Representatives.

165 Multiple nominations prohibited

- (1) Where:
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- (a) a day is fixed as the polling day for 2 or more elections under this Act; and
 - (b) at the hour of nomination there exist nominations of a person for 2 or more of those elections;
- each of those nominations is invalid.
- (2) For the purposes of subsection (1), where a person has consented to act if elected in relation to a nomination in relation to an election and the person withdraws that consent under section 177 before the hour of nomination, the nomination of the person for the election shall be taken to have ceased to have effect at the time when the person withdrew that consent.

166 Mode of nomination

- (1) Subject to subsections (1A), (1B) and (1C), a nomination may be in Form C, CA, CB, CC, D or DA in the Schedule, as the case requires, and shall:
- (a) set out the name, place of residence and occupation of the candidate or each candidate; and
 - (b) be signed by:
 - (i) not less than 50 persons entitled to vote at the election for which the candidate is, or the candidates are, nominated; or
 - (ii) the registered officer of the registered political party by which the candidate has, or the candidates have, been endorsed for that election.
- (1A) Where:
- (a) a candidate in a Senate election is:
 - (i) a Senator; or
 - (ii) in the case of an election following a dissolution of the Senate, a person who was, immediately before the dissolution, a Senator; and
 - (b) the candidate's name is, under subsection 99(4), enrolled on the Roll for any Subdivision of a Division of the State or Territory that he or she represents or represented;
- the candidate may set out in his or her nomination the address recorded in that enrolment rather than his or her place of residence.

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(1B) Where:

- (a) a candidate in an election for the House of Representatives was, immediately before the dissolution or expiration of the House of Representatives that preceded the election, a member of the House of Representatives; and
- (b) the candidate's name is, under subsection 99(4), enrolled on the Roll for any Subdivision of the Division that he or she represented;

the candidate may set out in his or her nomination the address recorded in that enrolment rather than his or her place of residence.

(1C) A nomination form need only be signed by at least one other person entitled to vote at the election (the *new election*) for which the candidate is, or the candidates are, nominated if the candidate or each candidate:

- (a) is a sitting independent in relation to the new election; and
- (b) is not endorsed by a registered political party in the new election at the close of nominations.

(1D) For the purposes of subsection (1C), a candidate for election to the Senate for a State or Territory is a *sitting independent* for the new election if:

- (a) the candidate was elected as a Senator for that State or Territory in an election (the *previous election*); and
- (b) the candidate was not endorsed by a registered political party in the previous election; and
- (c) the candidate continues to be a Senator for that State or Territory as a result of the previous election until:
 - (i) the writ for the new election is issued; or
 - (ii) if the writ for the new election is issued in relation to a dissolution of the Senate—that dissolution of the Senate.

(1E) For the purposes of subsection (1C), a candidate for election to the House of Representatives for a Division (the *seat being contested*) is a *sitting independent* for the new election if:

- (a) the candidate was elected as a member of the House of Representatives in an election (the *previous election*) for a particular Division (the *existing seat*); and

- (b) the candidate was not endorsed by a registered political party in the previous election; and
 - (c) the candidate continues to be a member of the House of Representatives for the existing seat as a result of the previous election until:
 - (i) the writ for the new election is issued; or
 - (ii) if the writ for the new election is issued in relation to a dissolution of the House of Representatives—that dissolution of the House of Representatives; and
 - (d) the existing seat is either the same as, or has territory in common with, the seat being contested.
- (2) A nomination may name a candidate only by specifying:
- (a) the surname and the Christian or given name, or one or more of the Christian or given names, under which the candidate is enrolled; or
 - (b) in a case where the candidate is not enrolled—a surname and the Christian or given name, or one or more of the Christian or given names, under which the candidate is entitled to be enrolled.
- (3) For the purposes of subsection (2), a Christian or given name may be specified by specifying:
- (a) an initial standing for that name; or
 - (b) a commonly accepted variation of that name (including an abbreviation or truncation of that name or an alternative form of that name).
- (4) A nomination shall include a statement of the form in which the candidate's name or candidates' names, as the case may be, is or are to be printed on the ballot-papers for the election.
- (5) Where:
- (a) persons to be nominated as candidates in a Senate election wish to have their names grouped in the ballot-papers; and
 - (b) those persons have been endorsed for that election by different registered political parties;
- the nominations of the candidates may be combined in such manner as the Electoral Commission approves.
- (6) Nothing in this Act is to be taken as requiring a person:
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- (a) who is a candidate or the nominator of a candidate; and
 - (b) whose address is not shown on the Roll because of section 104;
- to set out his or her address on a nomination paper.
- (7) A candidate who does not set out his or her address on a nomination form must provide the Divisional Returning Officer or Australian Electoral Officer, as the case may be, with an address for correspondence.

167 To whom nominations made

- (1) Nominations of candidates for election to the Senate must be made to the Australian Electoral Officer.
- (2) Subject to subsection (3), nominations of candidates for election to the House of Representatives must be made to the DRO.
- (3) A nomination of all of the candidates endorsed by a registered political party for election to the House of Representatives in respect of the Divisions situated in a particular State or Territory may be made by the registered officer of the party to the Australian Electoral Officer for that State or Territory.
- (4) If a nomination for a House of Representatives election is made to the Australian Electoral Officer, the Australian Electoral Officer:
 - (a) must deliver to the DRO for each Division for which a candidate has been so nominated, as soon as practicable before the hour of nomination, a facsimile of the nomination paper; and
 - (b) must advise the DRO for each Division for which a candidate has been so nominated, forthwith after a sum is deposited with the Australian Electoral Officer under section 170, being a sum that is, or includes an amount, in respect of that candidate, that it was so deposited.

168 Grouping of candidates

- (1) Two or more candidates for election to the Senate may make a joint request:
 - (a) that their names be grouped in the ballot-papers; or

- (b) that their names be grouped in the ballot-papers in a specified order.
- (2) A request under subsection (1) shall be in writing, signed by the candidates, and shall be given to the Australian Electoral Officer with the nomination or nominations of the candidates.
- (3) A candidate's name may not be included in more than one group.

169 Notification of party endorsement

- (1) The registered officer of a registered political party may request that the name, or the registered abbreviation of the name, of that party be printed on the ballot-papers for an election adjacent to the name of a candidate who has been endorsed by that party.
- (3) A request under subsection (1) shall be in writing, signed by the person making the request, and shall:
 - (a) in the case of a Senate election, be given to the Australian Electoral Officer before the close of nominations; and
 - (b) in the case of an election for a Member of the House of Representatives for a Division, be given to the Divisional Returning Officer with the nomination of the candidate or to the Australian Electoral Officer for the State or Territory in which the Division is situated before the close of nominations.
- (4) Where:
 - (a) a request has been made under subsection (1) in respect of candidates in a Senate election; and
 - (b) the candidates propose to have a group voting ticket registered for the purposes of that election;the request may include a further request that the name of the registered political party that endorsed the candidates, or a composite name formed from the registered names of the registered political parties that endorsed the candidates, be printed on the ballot-papers adjacent to the square printed in relation to the group in accordance with subsection 211(5).
- (5) In this section, *registered abbreviation*, in relation to the name of a registered political party, has the same meaning as in section 210A.

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169A Notification of independent candidacy

- (1) A candidate in an election may request that the word “Independent” be printed adjacent to the candidate’s name on the ballot-papers for use in that election.
- (2) A request under subsection (1) shall be in writing, signed by the candidate, and shall be given to the Australian Electoral Officer or the Divisional Returning Officer, as the case requires, with the nomination of the candidate.
- (3) A candidate may not make requests under both this section and section 168.

169B Verification of party endorsement

- (1) For the purposes of this Act, subject to subsection (2), a person shall be taken to have been endorsed as a candidate in an election by a registered political party if:
 - (a) the candidate is nominated by the registered officer of the party;
 - (b) the name of the candidate is included in a statement, signed by the registered officer of the party, setting out the names of the candidates endorsed by the party in the election and lodged:
 - (i) in the case of a Senate election, with the Australian Electoral Officer; and
 - (ii) in the case of an election of a member of the House of Representatives for a Division, with the Australian Electoral Officer for the State or Territory in which that Division is situated;before the close of nominations for the election; or
 - (c) the Electoral Commission is satisfied, after making such inquiries as it thinks appropriate of the registered officer of the party or otherwise, that the candidate is so endorsed.
- (2) For the purposes of section 214, if a person would, apart from this subsection, be taken to have been endorsed as a candidate in an election by more than one registered political party, the person is taken to have been endorsed:

- (a) if the person is nominated by the registered officer of one, and only one, of the parties—by that party; or
- (b) if paragraph (a) does not apply and a request is made under section 169 by the registered officer of one, and only one, of the parties—by that party; or
- (c) if neither paragraph (a) nor (b) applies and the person specifies one, and only one, of the parties, in a written notice given to the Australian Electoral Officer or Divisional Returning Officer, as the case requires—by that party; or
- (d) if none of paragraph (a), (b) or (c) applies—by the party that the Electoral Commission decides, after making such enquiries as it thinks appropriate of the registered officers of the parties or otherwise, is the appropriate party.

169C Combination of requests and nominations

A request required by a provision of this Part or Part XVI to be given to the Australian Electoral Officer or a Divisional Returning Officer may:

- (a) be written on the same paper as the nomination of the candidate to whom the request relates; and
- (b) if 2 or more such requests are to be made by the same person, may be combined with the other requests.

170 Requisites for nomination

- (1) A nomination is not valid unless, in the nomination paper, the person nominated:
 - (a) consents to act if elected; and
 - (b) declares that:
 - (i) the person is qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator or a member of the House of Representatives, as the case may be; and
 - (ii) the person is not, and does not intend to be, a candidate in any other election to be held on the same day as the election to which the nomination relates; and

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- (c) states whether the person is an Australian citizen by reason of birth in Australia, having been granted a certificate of Australian citizenship or other means and provides:
 - (i) in the case of citizenship by birth in Australia—the date and place of birth; or
 - (ii) in the case of citizenship by reason of having been granted a certificate of Australian citizenship—the date on which the person became an Australian citizen; or
 - (iii) in the case of citizenship by any other means—particulars of those means.
- (2) A nomination is not valid unless:
 - (a) the nomination paper or a facsimile of it:
 - (i) if it is a nomination for a Senate election—is received by the Australian Electoral Officer after the issue of the writ and before the hour of nomination; or
 - (ii) if it is a nomination for a House of Representatives election made to the Australian Electoral Officer—is received by the Australian Electoral Officer after the issue of the writ and not less than 48 hours before the hour of nomination; or
 - (iii) if it is a nomination for a House of Representatives election made to the DRO—is received by the DRO after the issue of the writ and before the hour of nomination; and
 - (b) if, for the purpose of the nomination, a nomination paper is delivered to the Australian Electoral Officer or the DRO—the person nominated, or some person on his or her behalf, deposits with that officer, at the time of delivery of the nomination paper, a sum determined under subsection (3); and
 - (c) if, for the purpose of the nomination, a facsimile of a nomination paper is received by the Australian Electoral Officer or the DRO—the person nominated, or some person on his or her behalf deposits with that officer, before the latest time at which such a facsimile could have been received so that the nomination is valid, a sum determined under subsection (3).

- (3) For the purposes of paragraphs (2)(b) and (c), the sum to be deposited by or on behalf of a person nominated is:
- (a) if a person is nominated as a Senator—\$700; or
 - (b) if a person is nominated as a member of the House of Representatives—\$350;
- in legal tender or in a cheque drawn by a bank or other financial institution on itself.

171 Form of consent to act

The consent of the person nominated to act if elected and the declaration referred to in paragraph 170(a)(ii) shall be sufficient if the person signs the form of consent and declaration at the foot of the nomination paper, but the Australian Electoral Officer or Divisional Returning Officer receiving the nomination may accept any other form of consent and declaration whether accompanying the nomination paper or not that the officer deems satisfactory, and such acceptance shall be final.

172 Rejection of nominations and requests

- (1) Subject to subsection (2), a nomination shall be rejected by the officer to whom it is made if, and only if, the provisions of section 166, 167, 170 or 171 have not been complied with in relation to the nomination.
- (2) No nomination shall be rejected by reason of any formal defect or error in the nomination if the officer to whom the nomination is made is satisfied that the provisions of sections 166, 167, 170 and 171 have been substantially complied with.
- (3) A request under this Part is not ineffective because of any formal defect or error in the request if the requirements of this Act have been substantially complied with.

173 Deposit to be forfeited in certain cases

- (1) The deposit made by or on behalf of a candidate at a Senate election or at a House of Representatives election shall be retained pending the election, and after the election shall be returned in accordance with subsection (2), if the candidate is elected, or:

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- (a) in the case of a Senate election:
 - (i) if the total number of votes polled in the candidate's favour as first preferences is at least 4% of the total number of votes polled in favour of the candidates in the election as first preferences; or
 - (ii) in a case where the name of the candidate is included, in ballot-papers used in the election, in a group in pursuance of section 168—if the sum of the votes polled in favour of each of the candidates included in the group as first preferences is at least 4% of the total number of votes polled in favour of the candidates in the election as first preferences; or
 - (b) in the case of a House of Representatives election, if the total number of votes polled in the candidate's favour as first preferences is at least 4% of the total number of votes polled in favour of the candidates in the election as first preferences; otherwise it shall be forfeited to the Commonwealth.
- (2) The deposit must be returned to the person who paid it, or to a person authorised in writing by the person who paid it.

174 Place of nomination

- (1) In an election of Senators for a State or Territory the office of the Australian Electoral Officer for that State or Territory shall be the place of nomination for the election.
- (2) In elections for the House of Representatives the office of the Divisional Returning Officer for the Division shall be the place of nomination therein.

175 Hour of nomination

- (1) The hour of nomination shall be 12 o'clock noon on the day of nomination.
- (2) The *declaration time* for an election is 12 noon on the day after the day on which nominations for the election close.

176 Declaration of nominations

- (1) Subject to subsection (3), in the case of a Senate election, the Australian Electoral Officer must, at the declaration time, attend at the place of nomination, or at the declaration place for the relevant State or Territory, publicly produce all nomination papers received by him or her, and, in respect of each candidate, declare:
 - (a) the name of the candidate; and
 - (b) either:
 - (i) if an address has been specified by the candidate under subsection 166(1A)—that address; or
 - (ii) in any other case—the place of residence of the candidate.
- (2) Subject to subsection (3), in the case of a House of Representatives election, the DRO must, at the declaration time, attend at the place of nomination for the Division, or at the declaration place for the Division, publicly produce all nomination papers received by him or her, and, in respect of each candidate, declare:
 - (a) the name of the candidate; and
 - (b) either:
 - (i) if an address has been specified by the candidate under subsection 166(1B)—that address; or
 - (ii) in any other case—the place of residence of the candidate.
- (3) The Australian Electoral Officer or the DRO, as the case requires, must not declare:
 - (a) the address specified by a candidate under subsection 166(1A) or (1B); or
 - (b) the place of residence of a candidate;if the candidate's address has been excluded from the Roll under section 104.
- (4) In this section:

declaration place means:

 - (a) for a Senate election for a State or Territory—a place determined in relation to that State or Territory by the Australian Electoral Officer for that State or Territory; and

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- (b) for a House of Representatives election for a Division—a place determined in relation to that Division by the Australian Electoral Officer for the relevant State or Territory.

177 Withdrawal of consent to a nomination

Withdrawal by candidate in Senate election

- (1) A candidate for a Senate election for a State or Territory may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Australian Electoral Officer for the State or Territory. The withdrawal must be made before the hour of nomination.

Withdrawal by candidate in House of Representatives election (general rule)

- (2) Subject to subsection (3), a candidate for a House of Representatives election for a Division may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Divisional Returning Officer for the Division. The withdrawal must be made before the hour of nomination.

Withdrawal by candidate in House of Representatives election (bulk nomination)

- (3) If a candidate for a House of Representatives election for a Division is nominated by the registered officer of a party under subsection 167(3) together with a number of other candidates (the **other bulk nomination candidates**), the candidate may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Australian Electoral Officer for the State or Territory in which the Division is located. The withdrawal must be made before the hour of nomination.
- (4) If a candidate withdraws his or her consent to a nomination under subsection (3):
 - (a) the Australian Electoral Officer must deliver a fax of the withdrawal notice to the Divisional Returning Officer for the Division for which a candidate has been nominated, as soon as practicable before the hour of nomination; and

- (b) the withdrawal does not affect the nomination of the other bulk nomination candidates; and
 - (c) the registered officer may amend the nomination, at any time before the hour of nomination, to substitute another candidate for that Division.
- (5) An amendment under paragraph (4)(c) must:
- (a) be made by notice in writing to the Australian Electoral Officer; and
 - (b) be in the approved form and signed by the registered officer.

Return of deposit

- (6) If a candidate withdraws his or her consent to a nomination under subsection (1), (2) or (3), the deposit lodged in relation to the nomination must be returned to:
- (a) the person who paid it; or
 - (b) a person authorised in writing by the person who paid it.

Effect of withdrawal of consent on nomination

- (7) If a candidate withdraws his or her consent to a nomination under this section, the nomination ceases to have effect.

178 Return of deposit in case of candidate's death

- (1) In the case of the death of any candidate before the date of election the deposit lodged by the candidate shall be returned in accordance with subsection (2) or (3).
- (2) If the deposit was paid by a person other than the candidate, the deposit must be returned to the person who paid it, or to a person authorised in writing by the person who paid it.
- (3) In all other cases, the deposit must be returned to the personal representative of the candidate.

179 Proceedings on nomination day

- (1) In the case of a Senate election, if the number of candidates nominated is not greater than the number of candidates required to

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be elected, the Australian Electoral Officer shall declare the candidate or candidates nominated duly elected.

- (2) In the case of a House of Representatives election, if one candidate only is nominated, the Divisional Returning Officer shall declare that candidate duly elected.
- (3) If in any election the number of candidates nominated is greater than the number required to be elected, the proceedings shall, subject to the provisions of this Act, and the regulations relating to voting before polling day, stand adjourned to polling day.

180 Death of candidate after nomination

- (1) If after the nominations for an election for the Senate have been declared and before polling day any candidate dies and the candidates remaining are not greater in number than the candidates required to be elected, they shall forthwith be declared to be elected and the writ returned.
- (2) If after the nominations for an election for the House of Representatives have been declared, and before polling day, any candidate dies, the election shall be deemed to have wholly failed.
- (3) If a candidate dies before the hour of nomination and the candidate was one of a number of candidates nominated by the registered officer of a registered political party under subsection 167(3):
 - (a) the death does not affect the nomination of those other candidates; and
 - (b) the registered officer may amend the nomination, at any time before the hour of nomination (as affected by subsection 156(2)), to substitute another candidate.

An amendment must be in the approved form and signed by the registered officer.

181 Failure of election

- (1) Whenever an election wholly or partially fails a new writ shall forthwith be issued for a supplementary election:

Provided that where the election has failed in consequence of the death of a candidate after the declaration of the nominations and

before polling day, the supplementary election shall be held upon the roll which was prepared for the purpose of the election which failed.

- (2) An election shall be deemed to have wholly failed if no candidate is nominated or returned as elected.
- (3) An election shall be deemed to have partially failed whenever one or more candidates is returned as elected, but not the full number required to be elected.

Part XV—Postal voting

182 Interpretation

In this Part:

appropriate DRO, in relation to an application or anything to be done by an elector, means the DRO for the Division for which the elector is enrolled.

Register, in relation to a Division, means the Register of General Postal Voters for the Division.

183 Grounds of application for postal vote

An elector may apply for a postal vote on any of the grounds set out in Schedule 2.

184 Application for postal vote

- (1) An application shall be in writing in the approved form and shall:
 - (a) contain a declaration by the applicant that he or she is an elector entitled to apply for a postal vote; and
 - (b) be signed by the applicant in the presence of an authorised witness (but see subsection (3A)).
- (2) An application made in Australia shall be made to a DRO.
- (3) An application made outside Australia shall be made to an Assistant Returning Officer or a DRO.
- (3A) An application made outside Australia that does not meet the requirement in paragraph (1)(b) is taken to meet that requirement for the purposes of this Act if:
 - (a) the application is accompanied by a signed statement by the applicant setting out why the applicant was unable to meet the requirement; and

- (b) the Assistant Returning Officer or DRO is satisfied that the applicant made reasonable efforts to comply with the requirement; and
 - (c) the application is accompanied by a photocopy, that is certified by the applicant to be a true copy, of a part of the applicant's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the applicant's name, date of birth and signature; and
 - (iii) a photograph of the applicant.
- (4) An application for a postal vote may not be made until after the issue of the writ for the election in relation to which a postal vote is sought or the public announcement of the proposed date for the polling, whichever is the earlier.
- (5) An application shall be regarded as not having been made if it reaches the officer to whom it is directed after 6 p.m. on the day before polling day in the election.

184A Application for registration as general postal voter

- (1) An elector may apply to the appropriate DRO for registration as a general postal voter.
- (2) An application shall be made on one of the following grounds:
 - (a) the applicant's real place of living is not within 20 kilometres, by the shortest practicable route:
 - (i) of any polling place; or
 - (ii) of any place determined under paragraph 227(4)(a) to be a place that will be visited by mobile polling teams for the purposes of section 227;
 - (b) the applicant:
 - (i) is a patient at a hospital (other than a special hospital or a hospital that is a polling place); and
 - (ii) because of serious illness or infirmity, is unable to travel from the hospital to a polling place;
 - (c) because of serious illness or infirmity, the applicant is unable to travel from the place where he or she lives to a polling place;

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- (ca) because the applicant will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, the applicant is unable to travel from that place to a polling place;
 - (d) the applicant is detained in custody;
 - (e) the enrolment of the applicant was obtained by means of a claim signed under subsection 98(3);
 - (f) a registered medical practitioner has certified, in writing, that the applicant is so physically incapacitated as to be incapable of signing his or her name;
 - (g) the applicant's address has been excluded from the Roll under section 104;
 - (h) because of the applicant's religious beliefs or membership of a religious order, the applicant:
 - (i) is precluded from attending a polling booth; or
 - (ii) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth.
- (3) An application in respect of an elector to whom paragraph (2)(e) or (f) applies may be made by another person on behalf of the elector.
- (4) The certificate referred to in paragraph (2)(f) shall be lodged with an application made on the ground set out in that paragraph.

184AA Application forms for postal votes

- (1) An application form for a postal vote may be physically attached to, or form part of, other written material issued by any person or organisation.
- (2) For the purposes of the *Copyright Act 1968*, if a person other than the owner of the copyright in the application form for a postal vote reproduces the application form, the person is not taken to have infringed the copyright in the application form.

184B Register of General Postal Voters

- (1) The DRO for a Division shall keep a Register of General Postal Voters in respect of the Division.

- (2) The Register shall be available at the office of the DRO during ordinary office hours for inspection, without fee, by members of the public.

185 Registration as general postal voter

- (1) If the DRO to whom an application has been made is satisfied that the application has been made in accordance with section 184A, the DRO shall register the applicant as a general postal voter.
- (2) Where:
- (a) a claim for enrolment or transfer of enrolment is made to the appropriate DRO;
 - (b) the claim is signed under subsection 98(3); and
 - (c) the claim indicates that the claimant wishes to be registered as a general postal voter;
- the DRO shall register the claimant as a general postal voter.
- (3) Where an elector who is registered as a general postal voter for a Division (in this subsection called the *original Division*) makes a claim for transfer of enrolment to another Division (the *new Division*), the matter shall be dealt with as follows:
- (a) when notified of the transfer of enrolment, the DRO for the original Division shall notify the DRO for the new Division that the elector was so registered;
 - (b) the DRO for the original Division shall cancel the registration of the elector; and
 - (c) except in the case of an elector whose address has been excluded from the Roll under section 104, the DRO for the new Division shall register the elector unless the DRO is satisfied that the elector would not be entitled to registration on application under subsection 184A(1).
- (4) Registration of an elector as a general postal voter for a Division is effected by entering in the Register the following particulars of the elector:
- (a) full name;
 - (b) except in the case of an elector whose address has been excluded from the Roll under section 104, the address shown in the Roll as the real place of living of the elector;

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- (c) such other particulars (if any) as the Electoral Commission determines.
- (5) A DRO who registers an elector as a general postal voter shall notify the elector in writing of the registration.
- (6) A DRO who decides not to register an elector as a general postal voter shall notify the elector in writing of the decision and of the reasons for it.

185B Review of Registers

The DRO for a Division shall, when so directed by the Electoral Commission, examine the Register for the Division and make such alterations to the Register as are necessary to ensure that:

- (a) only electors entitled to be registered as general postal voters for the Division are so registered; and
- (b) the particulars entered in the Register are accurate.

185C Cancellation of registration

- (1) The DRO for a Division may cancel the registration of an elector as a general postal voter for the Division if the DRO is satisfied that the ground on which the elector applied for registration no longer exists.
- (2) The DRO shall give to the elector, personally or by post, written notice of the cancellation and of the elector's right to request the DRO to refer the cancellation to the Australian Electoral Officer for the State for which the elector is enrolled for review under section 120.

186 Dispatch of postal voting papers to registered general postal voters

- (1) As soon as a DRO for a Division receives ballot-papers for a Senate election or a House of Representatives election, or both, as the case may be, the DRO must send or arrange for the delivery of postal voting papers to each registered general postal voter for the Division.

(2) In this section:

postal voting papers means:

- (a) a postal vote certificate printed on an envelope; and
- (b) one postal ballot-paper for a Senate election or one postal ballot-paper for a House of Representatives election, or both, as the case requires; and
- (c) if the envelope on which the postal vote certificate is printed is not itself addressed to the DRO for the Division for which the general postal voter is registered—an envelope addressed to that DRO.

187 Duty of witness

- (1) A person shall not witness the signature of another person (in this section called the *elector*) on an application for a postal vote unless:
- (a) the person is satisfied of the identity of the elector;
 - (b) the person has seen the elector sign the application; and
 - (c) either:
 - (i) the person knows that the statements in the application are true; or
 - (ii) the person is satisfied, on the basis of inquiries of the elector or otherwise, that the statements in the application are true.

Penalty: \$500.

- (2) The person who witnesses the signature of the elector to the application shall sign the application in his or her own handwriting and write on the application the date of signature.

188 Issue of certificate and ballot-papers

- (1) A DRO or Assistant Returning Officer who receives an application, properly signed and witnessed, for a postal vote shall post or arrange to be delivered to the applicant:
- (a) a postal vote certificate printed on an envelope; and

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- (b) one postal ballot-paper for a Senate election or one postal ballot-paper for a House of Representatives election, or both, as the case requires; and
- (c) if the envelope on which the postal vote certificate is printed is not itself addressed to:
 - (i) if the application is provided to an Assistant Returning Officer outside Australia—the Assistant Returning Officer or to the DRO for the Division for which the applicant declares that he or she is enrolled; or
 - (ii) otherwise—the DRO for the Division for which the applicant declares that he or she is enrolled;an envelope addressed to that Assistant Returning officer or DRO.

Note: An application may be taken to be properly witnessed because of subsection 184(3A).

- (2) In spite of subsection (1), where the application is received after the last mail clearance at the nearest post office on the last Thursday before polling day, the DRO or Assistant Returning Officer shall not post to the applicant a postal vote certificate or ballot-paper.

189 Inspection of applications

- (1) A DRO who issues a postal vote certificate and postal ballot-paper shall:
 - (a) write on the application the date of issue of the certificate and ballot-paper; and
 - (b) if the DRO is not the appropriate DRO, send the application to the appropriate DRO.
- (2) An Assistant Returning Officer who issues a postal vote certificate and postal ballot-paper shall:
 - (a) write on the application the date of issue of the certificate and ballot-paper; and
 - (b) deal with the application in accordance with subsection 228(8).
- (3) Subject to subsection (4), all applications for postal votes in relation to which a DRO is the appropriate DRO shall be open to

public inspection at the office of the DRO during ordinary office hours from and including the third day after polling day until the election can no longer be questioned.

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

189A Access to electronic list of postal vote applicants

- (1) A request for a list, in electronic form, of the postal vote applicants may be made to the Electoral Commission by:
 - (a) a candidate in a Senate election if the postal vote applications are in respect of any Division in the State or Territory for which the candidate stood for election; or
 - (b) a candidate in a House of Representatives election if the postal vote applications are in respect of the Division for which the candidate stood for election; or
 - (c) a registered political party if the postal vote applications are in respect of a Division in a State or Territory on the basis of which a branch or division of the party is organised.

The request may be made on or after the third day after polling day and before the election can no longer be questioned.

- (2) The Electoral Commission must, as soon as practicable, comply with such a request.
- (3) The list may include the name and date of birth of a postal vote applicant and the address in respect of which the applicant claims to be enrolled.
- (4) However, before providing the list to a person or party, the Electoral Commission must remove from it all information concerning a person whose address has been excluded from the Roll under section 104, other than the person's name.

Section 189B

189B Restriction on use or disclosure of information

Use of information

- (1) A person is guilty of an offence if the person:
- (a) uses information obtained from an electronic list of postal vote applicants provided by the Electoral Commission; and
 - (b) the use of the information is not for a permitted purpose (see subsections (4) and (5)).

Maximum penalty: 100 penalty units.

Disclosure of information

- (2) A person is guilty of an offence if:
- (a) the person discloses information; and
 - (b) the person knows that, or is reckless as to whether, the information has been obtained from an electronic list of postal vote applicants provided by the Electoral Commission; and
 - (c) the disclosure would not be a use of the information for a permitted purpose (see subsections (4) and (5)).

Maximum penalty: 1,000 penalty units.

Use of information for a commercial purpose

- (3) A person is guilty of an offence if:
- (a) the person uses information for a commercial purpose; and
 - (b) the person knows that, or is reckless as to whether, the information has been obtained from an electronic list of postal vote applicants provided by the Electoral Commission.

Maximum penalty: 1,000 penalty units.

Permitted purposes

- (4) If the list was provided by the Electoral Commission to a candidate in a Senate or House of Representatives election, the ***permitted purposes*** are:
- (a) any purpose connected with an election or referendum; and
 - (b) research about electoral matters; and

- (c) the monitoring of the accuracy of information contained in a Roll; and
 - (d) the performance by the candidate of his or her functions if elected as a Senator or member in relation to a person included in the list.
- (5) If the list was provided by the Electoral Commission to a registered political party, the *permitted purposes* are:
- (a) any purpose connected with an election or referendum; and
 - (b) research about electoral matters; and
 - (c) the monitoring of the accuracy of information contained in a Roll; and
 - (d) the performance by a Senator or member of the House of Representatives, who is a member of the party, of his or her functions as a Senator or member in relation to a person included in the list.

Definitions

- (6) In this section:

election means:

- (a) a Senate election; or
- (b) a House of Representatives election; or
- (c) a State or Territory election; or
- (d) a local government election.

referendum means a referendum conducted under a law of the Commonwealth or of a State or Territory.

190 Numbering of applications and certificates

- (1) A DRO or Assistant Returning Officer shall allocate a number to each application for a postal vote and shall number each postal vote certificate with a number corresponding to the number of the application.
- (2) The DRO or Assistant Returning Officer who issues a ballot-paper shall initial the top of the front of the paper.

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192 Form of postal vote certificate

A postal vote certificate shall be in the approved form.

193 Authorised witnesses

- (1) An elector whose name appears on a Roll is an authorised witness.
- (2) Outside Australia, the following persons are authorised witnesses:
 - (a) an officer of the Defence Force or of the naval, military or air forces of a Commonwealth country;
 - (b) a person appointed or engaged under the *Public Service Act 1999*;
 - (c) a member of the civil or public service of a State or Territory or of a Commonwealth country;
 - (d) a Justice of the Peace for a State or Territory or a Commonwealth country;
 - (e) a minister of religion or medical practitioner resident in a State or Territory or a Commonwealth country;
 - (f) an Australian citizen.
- (3) A person who is a candidate at an election is not an authorised witness in relation to the casting of a postal vote in that election.
- (4) In this section:

Commonwealth country means a political entity, or part of a political entity, that is a member of the international organisation known as the Commonwealth of Nations.

194 Postal voting

- (1) The following requirements for postal voting shall be substantially observed:
 - (a) the elector shall show the unsigned postal vote certificate and the unmarked postal ballot-paper to an authorised witness;
 - (b) except in the case of an elector registered as a general postal voter on the ground set out in paragraph 184A(2)(e) or (f), the elector shall sign the postal vote certificate in the presence of the authorised witness;

- (c) the authorised witness shall sign the certificate as witness, adding the date and an indication of the capacity in which the witness acts;
 - (d) the elector shall then, in the presence of the authorised witness but so that the witness cannot see the vote, mark his or her vote on the ballot-paper, fold the ballot-paper, place it in the envelope on which the postal vote certificate is printed and fasten the envelope;
 - (e) the elector shall post or deliver the envelope to the appropriate DRO;
 - (f) if the elector cannot read or is so disabled as to be unable to vote without assistance, a person chosen by the elector may, according to the directions of the elector, complete the postal vote certificate and do for the elector any act required by paragraph (d) or (e);
 - (g) directions under paragraph (f) may be given by reference to a how-to-vote card.
- (1A) A postal vote by an elector outside Australia that does not meet the requirements in subsection (1) concerning an authorised witness is, despite that subsection, taken to meet those requirements for the purposes of this Act if:
- (a) the postal vote is accompanied by a signed statement by the elector setting out why the elector was unable to comply with those requirements; and
 - (b) the DRO or officer dealing with the postal vote under section 195A is satisfied that the elector made reasonable efforts to comply with those requirements; and
 - (c) the postal vote is accompanied by a photocopy, that is certified by the elector to be a true copy, of a part of the elector's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the elector's name, date of birth and signature; and
 - (iii) a photograph of the elector.
- (2) In spite of paragraph (1)(e), where:
- (a) a ballot-paper, if posted before the close of the poll, would be unlikely to reach the appropriate DRO within 13 days after polling day; or

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- (b) a ballot-paper, if it were to be delivered to the appropriate DRO, would be unlikely to reach the DRO before the close of the poll;
the envelope containing the ballot-paper may:
 - (c) before the close of the poll be addressed to, and posted or delivered to, any other DRO or to an Assistant Returning Officer at a place outside Australia;
 - (d) be handed to a pre-poll voting officer; or
 - (e) be delivered, on polling day and before the close of the poll, to any presiding officer.
- (3) A DRO, Assistant Returning Officer, presiding officer or pre-poll voting officer to whom an envelope containing a ballot-paper is posted or delivered under subsection (2) shall deal with the envelope and ballot-paper according to sections 195A and 228.

195 Duty of authorised witnesses etc.

Except at the request of the elector, a person shall not:

- (a) interfere with an elector in relation to the marking of a postal ballot-paper; or
- (b) do anything that would enable the person or any other person to find out how an elector marked a postal ballot-paper.

Penalty: \$1,000.

195A Procedure for dealing with postal vote certificates etc.

- (1) In this section, *officer* means:
 - (a) a pre-poll voting officer;
 - (b) a presiding officer; or
 - (c) an Assistant Returning Officer at a place outside Australia.
- (2) Where:
 - (a) a DRO receives an envelope bearing a postal vote certificate and purporting to contain a postal ballot-paper issued in respect of a Division other than the Division for which the DRO is appointed; or

- (b) an officer receives an envelope bearing a postal vote certificate and purporting to contain a postal ballot-paper; the DRO or officer shall:
- (c) endorse on the envelope “Received by me” and the date and time of receipt;
- (d) sign the endorsement, adding the words “Divisional Returning Officer”, “Pre-poll Voting Officer”, “Presiding Officer” or “Assistant Returning Officer”, as the case may be;
- (e) make a record of the name of the voter and the name of the Division as shown in the postal vote certificate;
- (f) deal with the envelope in accordance with section 228; and
- (g) until the envelope is so dealt with, keep the envelope in a ballot-box.

196 Opening of postal ballot-paper

- (1) A person other than:
 - (a) the DRO for the Division in respect of which a postal ballot-paper has been issued; or
 - (b) an officer acting at the direction of the DRO;shall not open an envelope that purports to contain a postal ballot-paper on which a vote has been recorded.

Penalty: \$500.

- (2) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

197 Failure to post or deliver postal vote application etc.

A person to whom an elector entrusts:

- (a) an application for a postal vote; or
 - (b) an envelope apparently containing a postal ballot-paper;
- for posting or delivery to an officer shall post or deliver the application or envelope, as the case may be, as soon as practicable.

Penalty: \$1,000.

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198 Inducing elector to hand over marked ballot-paper

A person shall not induce an elector to hand over to the person a postal ballot-paper on which a vote has been recorded.

Penalty: \$1,000.

199 Correction of formal errors

If an officer who receives:

- (a) an application for a postal vote; or
- (b) a postal vote certificate;

is satisfied that the application or certificate contains a formal error, the officer may amend the application or certificate to correct the error.

200 Mistakes

- (1) A postal vote shall not be rejected because only the surname of a candidate has been written on the ballot-paper if no other candidate has the same surname.
- (2) A postal vote shall not be rejected because of a mistake in spelling if the elector's intention is clear.

Part XVA—Pre-poll voting

200A Grounds of application for pre-poll vote

An elector may apply for a pre-poll vote on any of the grounds set out in Schedule 2.

200B Pre-poll voting officers

The Electoral Commission may appoint a person to be a pre-poll voting officer for the purposes of this Act.

200C Application for pre-poll vote

- (1) An application for a pre-poll vote may be made to:
 - (a) any Divisional Returning Officer;
 - (b) any pre-poll voting officer; or
 - (c) an Assistant Returning Officer at a place outside Australia.
- (2) The application must be made by the elector in person.
- (3) The elector making the application shall inform the officer to whom the application is made of:
 - (a) the Division for which the elector is enrolled; and
 - (b) any matters prescribed by the regulations.

200D Place and time of application

- (1) An application to a DRO shall be made at the office of the DRO during ordinary office hours or during the hours of polling on polling day.
- (2) An application to a pre-poll voting officer shall be made:
 - (a) at a place declared by the Electoral Commission, by notice published in the *Gazette*, to be a pre-poll voting office; and
 - (b) on a day, and during the hours, fixed by the Electoral Commission, by notice published in the *Gazette*, for such applications.

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- (3) An application to an Assistant Returning Officer shall be made:
 - (a) at the office of the Assistant Returning Officer; and
 - (b) during ordinary office hours or during such other hours as the Assistant Returning Officer fixes.
- (4) An application that relates to:
 - (a) a Senate election; or
 - (b) a Senate election and a House of Representatives election to be held on the same day;cannot be made earlier than the second day after the day on which nominations for the Senate election are declared under subsection 176(1).
- (5) An application that relates to a House of Representatives election that is not to be held on the same day as a Senate election cannot be made earlier than the day after the day on which nominations for the election are declared under subsection 176(2).
- (6) An elector may not make an application after the close of the poll in the State or Territory in which the elector is making the application.

200DA Scrutineers at the pre-poll voting office

- (1) Scrutineers may be appointed by candidates to represent them at pre-poll voting offices during the polling, but so that not more than one scrutineer is to be allowed to each candidate at each pre-poll voting office.
- (2) Appointments of scrutineers are to be made by notice in writing addressed to the Returning Officer or a pre-poll voting officer.
- (3) The notice must:
 - (a) be signed by the candidate; and
 - (b) give the scrutineer's name and address.

200DB Provisions relating to scrutineers at pre-poll voting office

- (1) A person is guilty of an offence if the person:
 - (a) is a scrutineer; and

- (b) interferes with or attempts to influence any elector within the pre-poll voting office.

Penalty: Imprisonment for 6 months.

- (2) A person is guilty of an offence if:
 - (a) the person is a scrutineer; and
 - (b) the person communicates with someone else in the pre-poll voting office; and
 - (c) the communication is not reasonably necessary for the discharge of the person's functions as a scrutineer.

Penalty: Imprisonment for 6 months.

- (3) Subject to subsection (4), a scrutineer must not be prevented from entering or leaving a pre-poll voting office on a day, and during the hours, fixed under paragraph 200D(2)(b).
- (4) Only one scrutineer for each candidate is entitled to be present in the pre-poll voting office at any one time. A relieving scrutineer may, however, act during the absence of the scrutineer.
- (5) A person who is in a pre-poll voting office in the capacity of a scrutineer must wear a badge, supplied by the Electoral Commission, that identifies the person as a scrutineer.
- (6) A scrutineer who:
 - (a) commits any breach of this section; or
 - (b) is guilty of misconduct; or
 - (c) fails to obey the lawful directions of a pre-poll voting officer;may be removed from the pre-poll voting office by a member of the Australian Federal Police or of the police force of a State or Territory.

200E Pre-poll voting

- (1) The officer to whom an application for a pre-poll vote is made (in this section called *the issuing officer*) shall issue to the elector:
 - (a) a pre-poll vote certificate; and
 - (b) one ballot-paper for a Senate election or one ballot-paper for a House of Representatives election, or both, as the case requires.

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- (2) Before issuing the ballot-paper, the officer shall initial the top of the front of the paper.
- (3) The elector shall sign the pre-poll vote certificate in the presence of the issuing officer.
- (4) The issuing officer shall then sign the pre-poll vote certificate as witness, adding the date.
- (5) The elector shall then, in the presence of the issuing officer but so that the officer cannot see the vote, mark his or her vote on the ballot-paper, fold the ballot-paper and return it to the issuing officer.
- (6) The issuing officer shall immediately place the ballot-paper in the envelope bearing the pre-poll vote certificate, fasten the envelope and, until the envelope is dealt with under section 228, keep the envelope in a ballot-box.
- (7) If the elector satisfies the officer that the elector cannot read or is so disabled as to be unable to vote without assistance, a person chosen by the elector may, according to the directions of the elector, do any of the following acts:
 - (a) fill in the pre-poll vote certificate with the required particulars;
 - (b) read the certificate to the voter;
 - (c) complete the certificate;
 - (d) mark the elector's vote on the ballot-paper;
 - (e) fold the ballot-paper and return it to the officer.
- (8) Directions under subsection (7) may be given by reference to a how-to-vote card.
- (9) An elector to whom a pre-poll vote certificate and ballot-paper have been issued is not entitled:
 - (a) to vote at a polling booth; or
 - (b) to remove the certificate or ballot-paper from the office of the officer who issued it.

200F Form of pre-poll vote certificate

A pre-poll vote certificate shall:

- (a) be in the approved form;
- (b) carry a distinguishing number that is the same as the number allocated to the record of the application for the certificate; and
- (c) be printed on an envelope addressed to the DRO for the Division for which the elector declares that he or she is enrolled.

200G Record of issue of pre-poll voting papers

- (1) Where the DRO for a Division issues a pre-poll vote certificate and ballot-paper to a person enrolled for the Division, the DRO shall make a record of the date of issue of the certificate and ballot-paper and the name of the person and shall allocate a number to the record.
- (2) Where:
 - (a) any other DRO;
 - (b) a pre-poll voting officer; or
 - (c) an Assistant Returning Officer at a place outside Australia; issues a pre-poll vote certificate and ballot-paper, he or she shall:
 - (d) make a record of the date of issue of the certificate and ballot-paper, the name of the person to whom the certificate and ballot-paper were issued and the name of the Division for which the person is enrolled and shall allocate a number to the record; and
 - (e) deal with the record of the issue of the certificate and ballot-paper in accordance with section 228.
- (3) Records made by a DRO under subsection (1) and records forwarded to the DRO under section 228 shall be open to public inspection at the office of the DRO during ordinary office hours from and including the third day after polling day until the election can no longer be questioned.

200J Opening of pre-poll voting envelope

- (1) A person other than:
 - (a) the DRO for the Division in respect of which a pre-poll vote ballot-paper has been issued; or
-

Section 200K

(b) an officer acting at the direction of the DRO; shall not open an envelope containing a ballot-paper given to an officer under subsection 200E(5) or (7).

Penalty: \$500.

(2) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

200K Obligations of persons present when pre-poll vote cast

A person who is present when an elector signs a pre-poll vote certificate or marks a ballot-paper in the presence of an officer:

- (a) shall obey all directions of the officer; and
- (b) except at the request of the elector:
 - (i) shall not make any communication to the elector in relation to the elector's vote;
 - (ii) shall not assist the elector or in any way interfere with the elector in relation to the elector's vote; and
 - (iii) shall not do anything that would enable the person to find out how the elector marked the ballot-paper.

Penalty: \$1,000.

201 Correction of formal errors

If an officer who receives a pre-poll vote certificate under subsection 200E(5) is satisfied that the certificate contains a formal error, the officer may amend the certificate to correct the error.

202 Mistakes

- (1) A pre-poll vote shall not be rejected because only the surname of a candidate has been written on the ballot-paper if no other candidate has the same surname.
- (2) A pre-poll vote shall not be rejected because of a mistake in spelling if the elector's intention is clear.

Part XVI—The polling

202A Undertaking by officers and scrutineers

- (1) An officer to whom this subsection applies shall not begin the performance of his or her duties in relation to an election unless the officer has signed an undertaking in the approved form relating to that election.
- (2) Subsection (1) applies to the following officers:
 - (a) a Divisional Returning Officer;
 - (b) an Assistant Returning Officer;
 - (c) an Assistant Divisional Returning Officer;
 - (d) a presiding officer;
 - (e) a deputy presiding officer;
 - (f) an assistant presiding officer;
 - (g) a substitute presiding officer;
 - (h) an Antarctic Returning Officer;
 - (j) an Assistant Antarctic Returning Officer;
 - (k) an electoral visitor;
 - (m) a mobile polling team leader;
 - (n) a mobile polling team member;
 - (o) a pre-poll voting officer.
- (3) A scrutineer shall not begin the performance of his or her duties unless the scrutineer has signed an undertaking in the approved form.
- (4) A person employed by the Electoral Commission to perform duties in connection with the conduct of an election or a referendum held on the same day as an election, shall not begin the performance of his or her duties unless the person has signed an undertaking in the approved form.
- (5) The failure of a person to sign an undertaking is not a ground for setting aside the result of an election or referendum.

203 Arrangements for polling

- (1) If the proceedings on the day of nomination stand adjourned to polling day, the Divisional Returning Officer shall immediately make all necessary arrangements for taking the poll, and in particular shall:
 - (a) provide and furnish proper polling booths and ballot-boxes; and
 - (b) provide ballot-papers and all necessary certified lists of voters.
- (2) If the proceedings on the day of nomination stand adjourned to polling day, the Electoral Commission, in pursuance of its powers under section 35, shall immediately appoint a presiding officer to preside at each polling place and all necessary deputy presiding officers and assistant presiding officers.
- (3) In any emergency on polling day due to the absence of any deputy presiding officer or assistant presiding officer, or to any unforeseen and continued pressure at the polling which cannot be met by the duly appointed officers, the presiding officer may appoint any person to act as deputy presiding officer or assistant presiding officer, and the person so appointed or acting shall be deemed to have been duly appointed if the Electoral Commission afterwards ratifies the appointment by appointing that person to be deputy presiding officer or assistant presiding officer, as the case may be.
- (4) No person under the age of 18 years shall be appointed to be a presiding officer, deputy presiding officer or assistant presiding officer.
- (5) Any deputy presiding officer or assistant presiding officer may, subject to the direction of the presiding officer, exercise all or any of the powers of the presiding officer, and shall, in respect of the exercise of those powers, be deemed to be the presiding officer.
- (7) The polling booths and ballot-boxes provided for the purposes of an election may be used for the purposes of any other election, or of a referendum, held on the same day, but the ballot-papers for each election and the referendum shall be distinctively coloured.

204 Substitute

Any presiding officer may appoint a substitute to perform the duties of the presiding officer during his or her temporary absence, and such substitute may, while so acting, exercise all the powers of the presiding officer, and shall, in the exercise of those powers, be deemed to be the presiding officer.

205 Use of licensed premises as polling booth

Premises licensed for the sale of intoxicating liquor may be used for the purpose of a polling booth if, and only if, the Electoral Commissioner declares, in writing, that he or she is satisfied that, during the hours of polling on polling day:

- (a) intoxicating liquor will not be available for sale or consumption on the part of the premises proposed for use for the purpose of a polling booth; and
- (b) the part of the premises proposed for use for the purpose of a polling booth will be segregated from the part of the premises where intoxicating liquor will be available for sale or consumption; and
- (c) access to the part of the premises proposed for use for the purpose of a polling booth will not involve passing through the part of the premises where intoxicating liquor will be available for sale or consumption.

206 Separate voting compartments

Polling booths shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment shall be furnished with a pencil for the use of voters.

207 Ballot-boxes

- (1) Each polling booth shall be provided with the necessary ballot-boxes.
- (2) Each ballot-box shall be capable of being securely fastened.

208 Certified lists of voters

- (1) The Electoral Commissioner must arrange for the preparation of a list of voters for each Division and must certify the list.
- (2) The list must include the name of each person who:
 - (a) is on the Roll for the Division; and
 - (b) will be at least 18 years old on polling day.
- (2A) The list must also include the sex and date of birth of each person whose name is included in the list.
- (3) The Electoral Commissioner must arrange for the delivery to the presiding officer at each polling place, before the start of voting, a copy of the certified list of voters for the Division for which the polling place is appointed.

209 Ballot-papers

- (1) Ballot-papers to be used in a Senate election shall be in Form E in Schedule 1.
- (2) Ballot-papers to be used in a House of Representatives election shall be in Form F in Schedule 1.
- (3) Ballot-papers must have a green background colour for House of Representatives elections and a white background colour for Senate elections and are to be printed using black type face of a kind ordinarily used in Commonwealth Government publications.
- (5) The ballot-papers to be used for postal voting shall have the words "Postal Ballot-paper" as a heading and shall contain the following directions:

"Fold the ballot-paper, place it in the envelope on which the postal vote certificate is printed and fasten the envelope."
- (6) Before issuing a ballot-paper for a Senate election, an officer shall, if the particulars are not already printed on the ballot-paper, write on the ballot-paper:
 - (a) the name of the State or Territory in which the election is to be held;
 - (b) the number of candidates to be elected;

- (c) the numbers required to complete the *Directions* on the ballot-paper;
 - (d) the full names of all candidates arranged in the same way as would be required if the names were being printed on the ballot-paper; and
 - (e) the information that would be required by section 214 to be printed on the ballot-paper if the ballot-paper were being printed.
- (7) Before issuing a ballot-paper for a House of Representatives election, an officer shall, if the particulars are not already printed on the ballot-paper, write on the ballot-paper:
- (a) the name of the State or Territory, and the name of the Division, in which the election is to be held;
 - (b) the numbers required to complete the *Directions* on the ballot-paper;
 - (c) the full names of all candidates for the Division in the same order as would be required if the ballot-paper were being printed; and
 - (d) the information that would be required by section 214 to be printed on the ballot-paper if the ballot-paper were being printed.
- (8) Before issuing a ballot-paper that is to be used for postal voting, a DRO or Assistant Returning Officer shall ensure that the words and directions required by subsection (5) are printed or written on the ballot-paper.

209A Official mark

The official mark for the authentication of ballot-papers is either:

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

210 Printing of Senate ballot-papers

- (1) In printing the ballot-papers to be used in a Senate election:
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- (a) the names of candidates by whom requests have been made under section 168 shall be printed in groups on the ballot-papers in accordance with the requests and before the names of candidates who have not made such requests;
 - (b) the order of the names of the candidates, who have only made a request under paragraph 168(1)(a), must be determined by the Australian Electoral Officer in accordance with section 213;
 - (c) the order of the several groups in the ballot-papers shall be determined by the Australian Electoral Officer in accordance with section 213;
 - (d) the order of the names of the candidates whose names are not included in any group shall be determined by the Australian Electoral Officer in accordance with section 213;
 - (e) where similarity in the names of 2 or more candidates is likely to cause confusion the names of those candidates may be arranged with such description or addition as will distinguish them from one another; and
 - (f) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.
- (2) Where a candidate in a Senate election has given notice of intention to lodge a statement under section 211A, subsection (1) applies, and the Australian Electoral Officer shall make the determinations required by that subsection, as if the candidate were a group of candidates who had made a request under section 168.
- (3) The names of candidates not included in a group shall be printed on the ballot-papers according to the following rules:
- (a) unless paragraph (b) applies, the names of the candidates must be printed in a single column;
 - (b) if a single column would be longer than the longest column containing the names of candidates included in groups, the names of the candidates may be printed in 2 or more columns;
 - (c) if the names of the candidates are printed in 2 or more columns, none of the columns may be longer than the longest column containing the names of candidates included in groups.

210A Form of party name on ballot-papers

- (1) In this section, *registered abbreviation*, in relation to the name of a registered political party, means the abbreviation (if any) of the name of the party entered in the Register of Political Parties.
- (2) Subject to subsection (3), where a provision of this Part requires the name of a registered political party to be printed on ballot-papers for use in an election, the name to be so printed is the name of the party entered in the Register of Political Parties.
- (3) Where, under section 169, the registered officer of a registered political party has requested that the registered abbreviation of the name of that party be printed on the ballot-papers for an election adjacent to the name of a candidate, a provision referred to in subsection (2) applies as if a reference to the name of a registered political party were a reference to the registered abbreviation of that name.
- (4) The names of registered political parties, or abbreviations of such names, printed adjacent to the names of candidates on ballot-papers for use in an election shall be printed in capital letters in type that is uniform in size and style for all the names of those parties or abbreviations of those names.
- (5) The names of registered political parties, or abbreviations of such names, printed adjacent to squares printed, in accordance with subsection 211(5), on ballot-papers for use in an election shall be printed in capital letters in type that is uniform in size and style for all names and abbreviations so printed.

211 Group voting tickets

- (1) Where the names of candidates nominated in a Senate election are included in a group in accordance with a request under section 168, the candidates may, after the determinations in relation to the election required by section 210 have been made and before the expiration of 48 hours after the closing of nominations for the election, lodge with the Australian Electoral Officer a written statement that they wish voters in the election to indicate their preferences in relation to all the candidates in the election in an order specified in the statement, being an order that gives

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preferences to the candidates lodging the statement before any other candidate.

- (2) Where candidates nominated for election to the Senate may lodge a statement referred to in subsection (1), they may, in lieu of lodging that statement, lodge a written statement that they wish voters in the election to indicate their preferences in relation to all the candidates in the election in either of 2 orders, or any of 3 orders, specified in the statement, being orders that:
 - (a) give preferences to the candidates lodging the statement before any other candidate; and
 - (b) give the preferences to the candidates lodging the statement in the same order.
- (3) Without limiting the generality of subsection (1) or (2), a statement for the purposes of either of those subsections may specify an order of preferences by setting out the names of all the candidates in the election in the groups, and in the order, in which they would be set out in a ballot-paper with squares opposite to each name and with a number in each square showing that order of preferences.
- (4) Where a group of candidates in a Senate election lodges a statement in accordance with subsection (1) or (2) in relation to the election, that group of candidates shall be taken to have a group voting ticket, or 2 or 3 group voting tickets, as the case requires, registered for the purposes of the election, being the order of preferences, or the orders of preferences, given in that statement, as the case may be.
- (5) Where a group of candidates in a Senate election has a group voting ticket, or 2 or 3 group voting tickets, registered for the purposes of that election, a square shall be printed on the ballot-papers for use in the election above the names of those candidates.
- (5A) A group of candidates who have lodged a statement under subsection (1) or (2) may, at any time before the period for lodging the statement expires, amend, withdraw or replace the statement by giving written notice to the Australian Electoral Officer.

- (6) A statement under subsection (1) or (2), or notice under subsection (5A) amending, withdrawing or replacing such a statement, may be signed:
- (a) where all the members of the group have been endorsed by the same registered political party, by the registered officer of the party;
 - (b) where the members of the group have been endorsed by different registered political parties, by the registered officers of all those parties;
 - (c) in a case to which neither paragraph (a) nor paragraph (b) applies, by the candidate whose name first appears in the group on the ballot-paper; or
 - (d) in any case, by a person authorised by all the members of the group, by written instrument given to the Australian Electoral Officer with the nomination or nominations of members of the group, to sign such a statement on behalf of the group.
- (7) A group that lodges a statement under subsection (2) shall indicate in the statement the order in which the voting tickets of the group are to be displayed in the poster or pamphlet prepared for the purposes of subsection 216(1).

211A Individual voting tickets

- (1) Where:
- (a) a candidate in a Senate election is:
 - (i) a Senator; or
 - (ii) in the case of an election following a dissolution of the Senate, a person who was, immediately before the dissolution, a Senator; and
 - (b) the candidate has not joined in a request under section 168 in relation to the election;
- the candidate may lodge with the Australian Electoral Officer a written statement that the candidate wishes voters in the election to indicate their preferences in relation to all the candidates in the election in an order specified in the statement, being an order that gives preference to the candidate lodging the statement before any other candidate.

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- (2) A candidate who is entitled to lodge a statement under subsection (1) may, instead of lodging that statement, lodge a written statement that the candidate wishes voters in the election to indicate their preferences in relation to all the candidates in the election in either of 2 orders, or any of 3 orders, specified in the statement, being orders that give preference to the candidate lodging the statement before any other candidate.
- (3) A statement under subsection (1) or (2) shall:
 - (a) be signed by the candidate; and
 - (b) be lodged with the Australian Electoral Officer for the State or Territory in which the election to which the statement relates is to be held.
- (4) A statement under subsection (1) or (2) shall be lodged after the determinations in relation to the election required by section 210 have been made and before the expiration of 48 hours after the closing of nominations for the election.
- (5) A candidate is not entitled to lodge a statement under subsection (1) or (2) unless there was lodged with the nomination of the candidate written notice by the candidate that the candidate proposed to lodge a statement under this section.
- (6) Where a candidate in a Senate election has lodged a statement under subsection (1) or (2), a square shall be printed on the ballot-papers for use in the election above the name of the candidate.
- (7) Where:
 - (a) a candidate has lodged a statement under subsection (1) or (2); and
 - (b) subsection 214(1) requires that the name of a registered political party be printed adjacent to the name of the candidate on the ballot-papers;the name of that party shall also be printed on the ballot-papers adjacent to the square printed on the ballot-papers in relation to that candidate in accordance with subsection (6).
- (8) Where:
 - (a) a candidate has lodged a statement under subsection (1) or (2); and

- (b) subsection 214(3) requires that the word “Independent” be printed adjacent to the name of the candidate on ballot-papers;
the word “Independent” and the name of the candidate must also be printed on the ballot-papers adjacent to the square printed on the ballot-papers in accordance with subsection (6).
- (9) Without limiting the generality of subsection (1) or (2), a statement for the purposes of either of those subsections may specify an order of preferences by setting out the names of all the candidates in the election in the groups, and in the order, in which they would be set out in a ballot-paper with squares opposite to each name and with a number in each square showing that order of preferences.
- (10) Where a candidate has lodged a statement under subsection (1) or (2), section 216 applies as if the candidate were a group that had a group voting ticket, or 2 or 3 group voting tickets, as the case requires, registered for the purposes of the election, being the order of preferences, or the orders of preferences, given in that statement, as the case may be, and as if the statement had been lodged under section 211.
- (11) A candidate who lodges a statement under subsection (2) shall indicate in the statement the order in which the voting tickets of the candidate are to be displayed in the poster or pamphlet prepared for the purposes of subsection 216(1).
- (12) A candidate who has lodged a statement under subsection (1) or (2) may, at any time before the period for lodging the statement expires, amend, withdraw or replace the statement by giving written notice to the Australian Electoral Officer. The notice must be signed by the candidate.

212 Ballot-papers for House of Representatives elections

In printing the ballot-papers to be used in a House of Representatives election:

- (a) the order of the names of the candidates in the ballot-papers shall be determined by the Divisional Returning Officer in accordance with section 213;
- (b) where similarity in the names of 2 or more candidates is likely to cause confusion, the names of those candidates may

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be arranged with such description or addition as will distinguish them from one another; and

- (c) except as otherwise provided by the regulations, a square shall be printed opposite the name of each candidate.

213 Determination of order of names

- (1) Where under section 210 or 212 a person is required to determine in accordance with this section the order of the names of candidates or of groups in ballot-papers to be used in an election:
- (a) the person shall, at the declaration time for the election, at the place where nominations for the election were publicly produced and before all persons present at that place:
 - (i) prepare a list of the names or groups, as the case may be, in such order as the person considers appropriate;
 - (ii) read out that list;
 - (iii) place a number of balls equal to the number of candidates or groups, as the case may be, being balls of equal size and weight and each of which is marked with a different number, in a spherical container large enough to allow all the balls in it to move about freely when it is rotated;
 - (iv) rotate the container and permit any other person present who wishes to do so to rotate the container;
 - (v) cause a person who is blindfolded and has been blindfolded since before the rotation of the container in accordance with subparagraph (iv) to take the balls, or cause the balls to come, out of the container one by one and, as each ball is taken or comes out, to pass it to another person who shall call out the number on the ball;
 - (vi) as each number is called out in accordance with subparagraph (v), write the number opposite to a name or group, as the case may be, in the list prepared in accordance with subparagraph (i) so that the number called out first is opposite to the first name or group, as the case may be, in the list and the subsequent order of the numbers in the list is the order in which they are called out;

- (vii) place all the balls back in the container;
 - (viii) rotate the container and permit any other person present who wishes to do so to rotate the container;
 - (ix) cause a person who is blindfolded and has been blindfolded since before the rotation of the container in accordance with subparagraph (viii) to take the balls, or cause the balls to come, out of the container one by one and, as each ball is taken or comes out, to pass it to another person who shall call out the number on the ball;
 - (x) prepare a list of the numbers called out in accordance with subparagraph (ix) set out in the order in which they were called out in accordance with subparagraph (ix); and
 - (xi) write on the list prepared in accordance with subparagraph (x) opposite to each number the name or group, as the case may be, set out opposite to that number in the list prepared in accordance with subparagraph (i); and
- (b) the order in which the names or groups, as the case may be, are set out in the list prepared in accordance with subparagraph (a)(x) is the order of the names or groups, as the case may be, determined by the person under this section.
- (2) Where under subsection (1) a person is required to set out a group in a list, it is sufficient compliance with that requirement if such description of the group, by reference to the name of the first candidate in it or to the party or parties to which the candidates in the group belong or otherwise, as the person considers to be appropriate, is so set out.
- (3) A reference in subparagraph (1)(a)(v) or (ix) to a person is a reference to a person employed by the Commonwealth or a State or by an authority of the Commonwealth or a State.
- (4) The requirement of subparagraph (1)(a)(v) or (ix) that a person be blindfolded need not be observed if the container being used is an approved container.
- (5) An approved container is a container in respect of which the Electoral Commissioner has certified in writing that the container
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is so constructed that when it is rotated no control can be exercised over the order in which balls come out of the container.

(6) In this section:

declaration time for an election has the meaning given by subsection 175(2).

214 Printing of political party names etc. on ballot-papers

(1) Where a person:

- (a) has been endorsed as a candidate in an election by a registered political party; and
- (b) a request has been made in respect of the candidate under section 169;

the name of that party shall be printed adjacent to the name of the candidate on ballot-papers for use in the election.

(2) Where:

- (a) 2 or more persons have been endorsed as candidates in a Senate election by a registered political party; and
- (b) a request has been made in respect of the candidates under section 168;

the following requirements shall be observed in the printing of the ballot-papers for use in the election:

- (c) the registered name of the party by which each candidate was endorsed shall be printed adjacent to the name of that candidate on the ballot-papers;
- (d) where all the candidates were endorsed by the same party and a square is printed, in accordance with subsection 211(5), on the ballot-papers in relation to the candidates, the registered name of that party shall be printed on the ballot-papers adjacent to that square;
- (e) where the request under section 169 included a request that a composite name be printed adjacent to the square printed, in accordance with subsection 211(5), on the ballot-papers in relation to the candidates, that composite name shall be printed on the ballot-papers adjacent to that square.

- (3) Where a candidate in an election has made a request under section 169A, the word “Independent” shall be printed adjacent to the name of the candidate on the ballot-papers.

215 Ballot-papers to be initialled

- (1) A ballot-paper must not be delivered to a voter without first being initialled by the proper officer on the top of the front of the ballot-paper.
- (2) An exact account of all initialled ballot-papers must be kept.
- (3) To avoid doubt, this section also applies to a ballot-paper that is a photocopy of an original ballot-paper.

216 Group voting tickets to be displayed

- (1) If one or more group voting tickets are registered for the purposes of a Senate election, the Australian Electoral Officer must ensure that either or both of the following are prominently displayed at each polling booth:
- (a) a poster showing the tickets;
 - (b) a pamphlet showing the tickets.
- (2) A poster prepared for the purposes of this section must show:
- (a) group voting tickets in vertical columns; and
 - (b) the tickets in the same order from the top of each column as the order on the ballot-papers for the groups who lodged the tickets; and
 - (c) the tickets lodged by the same group in the same column.
- (3) A pamphlet prepared for the purposes of this section must show:
- (a) each group voting ticket starting on a separate page of the pamphlet; and
 - (b) the tickets in the same order from the start of the pamphlet as the order on the ballot-papers for the groups who lodged the tickets; and
 - (c) the tickets lodged by the same group on consecutive pages.

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- (4) If a group has more than one group voting ticket, the group's tickets must be shown in the order indicated in the statement lodged by the group under subsection 211(2).

217 Scrutineers at the polling

- (1) Scrutineers may be appointed by candidates to represent them at polling places during the polling, but so that not more than one scrutineer shall be allowed to each candidate at each polling booth or issuing point at a polling booth.
- (2) Appointments of scrutineers shall be made by notice in writing addressed to the Returning Officer or presiding officer, and such notice shall be signed by the candidate, and shall give the name and address of the scrutineer.

218 Provisions relating to scrutineers

- (1) A scrutineer shall not:
 - (a) interfere with or attempt to influence any elector within the polling booth; or
 - (b) communicate with any person in the polling booth except so far as is necessary in the discharge of the scrutineer's functions.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) A scrutineer shall not be prevented from entering or leaving a polling booth during the polling, and, during the absence of the scrutineer, a relieving scrutineer may act, but so that only one scrutineer for each candidate shall be entitled to be present in the polling booth or at an issuing point at the polling booth at any one time.
- (2A) A person who is in a polling booth in the capacity of a scrutineer shall wear a badge, supplied by the Electoral Commission, that identifies the person as a scrutineer.
- (3) A scrutineer who commits any breach of this section, or who is guilty of misconduct, or who fails to obey the lawful directions of the presiding officer, may be removed from the polling booth by any member of the Australian Federal Police or of the police force

of a State or Territory or person authorized by the presiding officer to remove the scrutineer.

219 Participation by candidates in conduct of election

A candidate shall not in any way take part in the conduct of an election.

220 The polling

The polling shall be conducted as follows:

- (a) Before any vote is taken the presiding officer shall exhibit the ballot-box empty, and shall then securely fasten its cover;
- (b) The poll shall open at 8 o'clock in the morning, and shall not close until all electors present in the polling booth at 6 o'clock in the afternoon, and desiring to vote, have voted;
- (c) The doors of the polling booth shall be closed at 6 o'clock in the afternoon and no person shall be admitted after that hour to the polling booth for the purpose of voting;
- (d) At the close of the poll the presiding officer shall, in the presence of the polling officials and scrutineers who are in attendance in the booth, publicly close, fasten, seal, and take charge of the ballot-box, and with the least possible delay forward it for the purposes of scrutiny, and it shall on no account be opened except as allowed by this Act:

Provided that, where the scrutiny is proceeded with immediately after the close of the poll at the polling booth at which the votes are taken, it shall not be necessary for the presiding officer to publicly close, fasten, or seal the ballot-box as required by paragraph (d).

221 Elections at which electors entitled to vote

- (1) In the case of a Senate election, an elector shall only be admitted to vote for the election of Senators for the State or Territory for which he or she is enrolled.
- (2) In the case of a House of Representatives election, an elector shall only be admitted to vote for the election of a member for the Division for which he or she is enrolled.

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- (3) For the purposes of this section, the electoral Rolls in force at the time of the election shall be conclusive evidence of the right of each person enrolled thereon (other than a person whose name has been placed on a Roll in pursuance of a claim made under section 100 and who will not have attained 18 years of age on the date fixed for the polling in the election) to vote as an elector, unless a person shows by his or her answers to the questions prescribed by section 229 that he or she is not entitled to vote.

222 Where electors may vote

- (1) On polling day an elector is entitled to vote at any polling place for the Division for which he or she is enrolled or to vote as an absent voter, on making a declaration in an approved form, at any other polling place within the State or Territory for which he or she is enrolled at which a polling booth is open.
- (2) Notwithstanding subsection (1), where a hospital is a polling place, an elector is not entitled to vote at that polling place otherwise than under section 224 unless an appropriate person on the staff of the hospital has agreed to permit electors generally to vote at that polling place or unless the elector:
 - (a) is attending the hospital as a patient or as a genuine visitor of a patient; or
 - (b) performs functions or duties in the hospital.
- (3) A declaration made by an absent voter under subsection (1) shall be printed on, or securely attached to, an envelope addressed to the Divisional Returning Officer for the Division for which the elector declares that he or she is enrolled.
- (4) Nothing in this section shall authorize any elector to vote more than once at any election.

223 Interpretation

In sections 224, 225 and 226, *patient*, in relation to a hospital, does not include a person attending the hospital as an out-patient.

224 Mobile booths—hospitals that are polling places

- (1) In this section, *hospital* means a hospital that is a polling place.
- (2) Where:
 - (a) a patient in a hospital is:
 - (i) in the case of a by-election—entitled to vote in that election; or
 - (ii) in any other case—an elector for the State or Territory in which the hospital is situated; and
 - (b) the patient wishes to vote at the hospital;
the presiding officer shall visit the patient for the purpose of taking the patient's vote.
- (3) When visiting the patient, the presiding officer shall:
 - (a) take to the patient a ballot-box, a ballot-paper, and anything else necessary to enable the patient to vote; and
 - (b) be accompanied by a polling official and such scrutineers (if any) as wish to attend.
- (4) The visit to the patient shall be made between 8 a.m. and 6 p.m. on polling day or a day to which polling is adjourned.
- (5) While the presiding officer is in the same room, ward or other place as the patient, this Act applies in relation to the taking of the vote of the patient as if the room, ward or place were part of a polling booth at a polling place.
- (6) A polling booth at a hospital shall be attended by a polling official at all times when the presiding officer is absent from the booth for the purpose of visiting a patient.

225 Mobile booths—other hospitals

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

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- (3) Where:
- (a) a patient at a special hospital wishes to vote at the hospital; and
 - (b) the patient is:
 - (i) in the case of a by-election—entitled to vote in that election; or
 - (ii) in any other case—an elector for the State or Territory in which the hospital is situated;
- an electoral visitor shall visit the patient for the purpose of taking the patient's vote.
- (4) When visiting the patient, the electoral visitor shall:
- (a) take to the patient a ballot-box, a ballot-paper, and anything else necessary to enable the patient to vote; and
 - (b) be accompanied by a polling official and such scrutineers (if any) as wish to attend.
- (4A) While the electoral visitor is in the same room, ward or other place as the patient, this Act applies in relation to the taking of the patient's vote as if the room, ward or other place were part of a polling booth at a polling place.
- (5) A visit or visits to a special hospital shall be made at such time or times between 8 o'clock in the morning and 6 o'clock in the afternoon, and on such day or days, being any of the 5 days preceding polling day, polling day, or a day to which the polling is adjourned, as are determined by the Electoral Commission in relation to the special hospital.
- (6) At any time when an electoral visitor is visiting a special hospital for the purposes of this section, the special hospital shall, for purposes of, and in connection with, the taking of votes under this section, be deemed to be a polling booth at a polling place and the electoral visitor shall, for those purposes, be deemed to be the presiding officer at that booth.
- (7) Paragraph 220(a) does not apply to an electoral visitor after the first visit made by the visitor for the purposes of this section.
- (8) At the end of the last visit made by an electoral visitor for the purposes of this section, the visitor shall, in the presence of a polling official and any scrutineers who may be in attendance,

publicly close, fasten, seal and take charge of each ballot-box used by the visitor for the purposes of this section and, with the least possible delay, forward it for the purposes of scrutiny to the appropriate Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer.

226 Provisions related to sections 224 and 225

- (1) Notwithstanding any arrangement in force under section 224 or 225, a visit under that section to a patient in a hospital shall not be made if the presiding officer or electoral visitor, as the case may be, is informed by a registered medical practitioner or a member of the staff of the hospital that such a visit is forbidden, on medical grounds, by a registered medical practitioner.
- (2) Literature relating to an election or political parties may be supplied to the general office of a hospital to which section 224 or 225 applies, and any literature so supplied shall be made available on request to patients entitled to vote under that section.
- (2A) A presiding officer or electoral visitor who visits a patient under section 224 or 225 must:
 - (a) advise the patient that literature relating to the election supplied by candidates or political parties is available; and
 - (b) give to the patient any such literature that the patient requests.The literature may include how-to-vote cards.
- (3) A presiding officer or electoral visitor who visits a patient under section 224 or 225 for the purposes of a Senate election shall display to the patient each group voting ticket registered for the purposes of the election.
- (4) So far as is practicable, a vote under section 224 or 225 shall be taken as if it were taken under the other provisions of this Act (including such of those provisions as relate to absent voting) and, in particular, in the application of this Act for the purposes of subsection 224(5) or 225(4A), this Act has effect as if:
 - (a) a person who, with the approval of an appropriate person on the staff of the hospital, enters or remains in a room, ward or other place in the hospital at a time when, under that

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- subsection, it is to be treated as if it were a part of a polling booth were, for the purposes of section 348, doing so by permission of the presiding officer there present;
- (b) paragraph 233(a) were omitted and the following paragraph were substituted:
- “(a) mark his or her vote on the ballot-paper in a manner that ensures the secrecy of the vote;”;
- (c) paragraph 233(c) were omitted; and
- (d) the words “enter an unoccupied compartment of the booth with the voter, and” were omitted from subsection 234(1).
- (5) Subject to subsection (2A), subsection 340(1) applies in relation to a hospital that is a polling place as if the references in that subsection to a polling booth were references to the hospital.
- (5A) Subject to subsection (2A), subsection 340(1) applies in relation to a special hospital as if:
- (a) the reference in that subsection to polling day and to all days to which the polling is adjourned were a reference to the period starting 5 days before polling day and ending:
- (i) at the end of polling day; or
- (ii) if the poll is adjourned, at the end of the last day to which polling is adjourned; and
- (b) the references in that subsection to a polling booth were references to the special hospital.
- (6) Where an elector has voted under section 224 or 225 in an election, any postal ballot-paper received by the Divisional Returning Officer that is, or that purports to be, a postal ballot-paper of the voter shall not be admitted in the scrutiny in relation to the election.
- (7) The Divisional Returning Officer for a Division shall, not later than 4 p.m. on the day before polling day, display prominently in his or her office a notice specifying the hospitals in the Division that are polling places and indicating the periods during which votes will be taken under section 224 at each hospital.
- (7A) The Divisional Returning Officer for a Division shall, at least 7 days before the day, or the first day, on which votes are to be taken

under section 225 at a hospital in the Division, display prominently in his or her office a notice specifying:

- (a) the hospitals in the Division at which votes are to be taken under section 225; and
 - (b) the days on which, and the times at which, votes will be taken at each of those hospitals.
- (7B) If it is not practicable for votes to be taken under section 225 on a day, or a time, specified in a notice under subsection (7A), the electoral visitor shall inform the Divisional Returning Officer accordingly.
- (7C) On being so informed, the Divisional Returning Officer shall:
- (a) take such steps as he or she thinks fit to give public notice of another day on which, or another time at which, the votes will be taken; and
 - (b) take such steps as are reasonably practicable to inform:
 - (i) in the case of a House of Representatives election—all of the candidates; and
 - (ii) in the case of a Senate election—such of the candidates as have requested that they be so notified; of the substituted day or time.
- (8) As far as is reasonably practicable, votes taken under section 224 or 225 shall be taken on the day or days and at the time or times specified in the relevant notice under subsection (7), (7A) or (7C), but any failure to take those votes in that manner does not invalidate the result of the election.

226A Mobile booths—prisons

- (1) The Electoral Commission may make arrangements with the Controller-General of Prisons for a State or Territory for the taking of the votes of persons confined in prisons in the State or Territory who are entitled to vote in an election.

Note: Subsections 93(8) and (9) deal with who is entitled to vote in an election.

- (2) The Electoral Commission may appoint electoral visitors for the purposes of this section.

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- (3) If arrangements in force under subsection (1) are applicable to a prison, an electoral visitor must visit the prison for the purpose of taking the votes of persons who:
 - (a) are confined in the prison; and
 - (b) are entitled to vote in an election; and
 - (c) are:
 - (i) in the case of a by-election—entitled to vote in that election; or
 - (ii) in any other case—electors for the State or Territory in which the prison is situated.
- (4) When visiting a prison, an electoral visitor shall:
 - (a) take to the prison a ballot-box, ballot-papers and anything else necessary for the taking of votes at the prison; and
 - (b) subject to subsection (5), be accompanied by a polling official and such scrutineers (if any) as wish to attend.
- (5) A visit to a prison shall be made:
 - (a) on such day;
 - (b) at such time; and
 - (c) in accordance with such conditions;as are fixed by or under the arrangements applicable to the prison.
- (6) In spite of arrangements in force under subsection (1), a visit to a prison may not be made if the electoral visitor is informed by the officer in charge of the prison or a member of the staff of the prison that the visit is forbidden by the officer in charge because of circumstances related to the security of the prison.
- (7) At the end of a visit by an electoral visitor to a prison, the visitor shall, in the presence of the polling official and any scrutineers who are in attendance at the prison, close, fasten, seal and take charge of each ballot-box used in the visit and, without delay, forward it to the Assistant Returning Officer designated for the purposes of this subsection by the DRO.
- (8) An electoral visitor who visits a prison may, at the request of an elector confined in the prison, give the elector literature including how-to-vote cards, made available for the purpose by candidates in the election.

227 Mobile booths—Remote Divisions

- (1) In this section:

leader means a person appointed under this section to be the leader of a team.

station means a place at which a visit is being made by a team under this section.

team means a mobile polling team appointed under this section.

- (2) The Electoral Commission may appoint persons to be members of mobile polling teams for the purposes of this section and, in respect of each team, a person to be the leader.
- (3) In relation to a Division declared by the Electoral Commission, by notice published in the *Gazette*, to be a remote Division, the following provisions of this section apply in addition to, and without derogation from, the application of any other provision of this Act.
- (4) The Electoral Commission:
- (a) may, by notice published in the *Gazette*, determine the places that teams will visit for the purposes of this section; and
 - (b) must take such steps as it thinks fit to give public notice of:
 - (i) the places determined under paragraph (a); and
 - (ii) the days and times when teams will visit for the purposes of this section.
- (5) A day notified under paragraph (4)(b) shall be any of the 12 days preceding polling day, polling day, or a day to which the polling is adjourned.
- (6) A team shall make a visit or visits as notified under paragraph (4)(b), but, if, for reasonable cause, the team is unable, or the leader considers it inappropriate, to make such a visit, the leader may substitute another place, day or time for the visit and, in that event, shall:
- (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 Divisional Returning Officer.

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- (7) Any failure by a team to make a visit in accordance with this section does not invalidate the result of the election.
- (8) At any time when a team is at a station for the purposes of taking votes under this section in an election:
- (a) the team shall have:
 - (i) ballot-boxes, ballot-papers, group voting tickets registered for the purposes of the election and such other things as are necessary for the votes of electors to be taken at the station; and
 - (ii) the “how-to-vote” cards (if any) supplied to it by the candidates;
 - (b) every person at the station who is:
 - (i) in the case of a by-election—entitled to vote in the election; or
 - (ii) in any other case—an elector for the State or Territory in which the station is situated;is entitled to have his or her vote taken under this section;
 - (c) for purposes of, and in connection with, the taking of votes under this section:
 - (i) the station shall be deemed to be a polling place;
 - (ii) the building, structure, vehicle or enclosure used by the leader for the purposes of taking votes under this section shall be deemed to be a polling booth at that polling place; and
 - (iii) the leader shall be deemed to be the presiding officer at that polling booth;
 - (d) so far as is practicable, a vote under this section shall be taken as if it were taken under the other provisions (not being sections 224 and 225) of this Act (including such of those other provisions as relate to absent voting);
 - (da) section 220 applies as if, for paragraph 220(b), there were substituted the following paragraph:
 - “(b) the polling may be conducted:
 - (i) at any time on a day before polling day; and
 - (ii) on polling day, until all electors present in the polling booth at 6 p.m., and desiring to vote, have voted;”;
 - (e) section 340 applies as if:

- (i) the reference in subsection 340(1) to polling day and to all days to which the polling is adjourned were a reference to the time of the visit; and
 - (ii) the reference in subsection 340(2) to the hours of polling were a reference to that time.
- (9) Paragraph 220(a) does not apply to a leader after the first visit made by the leader for the purposes of this section.
- (10) At the end of the last visit made by a leader for the purposes of this section, the leader shall, in the presence of a member of his or her team and any scrutineers who may be in attendance, publicly close, fasten, seal and take charge of each ballot-box used by the leader for the purposes of this section and, with the least possible delay, forward it for the purposes of scrutiny to the appropriate Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer.
- (11) Where an elector has voted under this section in an election, any postal ballot-paper received by the Divisional Returning Officer that is, or that purports to be, a postal ballot-paper of the voter shall not be admitted in the scrutiny in relation to the election.

228 Forwarding of declaration votes

- (1) A presiding officer at a polling place shall forward to the Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer any ballot-boxes containing envelopes bearing certificates or declarations made by persons who have cast declaration votes and which purport to contain the ballot-papers of such voters, together with records that the presiding officer has made in accordance with paragraph 195A(2)(e) and subsection 232(2).
- (1A) A pre-poll voting officer who:
- (a) receives an envelope bearing a postal vote certificate and purporting to contain a postal ballot-paper; or
 - (b) places a ballot-paper in an envelope under subsection 200E(6);
- shall forward the envelope, together with the record made under paragraph 195A(2)(e) or subsection 200G(2), as the case may be,

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in relation to the receipt or issue of the envelope, to the Divisional Returning Officer for the Division for which the pre-poll voting officer is appointed.

- (1B) Envelopes and records required to be forwarded under subsection (1A) shall be so forwarded according to the instructions of the Divisional Returning Officer.
- (2) An Assistant Returning Officer to whom a ballot-box is forwarded under subsection (1) or subsection 225(8), 226A(7) or 227(10) shall:
 - (a) compare the particulars on the envelopes with the particulars appearing in the presiding officer's record made under subsection 232(2) or in any other records forwarded by the presiding officer, note the number of envelopes and report any discrepancy to the Divisional Returning Officer;
 - (b) place in a parcel all the envelopes contained in such ballot-boxes, endorse on the parcel the number of envelopes contained in the parcel, seal up the parcel and forthwith deliver it, or cause it to be delivered, to the Divisional Returning Officer; and
 - (c) forward to the Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the parcel delivered or to be delivered to the Divisional Returning Officer.
- (3) Each Divisional Returning Officer shall:
 - (a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from each Assistant Returning Officer and pre-poll voting officer;
 - (b) until they are dealt with under other provisions of this Act, keep the envelopes received from Assistant Returning Officers and pre-poll voting officers in one or more securely fastened ballot-boxes; and
 - (c) compare the record referred to in paragraph (a) with the envelopes received and note any discrepancy.
- (4) A Divisional Returning Officer shall:
 - (a) place in a parcel all the envelopes bearing certificates or declarations and relating to a particular Division and records

- relating to that Division, endorse on the parcel the number of the envelopes, seal up the parcel and forthwith deliver it, or cause it to be delivered, to the Divisional Returning Officer for that Division or, with the approval of the Australian Electoral Officer for the State or Territory that includes that Division, to another person to be dealt with in accordance with subsection (5); and
- (b) forward to the last-mentioned Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the parcel delivered or to be delivered to that Divisional Returning Officer.
- (5) Each Divisional Returning Officer shall:
- (a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from other Divisional Returning Officers or from persons referred to in subsection (7) or (9);
 - (b) maintain a locked and sealed ballot-box labelled so as to identify it as a declaration vote ballot-box; and
 - (c) keep in that ballot-box, until the scrutiny, all envelopes bearing a certificate or declaration and purporting to contain a ballot-paper recording a declaration vote in relation to his or her Division that, in accordance with subsection (5A), are received within sufficient time to be taken into account in the scrutiny.
- (5A) An envelope referred to in paragraph (5)(c) is received by a DRO within sufficient time to be taken into account in the scrutiny if it is received by the DRO within 13 days after the close of the poll (whether directly from the voter or from another DRO or a person referred to in subsection (7) or (9)).
- (6) Before placing in the ballot-box maintained under subsection (5) an envelope purporting to contain a postal ballot-paper and delivered to a Divisional Returning Officer which is received after the close of the poll and which does not bear evidence sufficient to satisfy the Divisional Returning Officer that the vote contained in the envelope was recorded before the close of the poll, the Divisional Returning Officer shall endorse on the envelope the date of its receipt and shall initial the endorsement.

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- (7) Where envelopes bearing certificates or declarations, or records, relating to a particular Division are, with the approval of the Australian Electoral Officer for the State or Territory that includes that Division, delivered to a person other than the Divisional Returning Officer for that Division, that person shall, as soon as practicable, deliver them, or cause them to be delivered, to that Divisional Returning Officer.
- (8) An Assistant Returning Officer at a place outside Australia shall, in accordance with the written instructions of the Electoral Commissioner, forward envelopes bearing certificates or declarations, together with the relevant applications and the records made by the officer under paragraph 195A(2)(e) or subsection 200G(2), to such person as is specified in those instructions.
- (9) Where envelopes and records relating to a particular Division are forwarded under subsection (8) to a person other than the Divisional Returning Officer for that Division, that person shall, as soon as practicable, deliver them, or cause them to be delivered, to that Divisional Returning Officer.

229 Questions to be put to voter

- (1) The presiding officer shall put the following questions to each person attending before the presiding officer and claiming to vote in an election or elections:
 - (a) What is your full name?
 - (b) Where do you live?
 - (c) Have you voted before in this election? or Have you voted before in these elections? (as the case requires).
- (2) In addition to the questions put under subsection (1), the presiding officer shall ask each person claiming to vote as an absent voter in an election to identify the Division for which the person is enrolled.
- (4) If the answers a person (the *claimant*) claiming to vote gives to the questions in paragraphs (1)(a) and (b) do not satisfy the presiding officer that the claimant is a particular person on the certified list of voters, the officer may ask the claimant one or more other questions about matters shown on the list for the particular person, to establish whether the claimant is that particular person.

- (5) Subject to section 235, if a person claiming to vote to whom questions are put under this section:
- (a) refuses to answer fully any question so put; or
 - (c) answers a question specified in paragraph (1)(c) in the affirmative;
- the person's claim to vote shall be rejected.

230 Errors not to forfeit vote

No omission in the Roll or in the certified list of voters of any Christian or given name, or entry of a wrong Christian or given name, sex, date of birth or address and no mistake in the spelling of any surname, shall warrant the rejection at any polling of any claim to vote if the voter is sufficiently identified in the opinion of the presiding officer, and no female elector shall be disqualified from voting under the name appearing on the Roll because her surname has been changed by marriage.

231 Right of elector to receive ballot-paper

- (1) The presiding officer or a polling official shall at the polling hand to each person claiming to vote a ballot-paper duly initialled by the presiding officer:
- (a) if the name under which the person claims to vote is on the certified list of voters for the polling place and the person's answers to the prescribed questions show that he or she is entitled to vote; or
 - (b) if the person claims to vote under the provisions relating to absent voting and complies with those provisions.
- (2) The presiding officer, at the request of a scrutineer, shall note any objection by the scrutineer to the right of any person to vote, and shall keep a record thereof.

232 Voters to be recorded

- (1) The presiding officer or a polling official at a polling place shall, immediately upon handing a ballot-paper to a person whose name is on the certified list of voters for the polling place, place a mark against the person's name on that list.

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- (2) The presiding officer at a polling place shall make a record of the name of each elector who casts a declaration vote at the polling place and, in the case of an absent voter, of the Division for which the elector declares under subsection 222(1) that he or she is enrolled, and shall, at the close of the poll, forward the record, duly certified by the presiding officer, in accordance with section 228.

233 Vote to be marked in private

- (1) Except as otherwise prescribed the voter upon receipt of the ballot-paper shall without delay:
 - (a) retire alone to some unoccupied compartment of the booth, and there, in private, mark his or her vote on the ballot-paper;
 - (b) fold the ballot-paper so as to conceal his or her vote and:
 - (i) if the voter is not an absent voter—deposit it in the ballot-box; or
 - (ii) if the voter is an absent voter—return it to the presiding officer; and
 - (c) quit the booth.
- (2) A presiding officer shall enclose each ballot-paper of an absent voter returned to the presiding officer under subsection (1) in the envelope bearing the declaration made by the voter under subsection 222(1), securely fasten the envelope and place it in the ballot-box.

234 Assistance to certain voters

- (1) If any voter satisfies the presiding officer that his or her sight is so impaired or that the voter is so physically incapacitated or illiterate that he or she is unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied compartment of the booth with the voter, and mark, fold, and deposit the voter's ballot-paper.
- (1A) A presiding officer who is visiting a patient under section 224 or 225 for the purpose of taking the patient's vote must explain to the patient the effect of subsection (1) of this section.
- (2) If any such voter fails to appoint a person in pursuance of subsection (1) the presiding officer, in the presence of such

scrutineers as are present, or, if there be no scrutineers present, then in the presence of:

- (a) a polling official; or
 - (b) if the voter so desires, in the presence of a person appointed by such voter, instead of a polling official;
- shall mark, fold, and deposit his or her ballot-paper.
- (3) Without limiting the generality of subsection (2), a voter to whom that subsection applies may indicate to the presiding officer the manner in which the voter wishes the presiding officer to mark his or her ballot-paper by presenting to the presiding officer a statement in writing (which may be, or include, a how-to-vote card) that specifies the manner in which the ballot-paper is to be marked.
- (4) Where subsection (1) applies in relation to an absent or provisional voter, the presiding officer shall:
- (a) fill in the declaration referred to in subsection 222(1) or 235(2), as the case may be, with the required particulars as requested by the voter;
 - (b) read the declaration to the voter;
 - (c) complete and attest the declaration; and
 - (d) cause the declaration to be witnessed by a scrutineer or, if no scrutineer is present, by a polling official.

234A Certain voters may vote outside polling place

- (1) If the presiding officer at a polling place is satisfied that a voter is unable to enter the polling place because of physical disability, illness, advanced pregnancy or other condition, the presiding officer may allow the voter to vote outside the polling place, in close proximity to the polling place.
- (2) Before allowing the voter to vote outside the polling place, the presiding officer must:
- (a) inform any scrutineers at the polling place that the voter is to vote outside the polling place; and
 - (b) allow one scrutineer per candidate (of the scrutineers present) to be present when the voter votes.
- (3) Subject to subsection (5), the voter:

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- (a) must mark his or her vote on the ballot-paper in the presence of a polling official; and
 - (b) must fold the ballot-paper so as to conceal the names of the candidates, and hand the ballot-paper to the polling official.
- (4) The polling official must ensure that the folded ballot-paper is immediately returned to the polling place and put in the ballot-box in the presence of any scrutineers who were present when the voter voted.
- (5) If the voter also satisfies the presiding officer that he or she is unable to vote without assistance, the presiding officer may, with the voter's consent, allow a polling official to mark and fold the voter's ballot-paper.
- (6) The voter must indicate to the polling official how the voter wishes the polling official to mark the voter's ballot-paper.
- (7) Without limiting the methods by which the voter may indicate, for the purposes of subsection (6), how the voter wishes to vote, the voter may present to the polling official a statement in writing (which may be, or include, a how-to-vote card) specifying how the ballot-paper is to be marked.
- (8) If subsection (5) applies to an absent or provisional voter, the polling official must:
 - (a) fill in the declaration referred to in subsection 222(1) or 235(2) with the required particulars as requested by the voter; and
 - (b) read the declaration to the voter; and
 - (c) complete and attest the declaration; and
 - (d) cause the declaration to be witnessed by a scrutineer, or, if no scrutineer is present, by a polling official.

235 Provisional votes

- (1) This section applies to a person claiming to vote if:
 - (a) the person's name cannot be found on the certified list of voters for the Division for which the person claims to vote;or

- (b) the person's name is on the certified list of voters for the Division but his or her address does not appear on the list; or
 - (c) the presiding officer has asked the person one or more questions under subsection 229(4) about matters shown on the certified list of voters for a particular person to establish whether the person is that particular person and one of the following applies:
 - (i) the person's answers do not accord with the relevant information shown for that particular person on the list;
 - (ii) the person's answers accord with the relevant information shown for that particular person on the list but the officer is not satisfied that the person is that particular person;
 - (iii) the person refused to answer fully; or
 - (d) a mark on the certified list of voters used at the polling place indicates that the person has already voted at that polling place.
- (2) A person to whom this section applies may cast a provisional vote if the person signs a declaration in the approved form on an envelope addressed to the DRO for the Division for which the voter is, or claims to be, enrolled.
- (3) The person shall sign the declaration in the presence of a polling official.
- (4) The polling official shall then sign the declaration as witness, adding the date.
- (5) Before issuing a ballot-paper to the person, a polling official shall give the person a statement in writing in the approved form explaining the effect of this section and indicating the steps that will be taken if the person casts a provisional vote.
- (6) A person who casts a provisional vote shall fold the ballot-paper and hand it to the polling official who issued it.
- (7) The polling official shall, in the presence of the voter, without unfolding the ballot-paper, place it in the envelope bearing the voter's declaration, fasten the envelope and place the envelope in the ballot-box.

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- (8) The Assistant Returning Officer who opens the ballot-box shall deal with the envelope according to section 228.

238 Spoilt ballot-papers

- (1) If any voter before depositing a ballot-paper in the ballot-box satisfies the presiding officer that he or she has spoilt the ballot-paper by mistake or accident, the voter may, on giving it up, receive a new ballot-paper from the presiding officer, who shall there and then cancel the spoilt ballot-paper.
- (2) If any voter voting in a manner that will involve a ballot-paper being placed in an envelope satisfies the officer who issued the ballot-paper that, before the ballot-paper was placed in the relevant envelope, he or she spoilt the ballot-paper by mistake or accident, the voter may, on giving up the spoilt ballot-paper to the officer, receive a new ballot-paper from the officer, who shall there and then cancel the spoilt ballot-paper.
- (3) An officer who has cancelled a spoilt ballot-paper shall:
- (a) write “spoilt” on the back of the ballot-paper;
 - (b) place the ballot-paper in an envelope, seal the envelope and write on the envelope an indication of the type of ballot-paper enclosed and that it is spoilt; and
 - (c) sign the envelope.
- (4) The envelopes containing spoilt ballot-papers cancelled at a polling place shall be sealed up in a parcel which shall be given to the Divisional Returning Officer for the Division after the close of the poll.

239 Marking of votes in Senate election

- (1) Subject to subsection (2), in a Senate election a person shall mark his or her vote on the ballot-paper by:
- (a) writing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference; and
 - (b) writing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining

candidates so as to indicate the order of the person's preference for them.

- (2) A vote may be marked on a ballot-paper by writing the number 1 in a square (if any) printed on the ballot-paper under subsection 211(5) or 211A(6).
- (3) Where a voter has marked a tick or cross in a square printed on a ballot-paper under subsection 211(5) or 211A(6), the voter shall be regarded as having written the number 1 in the square.
- (4) Where a candidate dies between the date of nomination and polling day, and the number of candidates remaining is greater than the number of candidates to be elected, a ballot-paper shall not be informal by reason only:
 - (a) of the inclusion on the ballot-paper of the name of the deceased candidate;
 - (b) of the marking of any consecutive number opposite that name; or
 - (c) of the omission to place any number opposite that name, or of any resultant failure to indicate in consecutive order the voter's preferences.

240 Marking of votes in House of Representatives election

- (1) In a House of Representatives election a person shall mark his or her vote on the ballot-paper by:
 - (a) writing the number 1 in the square opposite the name of the candidate for whom the person votes as his or her first preference; and
 - (b) writing the numbers 2, 3, 4 (and so on, as the case requires) in the squares opposite the names of all the remaining candidates so as to indicate the order of the person's preference for them.
- (2) The numbers referred to in paragraph (1)(b) are to be consecutive numbers, without the repetition of any number.

240A Temporary suspension of polling

The presiding officer may temporarily suspend the polling for a period if the presiding officer is satisfied that the suspension of polling during that period is justified because of:

- (a) riot or open violence; or
- (b) the threat of riot or open violence; or
- (c) storm, tempest, flood or an occurrence of a similar kind; or
- (d) a health hazard; or
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- (f) any other reason related to:
 - (i) the safety of voters; or
 - (ii) difficulties in the physical conduct of the voting.

241 Adjournment of polling

The presiding officer may adjourn the polling from day to day in any case where polling is interrupted by:

- (a) riot or open violence; or
- (b) the threat of riot or open violence; or
- (c) storm, tempest, flood or an occurrence of a similar kind; or
- (d) a health hazard; or
- (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
- (f) anything else related to:
 - (i) the safety of voters; or
 - (ii) difficulties in the physical conduct of the voting.

242 Adjournment in other cases

If from any cause any polling booth at a polling place is not opened on polling day the presiding officer may adjourn the polling for a period not exceeding 21 days, and shall forthwith give public notice of the adjournment.

243 Voting at adjourned polling

Where for any reason the polling is adjourned at any polling place, those electors only:

- (a) who are enrolled for the Subdivision for which the polling place is prescribed; or
- (b) who are, by virtue of section 235, entitled to vote as electors of that Subdivision;

and who have not already voted, shall be entitled to vote at the adjourned polling at that polling place.

244 Arrangement where elections held in some Divisions only

Where an election is being held for any Division, it shall not be necessary to open polling booths at the polling places for any Division for which no election is being held.

245 Compulsory voting

- (1) It shall be the duty of every elector to vote at each election.
- (2) The Electoral Commissioner must, after polling day at each election, prepare for each Division a list of the names and addresses of the electors who appear to have failed to vote at the election.
- (3) Subject to subsection (4), within the period of 3 months after the polling day at each election, each DRO must:
 - (a) send a penalty notice by post; or
 - (b) arrange for a penalty notice to be delivered by other means; to the latest known address of each elector whose name appears on the list prepared under subsection (2).
- (4) The DRO is not required to send or deliver a penalty notice if he or she is satisfied that the elector:
 - (a) is dead; or
 - (b) was absent from Australia on polling day; or
 - (c) was ineligible to vote at the election; or
 - (d) had a valid and sufficient reason for failing to vote.

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- (5) A penalty notice is a notice in an approved form notifying the elector that:
- (a) the elector appears to have failed to vote at the election; and
 - (b) it is an offence to fail to vote at an election without a valid and sufficient reason for the failure; and
 - (c) if the elector does not wish to have the apparent failure to vote dealt with by a court, the elector may, within the prescribed time:
 - (i) if the elector did vote as required by this Act—give the DRO particulars of the circumstances of the elector’s voting; or
 - (ii) if the elector failed to vote—give the DRO a valid and sufficient reason for the failure; or
 - (iii) pay to the DRO a penalty of \$20.
- (6) If an elector does not respond to a penalty notice in the manner indicated in subparagraph (5)(c)(i), (ii) or (iii), within the prescribed time, the DRO must:
- (a) send a second penalty notice by post; or
 - (b) arrange for a second penalty notice to be delivered by other means;
- to the elector, at his or her latest known address.
- (6A) The second penalty notice must, subject to subsection (7), have the same form as the first penalty notice but bear a notation to the effect that a previous notice in the same terms was sent to the elector but that a response in the manner indicated in subparagraph (5)(c)(i), (ii) or (iii) was not received.
- (7) The provisions of this section, other than subsection (6), apply in relation to a second penalty notice:
- (a) as if it were a penalty notice issued under subsection (3); and
 - (b) as if, in the provisions of this section as so applied, references to paragraphs and subparagraphs of subsection (5) included references to those paragraphs and subparagraphs as applied by this section.
- (8) If, within the prescribed time:

- (a) an elector responds to a penalty notice in the manner indicated in subparagraph (5)(c)(i) or (ii) and the DRO to whom the response has been given is satisfied:
 - (i) in the case of a response of the kind referred to in subparagraph (5)(c)(i)—that the elector did vote as required by this Act; or
 - (ii) in the case of a response of the kind referred to in subparagraph (5)(c)(ii)—that the reason for the failure to vote is a valid and sufficient reason; or
 - (b) an elector responds to a penalty notice by paying the penalty of \$20;
- proceedings against the elector for a contravention of subsection (15) are prohibited.
- (9) If the DRO to whom a response to a penalty notice has been given under subparagraph (5)(c)(i) or (ii) within the prescribed time is not satisfied:
 - (a) in the case of a response of the kind referred to in subparagraph (5)(c)(i)—that the elector voted as required by this Act; or
 - (b) in the case of a response of the kind referred to in subparagraph (5)(c)(ii)—that the reason for the failure to vote is a valid and sufficient reason;the DRO must send by post or deliver to the elector, at his or her latest known address, a notice in an approved form, notifying the elector that:
 - (c) the DRO is not so satisfied; and
 - (d) if the elector does not wish to have the apparent failure to vote without a valid and sufficient reason for such failure dealt with by a court, he or she may, within the prescribed time, pay to the DRO a penalty of \$20.
 - (10) If, in response to a notice under subsection (9), the penalty of \$20 is paid to the DRO within the prescribed time, proceedings against the elector for a contravention of subsection (15) are prohibited.
 - (11) If an elector is unable, by reason of absence from his or her place of living or physical incapacity, to respond to a penalty notice or to a notice under subsection (9) within the prescribed time, any other elector who has a personal knowledge of the facts may, subject to

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the regulations, respond to the notice within that time, and such response is to be treated as compliance by the first-mentioned elector with the notice.

- (12) The DRO must prepare a list of all electors to whom a penalty notice has been sent or delivered and note on that list in relation to each elector:
- (a) whether there has been a response to the notice; and
 - (b) if there has been a response:
 - (i) whether the DRO is satisfied that the elector did in fact vote or that there was a valid and sufficient reason for the elector's failure to vote; or
 - (ii) whether the penalty has been paid.
- (13) The DRO must note on the list prepared under subsection (12) in relation to each elector to whom a notice under subsection (9) has been sent or delivered:
- (a) the fact that a notice has been sent or delivered under subsection (9); and
 - (b) whether there has been a response to the notice; and
 - (c) if there has been a response—whether the penalty has been paid.
- (14) Without limiting the circumstances that may constitute a valid and sufficient reason for not voting, the fact that an elector believes it to be part of his or her religious duty to abstain from voting constitutes a valid and sufficient reason for the failure of the elector to vote.
- (15) An elector is guilty of an offence if the elector fails to vote at an election.

Penalty: \$50.

- (15A) Strict liability applies to an offence against subsection (15).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (15B) Subsection (15) does not apply if the elector has a valid and sufficient reason for the failure.

Note: A defendant bears an evidential burden in relation to the matter in subsection (15B) (see subsection 13.3(3) of the *Criminal Code*).

- (15C) An elector who makes a statement in response to a penalty notice or to a notice under subsection (9) that is, to his or her knowledge, false or misleading in a material particular is guilty of an offence.

Penalty: \$50.

- (16) Proceedings for an offence against this section may be instituted only by the Electoral Commissioner or an officer authorised, in writing, for the purpose by the Electoral Commissioner.

- (17) In this section, *elector* does not include:

- (a) an Antarctic elector; or
- (b) an eligible overseas elector; or
- (c) an itinerant elector.

- (18) In this section, a reference to the prescribed time for a response to a penalty notice or a notice under subsection (9) is a reference to the time for response specified in the notice.

Part XVII—Special provisions relating to the polling in Antarctica

246 Interpretation

- (1) In this Part:

Antarctica means the Australian Antarctic Territory and includes:

- (a) the Territory of Heard Island and McDonald Islands; and
- (b) Macquarie Island.

Antarctic elector means an elector who:

- (a) is, in the course of his or her employment, in Antarctica on the polling day for an election; and
- (b) has made a request under section 249 that the elector be treated, while he or she is in Antarctica, as an Antarctic elector.

research personnel means personnel who are to be, or have been, engaged in the work of a research station in Antarctica operated, whether continuously or otherwise, by the Commonwealth.

station means:

- (a) a research station in Antarctica that is operated by the Commonwealth and has been declared by the Electoral Commissioner, by written instrument, to be a permanent research station; or
- (b) in relation to a particular election, a ship that has been declared by the Electoral Commissioner, by written instrument, to be a station for the purposes of this Part in relation to that election.

transmit includes transmit by radio-telephone or telex.

- (2) The Electoral Commissioner shall not make a declaration under paragraph (b) of the definition of *station* in subsection (1) in relation to a ship unless the Electoral Commissioner is satisfied that, on polling day in the election, the ship is likely to be at sea transporting research personnel to or from Antarctica.

247 Antarctic Returning Officers and Assistant Antarctic Returning Officers

- (1) There shall be an Antarctic Returning Officer, and an Assistant Antarctic Returning Officer, for each station.
- (2) Antarctic Returning Officers and Assistant Antarctic Returning Officers shall be appointed by the Electoral Commission by instrument in writing.
- (3) The person in charge of a station shall not be appointed to be the Antarctic Returning Officer, or Assistant Antarctic Returning Officer, for that station.
- (4) The person in charge of a station may, by instrument in writing, appoint a person (including the Assistant Antarctic Returning Officer) to act as the Antarctic Returning Officer for the station during any period, or during all periods, when the Antarctic Returning Officer for the station is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of the office.
- (5) The person in charge of a station may, by instrument in writing, appoint a person to act as the Assistant Antarctic Returning Officer for the station during any period, or during all periods, when the Assistant Antarctic Returning Officer for the station is acting as Antarctic Returning Officer for the station, is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of the office.
- (6) A person acting as Antarctic Returning Officer or Assistant Antarctic Returning Officer for a station has and may exercise all the powers, and shall perform all the functions, of the Antarctic Returning Officer, or the Assistant Antarctic Returning Officer, for the station, as the case requires.

248 Application of Part XVI to polling in Antarctica

- (1) Except as provided by this Part, the provisions of Part XVI (other than subsections 221(1) and (2) and 222(4), and sections 234, 238, 239 and 240) do not apply to the taking of a poll in Antarctica.

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- (2) In the application, by virtue of this Part, of a provision of Part XVI to the taking of a poll in Antarctica:
 - (a) a reference in that provision to the presiding officer in relation to a polling place shall be read as a reference to the Antarctic Returning Officer in relation to a station; and
 - (b) a reference in that provision to a polling official in relation to a polling place shall be read as a reference to the Assistant Antarctic Returning Officer in relation to a station.

249 Antarctic electors

- (1) An elector who is, or expects to be, in the course of employment, in Antarctica may, by notice given to the Divisional Returning Officer for the Division for which the elector is enrolled, request that he or she be treated, while in Antarctica, as an Antarctic elector in relation to any election the polling day of which occurs while the elector is in Antarctica.
- (2) A notice under subsection (1) shall be given to a Divisional Returning Officer by lodging it with or sending it by post to the Divisional Returning Officer.
- (3) A notice under subsection (1) is not effective, in relation to an election, unless it is received by a Divisional Returning Officer before the hour of nomination for the election.
- (4) Upon the receipt of a request made by an elector under subsection (1), the DRO must annotate the Roll for the Subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector.
- (5) Notwithstanding anything in subsection 99(1) or (2), while a person is entitled to be treated as an Antarctic elector by virtue of an annotation under subsection (4) to the Roll for a Subdivision, the person is entitled to:
 - (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (6) A Divisional Returning Officer shall delete an annotation made under subsection (4) in relation to an elector immediately after he

or she becomes aware that the elector has ceased to be in Antarctica.

250 Arrangements for the polling in Antarctica

- (1) If, in the case of a Senate election, the proceedings stand adjourned to polling day, an Australian Electoral Officer for a State on the Roll for which there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based:
 - (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election to be held in the State; and
 - (b) the name of the elector and the particulars relating to the elector that are entered on the Roll for the State.
- (2) If, in the case of a House of Representatives election, the proceedings on the day of nomination stand adjourned to polling day, a Divisional Returning Officer on the Roll for whose Division there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based:
 - (a) directions for the preparation by the Antarctic Returning Officer of ballot-papers for use in relation to the election to be held in the Division; and
 - (b) the name of the elector and the particulars relating to the elector that are entered on the Roll for the Division.
- (3) Where information is transmitted by an Australian Electoral Officer or a Divisional Returning Officer to an Antarctic Returning Officer in pursuance of this section, both the Australian Electoral Officer or the Divisional Returning Officer, as the case may be, and the Antarctic Returning Officer shall, immediately after the transmission, cause a statement in writing of the information transmitted to be prepared.
- (4) Sections 209, 210, 212, 213 and 214 apply in relation to ballot-papers prepared under this section as if a reference in sections 210, 212 and 214 to the printing of ballot-papers were a reference to such preparation.

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251 Ballot-papers to be initialled

Section 215 applies to the polling at a station in Antarctica as if the reference in that section to the proper officer were a reference to the Antarctic Returning Officer for that station.

252 Candidates not to take part in polling

A candidate shall not take part in any way in the conduct of the polling in Antarctica.

253 The polling in Antarctica

- (1) The polling at a station in Antarctica shall be conducted as follows:
 - (a) before any vote is taken, the Antarctic Returning Officer for the station shall exhibit the ballot-box empty, and shall then securely fasten its cover;
 - (b) the poll shall be open during such hours on such days as the Antarctic Returning Officer, subject to subsection (2), directs; and
 - (c) the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall, at all times at which the poll is open, be present in that part of the station at which the polling is taking place.
- (2) The polling at a station in relation to an election shall not continue beyond 6 o'clock in the afternoon by standard time in the Australian Capital Territory on the day of polling in the election.

254 Entitlement of Antarctic electors to vote

An Antarctic elector whose name has been transmitted to the Antarctic Returning Officer for a station in pursuance of paragraph 250(1)(b) or (2)(b), as the case may be, is entitled to vote at the station during the period when the poll is open at that station.

255 Questions to be put to voter at Antarctic station

- (1) The Antarctic Returning Officer for a station shall put to each person claiming to vote at the station such questions as the officer

thinks necessary to enable the person's identity and place of living to be established.

- (2) If a person claiming to vote refuses to answer fully a question put to him or her under this section, the person's claim to vote at the station shall be rejected.

256 Right of Antarctic elector to receive ballot-paper

The Antarctic Returning Officer or the Assistant Antarctic Returning Officer for a station shall, at the polling, give to each person claiming to vote at the station a ballot-paper for the Division or State, as the case requires, for which the person is enrolled, duly initialled by the Antarctic Returning Officer, if the name under which the person claims to vote has been transmitted to the Antarctic Returning Officer in pursuance of paragraph 250(1)(b) or (2)(b), as the case may be, and the person's claim to vote is not rejected.

257 List of Antarctic electors to be marked

Immediately upon giving a ballot-paper to the person claiming to vote, the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall record on the statement prepared by the officer under subsection 250(3) the fact that the ballot-paper has been given to that person.

258 Application of sections 233 and 234

Sections 233 and 234 apply to the polling at a station as if:

- (a) each reference in those sections to an unoccupied compartment of the booth were a reference to an unoccupied part of the station; and
- (b) paragraph 233(c) were omitted.

259 Proceedings by Antarctic Returning Officer on close of poll

At the close of the poll, the Antarctic Returning Officer shall, in the presence of the Assistant Antarctic Returning Officer:

- (a) open the ballot-box; and

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- (b) transmit to the Australian Electoral Officer designated by the Electoral Commissioner for the purpose of this paragraph:
 - (i) particulars of each elector enrolled for a State who has voted in elections held in the State in the poll taken at the station;
 - (ii) unless subparagraph (iii) applies—particulars of the marking of each ballot-paper; and
 - (iii) if the Antarctic Returning Officer is unable clearly to read or understand the particulars referred to in subparagraph (ii)—a statement to that effect together with such information relating to those particulars as the Antarctic Returning Officer thinks sufficient to explain that inability; and
- (c) cause a statement in writing of the information transmitted to be prepared.

260 Result of the polling in Antarctica

- (1) Upon receipt of the particulars referred to in subparagraph 259(b)(ii), an Australian Electoral Officer shall forthwith:
 - (a) initial the top of the front of a ballot-paper appropriate for the State or Division for which the vote was cast; and
 - (b) cause those particulars to be transcribed onto the ballot-paper;
 - (c) seal the ballot-paper in an envelope;
 - (d) sign the envelope; and
 - (e) cause to be sent to the Divisional Returning Officer for the Division to which the ballot-paper relates the envelope containing the ballot-paper.
- (2) An officer shall not mark a ballot-paper under this section in a manner that is likely to enable the ballot-paper to be identified as representing the vote of an Antarctic elector.
- (3) Upon receipt of information under subsection (1), an Australian Electoral Officer shall forthwith:
 - (a) cause a statement in writing of that information to be prepared; and
 - (b) cause to be sent to each Divisional Returning Officer for a Division to which a ballot-paper referred to in

paragraph (1)(b) relates particulars of the Antarctic electors who have voted in the election in relation to the Division.

- (4) A reference in Part XVIII to scrutiny:
 - (a) includes a reference to scrutiny of any act or thing done in pursuance of paragraphs (1)(a) to (d) (inclusive); and
 - (b) does not include a reference to scrutiny of:
 - (i) any act or thing done in Antarctica; or
 - (ii) the transmission of any information to or from Antarctica.
- (5) For the purposes of subsections 273(4) and 274(4), a ballot-paper marked in accordance with paragraph (1)(b) shall be deemed to have been used for voting in pursuance of Part XVA (Pre-poll voting).

261 Preservation of ballot-papers etc.

- (1) As soon as practicable after the close of the poll for an election, the Antarctic Returning Officer for each station shall forward to the Electoral Commission a copy of the statements prepared by the officer under subsection 250(3) and paragraph 259(c) and the ballot-papers used for voting at the station.
- (2) The documents to which this subsection applies that are used at or in connection with an election shall be preserved in accordance with directions of the Commission for the purposes of this subsection until:
 - (a) the election can no longer be questioned; or
 - (b) the expiration of the period of 6 months commencing on the date of the declaration of the poll;whichever last occurs.
- (3) Subsection (2) applies to the following documents:
 - (a) the statements referred to in subsection 250(3), paragraph 259(c) and paragraph 260(3)(a);
 - (b) the ballot-papers referred to in paragraph 260(1)(b); and
 - (c) the ballot-papers prepared by an Antarctic Returning Officer and used for voting in Antarctica.

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262 Application of Part

This Part applies in relation to a Territory as if a reference in this Part to a State were a reference to a Territory.

Part XVIII—The scrutiny

263 Scrutiny

The result of the polling shall be ascertained by scrutiny.

264 Scrutineers at scrutiny

- (1) A candidate may appoint scrutineers to represent the candidate at the scrutiny.
- (2) A candidate is not entitled to be represented at the scrutiny at a particular counting centre by a number of scrutineers that is greater than the number of officers who are engaged in a scrutiny or counting of ballot-papers at that centre.
- (3) The appointment of a scrutineer under this section to represent a candidate at a counting centre:
 - (a) shall be made by notice in writing signed by the candidate and given or sent to the officer who is to conduct, or is conducting, the scrutiny at the counting centre; and
 - (b) shall specify the name and address of the scrutineer.
- (3A) A person who is present at the scrutiny in the capacity of a scrutineer shall wear a badge, supplied by the Electoral Commission, that identifies the person as a scrutineer.
- (4) In this section, *counting centre* means any premises at which a scrutiny or counting of ballot-papers is to be, or is being, conducted.

265 Scrutiny, how conducted

- (1) The scrutiny shall be conducted as follows:
 - (a) It shall commence as soon as practicable after the closing of the poll;
 - (b) Such scrutineers as have been duly appointed pursuant to section 264, and any persons approved by the officer conducting the scrutiny, may be present;

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- (c) All the proceedings at the scrutiny shall be open to the inspection of the scrutineers;
 - (d) The scrutiny may be adjourned from time to time as may be necessary until the counting of the votes is complete.
- (2) During a scrutiny, the scrutineers must be allowed to inspect, in addition to the preference votes being counted in the scrutiny, any other preference vote given for a candidate unless, in the opinion of the assistant Returning Officer, DRO or Australian Electoral Officer, as the case may be, this would unreasonably delay the scrutiny.

266 Preliminary scrutiny of declaration votes

- (1) At any time on or after the last Monday before the close of the poll for a Division, the DRO shall conduct such preliminary scrutinies as he or she considers necessary until:
- (a) all written applications for postal votes have been produced;
 - (b) all envelopes received by the DRO before the end of 13 days after the close of the poll and purporting to contain postal ballot-papers have been dealt with under this section; and
 - (c) all other envelopes received by officers prior to the close of the poll and purporting to contain ballot-papers bearing declaration votes have been dealt with under this section.
- (2) The DRO shall give notice of the commencement of a preliminary scrutiny as follows:
- (a) a notice specifying the date, time and place of commencement shall be displayed in a prominent place in the DRO's office;
 - (b) the notice shall be displayed not later than 4 p.m. on the day before the day of commencement.
- (3) A preliminary scrutiny for a Division shall be conducted according to the rules set out in Schedule 3.
- (4) The DRO may, from time to time, adjourn a preliminary scrutiny to a specified date, time and place.

- (5) For the purposes of this Part, anything done under this section in relation to an election shall be taken to be part of the scrutiny in relation to the election.

267 Action on objections to ballot-papers

- (1) If a scrutineer objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper *admitted* or *rejected* according to the officer's decision to admit or reject the ballot-paper.
- (2) Nothing in this section shall prevent the officer conducting the scrutiny from rejecting any ballot-paper as being informal although it is not objected to.

268 Informal ballot-papers

- (1) A ballot-paper shall (except as otherwise provided by section 239, and by the regulations relating to voting by post) be informal if:
- (a) subject to subsection (2), it is not authenticated by the initials of the presiding officer or by the presence of the official mark;
 - (b) subject to section 269 and subsection 270(1), in a Senate election, it has no vote indicated on it, or it does not indicate the voter's first preference for 1 candidate and the order of his or her preference for all the remaining candidates;
 - (c) in a House of Representatives election, it has no vote indicated on it, or it does not indicate the voter's first preference for 1 candidate and an order of preference for all the remaining candidates:

Provided that, where the voter has indicated a first preference for 1 candidate and an order of preference for all the remaining candidates except 1 and the square opposite the name of that candidate has been left blank, it shall be deemed that the voter's preference for that candidate is the voter's last and that accordingly the voter has indicated an order of preference for all the candidates:

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Provided further that, where there are 2 candidates only and the voter has indicated his or her vote by placing the figure 1 in the square opposite the name of 1 candidate and has left the other square blank or placed a figure other than 2 in it, the voter shall be deemed to have indicated an order of preference for all the candidates;

- (d) it has upon it any mark or writing (not authorized by this Act or the regulations to be put upon it) by which, in the opinion of the Divisional Returning Officer, the voter can be identified:

Provided that paragraph (d) shall not apply to any mark or writing placed upon the ballot-paper by an officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Act; or

- (e) in the case of an absent vote—the ballot-paper is not contained in an envelope bearing a declaration made by the elector under subsection 222(1).
- (2) A ballot-paper to which paragraph (1)(a) applies shall not be informal by virtue of that paragraph if the Divisional Returning Officer responsible for considering the question of the formality of the ballot-paper is satisfied that it is an authentic ballot-paper on which a voter has marked a vote.
 - (3) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as that intention is clear.

269 Formal votes according to group voting ticket

- (1) A ballot-paper in a Senate election shall not be informal by virtue of paragraph 268(1)(b) if the voter has marked a vote on the ballot-paper in accordance with subsection 239(2).
- (2) If a ballot-paper in a Senate election:
 - (a) has been marked in accordance with subsection 239(2); and

- (b) has been marked in accordance with paragraph 239(1)(a) so that, if it were not marked in accordance with subsection 239(2), it would not be informal by virtue of paragraph 268(1)(b);
- the ballot-paper shall, for the purposes of sections 272 and 273, be deemed not to have been marked in accordance with subsection 239(2).
- (3) For the purposes of this section and sections 272 and 273, a voter shall not be taken to have marked a vote in accordance with subsection 239(2) if the voter has placed a preference mark in 2 or more of the squares printed on the ballot-paper in accordance with subsection 211(5) or 211A(6).
- (4) In this section, *preference mark* means a tick, a cross or the figure 1.

270 Certain votes with non-consecutive numbers to be formal

- (1) Where a ballot-paper in a Senate election:
- (a) has the number 1 in the square opposite to the name of a candidate and does not have that number in the square opposite to the name of another candidate;
- (b) has:
- (i) in a case where there are more than 9 candidates in the election—in not less than 90% of the squares opposite to the names of candidates, numbers in a sequence of consecutive numbers commencing with the number 1 or numbers that with changes to no more than 3 of them would be in such a sequence; or
- (ii) in any other case—in all the squares opposite to the names of candidates or in all those squares except one square that is left blank, numbers in a sequence of consecutive numbers commencing with the number 1 or numbers that with changes to no more than 2 of them would be in such a sequence; and
- (c) but for this subsection, would be informal by virtue of paragraph 268(1)(b);
- then:

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- (d) the ballot-paper shall not be informal by virtue of that paragraph;
 - (e) the number 1 shall be taken to express the voter's first preference;
 - (f) where numbers in squares opposite to the names of candidates are in a sequence of consecutive numbers commencing with the number 1—the voter shall be taken to have expressed a preference by the other number, or to have expressed preferences by the other numbers, in that sequence; and
 - (g) the voter shall not be taken to have expressed any other preference.
- (3) In considering, for the purposes of subsection (1) whether numbers are in a sequence of consecutive numbers, any number that is repeated shall be disregarded.

271 Officers not to mark ballot-papers so that voter can be identified

Except as authorized by this Act or the regulations, an officer shall not place upon any ballot-paper any mark or writing which would enable any person to identify the voter by whom it is used.

Penalty: \$1,000.

272 Senate ballot-papers deemed to be marked according to group voting tickets

- (1) For the purposes of section 273, where:
- (a) a ballot-paper in a Senate election has been marked in accordance with subsection 239(2) by a mark having been placed in a square printed above the names of candidates in a group; and
 - (b) the candidates in that group have only one group voting ticket registered for the purposes of that election;
- that ballot-paper shall be deemed to have been marked in accordance with that ticket.
- (2) For the purposes of section 273, where:

- (a) in a Senate election, a ballot-paper has, or ballot-papers have, been marked in accordance with subsection 239(2) by a mark having been placed in a square printed above the names of candidates in a group; and
 - (b) the candidates in that group have 2 group voting tickets registered for the purposes of that election;
- then:
- (c) if the number of ballot-papers is an even number—half of the ballot-papers shall be taken to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket; or
 - (d) if the number of ballot-papers is not an even number:
 - (i) one of the ballot-papers shall be deemed to have been marked in accordance with whichever of the 2 tickets is determined by lot by the Australian Electoral Officer for the relevant State or Territory; and
 - (ii) half the remainder (if any) of the ballot-papers shall be deemed to have been marked in accordance with one of the tickets and the other half in accordance with the other ticket.
- (3) For the purposes of section 273 where:
- (a) in a Senate election a ballot-paper has, or ballot-papers have, been marked in accordance with subsection 239(2) by a mark having been placed in a square printed above the names of candidates in a group; and
 - (b) the candidates in that group have 3 group voting tickets registered for the purposes of that election;
- then:
- (c) if the number of ballot-papers is a number divisible by 3 without any remainder—one-third of the ballot-papers shall be taken to have been marked in accordance with one of the tickets, one-third of the ballot-papers shall be taken to have been marked in accordance with another one of the tickets and the other one-third in accordance with the other ticket;
 - (d) if there is only one ballot-paper or the number of ballot-papers is a number divisible by 3 with a remainder of 1:

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- (i) the ballot-paper or one of the ballot-papers shall be deemed to have been marked in accordance with whichever of the 3 tickets is determined by lot by the Australian Electoral Officer for the relevant State or Territory; and
 - (ii) one-third of the remainder of the ballot-papers (if any) shall be deemed to have been marked in accordance with one of the tickets, one-third of that remainder shall be deemed to have been marked in accordance with another one of the tickets and the other one-third of that remainder shall be deemed to have been marked in accordance with the other ticket; or
- (e) if there are 2 ballot-papers or the number of ballot-papers is a number divisible by 3 with a remainder of 2:
- (i) one of the ballot-papers shall be taken to have been marked in accordance with whichever of the 3 tickets is determined by lot by the Australian Electoral Officer for the relevant State or Territory;
 - (ii) one of the ballot-papers shall be taken to have been marked in accordance with whichever of the other 2 tickets is determined by lot by the Australian Electoral Officer for the relevant State or Territory; and
 - (iii) one-third of the remainder of the ballot-papers (if any) shall be deemed to have been marked in accordance with one of the tickets, one-third of that remainder shall be deemed to have been marked in accordance with another one of the tickets and the other one-third of that remainder shall be deemed to have been marked in accordance with the other ticket.
- (4) Subsection (5) applies if, and only if, effect cannot be given to subsection (2) or (3), as the case requires, for any reason.
- (5) For the purposes of section 273, where:
- (a) a ballot-paper in a Senate election has been marked in accordance with subsection 239(2) by a mark having been placed in a square printed above the names of candidates in a group; and

- (b) the candidates in that group have 2 or 3 group voting tickets registered for the purposes of that election;
then, to the extent that the preferences shown in each ticket commencing with the first preference are the same, the voter shall be taken to have marked the ballot-paper so as to express those preferences and the voter shall be taken not to have expressed any further preferences.
- (6) Where, in a Senate election, a ballot-paper has, or ballot-papers have, been marked in accordance with subsection 239(2) by a mark having been placed in a square printed above the name of a candidate who has lodged a statement under section 211A, this section applies to that ballot-paper or those ballot-papers as if:
- (a) a reference to the candidates in a group were a reference to the candidate;
 - (b) a reference to the names of the candidates in a group were a reference to the name of the candidate; and
 - (c) a reference to a group voting ticket or group voting tickets registered for the purposes of the election were a reference to the order of preferences, or the orders of preferences, given in that statement, as the case may be.

273 Scrutiny of votes in Senate elections

- (1) Subject to section 273B, in a Senate election for a particular State or Territory, the scrutiny must be conducted, and the vacancies filled under this section or under section 273A.
- (2) Each Assistant Returning Officer shall, in the presence of a polling official, and of such authorized scrutineers as may attend:
 - (a) exhibit for the inspection of the scrutineers each ballot-box received from a presiding officer, electoral visitor or mobile polling team leader;
 - (aa) record the condition of the ballot-box when it was received;
 - (ab) check the accuracy of the statement forwarded with the ballot-box by the presiding officer, electoral visitor or mobile polling team leader by:
 - (i) removing the ballot-papers from the box;
 - (ii) counting, but not inspecting, them; and

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- (iii) recording the number of ballot-papers removed from the box;
 - (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
 - (c) count the first preference votes given for each candidate on all unrejected ballot-papers;
 - (d) make out and sign a statement (which may be countersigned by a polling official, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers;
 - (e) place in a separate parcel all the ballot-papers which have been rejected as informal;
 - (f) transmit the following information, in an expeditious manner, to the Divisional Returning Officer:
 - (i) the number of first preference votes given for each candidate; and
 - (ii) the total number of ballot-papers rejected as informal;
 - (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and
 - (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d).
- (3) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (4) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for casting declaration votes.
- (5) The Divisional Returning Officer for a Division shall:
 - (a) open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division, and shall make a fresh scrutiny of the ballot-papers contained in the

- parcels, and for this purpose the officer shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny;
- (b) reject all informal ballot-papers and place them in a separate parcel, together with all informal ballot-papers rejected under subsections (3) and (4);
 - (c) arrange the unrejected ballot-papers so scrutinized, together with the ballot-papers scrutinized pursuant to subsections (3) and (4), under the names of the respective candidates by placing in one parcel under the name of each candidate all the ballot-papers marked in accordance with subsection 239(2) on which a first preference is indicated for that candidate and in another parcel under the name of that candidate all the other ballot-papers on which a first preference is indicated for that candidate;
 - (d) count the first preference votes given for each candidate on such ballot-papers, and transmit the following information, in an expeditious manner, to the Australian Electoral Officer:
 - (i) the number of first preference votes given for each candidate:
 - (A) on ballot-papers marked in accordance with subsection 239(2); and
 - (B) on all other ballot-papers; and
 - (ii) the total number of ballot-papers rejected as informal;
 - (e) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and
 - (f) transmit with the least possible delay the parcels of unrejected ballot-papers marked otherwise than in accordance with subsection 239(2) to the Australian Electoral Officer and inform the Australian Electoral Officer, in an expeditious manner, of the transmission.
- (6) Nothing in this section shall be taken to require the Australian Electoral Officer to retain in separate parcels ballot-papers received from different Divisional Returning Officers indicating first preferences for a particular candidate.

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- (7) Where, for the purposes of the succeeding provisions of this section:
- (a) the number of ballot-papers or votes in any category is required to be ascertained;
 - (b) a quota, a transfer value or the order of standing of continuing candidates in a poll is required to be determined; or
 - (c) a candidate is required to be identified;
- the Australian Electoral Officer for the State shall ascertain the number, determine the quota, transfer value or order, or identify the candidate, as the case may be.
- (8) The number of first preference votes given for each candidate and the total number of all such votes shall be ascertained and a quota shall be determined by dividing the total number of first preference votes by 1 more than the number of candidates required to be elected and by increasing the quotient so obtained (disregarding any remainder) by 1, and any candidate who has received a number of first preference votes equal to or greater than the quota shall be elected.
- (9) Unless all the vacancies have been filled, the number (if any) of votes in excess of the quota (in this section referred to as *surplus votes*) of each elected candidate shall be transferred to the continuing candidates as follows:
- (a) the number of surplus votes of the elected candidate shall be divided by the number of first preference votes received by the candidate and the resulting fraction shall be the transfer value;
 - (b) the total number of ballot-papers of the elected candidate that express the first preference vote for that candidate and the next available preference for a particular continuing candidate shall be multiplied by the transfer value, the number so obtained (disregarding any fraction) shall be added to the number of first preference votes of the continuing candidate and all those ballot-papers shall be transferred to the continuing candidate;
- and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any such transfer shall be elected.

- (10) Unless all the vacancies have been filled, the surplus votes (if any) of any candidate elected under subsection (9), or elected subsequently under this subsection, shall be transferred to the continuing candidates in accordance with paragraphs (9)(a) and (b), and any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of any such transfer shall be elected.
- (11) Where a continuing candidate has received a number of votes equal to or greater than the quota on the completion of a transfer under subsection (9) or (10) of the surplus votes of a particular elected candidate, no votes of any other candidate shall be transferred to the continuing candidate.
- (12) For the purposes of the application of paragraphs (9)(a) and (b) in relation to a transfer under subsection (10) or (14) of the surplus votes of an elected candidate, each ballot-paper of the elected candidate that was obtained by the candidate on a transfer under this section shall be dealt with as if any vote it expressed for the elected candidate were a first preference vote, as if the name of any other candidate previously elected or excluded had not been on the ballot-paper and as if the numbers indicating subsequent preferences had been altered accordingly.
- (13) Where, after the counting of first preference votes or the transfer of surplus votes (if any) of elected candidates, no candidate has, or fewer than the number of candidates required to be elected have, received a number of votes equal to the quota:
- (a) the candidate who stands lowest in the poll must be excluded;
or
 - (b) if a bulk exclusion of candidates may be effected under subsection (13A), those candidates must be excluded;
- and the ballot papers of the excluded candidate or candidates must be distributed in accordance with subsection (13AA).
- (13AA) Where a candidate is, or candidates are, excluded in accordance with this section, the ballot papers of the excluded candidate or candidates must be transferred as follows:
- (a) the total number of ballot papers:
 - (i) expressing a first preference for an excluded candidate;
or

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- (ii) received by an excluded candidate on distribution from another excluded candidate at a transfer value of 1 vote; being ballot papers expressing the next available preference for a particular continuing candidate must be transferred at a transfer value of 1 vote to the continuing candidate and added to the number of votes of the continuing candidate;
 - (b) the total number (if any) of other ballot papers obtained by an excluded candidate or the excluded candidates, as the case may be, must be transferred beginning with the ballot papers received by that candidate or those candidates at the highest transfer value and ending with the ballot papers received at the lowest transfer value, as follows:
 - (i) the total number of ballot papers received by the excluded candidate or candidates, as the case may be, at a particular transfer value and expressing the next available preference for a particular continuing candidate must be multiplied by that transfer value;
 - (ii) the number so obtained (disregarding any fraction) must be added to the number of votes of the continuing candidate;
 - (iii) all those ballot papers must be transferred to the continuing candidate.
- (13A) The procedure for a bulk exclusion, and the circumstances in which such an exclusion may be made, are as follows:
- (a) a continuing candidate (in this subsection called *Candidate A*) shall be identified, if possible, who, of the continuing candidates who each have a number of notional votes equal to or greater than the vacancy shortfall, stands lower or lowest in the poll;
 - (b) a continuing candidate (in this subsection called *Candidate B*) shall be identified, if possible, who:
 - (i) stands lower in the poll than Candidate A, or if Candidate A cannot be identified, has a number of notional votes that is fewer than the vacancy shortfall;
 - (ii) has a number of notional votes that is fewer than the number of votes of the candidate standing immediately higher than him or her in the poll; and

- (iii) if 2 or more candidates satisfy subparagraphs (i) and (ii)—is the candidate who of those candidates stands higher or highest in the poll;
 - (c) in a case where Candidate B has been identified and has a number of notional votes fewer than the leading shortfall—Candidate B and any other continuing candidates who stand lower in the poll than that candidate may be excluded in a bulk exclusion; and
 - (d) in a case where Candidate B has been identified and has a number of notional votes equal to or greater than the leading shortfall:
 - (i) a continuing candidate (in this subsection called *Candidate C*) shall be identified who:
 - (A) has a number of notional votes that is fewer than the leading shortfall; and
 - (B) if 2 or more candidates satisfy subparagraph (A)—is the candidate who of those candidates stands higher or highest in the poll; and
 - (ii) Candidate C and all other continuing candidates who stand lower in the poll than that candidate may be excluded in a bulk exclusion.
- (13B) Where, apart from this subsection, the number of continuing candidates after a bulk exclusion under subsection (13A) would be fewer than the number of remaining unfilled vacancies, subsection (13A) shall operate to exclude only the number of candidates, beginning with the candidate who stands lowest in the poll, that would leave sufficient continuing candidates to fill the remaining unfilled vacancies.
- (13C) Notwithstanding any other provision of this section (other than subsection (18)), where a candidate or candidates has or have been elected and there are surplus votes as a result of that election, paragraphs (13A)(a), (b), (c) and (d) may be applied as if references in those paragraphs to notional votes were references to adjusted notional votes.
- (14) Any continuing candidate who has received a number of votes equal to or greater than the quota on the completion of a transfer under subsection (13) or (15) of ballot-papers of an excluded

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candidate or candidates, as the case may be, shall be elected, and, unless all the vacancies have been filled, the surplus votes (if any) of the candidate so elected shall be transferred in accordance with paragraphs (9)(a) and (b), except that, where the candidate so elected is elected before all the ballot-papers of the excluded candidate or candidates, as the case may be, have been transferred, the surplus votes (if any) of the candidate so elected shall not be transferred until the remaining ballot-papers of the excluded candidate or candidates, as the case may be, have been transferred in accordance with paragraphs (13AA)(a) and (b) to continuing candidates.

- (15) Subject to subsection (17) where, after the transfer of all of the ballot papers of an excluded candidate or the excluded candidates, as the case may be, no continuing candidate has received a number of votes greater than the quota:
 - (a) the continuing candidate who stands lowest in the poll must be excluded; or
 - (b) if a bulk exclusion of candidates may be effected under subsection (13A), those candidates must be excluded; and the ballot papers of the excluded candidate or candidates must be transferred in accordance with subsection (13AA).
- (16) Where a candidate is elected during a transfer of ballot-papers under subsection (13) or (15), no other ballot-papers of an excluded candidate or candidates, as the case may be, shall be transferred to the candidate so elected.
- (17) In respect of the last vacancy for which two continuing candidates remain, the continuing candidate who has the larger number of votes shall be elected notwithstanding that that number is below the quota, and if those candidates have an equal number of votes the Australian Electoral Officer for the State shall have a casting vote but shall not otherwise vote at the election.
- (18) Notwithstanding any other provision of this section, where the number of continuing candidates is equal to the number of remaining unfilled vacancies, those candidates shall be elected.
- (19) At the conclusion of the scrutiny, the Australian Electoral Officer shall place in parcels all the ballot-papers transmitted to the officer

under subsection (5), seal up the parcels and indorse on each parcel a description of the contents thereof.

- (20) For the purposes of this Act and the *Representation Act 1983*:
- (a) the order of election of candidates in a Senate election shall be taken to be in accordance with the order of the count as a result of which they were elected, the candidates (if any) elected on the count of first preference votes being taken to be the earliest elected; and
 - (b) where 2 or more candidates are elected as a result of the same count, the order in which they shall be taken to have been elected shall be in accordance with the relative numbers of their votes, the candidate with the largest number of votes being taken to be the earliest elected, but if any 2 or more of those candidates each have the same number of votes, the order in which they shall be taken to have been elected shall be taken to be in accordance with the relative numbers of their votes at the last count before their election at which each of them had a different number of votes, the candidate with the largest number of votes at that count being taken to be the earliest elected, and if there has been no such count the Australian Electoral Officer for the State shall determine the order in which they shall be taken to have been elected.
- (21) Subject to subsections (22) and (23), where, after any count under this section, 2 or more candidates have surplus votes, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative sizes of the surpluses, the largest surplus being transferred first.
- (22) Subject to subsection (23), where, after any count under this section, 2 or more candidates have equal surpluses, the order of any transfers of the surplus votes of those candidates shall be in accordance with the relative numbers of votes of those candidates at the last count at which each of those candidates had a different number of votes, the surplus of the candidate with the largest number of votes at that count being transferred first, but if there has been no such count the Australian Electoral Officer for the State shall determine the order in which the surpluses shall be dealt with.

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- (23) Where, after any count under this section, a candidate obtains surplus votes, those surplus votes shall not be transferred before the transfer of any surplus votes obtained by any other candidate on an earlier count.
- (25) Where a candidate is elected by reason that the number of first preference votes received by the candidate, or the aggregate of first preference votes received by the candidate and all other votes obtained by the candidate on transfers under this section, is equal to the quota, all the ballot-papers expressing those votes shall be set aside as finally dealt with.
- (26) A ballot-paper shall be set aside as exhausted where on a transfer it is found that the paper expresses no preference for any continuing candidate.
- (27) In any case to which subsection 239(4) applies, a vote indicated on a ballot-paper opposite the name of a deceased candidate shall be counted to the candidate next in the order of the voter's preference, and the numbers indicating subsequent preferences shall be deemed to be altered accordingly.
- (28) For the purposes of this section:
- (a) a transfer under subsection (9), (10) or (14) of all the surplus votes of an elected candidate;
 - (b) a transfer under paragraph (13AA)(a) of all ballot papers of an excluded candidate or excluded candidates, received by that candidate, or one of those candidates:
 - (i) as the first preference vote; or
 - (ii) on distribution from another excluded candidate at a transfer value of 1 vote; or
 - (c) a transfer under paragraph (13AA)(b) of all ballot-papers received by the excluded candidate or candidates, as the case may be, at a particular transfer value;
- each constitutes a separate transfer.
- (29) In this section:
- adjusted notional vote***, in relation to a continuing candidate, means, in a case where a candidate or candidates has or have been elected, the sum of:
- (a) the number of notional votes of the continuing candidate; and

- (b) the number, before the transfer of any of the surplus votes, of those surplus votes.

continuing candidate means a candidate not already elected or excluded from the count.

leading shortfall, in relation to a particular stage during the scrutiny in a Senate election, means the shortfall of the continuing candidate standing highest in the poll at that stage.

notional vote, in relation to a continuing candidate, means the aggregate of the votes obtained by that candidate and the votes obtained by each other candidate who stands lower in the poll than him or her.

shortfall, in relation to a continuing candidate at a particular stage during the scrutiny in a Senate election, means the number of votes that the candidate requires at that stage in order to reach the quota referred to in subsection (8).

State includes Territory.

vacancy shortfall, in relation to a particular stage during the scrutiny in a Senate election, means the aggregate of the shortfalls of that number of leading candidates equal to the number of remaining unfilled vacancies, the leading candidates being ascertained by taking the continuing candidate who stands highest in the poll, the continuing candidate who stands next highest in the poll, and so on in the order in which the continuing candidates stand in the poll.

- (30) In this section, a reference to votes, or ballot-papers, as the case may be, of or obtained or received by a candidate includes votes, or ballot-papers, as the case may be, obtained or received by the candidate on any transfer under this section.
- (31) For the purposes of this section, at any time after the counting of first preference votes the order of standing of the continuing candidates in the poll shall be determined as follows:
- (a) subject to paragraph (b), the continuing candidates shall stand in the poll in the order of the relative number of votes of each continuing candidate, with the continuing candidate with the greatest number of votes standing highest in the poll

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and the continuing candidate with the fewest number of votes standing lowest in the poll;

- (b) if 2 or more continuing candidates have the same number of votes, those candidates shall stand in the poll in the order of the relative number of votes of each of those candidates at the last count at which each of them had a different number of votes, with the continuing candidate with the greater or greatest number of votes at that count standing higher in the poll and the continuing candidate with the fewer or fewest number of votes at that count standing lower in the poll, but if there has been no such count the Australian Electoral Officer for the State shall determine the order of standing of those candidates in the poll.
- (32) When the last vacancy is filled, the scrutiny shall immediately cease and any exclusion in progress shall not be completed.

273A Computerised scrutiny of votes in Senate election

Determination that computerised scrutiny applies

- (1) The scrutiny of votes in a Senate election for a particular State or Territory may be conducted by complying with the requirements set out in this section.

Processing of ballot-papers by Assistant Returning Officers

- (2) Each Assistant Returning Officer must deal with ballot-boxes and ballot-papers in the manner required by subsection 273(2).

Processing of ballot-papers by Divisional Returning Officers

- (3) Each Divisional Returning Officer must deal as follows with all ballot-papers received by him or her:
 - (a) reject any of the wholly above-the-line ballot-papers that are informal and arrange the unrejected ones into parcels by placing under the name of each candidate all the ballot-papers on which a first preference is indicated for that candidate;
 - (b) reject any informal ballot-papers that have no mark at all on them, and any other ballot-papers that are obviously

informal, and place the rejected ballot-papers in one or more parcels;

- (c) place in a parcel or parcels all the ballot-papers received by the Divisional Returning Officer, other than:
 - (i) the unrejected wholly above-the-line ballot-papers; and
 - (ii) the ballot-papers rejected as informal;
- (d) seal up all the parcels and endorse on each parcel a description of the contents, and permit any scrutineers present, if they so desire, to countersign the endorsement;
- (e) as soon as possible, transmit the parcel or parcels referred to in paragraph (c) to the Australian Electoral Officer;
- (f) transmit the following information to the Australian Electoral Officer:
 - (i) the number of first preference votes given for each candidate on unrejected wholly above-the-line ballot-papers;
 - (ii) the total number of ballot-papers rejected as informal.

Processing of ballot-papers received by Australian Electoral Officer

- (4) The Australian Electoral Officer must scrutinise all the ballot-papers received by him or her, and must reject the informal ones.

Determining election result

- (5) The Australian Electoral Officer must then ascertain the successful candidates, and their order of election, by using a computer to apply the principles set out in subsections 273(8) to (32) (inclusive). A tie at any step in the process is to be resolved in the same way as a tie in the corresponding step is resolved under section 273.

Rights of scrutineers

- (6) For proceedings under subsections (4) and (5) of this section, the requirements of paragraph 265(1)(c) are met if the scrutineers have access to:
 - (a) a record of the preferences on the ballot-papers that have been received by the Australian Electoral Officer and whose

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details have been stored in the computer (including informal ballot-papers, and formal ballot-papers that are not sequentially numbered); and

- (b) a record of the ballot-papers that are notionally transferred, or exhausted, at each count; and
- (c) a record of the progress of the count of the votes, at each count.

Modified rules for re-count

- (7) If ballot-papers that are to be re-counted under section 278 are in the possession of the Australian Electoral Officer immediately before the re-count begins, the Australian Electoral Officer must deal with those ballot-papers as follows:
 - (a) open the parcels (for those ballot-papers that are in parcels) in the presence of a person appointed or engaged under the *Public Service Act 1999* and of any scrutineer who attends;
 - (b) scrutinise all the ballot-papers, and make a decision on each one either to admit it or reject it;
 - (c) after scrutinising all the ballot-papers, restore the ones that were in parcels to their original covers, and place the remaining ballot-papers in a parcel or parcels;
 - (d) seal up all the parcels and write on each cover:
 - (i) the number of ballot-papers contained in the cover; and
 - (ii) a statement that all the ballot-papers have been the subject of decisions by the Australian Electoral Officer;
 - (e) sign the cover of each parcel and permit other persons who were present when the ballot-papers were scrutinised to add their signatures.
- (8) If:
 - (a) a re-calculation by computer occurs following a re-count; and
 - (b) during the re-calculation, the same tie that occurred on the previous calculation by computer occurs again;for the purposes of the re-calculation that tie is to be resolved in favour of the candidate in whose favour it was resolved during the previous calculation.
- (9) If a re-count is required under section 282, the Australian Electoral Officer must conduct the re-count by using a computer to apply the

principles set out in subsections 273(8) to (30) (inclusive), modified in the way set out in section 282.

Definitions

(10) In this section:

dividing line means the line on the ballot-paper that separates the voting method described in subsection 239(1) from the voting method described in subsection 239(2).

wholly above-the-line ballot-paper means a ballot-paper that:

- (a) has one or more numbers, ticks, crosses or other marks above the dividing line; and
- (b) has no marks on the ballot-paper below the dividing line.

273B Combination of manual and computer scrutiny permitted

A scrutiny of votes for a Senate election may be conducted partly under section 273 and partly under section 273A, as long as the requirements of at least one of those sections are met in respect of the scrutiny for that election.

274 Scrutiny of votes in House of Representatives elections

- (1) In a House of Representatives election the scrutiny shall, subject to section 266, be conducted in the manner set out in this section.
- (2) Each Assistant Returning Officer shall, in the presence of a polling official, and of such authorized scrutineers as may attend:
 - (a) exhibit for the inspection of the scrutineers each ballot-box received from a presiding officer, electoral visitor, or mobile polling team leader;
 - (aa) record the condition of the ballot-box when it was received;
 - (ab) check the accuracy of the statement of the presiding officer, electoral visitor or mobile polling team leader by:
 - (i) removing the ballot-papers from the box;
 - (ii) counting, but not inspecting, them; and
 - (iii) recording the number of ballot-papers removed from the box;

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- (b) reject all informal ballot-papers, and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;
 - (c) count the first preference votes given for each candidate on all unrejected ballot-papers;
 - (d) make out and sign a statement (which may be countersigned by a polling official, and, if they so desire, by such scrutineers as are present) setting out the number of first preference votes given for each candidate, and the number of informal ballot-papers;
 - (e) place in a separate parcel all the ballot-papers which have been rejected as informal;
 - (f) transmit the following information, in an expeditious manner, to the Divisional Returning Officer:
 - (i) the number of first preference votes given for each candidate; and
 - (ii) the total number of ballot-papers rejected as informal;
 - (g) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and
 - (h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d).
- (2A) If, in a House of Representatives election, there are more than 2 candidates for a Division, the Australian Electoral Officer for the State or Territory that includes the Division must, in writing, direct each Assistant Returning Officer for the Division, and the Divisional Returning Officer for the Division, to conduct a count of preference votes (other than first preference votes) on the ballot-papers that, in the opinion of the Australian Electoral Officer, will best provide an indication of the candidate most likely to be elected for the Division.
- (2B) An Assistant Returning Officer to whom a direction is given under subsection (2A) must:
- (a) count the preference votes in accordance with the direction; and

- (b) transmit to the Divisional Returning Officer any information required by the direction;
in the manner specified in the direction.
- (2C) A Divisional Returning Officer to whom a direction is given under subsection (2A) must count the preference votes in accordance with the direction:
 - (a) at the time of the fresh scrutiny under subsection (7); and
 - (b) at the time at which the Divisional Returning Officer examines and counts ballot-papers recording declaration votes other than ballot-papers recording declaration votes that were examined and counted at the time of the fresh scrutiny.
- (3) The Divisional Returning Officer shall open all ballot-boxes not opened by an Assistant Returning Officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.
- (4) The Divisional Returning Officer shall, in the manner prescribed by this Act or the Regulations, examine, count, and deal with all ballot-papers used for casting declaration votes.
- (7) The Divisional Returning Officer:
 - (a) shall open the sealed parcels of ballot-papers received from the Assistant Returning Officers in or for the Division;
 - (b) shall make a fresh scrutiny of the ballot-papers contained in the parcels, and, for the purpose of that scrutiny, shall have the same powers as if it were the original scrutiny, and may reverse any decision given by an Assistant Returning Officer in relation to the original scrutiny;
 - (c) from the result of the scrutiny of the votes counted under the provisions of subsections (3) and (4), and the fresh scrutiny conducted under the provisions of this subsection, shall ascertain the total number of first preference votes given for each candidate and the number of informal ballot-papers; and
 - (ca) must then proceed with the scrutiny and the counting of the votes as follows:
 - (i) if, after ascertaining the first preference votes given for each candidate, no candidate has an absolute majority of

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votes, the Divisional Returning Officer must apply subsection (7AA);

- (ii) if, after ascertaining the first preference votes given for each candidate, a candidate has an absolute majority of votes, that candidate is elected; and
- (d) if, after applying subsection (7AA), subparagraph (7AA)(b)(i) applies, shall proceed with the scrutiny and the counting of the votes as follows:
 - (i) the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to the candidate shall be counted to the candidate next in the order of the voter's preference;
 - (ii) the process of excluding the candidate who has the fewest votes, and counting each of his or her ballot-papers to the unexcluded candidate next in the order of the voter's preference, shall be repeated until only 2 candidates remain in the count; and
 - (iii) if, following the exclusion of candidates under this paragraph, a candidate has an absolute majority of votes, that candidate shall be elected.

(7AA) If, after ascertaining the total number of first preference votes for each candidate under paragraph (7)(ca), no candidate has an absolute majority of votes, the Divisional Returning Officer must take the following steps:

- (a) rank the candidates consecutively in order of their standing in the poll as set out in subsection (7AB);
- (b) then:
 - (i) if the total number of first preference votes for all the candidates, other than the first and second ranked candidates, is equal to or more than the number of first preference votes for the second ranked candidate—proceed with the scrutiny as set out in paragraph (7)(d);
or
 - (ii) if the total number of first preference votes for all the candidates, other than the first and second ranked candidates, is less than the number of first preference votes for the second ranked candidate—exclude all the candidates other than the first and second ranked candidates;

- (c) if subparagraph (b)(ii) applies—count each ballot-paper of an excluded candidate to whichever of the first or second ranked candidates is earlier in the order of preference expressed on the ballot-paper.
- (7AB) The ranking of candidates under paragraph (7AA)(a) is to be done as follows:
- (a) the candidate with the highest number of first preference votes is to be the first ranked candidate, the candidate with the second-highest number of votes is to be the second ranked candidate, and so on;
 - (b) if 2 or more candidates have an equal number of first preference votes, the ranking as between those candidates is to be decided, by lot, by the Divisional Returning Officer.
- (7AC) If, following the exclusion of candidates under subparagraph (7AA)(b)(ii) and the count of ballot-papers under paragraph (7AA)(c), a candidate has an absolute majority of votes, that candidate is elected.
- (7A) The fresh scrutiny referred to in paragraph (7)(b) shall, if the Australian Electoral Officer for the State or Territory that includes the relevant Division so directs in writing, include a scrutiny of such preferences (other than first preferences), on such of the ballot-papers, as are required by the direction, and shall be conducted in the manner specified in the direction.
- (9) If, on any count other than the final count:
- (a) 2 or more candidates (*lowest ranking candidates*) have an equal number of votes; and
 - (b) one of them has to be excluded;
- the candidate to be excluded is the candidate with less votes than any of the other lowest ranking candidates at the last count at which one of those candidates had less votes than any of the others, but, if there has been no such count, the Divisional Returning Officer must decide by lot which of them is to be excluded.
- (9A) If, in the final count, 2 or more candidates have an equal number of votes, the Divisional Returning Officer shall make a fresh scrutiny of the votes scrutinised under subsection (7) and a fresh scrutiny of all declaration ballot-papers rejected at the preliminary scrutiny.

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- (9B) If, after the fresh scrutinies referred to in subsection (9A), a candidate has received an absolute majority of votes, that candidate shall be elected.
- (9C) If, after the fresh scrutinies referred to in subsection (9A), 2 or more candidates have an equal number of votes, the Divisional Returning Officer shall give to the Electoral Commissioner written notice that the election cannot be decided.
- (10) Subject to subsection (11), in this section an absolute majority of votes means a greater number than one-half of the whole number of ballot-papers other than informal ballot-papers.
- (12) The Divisional Returning Officer shall:
 - (a) place in a separate parcel all the ballot-papers which have been rejected as informal;
 - (b) place in a separate parcel all the unrejected ballot-papers; and
 - (c) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

275 Scrutiny prior to receipt of declaration ballot-papers

Where the Australian Electoral Officer, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, is satisfied that the votes:

- (a) on any ballot-papers issued at some remote polling place in connexion with the election which have not been received by the Divisional Returning Officer; or
- (b) on ballot-papers used for casting declaration votes and not dealt with under section 266;

cannot, having regard to the number of those ballot-papers, possibly affect the result of the election, the Australian Electoral Officer, in the case of a Senate election, or the Divisional Returning Officer, in the case of a House of Representatives election, may, subject to the concurrence of the Electoral Commissioner, proceed with the scrutiny without awaiting the receipt of the ballot-papers, or completing the action, as the case may be.

276 Provisional scrutiny

- (1) Where a Divisional Returning Officer in a House of Representatives election has counted all votes on ballot-papers (other than ballot-papers referred to in paragraph 275(b)) and section 275 does not apply, he or she may, if directed to do so by the Australian Electoral Officer, proceed, in a manner specified in the directions, with a scrutiny of second and later preferences shown on the ballot-papers.
- (2) If the Divisional Returning Officer in a House of Representatives election did not proceed with a scrutiny under paragraph 274(7)(d) because subparagraph 274(7AA)(b)(ii) applied, the Divisional Returning Officer must, when directed by the Australian Electoral Officer, proceed with the scrutiny and the counting of the votes as set out in subparagraphs 274(7)(d)(i) and (ii).

277 Scrutiny for information

After a candidate is elected in accordance with subsection 274(7) in a House of Representatives election, the Electoral Commission may, for the purpose of obtaining information, give the Divisional Returning Officer who conducted the scrutiny directions for the examination of the second and later preferences of candidates and for the distribution of those preferences in a manner specified in the directions, and the Divisional Returning Officer shall comply with those directions.

278 Re-count at Senate elections

- (1) At any time before the declaration of the result of a Senate election the Australian Electoral Officer may, on the written request of any candidate setting forth the reasons for the request, or of the officer's own motion, direct or conduct a re-count of the ballot-papers contained in any parcel or in any other category determined by the Australian Electoral Officer.
- (2) If the Australian Electoral Officer refuses a request of a candidate under subsection (1), the candidate may, in writing, appeal to the Electoral Commissioner to direct a re-count of the ballot-papers to which the request relates, and the Electoral Commissioner has a

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discretion either to direct a re-count of the ballot-papers or refuse to direct a re-count.

279 Re-count at House of Representatives elections

At any time before the declaration of the result of a House of Representatives election the Divisional Returning Officer may, on the request of any candidate setting forth the reasons for the request, or of the officer's own motion, and shall, if so directed by the Electoral Commissioner or the Australian Electoral Officer, re-count the ballot-papers contained in any parcel or in any other category determined by the Australian Electoral Officer or the Electoral Commissioner.

279A Notice of re-count

Before re-counting any ballot-papers, the DRO shall send to each candidate notice of the date, time and place fixed for the re-count.

279B Conduct of re-count

- (1) At the time and place fixed for the re-count and in the presence of any scrutineers who attend and of a person appointed or engaged under the *Public Service Act 1999*, the DRO shall open every sealed parcel of ballot-papers to be re-counted and count the votes in the parcel.
- (2) A parcel containing ballot-papers to be re-counted shall be opened without destroying or rendering illegible any writing on the parcel and the contents of the parcel shall not be allowed to become mixed with ballot-papers from any other parcel.
- (3) After the votes in a parcel have been counted, the DRO shall replace the ballot-papers in their original cover, reseal and refasten the cover, place the resealed parcel in a new cover, and seal and fasten the new cover.
- (4) The DRO shall write on the new cover a statement of the fact and date of the re-count of the votes in the cover and, along with such of the persons present who choose to add their signatures, shall sign the statement.

- (5) The DRO shall place any ballot-papers reserved for the decision of the Australian Electoral Officer in a sealed and fastened parcel bearing the signatures of the DRO and the scrutineers who choose to add their signatures and a note of the number of ballot-papers in the parcel, the name of the Division and the date.
- (6) The DRO shall place the parcel in a sealed and fastened outer cover addressed to the Australian Electoral Officer and, without delay, send the parcel to the Australian Electoral Officer by hand, registered post or courier service.
- (7) The Australian Electoral Officer shall open the parcel in the presence of a person appointed or engaged under the *Public Service Act 1999* and of any scrutineer who attends and shall:
 - (a) scrutinise the ballot-papers; and
 - (b) mark each ballot-paper “admitted” or “rejected” according to his or her decision.
- (8) After scrutinising all the ballot-papers, the Australian Electoral Officer shall restore them to their original cover, refasten and reseal the cover, and write on the cover:
 - (a) the number of ballot-papers contained in the cover; and
 - (b) a statement that all ballot-papers have been the subject of decisions by him or her.
- (9) The Australian Electoral Officer shall sign the cover, along with such other persons present when the ballot-papers were scrutinised as choose to add their signatures.
- (10) The Australian Electoral Officer shall then enclose the parcel in a new cover, fasten and seal the cover and send the parcel to the DRO by hand, registered post or courier service.
- (11) The Australian Electoral Officer shall inform the DRO in writing of the numbers of ballot-papers admitted or rejected by him or her, and the DRO shall complete the re-count on the basis of the Australian Electoral Officer’s decision.
- (12) The receipt of a parcel of ballot-papers by the DRO or the Australian Electoral Officer shall be acknowledged in writing.

280 Powers of officer conducting re-count

The officer conducting a re-count shall have the same powers as if the re-count were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance and admission or disallowance and rejection of any ballot-paper.

281 Reservation of disputed ballot-papers

- (1) The officer conducting a re-count may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the Australian Electoral Officer.
- (2) The Australian Electoral Officer shall decide whether any ballot-paper so reserved is to be allowed and admitted or disallowed and rejected.
- (3) In the event of the validity of the election being disputed, the Court of Disputed Returns may consider any ballot-papers which were reserved for the decision of the Australian Electoral Officer, but shall not order any further re-count of the whole or any part of the ballot-papers in connexion with the election unless it is satisfied that the re-count is justified.

282 Re-count of Senate votes to determine order of election in other circumstances

- (1) Where the scrutiny in an election of Senators for a State held following a dissolution of the Senate under section 57 of the Constitution has been completed, the Australian Electoral Officer for that State shall conduct a re-count of the ballot-papers in the election in accordance with subsections 273(7) to (30) (inclusive) as if:
 - (a) in subsection 273(8) “half” were inserted before “the number of candidates”; and
 - (b) the only names of candidates appearing on the ballot-papers were the names of the candidates elected at the election and the numbers indicating preferences had been altered accordingly.

- (2) Sections 280 and 281 do not apply in relation to a re-count under subsection (1).
- (3) The result obtained in a re-count under subsection (1) in relation to a Senate election shall not affect the result of that election.
- (4) Where, in a Senate election:
 - (a) an elector has marked a ballot-paper according to subsection 239(2); and
 - (b) the elector has also marked the ballot-paper in such a way that, had it not been marked according to subsection 239(2), the ballot-paper would have been informal;the ballot-paper shall be treated, for the purposes of this section, as if the only marking on the ballot-paper were the marking according to subsection 239(2).

Part XIX—The return of the writs

283 Return of writ for election of Senators

- (1) In elections for the Senate, the Australian Electoral Officer shall, as soon as conveniently may be after the result of the election has been ascertained:
 - (a) at the place of nomination, or at another place determined by the Australian Electoral Officer for the State or Territory concerned, declare the result of the election and the names of the candidates elected;
 - (b) certify in writing the names of the candidates elected and attach the certificate to the writ; and
 - (c) return the writ and the certificate to:
 - (i) the Governor of the State in respect of which it was issued; or
 - (ii) the Governor-General if it was not issued in respect of a State.

284 Declaration of poll and return of writs for House of Representatives

- (1) As soon as practicable after it has been ascertained that a candidate in a House of Representatives election has been elected, the Divisional Returning Officer shall, at the place of nomination or another place determined by the Australian Electoral Officer for the State or Territory concerned, publicly declare the name of the candidate.
- (2) Where the Divisional Returning Officer:
 - (a) is satisfied that certain ballot-papers, issued at some remote polling place in connexion with the election, cannot reach the Divisional Returning Officer for the purpose of the scrutiny without unduly delaying the declaration of the poll, or
 - (b) cannot complete the inquiries required by section 266 without unduly delaying the declaration of the poll, and

- (c) in either case, is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the election;
- the Divisional Returning Officer may, subject to the concurrence of the Electoral Commissioner, declare the result of the election without awaiting the receipt of the ballot-papers or the completion of inquiries, as the case may be.
- (2A) As soon as practicable after all votes cast in a House of Representatives election have been dealt with, the Divisional Returning Officer shall send to the Electoral Commissioner a written statement setting out the number of votes received by each candidate in the election.
- (3) If, in the case of a general election, all DROs for a State or Territory have made declarations under subsection (1) (other than a DRO who has given notice to the Electoral Commissioner under subsection 274(9C)), the Electoral Commissioner must:
- (a) certify in writing the name of each candidate elected for each Division in the State or Territory (other than a Division for which notice under subsection 274(9C) has been given) and attach the certificate to the writ for the election; and
 - (b) return the writ and the certificate to the Governor-General.
- (4) If, in the case of a House of Representatives election, the DRO for the Division in which an election was held has made a declaration under subsection (1), the Electoral Commissioner must:
- (a) certify in writing the name of the candidate elected for the Division and attach the certificate to the writ for the election; and
 - (b) return the writ and the certificate to the Speaker or Governor-General, as the case requires.

285 Correction of errors

- (1) Any delay, error, or omission in the printing, preparation, issue, transmission, or return of any roll, writ, ballot-papers, or certified list of voters, may be remedied, removed, rectified, and supplied by proclamation specifying the matter dealt with, and providing for the course to be followed, and such course shall be valid and sufficient.

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- (2) For the purposes of subsection (1), a certificate attached to a writ under section 283 or 284 is taken to form part of the writ.

286 Extension of time

Notwithstanding any other provision of this Act, before or after the day appointed for any election the person causing the writ to be issued may, by notice published in the *Gazette*, provide for extending the time for holding the election, or for holding the election in a specified Division, or for returning the writ, or meeting any difficulty which might otherwise interfere with the due course of the election; and any provisions so made shall be valid and sufficient and any date provided for in lieu of a date fixed by the writ shall be deemed to be the date so fixed:

Provided that:

- (a) public notice shall be immediately given in the State, Territory or Division for which the election is to be held of any extension of the time for holding the election.

Part XX—Election funding and financial disclosure

Division 1—Preliminary

287 Interpretation

- (1) In this Part, unless the contrary intention appears:

associated entity means an entity that:

- (a) is controlled by one or more registered political parties; or
- (b) operates wholly or to a significant extent for the benefit of one or more registered political parties.

broadcast includes televise.

broadcaster means:

- (a) the Australian Broadcasting Corporation constituted under the *Australian Broadcasting Corporation Act 1983*;
- (b) the Special Broadcasting Service Corporation preserved and continued in existence under section 5 of the *Special Broadcasting Service Act 1991*;
- (c) the holder of a licence under the *Broadcasting Services Act 1992*; or
- (d) the provider of a broadcasting service under a class licence under that Act.

designated federal party has the meaning given by subsection 287B(1).

disclosure period, in relation to an election, means the period that commenced:

- (b) in the case of a candidate in the election (including a member of a group) who had been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the election or in a Senate election the polling day in which was within 7 years before polling day in the election—at the end of 30 days after polling day in the last such general election, by-election or Senate election in which the person was a candidate;

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- (c) in the case of a candidate in the election (including a member of a group) who had not been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the relevant election or in a Senate election the polling day in which was within 7 years before polling day in the relevant election—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person nominated as a candidate, whichever was the earlier;
- (d) in the case of a person who, when he or she became a candidate in the relevant election, was a Senator holding office under section 15 of the Constitution but was not a person who had been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the relevant election or in a Senate election the polling day in which was within 7 years before polling day in the relevant election—on the day on which the person was chosen or appointed under section 15;
- (e) in the case of a group—on the day on which the members made a request under section 168; and
- (f) in the case of a person or organisation to which subsection 305(1) or 305A(1) applies—at the end of 30 days after the polling day in the last general election or election of Senators for a State or Territory;

and ended 30 days after polling day in the election.

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:

- (a) the allotment of shares in a company;
- (b) the creation of a trust in property;
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;
- (e) the exercise by a person of a general power of appointment of property in favour of any other person; and
- (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the

person's own property and to increase the value of the property of any other person.

division, in relation to a State branch of a political party, includes a branch of the State branch of the political party.

election means an election of a member of the House of Representatives or an election of senators for a State or Territory.

election period, in relation to an election, means the period commencing on the day of issue of the writ for the election and ending at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election.

eligible vote means a vote in respect of which, by virtue of section 294, a payment under Division 3 may be made.

entitlement means an entitlement under section 294 in respect of an election.

entity means:

- (a) an incorporated or unincorporated body;
- (b) the trustee of a trust.

financial controller, in relation to an entity, means:

- (a) if the entity is a company—the secretary of the company;
- (b) if the entity is the trustee of a trust—the trustee;
- (c) in other cases—the person responsible for maintaining the financial records of the entity.

gift means any disposition of property made by a person to another person, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include:

- (a) a payment under Division 3; or
- (b) an annual subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person in respect of the person's membership of the party, branch or division.

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group means a group of 2 or more candidates nominated for election to the Senate who have their names grouped in the ballot-papers in accordance with section 168.

journal means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

Liberal Party means the political party that, at the commencement of this definition, was registered under Part XI as the **Liberal Party of Australia**.

polling day, in relation to an election, means the day fixed for polling in the election.

property includes money.

registered, in relation to an election, means registered, before the day of issue of the writ for the election, under Part XI.

registered industrial organisation means an organisation registered under Schedule 1B to the *Workplace Relations Act 1996* or under a law of a State or Territory concerning the registration of industrial organisations.

State branch, in relation to a political party, means a branch or division of the party that is organized on the basis of a particular State or Territory.

- (2) Where, under this Part, a claim is to be lodged, a notice is to be given or a return is to be furnished to the Electoral Commission, the claim, notice or return shall be taken to be so lodged, given or furnished if it is lodged at the principal office of the Electoral Commission in Canberra.
- (3) A reference in this Part to things done by or with the authority of a political party, a State branch of a political party or a division of a State branch of a political party shall, if the party, branch or division is not a body corporate, be read as a reference to things done by or with the authority of members or officers of the party, branch or division on behalf of the party, branch or division.
- (4) A reference in this Part to a political party, other than a reference to the endorsement of a candidate or group in an election, shall be read as not including a reference to a part of the political party.

- (4A) In relation to a political party that does not have State branches or that only carries on activities in one State or Territory:
- (a) a reference in another Division of this Part (other than Division 2) to a State branch of a political party is a reference to the party; and
 - (b) a reference to the agent of a State branch of a political party is:
 - (i) a reference to the agent of the party in respect of the relevant State or Territory; or
 - (ii) if the party does not have an agent in respect of that State or Territory—a reference to the agent of the party.
- (5) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money shall, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations.
- (6) For the purposes of this Part:
- (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate shall be deemed to be the same person; and
 - (b) the question whether a body corporate is related to another body corporate shall be determined in the same manner as the question whether a corporation is related to another corporation is determined under the *Corporations Act 2001*.
- (7) For the purposes of this Part, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.

287A Campaign committee to be treated as part of State branch of party

- (1) Divisions 4, 5 and 5A apply as if a campaign committee of an endorsed candidate or endorsed group were a division of the relevant State branch of the political party that endorsed the candidate or the members of the group.

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- (2) In subsection (1):

campaign committee, in relation to a candidate or group, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate or group in an election.

endorsed candidate means a candidate who is endorsed by a registered political party.

endorsed group means a group all of the members of which are endorsed by the same registered political party.

relevant State branch, in relation to a political party, means:

- (a) if the party has 2 or more State branches—the State branch of the party for the State or Territory in which the election is held; and
- (b) in any other case—the party.

287B Designated federal party

- (1) For the purposes of this Part, a *designated federal party* is a registered political party (other than the Liberal Party), where:
 - (a) there are 2 or more State branches of the party; and
 - (b) there is in force a choice under subsection (2) that the party be treated as a designated federal party for the purposes of this Part.
- (2) The registered officer of a registered political party may, on behalf of the party, give the Electoral Commission a written notice stating that the party chooses to be treated as a designated federal party for the purposes of this Part.
- (3) A choice under subsection (2) may be revoked at any time by the registered officer by written notice given to the Electoral Commission.
- (4) Despite subsection (3), a choice under subsection (2) must not be revoked during the period:
 - (a) beginning at the start of the polling day for an election; and
 - (b) ending on the 14th day after the day on which the writ for that election is returned.

Division 2—Agents

288 Agents of political parties

- (1) A political party shall have an agent for the purposes of this Part.
- (2) A political party that carries on activities in 2 or more States or Territories shall also have an agent for the purposes of this Part in respect of each of those States or Territories.
- (3) The agent of a political party in respect of a State or Territory in which the party has a State branch shall be appointed by the State branch.

288A Principal agents

- (1) For the purposes of Division 3, the political party registered as *Australian Democrats* may appoint a principal agent.
- (2) A principal agent is to be appointed by the registered officer of the registered political party. Written notification of this appointment is to be given to the Electoral Commission.
- (3) Where a principal agent is appointed under this section, he or she is:
 - (a) to receive any amount payable under section 299; and
 - (b) to report expenditure of funds received under section 299 as if the expenditure were electoral expenditure under section 309.
- (4) Subject to subsection (5), a principal agent is not to be taken to be an agent for the purposes of this Act.
- (5) A principal agent is to be taken to be an agent for the purposes of Division 2 other than sections 288, 289 and 292B.

289 Appointment of agents by candidates and groups

- (1) A candidate in an election (including a member of a group of candidates) may appoint a person to be the agent of the candidate, for the purposes of this Part, in relation to the election.

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- (2) Subject to subsection (2A), the members of a group of candidates in an election may appoint a person to be the agent of the group, for the purposes of this Part, in relation to the election.
- (2A) Where all the members of a group of candidates in a Senate election have been endorsed by the same registered political party, the agent of the State branch of the party organised on the basis of the State or Territory in which the election is to be held is the agent of the group, for the purposes of this Part, in relation to the election.
- (3) During any period during which there is no appointment in force under subsection (1) of an agent of a candidate, the candidate shall be taken to be his or her own agent for the purposes of this Part.
- (4) During any period during which there is no appointment in force under subsection (2) of an agent of a group, the candidate whose name is to appear first in the group in the ballot-papers shall be taken to be the agent of the group for the purposes of this Part.

290 Requisites for appointment

- (1) An appointment of an agent under section 288 or 289 has no effect unless:
 - (a) the person appointed is a natural person who has attained the age of 18 years;
 - (b) written notice of the appointment is given to the Electoral Commission:
 - (i) where the appointment is made by a political party or a State branch of a political party—by the party or branch, as the case may be; and
 - (ii) in any other case—by the candidate, or each member of the group, making the appointment;
 - (c) the name and address of the person appointed are set out in the notice; and
 - (d) the person appointed:
 - (i) has signed a form of consent to the appointment; and
 - (ii) has signed a declaration that he or she is eligible for appointment.

- (1A) A consent or declaration under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.
- (2) Where a person who is the agent of a political party, of a candidate or of a group is convicted of an offence against this Part in relation to a particular election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this Part for the purposes of any subsequent election.
- (3) An appointment (other than an appointment by a political party or a State branch of a political party) is not effective in relation to anything required by this Part to be done:
 - (a) in respect of a return under this Part in relation to an election;
or
 - (b) during a specified period after polling day in an election;
if notice of the appointment was given to the Commission after the close of nominations for the election.

291 Register of Party Agents

- (1) The Electoral Commission shall keep a register called the Register of Party Agents.
- (2) There shall be entered in the Register the name and address of every person appointed to be an agent of a political party for the purposes of this Part.

292 Effect of registration etc.

- (1) The appointment of an agent by a political party:
 - (a) takes effect on the entry of the name and address of the agent in the Register of Party Agents; and
 - (b) ceases to have effect if the name and address of the agent are removed from the Register.
- (2) The name and address of a person shall not be removed from the Register unless:
 - (a) the person gives to the Electoral Commission written notice that he or she has resigned the appointment as agent;
 - (b) the political party or State branch that appointed the person gives to the Electoral Commission written notice that the

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person has ceased to be an agent of the party and also gives notice under subsection 290(1) of the appointment of another person as agent of the party; or

- (c) the person is convicted of an offence against this Part.
- (3) If a person who is an agent of a political party dies, the party or the State branch by which the person was appointed shall, within 28 days after the death of the person, give to the Electoral Commission:
 - (a) written notice of the death; and
 - (b) notice under subsection 290(1) of the appointment of a person as agent in place of the first-mentioned person.
- (4) Where a person who is an agent of a political party is convicted of an offence against this Part, the party or State branch that appointed the person shall give notice under subsection 290(1) of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

292A Evidence of appointment

An entry in the Register of Party Agents is, for all purposes, conclusive evidence that the person described in the entry is the agent, for the purposes of this Part, of the political party named in the entry.

292B Responsibility for action when agent of party or branch dead or appointment vacant

Where:

- (a) Division 4, 5 or 5A imposes an obligation on the agent of a political party or of a State branch of the party; and
- (b) there is no agent of the party or branch, as the case may be; the obligation rests upon each member of the executive committee of the party or branch, and this Act applies to each such member as if the obligation rested upon that member alone.

292C Revocation of appointment of agent of candidate or group

- (1) A candidate or the members of a group may, by giving written notice to the Electoral Commission, revoke the appointment of a person as the agent of the candidate or group, as the case may be.
- (2) A notice under subsection (1) has no effect unless it is signed by the candidate or by each member of the group, as the case requires.

292D Notice of death or resignation of agent of candidate or group

If the agent of a candidate or group dies or resigns, the candidate or a member of the group shall, without delay, give to the Electoral Commission notice in writing of the death or resignation.

Division 3—Election funding

294 General entitlement to funds

- (1) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate in a House of Representatives election.
- (2) Subject to this Division, \$1.50 is payable for each first preference vote given for a candidate or group in a Senate election.
- (4) A reference in this section to a first preference vote shall be read as not including a reference to a vote that has been rejected as informal in the poll concerned.

297 Payment not to be made in certain circumstances

- (1) A payment under this Division shall not be made in respect of votes given in an election for a candidate unless the total number of eligible votes polled in the candidate's favour is at least 4% of the total number of eligible votes polled in favour of all of the candidates in the election.
- (2) A payment under this Division shall not be made in respect of votes given in an election for a group unless the total number of eligible votes polled in favour of the group is at least 4% of the total number of formal first preference votes cast in the election.

299 Making of payments

- (1) If an amount is payable under this Division in respect of votes given in an election or elections for a candidate or candidates endorsed by a registered political party, the Electoral Commission must:
 - (a) if:
 - (i) the party is the Liberal Party or a State branch of the Liberal Party; and
 - (ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State

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- or Territory in which the candidate or candidates stood for election;
- pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or
- (b) if paragraph (a) does not apply and the party is the Liberal Party or a State branch of the Liberal Party—pay the amount to the agent of the Liberal Party; or
- (ba) if:
- (i) the party is a designated federal party or a State branch of a designated federal party; and
 - (ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;
- pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or
- (bb) if:
- (i) paragraph (ba) does not apply; and
 - (ii) the party is a designated federal party or a State branch of a designated federal party;
- pay the amount to the agent of the designated federal party; or
- (c) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or
- (d) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election.
- (2) Where an amount is payable under this Division in respect of votes given in an election for a candidate, the Electoral Commission shall make the payment to the agent of the candidate.
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- (3) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall make the payment to the agent of the group.
- (4) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall:
- (a) if:
- (i) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party; and
- (ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election;
- pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or
- (aa) if:
- (i) paragraph (a) does not apply; and
- (ii) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party;
- pay the amount to the agent of the Liberal Party; or
- (aaa) if:
- (i) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party; and
- (ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election;
- pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of

- the designated federal party mentioned in subparagraph (ii);
or
- (aab) if:
- (i) paragraph (aaa) does not apply; and
 - (ii) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party;
- pay the amount to the agent of the designated federal party;
or
- (ab) if paragraphs (a), (aa), (aaa) and (aab) do not apply and the members of the group were endorsed by one registered political party:
- (i) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or
 - (ii) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the members of the group stood for election; or
- (ac) if the members of the group were endorsed by 2 registered political parties, one of those parties is the Liberal Party or a State branch of the Liberal Party, and a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the Liberal Party and the applicable State percentage of the

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- share to the agent of the State branch of the Liberal Party; and
- (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (ad) if paragraph (ac) does not apply, the members of the group were endorsed by 2 registered political parties, and one of those parties is the Liberal Party or a State branch of the Liberal Party:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the Liberal Party; and
 - (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (ae) if the members of the group were endorsed by 2 registered political parties, only one of those parties is a designated federal party or a State branch of a designated federal party, and a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
 - (ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay
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- the applicable federal percentage of the share to the agent of the designated federal party and the applicable State percentage of the share to the agent of the State branch of the designated federal party; and
- (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (af) if paragraph (ae) does not apply, the members of the group were endorsed by 2 registered political parties, and only one of those parties is a designated federal party or a State branch of a designated federal party:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
- (ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the designated federal party; and
- (iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or
- (b) if paragraphs (ac), (ad), (ae) and (af) do not apply and the members of the group were endorsed by 2 registered political parties:
- (i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organized on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and
- (ii) pay to each of those agents the share applicable to the agent in accordance with that agreement or that determination, as the case may be.

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- (5) An agreement referred to in subparagraph (4)(ac)(i), (ad)(i), (ae)(i), (af)(i) or (b)(i) does not have effect unless a copy of the agreement signed by the agents referred to in that subparagraph is lodged with the Electoral Commission before the 20th day after the polling day in the election.
- (5A) A notice may be lodged with the Electoral Commission for the purposes of this section requesting that payments that would otherwise be made to the agent of a party specified in the notice are to be paid instead to the agent of another party specified in the notice. In this subsection, *party* means a registered political party or a State branch of a registered political party.
- (5B) A notice under subsection (5A):
- (a) must be signed by the agent of each of the parties specified in the notice; and
 - (b) can only be withdrawn by a notice lodged with the Electoral Commission and signed by the agent of each of those parties.
- (5C) If a notice is lodged under subsection (5A), payments under this section must be made in accordance with the notice for any election for which the polling day is:
- (a) after the day on which the notice was lodged; and
 - (b) before the day (if any) on which the notice is withdrawn.
- (5D) Where the Electoral Commission is required to make a payment under this section in respect of an entitlement:
- (a) at least 95% of the entitlement (calculated on the basis of the votes counted as at the 20th day after the polling day in the election) must be paid as soon as possible after that 20th day; and
 - (b) any balance must be paid as soon as possible after the amount of the full entitlement is known.
- (5E) The agent of the Liberal Party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:
- (a) a specified percentage is the federal percentage applicable to a specified State branch of the Liberal Party; and

- (b) a specified percentage is the State percentage applicable to a specified State branch of the Liberal Party.
- (5F) For the purposes of subsection (5E), the sum of:
- (a) the federal percentage applicable to a particular State branch of the Liberal Party; and
 - (b) the State percentage applicable to the State branch of the Liberal Party;
- must be 100%.
- (5G) A notice under subsection (5E) has effect accordingly.
- (5H) The registered officer of a designated federal party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:
- (a) a specified percentage is the federal percentage applicable to a specified State branch of the party; and
 - (b) a specified percentage is the State percentage applicable to a specified State branch of the party.
- (5J) For the purposes of subsection (5H), the sum of:
- (a) the federal percentage applicable to a particular State branch of a designated federal party; and
 - (b) the State percentage applicable to the State branch of the party;
- must be 100%.
- (5K) A notice under subsection (5H) has effect accordingly.
- (6) Where a payment is made under this Division and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person in a court of competent jurisdiction.

Section 299A

299A Method of making payments

Payment by direct credit or by cheque

- (1) If the Electoral Commission is required to pay an amount under section 299 to the agent or principal agent of a party, the Electoral Commission must pay the amount:
 - (a) if the party has nominated a bank account for the purposes of this section—to the credit of that account; or
 - (b) otherwise—by cheque payable to the party.

Nominated bank account

- (2) A bank account nominated by a party for the purposes of this section must satisfy the following conditions:
 - (a) the account must be maintained by the party;
 - (b) the account must be with a bank;
 - (c) the account must be kept in Australia;
 - (d) the account name must consist of, or include:
 - (i) if the account is maintained by a registered political party—the name of the party as it appears in the Register of Political Parties; or
 - (ii) if the account is held by a State branch of a political party, and the branch is not a registered political party—the name of the State branch.

Name on cheque

- (3) For the purposes of this section, a cheque is taken not to be payable to a party unless:
 - (a) if the party is a registered political party—the cheque is made out:
 - (i) if a determination under subsection (4) is in force in relation to the name of the party—in the special abbreviation of the name of the party; or
 - (ii) otherwise—in the name of the party, being the name as it appears in the Register of Political Parties; or
 - (b) if the party is a State branch of a political party, and the branch is not a registered political party—the cheque is made out:

- (i) if a determination under subsection (4) is in force in relation to the name of the State branch—in the special abbreviation of the name of the State branch; or
- (ii) otherwise—in the name of the State branch.

Abbreviation of party names

- (4) The Electoral Commission may, by notice published in the *Gazette*, determine that a specified abbreviation of the name of a party is a **special abbreviation** of the name of the party for the purposes of this section.
- (5) The Electoral Commission must publish a copy of a notice under subsection (4) on the Internet.
- (6) Before making a determination under subsection (4) in relation to a party, the Electoral Commission must consult the party.
- (7) To avoid doubt, if a cheque under this section is made out in the special abbreviation of the name of a party, the cheque is as valid as it would have been if it had been made out in the name of the party.

Dispatch of cheques

- (8) To avoid doubt, if a cheque under this section is payable to a party, this section does not prevent the Electoral Commission from dispatching the cheque to the agent or principal agent of the party.

Definitions

- (9) In this section:

bank means a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

party means a registered political party or a State branch of a registered political party.

Section 300

300 Death of candidate

Where a candidate for whom eligible votes were given in an election dies, a payment under this Division in respect of the eligible votes given for the candidate may be made notwithstanding the death of the candidate and, if the candidate was not endorsed in the election by a registered political party and was his or her own agent for the purposes of this Part, the payment may be made to the legal personal representative of the candidate.

301 Death of member of group

Where a member of a group for whom eligible votes were given in a Senate election dies, a payment under this Division in respect of the eligible votes given for the group may be made notwithstanding the death of the member and, if:

- (a) the group was not a group the members of which were endorsed by a registered political party or by registered political parties; and
- (b) the candidate was the agent of the group for the purposes of this Part;

the payment may be made to another member of the group as if the other member were the agent of the group for the purposes of this Part.

302 Appropriation

Amounts payable under this Division are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

Division 4—Disclosure of donations

303 Interpretation

- (1) In this Division, unless the contrary intention appears:

by-election means an election of a member of the House of Representatives that is not part of a general election.

election means a general election or an election of Senators for a State or Territory.

- (2) A reference in this Division to a gift made to or received by a group shall be read as a reference to a gift made to or received by a member of the group for the benefit of all of the members of the group.
- (3) A reference in this Division to a gift made to or received by a candidate shall be read as not including a reference to a gift made to or received by the candidate for the benefit of a group of which the candidate is a member.

304 Disclosure of gifts

- (2) The agent of each person (including a member of a group) who was a candidate in an election or by-election shall, within 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the person during the disclosure period for the election.
- (3) Subject to subsection (3A), the agent of each group shall, within 15 weeks after the polling day in the election in relation to which the members of the group had their names grouped in the ballot-papers, furnish to the Electoral Commission a return, in an approved form, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the group during the disclosure period for the election.

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- (3A) In the case of a group all of whose members were endorsed by the same registered political party, a gift received by the group shall be taken to have been received:
- (a) if the party has 2 or more State branches—by the relevant State branch of the party; and
 - (b) in any other case—by the party.
- (4) For the purposes of this section, a reference to the relevant details, in relation to a gift, shall be read as a reference to the amount or value of the gift, the date on which the gift was made and:
- (a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association;
 - (b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
 - (c) in any other case—the name and address of the person who made the gift.
- (5) Notwithstanding subsections (2) and (3), the agent of a candidate or group is not required, in a return under subsection (2) or (3), as the case may be, to set out the relevant details of a gift if:
- (b) in the case of a gift made to a candidate (including a member of a group):
 - (i) the gift was made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election or a by-election; or
 - (ii) the amount or value of the gift is less than \$200; or
 - (c) in the case of a gift made to a group—the amount or value of the gift is less than \$1,000.

- (6) Subparagraph (5)(b)(ii) or paragraph (5)(c) does not apply in relation to a return under subsection (2) or (3), as the case may be, in relation to a gift made by a person if:
- (b) in the case of a gift made to a candidate (including a member of a group)—the sum of the amount or value of that gift and of all other gifts (not being gifts of the kind referred to in subparagraph (5)(b)(i)) made by that person to that candidate during the period to which the return relates is equal to or exceeds \$200; or
 - (c) in the case of a gift made to a group—the sum of the amount or value of that gift and of all other gifts made by that person to that group during the period to which the return relates is equal to or exceeds \$1,000.
- (8) Notwithstanding subsection (2), the agent of a person is not required, in a return under subsection (2), to set out the total amount or value of, or the number of persons who made, gifts of the kind referred to in subparagraph (5)(b)(i).

305 Expenditure incurred for political purposes

- (1) Where a person (not being a registered political party or a branch or division of a registered political party, an associated entity, a candidate or a member of a group), during the disclosure period in relation to an election, incurs expenditure for a political purpose, the person shall, before the expiration of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out the relevant details of all gifts received by the person at any time, being gifts:
- (a) the whole or a part of each of which was used by the person during that disclosure period to enable the person to incur expenditure for a political purpose or to reimburse the person for incurring expenditure for a political purpose; and
 - (b) the amount or value of each of which is equal to or exceeds \$1,000.
- (2) Subsection (1) does not apply to a person in respect of the disclosure period in relation to an election if the total amount of expenditure incurred by the person for political purposes during the disclosure period is less than \$1,000.

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(2A) For the purposes of this section, a person is taken to have incurred expenditure for a political purpose if, during the disclosure period in relation to an election, the person incurs the expenditure in relation to that election or any other election.

(3) In this section:

(a) a reference to the incurring of expenditure for a political purpose shall be read as a reference to the incurring of expenditure in connection with or by the way of:

(i) publication by any means (including radio or television) of electoral matter;

(ii) by any other means publicly expressing views on an issue in an election;

(iii) the making of a gift to a political party or a State branch of a political party;

(iv) the making of a gift to a candidate in an election or a group; or

(v) the making of a gift to a person on the understanding that that person or another person will apply, either directly or indirectly, the whole or a part of the gift as mentioned in subparagraph (i), (ii), (iii) or (iv); and

(b) the reference to the relevant details, in relation to a gift, is a reference to the amount or value of the gift, the date on which the gift was made and:

(i) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:

(A) the name of the association; and

(B) the names and addresses of the members of the executive committee (however described) of the association;

(ii) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:

(A) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(B) the title or other description of the trust fund or the name of the foundation, as the case requires; and

- (iii) in any other case—the name and address of the person who made the gift.
- (4) For the purposes of subsection (1), 2 or more gifts made, during the disclosure period in relation to an election, by the same person to another person are taken to be one gift.
- (5) This section does not apply in relation to a gift made before 1 July 1992 unless this section as in force before the commencement of the *Political Broadcasts and Political Disclosures Act 1991* would have applied in relation to the gift.

305A Donations to candidates etc.

- (1) If a person (other than a registered political party, a State branch of a registered political party, an associated entity, a candidate in an election or a member of a group) makes a gift, during the disclosure period in relation to an election, to:
 - (b) any candidate in an election or member of a group; or
 - (c) any person or body (whether incorporated or not) specified by the Electoral Commission by notice in the *Gazette*;the person must, within 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out the required details of all gifts made during the disclosure period.
- (2) A person need not make a return under subsection (1) if:
 - (b) the total amount or value of gifts referred to in paragraph (1)(b) was less than the amount prescribed for the purpose of this paragraph or, if no amount is prescribed, \$200; and
 - (c) the total amount or value of gifts referred to in paragraph (1)(c) was less than the amount prescribed for the purpose of this paragraph or, if no amount is prescribed, \$1,000.
- (3) If subsection (2) does not apply to a person but a paragraph of that subsection does apply, the return need not include the required details of gifts referred to in that paragraph.

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- (4) For the purposes of this section, the required details of a gift are its amount or value, the date on which it was made and:
- (a) if the gift was made to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the gift was purportedly made to a trust fund or paid into the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.
- (5) This section does not apply to a gift made before 1 July 1992.

305B Donations to political parties

- (1) If, in a financial year, a person makes gifts totalling \$1,500 or more to:
- (a) the same registered political party; or
 - (b) the same State branch of a registered political party;
- the person must furnish a return to the Electoral Commission within 20 weeks after the end of the financial year, covering all the gifts that the person made to that political party or branch during the financial year.
- (2) If a person makes a gift to any person or body with the intention of benefiting a particular registered political party or State branch of a registered political party, the person is taken for the purposes of subsection (1) to have made that gift directly to that registered political party or branch.
- (3) For each gift, the return must set out the following:
- (a) the amount of the gift;
 - (b) the date on which it was made;

- (c) the name and address of the registered political party or branch.
- (3A) The return must also set out the relevant details of all gifts received by the person at any time, being gifts used to make gifts the whole or part of which were used to make gifts totalling \$1,500 or more in a financial year to the same registered political party or the same State branch of a registered political party and the amount or value of each of which is equal to or exceeds \$1,000.
- (3B) Relevant details for the purpose of subsection (3A), in relation to a gift, are:
- (a) the amount or value of the gift; and
 - (b) the date on which the gift was made; and
 - (c) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
 - (d) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and
 - (e) in any other case—the name and address of the person who made the gift.
- (4) The return must be in the approved form.
- (5) This section does not apply to gifts made by any of the following:
- (a) a registered political party;
 - (b) a State branch of a registered political party;
 - (c) an associated entity;
 - (d) a candidate in an election;
 - (e) a member of a group.

Section 306

306 Certain gifts not to be received

- (1) It is unlawful for a political party or a State branch of a political party or a person acting on behalf of a political party or a State branch of a political party to receive a gift made to or for the benefit of the party or branch by another person, being a gift the amount or value of which is equal to or exceeds \$1,000, unless:
 - (a) the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a gift made to or for the benefit of the candidate or the group, as the case may be, being a gift the amount or value of which is equal to or exceeds:
 - (a) in the case of a gift made to a candidate—\$200; and
 - (b) in the case of a gift made to a group—\$1,000;unless the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.
- (2A) The references in subsections (1) and (2) to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association.
- (2B) A reference in subsection (1) or (2) to the name and address of a person making a gift is:
 - (a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and

- (b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to:
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and
 - (ii) the title or other description of the trust fund or the name of the foundation, as the case requires.
- (2C) For the purpose of subsection (2), a person who is a candidate in an election shall be taken to remain a candidate for 30 days after the polling day in the election.
- (2D) For the purpose of subsection (2), persons who constituted a group in an election shall be taken to continue to constitute the same group for 30 days after the polling day in the election.
- (3) For the purposes of this section, 2 or more gifts made by the same person to or for the benefit of a political party, a State branch of a political party, a candidate or a group shall be deemed to be one gift.
- (5) Where a person receives a gift that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:
 - (a) in the case of a gift to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be is a body corporate—the party or branch, as the case may be; or
 - (ii) in any other case—the agent of the party or branch, as the case may be; or
 - (b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

306A Certain loans not to be received

- (1) It is unlawful for a political party or a State branch of a political party or a person acting on behalf of a political party or a State branch of a political party to receive a loan of \$1,500 or more from

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a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).

- (2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a loan of \$1,500 or more from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).
- (3) The receiver of the loan must keep a record of the following:
 - (a) the terms and conditions of the loan;
 - (b) if the loan was received from a registered industrial organisation other than a financial institution:
 - (i) the name of the organisation; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the organisation;
 - (c) if the loan was received from an unincorporated association:
 - (i) the name of the organisation or association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association or organisation;
 - (d) if the loan was paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (e) in any other case—the name and address of the person or organisation.
- (4) For the purpose of subsection (2), a person who is a candidate in an election is taken to remain a candidate for 30 days after the polling day in the election.
- (5) For the purpose of subsection (2), persons who constituted a group in an election are taken to continue to constitute the same group for 30 days after the polling day in the election.
- (6) Where a person receives a loan that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the loan is payable by that person to the

Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:

- (a) in the case of a loan to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or
 - (ii) in any other case—the agent of the party or branch, as the case may be; or
 - (b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.
- (7) For the purposes of this section, if credit is provided on a credit card in respect of card transactions, the credit is to be treated as a separate loan for each transaction.
- (8) In this section:

credit card means:

- (a) any article of a kind commonly known as a credit card; or
- (b) any similar article intended for use in obtaining cash, goods or services on credit;

and includes any article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit.

financial institution means an entity which carries on a business that consists of, or includes, the provision of financial services or financial products and which is:

- (a) a bank; or
- (b) a credit union; or
- (c) a building society; or
- (d) any other entity registered under the Australian Financial Institutions Commission Codes as a special service provider; or

Note: See section 111AZB of the *Corporations Act 2001* for the Australian Financial Institutions Commission Codes.

- (e) an entity prescribed by the regulations for the purposes of this paragraph.

loan means any of the following:

Section 306B

- (a) an advance of money;
- (b) a provision of credit or any other form of financial accommodation;
- (c) a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount;
- (d) a transaction (whatever its terms or form) which in substance effects a loan of money.

306B Repayment of gifts where corporations wound up etc.

Where:

- (a) a political party, a candidate or a member of a group receives a gift from a corporation being a gift the amount of which is equal to or exceeds \$1,000; and
- (b) the corporation within a period concluding one year after making the gift has been wound up in insolvency or wound up by the court on other grounds;

an amount equal to the amount of the gift is payable by the political party to the liquidator and may be recovered by the liquidator as a debt due to the liquidator by action, in a court of competent jurisdiction against:

- (c) in the case of a gift to or for the benefit of a political party or a State branch of a political party:
 - (i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or
 - (ii) in any other case—the agent of the party or branch, as the case may be; or
- (d) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

Note 1: The gift received by the liquidator is an asset of the corporation to be distributed under the provisions of the *Corporations Act 2001*.

Note 2: This section applies to gifts made after the commencement of this provision.

307 Nil returns

- (1) Where no details are required to be included in a return under this Division in respect of a candidate, the return shall nevertheless be lodged and shall include a statement to the effect that no gifts of a kind required to be disclosed were received.
- (2) Where no details are required to be included in a return under this Division in respect of a group, the return shall nevertheless be lodged and shall include a statement to the effect that no gifts were received.

Division 5—Disclosure of electoral expenditure

308 Interpretation

- (1) In this Division, *electoral expenditure*, in relation to an election, means expenditure incurred (whether or not incurred during the election period) on:
 - (a) the broadcasting, during the election period, of an advertisement relating to the election; or
 - (b) the publishing in a journal, during the election period, of an advertisement relating to the election; or
 - (c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election; or
 - (d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
 - (e) the production of any material (not being material referred to in paragraph (a), (b) or (c)) that is required under section 328 or 332 to include the name and address of the author of the material or of the person authorizing the material and that is used during the election period; or
 - (f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period; or
 - (g) the carrying out, during the election period, of an opinion poll, or other research, relating to the election.
- (2) For the purposes of this Division, electoral expenditure incurred by or with the authority of a division of a State branch of a political party shall be deemed to have been incurred by that State branch.
- (3) A reference in this Division to a participant in an election shall be read as a reference to:
 - (a) a political party, a State branch of a political party, a division of a State branch of a political party or a candidate; or
 - (b) a person (not being a political party, a State branch of a political party, a division of a State branch of a political party

or a candidate) by whom or with the authority of whom electoral expenditure in relation to an election was incurred.

309 Returns of electoral expenditure

- (1) This section does not apply to electoral expenditure incurred by or with the authority of a registered political party or a State branch of a registered political party.
- (1A) Where electoral expenditure in relation to an election is incurred by or with the authority of members of a group all the members of which are endorsed by the same registered political party, this section applies as if the expenditure had been incurred by or with the authority of:
 - (a) if the party has 2 or more State branches—the relevant State branch of the party; and
 - (b) in any other case—the party.
- (2) The agent of each person who was a candidate in an election (not being a member of a group) shall, before the expiration of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of the candidate.
- (3) The agent of each group shall, before the expiration of 15 weeks after the polling day in an election in relation to which the members of the group have their names grouped in the ballot-papers, furnish to the Electoral Commission a return, in an approved form, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of members of the group.
- (4) Where electoral expenditure in relation to an election was incurred by or with the authority of a person and that expenditure was not incurred with the written authority of a registered political party, a State branch of a registered political party, an associated entity, a candidate in the election or a member of a group, the person shall, before the expiration of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out details of that electoral expenditure.

Section 310

- (5) A person is not required to furnish a return under subsection (4) in respect of an election if the total amount of the electoral expenditure incurred in relation to the election by or with the authority of the person does not exceed \$200.

310 Returns by broadcasters

- (1) Where an election has taken place, each broadcaster who, during the election period, broadcast an advertisement or advertisements relating to the election with the authority of a participant or participants in the election shall, before the expiration of 8 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out particulars of that advertisement or each of those advertisements, being particulars:
- (a) identifying the broadcasting service as part of which that advertisement or each of those advertisements was broadcast;
 - (aa) identifying the person at whose request the advertisement or each of those advertisements was broadcast;
 - (b) identifying the participant in the election with whose authority that advertisement or each of those advertisements was broadcast;
 - (c) specifying the date or dates on which, and the times between which, that advertisement or each of those advertisements was broadcast; and
 - (d) showing whether or not, on each occasion when that advertisement or each of those advertisements was broadcast, a charge was made by the broadcaster for the broadcasting of that advertisement or each of those advertisements and, where a charge was made, specifying the amount of the charge.
- (2) Where, in a return under subsection (1), the amount of a charge is specified by a broadcaster in relation to an advertisement, the broadcaster shall, in the return, state whether or not the charge is a charge at less than normal commercial rates having regard to the length of the advertisement and the day or days on which, and the times between which, the advertisement was broadcast.
- (4) A broadcaster who is required to make a return under this section in respect of an advertisement must retain the record made for the

purpose of the relevant provision until the end of the period of one month commencing on the day on which the return is furnished to the Electoral Commission.

- (5) The requirement of subsection (4) is in addition to the requirements of the relevant provision for the retention of such a record.
- (6) In subsections (4) and (5), *the relevant provision* means:
- (a) in relation to the Australian Broadcasting Corporation—section 79B of the *Australian Broadcasting Corporation Act 1983*; or
 - (b) in relation to the Special Broadcasting Service—section 70B of the *Special Broadcasting Service Act 1991*; or
 - (c) in any other case—clause 5 of Schedule 2 to the *Broadcasting Services Act 1992*.

311 Returns by publishers

- (1) Where an election has taken place, each publisher of a journal who, during the election period, published in the journal an advertisement or advertisements relating to the election with the authority of a participant or participants in the election shall, before the expiration of 8 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form, setting out particulars of that advertisement or each of those advertisements, being particulars:
- (a) identifying the journal in which that advertisement or each of those advertisements was published;
 - (aa) identifying the person at whose request the advertisement or each of those advertisements was published;
 - (b) identifying the participant in the election with whose authority that advertisement or each of those advertisements was published;
 - (c) specifying the date or dates on which that advertisement or each of those advertisements was published;
 - (d) identifying the page in the journal on which that advertisement or each of those advertisements was published and the space in the journal occupied by that advertisement or each of those advertisements; and

Section 311A

- (e) showing whether or not a charge was made by the publisher for the publication of that advertisement or each of those advertisements and, where a charge was made, specifying the amount of the charge.
- (2) Where, in a return under subsection (1), the amount of a charge is specified by a publisher in relation to an advertisement, the publisher shall, in the return, state whether or not the charge was a charge at less than normal commercial rates having regard to the space in the journal occupied by the advertisement and the nature of the journal.
- (3) A publisher is not required to furnish a return under subsection (1) in respect of an election if the total amount of the charge or charges made by the publisher in respect of the publication of the advertisement or advertisements referred to in that subsection and any other advertisement or advertisements relating to an election or elections that took place on the same day as the first-mentioned election does not exceed \$1,000.

311A Annual returns of income and expenditure of Commonwealth Departments

- (1) Subject to this section, the principal officer of each Commonwealth Department must attach a statement to its annual report setting out particulars of all amounts paid by, or on behalf of, the Commonwealth Department during the financial year to:
 - (a) advertising agencies;
 - (b) market research organisations;
 - (c) polling organisations;
 - (d) direct mail organisations; and
 - (e) media advertising organisations;and the persons or organisations to whom those amounts were paid.
- (2) Nothing in subsection (1) requires particulars of a payment made by a Commonwealth Department in a financial year to be included in a return if the value of the payment is less than \$1,500.

(3) The first return under this section need only contain particulars in relation to the period starting on the commencement of this section and ending on the next 30 June.

(4) In this section:

Commonwealth Department means:

- (a) a Department of State of the Commonwealth; or
- (b) a Department of the Parliament; or
- (c) an Agency (within the meaning of the *Public Service Act 1999*).

principal officer means:

- (a) in relation to a Department—the person holding, or performing the duties of, the office of Secretary of the Department; and
- (b) in relation to an Agency—the Agency Head (within the meaning of the *Public Service Act 1999*) of the Agency.

313 Nil returns

- (1) Where no electoral expenditure in relation to an election was incurred by or with the authority of a particular candidate or the members of a particular group, a return under this Division in respect of the candidate or group shall nevertheless be lodged and shall include a statement to the effect that no expenditure of that kind was incurred by or with the authority of the candidate or the members of the group.
- (2) If no electoral expenditure in relation to an election was incurred by or with the authority of a particular registered political party or State branch of a registered political party that endorsed a candidate in the election, a return under this Division in respect of the party or branch must nevertheless be lodged and must include a statement to the effect that no electoral expenditure was incurred in relation to the election by or with the authority of the party or branch.

Section 314

314 Two or more elections on the same day

(1) Where:

- (a) the polling at 2 or more elections took place on the same day;
and
- (b) a person would, but for this subsection, be required to furnish
2 or more returns under this Division relating to those
elections;

the person may, in lieu of furnishing those returns, furnish one
return, in an approved form, setting out the particulars that the
person would have been required to set out in those returns.

(2) Where:

- (a) a return is furnished by a person pursuant to subsection (1);
and
 - (b) particular electoral expenditure details of which are required
to be set out in the return relates to more than one election;
- it is sufficient compliance with this Division if the return sets out
details of the expenditure without showing the extent to which it
relates to any particular election.

Division 5A—Annual returns by registered political parties and associated entities

314AA Interpretation

- (1) In this Division:

amount includes the value of a gift, loan or or bequest.

314AB Annual returns by registered political parties

- (1) Subject to this Division, the agent of each registered political party and of each State branch of each registered political party must, within 16 weeks after the end of each financial year beginning on or after 1 July 1992, furnish to the Electoral Commission a return:
- (a) that is in an approved form; or
 - (b) that is constituted by the audited annual accounts of the registered political party or the State branch, in a form that is approved by the Electoral Commission.
- (2) A return under paragraph (1)(a) or (1)(b) must set out the following:
- (a) the total amount received by, or on behalf of, the party during the financial year, together with the details required by section 314AC;
 - (b) the total amount paid by, or on behalf of, the party during the financial year;
 - (c) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the party, together with the details required by section 314AE.

314AC Amounts received

- (1) If the sum of all amounts received by, or on behalf of, the party from a person or organisation during a financial year is \$1,500 or more, the return must include the particulars of that sum.
- (2) In calculating the sum, an amount of less than \$1,500 need not be counted.

Section 314AE

- (3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was received from an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

- (1) If the sum of all outstanding debts incurred by, or on behalf of, the party to a person or an organisation during a financial year is \$1,500 or more, the return must include the particulars of that sum.
- (2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:
 - (a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:
 - (i) the names and addresses of the trustees of the fund or of the foundation; and

- (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
- (c) in any other case—the name and address of the person or organisation.

314AEA Annual returns by associated entities

- (1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, setting out:
 - (a) the total amount received by, or on behalf of, the entity during the financial year, together with the details required by section 314AC; and
 - (b) the total amount paid by, or on behalf of, the entity during the financial year; and
 - (c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the entity, together with the details required by section 314AE.
- (2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).
- (3) If any amount required to be set out under paragraph (1)(b):
 - (a) was paid to or for the benefit of one or more registered political parties; and
 - (b) was paid out of funds generated from capital of the associated entity;the return must also set out the following details about each person who contributed to that capital after the commencement of this section:
 - (c) the name and address of the person;
 - (d) the total amount of the person's contributions to that capital, up to the end of the financial year.
- (4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.

Part XX Election funding and financial disclosure

Division 5A Annual returns by registered political parties and associated entities

Section 314AF

- (5) Sections 314AC and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of paragraphs 314AB(2)(a), (b) and (c) to a return for a registered political party.

314AF Returns not to include lists of party membership

Returns provided in accordance with this Division are not to include lists of party membership.

314AG Regulations

- (1) The regulations may require greater detail to be provided in returns than is required by this Division.
- (2) Without limiting subsection (1), the regulations may require that the total amounts referred to in section 314AB be broken down in the way specified in the regulations.
- (3) The regulations may reduce the amount of information to be provided in returns under section 314AEA.

Division 6—Miscellaneous

314A Interpretation

Except in section 318, a reference in this Division to a return under Division 4, 5 or 5A or to a return under this Part includes a reference to particulars under subsection 318(2).

315 Offences

- (1) Where a person fails to furnish a return that the person is required to furnish under Division 4, 5 or 5A within the time required by this Part, the person is guilty of an offence punishable, upon conviction, by a fine not exceeding:
 - (a) in the case of a return required to be furnished by the agent of a political party or of a State branch of a political party—\$5,000; or
 - (b) in any other case—\$1,000.
- (1A) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (2) Where a person:
 - (a) furnishes a return that is incomplete, being a return that the person is required to furnish under Division 4, 5 or 5A; or
 - (b) fails to retain records in accordance with section 317;the person is guilty of an offence punishable, upon conviction, by a fine not exceeding \$1,000.
- (2A) Strict liability applies to an offence against subsection (2).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.
- (3) Where the agent of a political party or of a State branch of a political party lodges a claim under Division 3, or furnishes a return that the agent is required to furnish under Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular, the agent is guilty of an offence punishable, upon conviction, by a fine not exceeding \$10,000.

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- (4) Where a person (not being the agent of a political party or of a State branch of a political party) lodges a claim under Division 3, or furnishes a return that the person is required to furnish under Division 4 or 5, that contains particulars that are, to the knowledge of the person, false or misleading in a material particular, the person is guilty of an offence punishable, upon conviction, by a fine not exceeding \$5,000.
- (5) Where a person is convicted of an offence against subsection (3) or (4), the court may, in addition to imposing a penalty under that subsection, order the person to refund to the Commonwealth the amount of any payment wrongfully obtained by the person under Division 3.
- (6) Where a court has made an order under subsection (5), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.
- (6A) A person shall not give to another person, for the purpose of the making by that other person of a claim under Division 3, information that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.
- Penalty: \$1,000.
- (7) A person shall not furnish to another person who is required to furnish a return under Division 4, 5 or 5A information that relates to the return and that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.
- Penalty: \$1,000.
- (8) Where:
- (a) a person is required to furnish a return under Division 4, 5 or 5A within a particular period; and
 - (b) the person fails to furnish the return within that period;
- the following provisions of this subsection have effect:
- (c) the obligation to furnish the return continues notwithstanding that that period has expired;

Section 315A

- (d) where the person is convicted of an offence that is constituted by failure to furnish the return within that period, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to furnish the return continues; and
 - (e) the penalty applicable to each separate and further offence is a fine not exceeding \$100.
- (9) Charges against the same person for any number of offences under paragraph (8)(d) may be joined in the same information or complaint.
 - (10) If a person is convicted of more than one offence under paragraph (8)(d), the court may impose one penalty in respect of all offences of which the person is so convicted but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.
 - (11) A prosecution in respect of an offence against a provision of this section (being an offence committed on or after the commencement of this subsection) may be started at any time within 3 years after the offence was committed.

315A Recovery of payments

- (1) An action in a court to recover an amount due to the Commonwealth under subsection 299(6) or 306(5) may be brought in the name of the Commonwealth by the Electoral Commissioner.
- (2) Any process in the action required to be served on the Commonwealth may be served on the Electoral Commissioner.
- (3) Nothing in this section is intended to limit the operation of section 61 or 63 of the *Judiciary Act 1903*.

316 Investigation etc.

- (1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

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prescribed person means a person whose name is included in a list in a report mentioned in subsection 17(2A).

- (2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.
- (2A) An authorised officer may, for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:
- (a) the agent or any officer of the political party; or
 - (aa) the financial controller of the associated entity or any officer of the associated entity; or
 - (b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;
- as the case may be, require the agent, financial controller, person or officer:
- (c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.
- (2B) If a notice under paragraph (2A)(a) requires an officer of a political party (other than the agent) to appear before an authorised officer under paragraph (2A)(d), then the agent of the political party is entitled:
- (a) to attend at the proceeding under paragraph (2A)(d); or
 - (b) to nominate another person in writing to attend on behalf of the agent.
- (2C) Failure of the agent or nominee to attend under subsection (2B) does not affect the powers of the authorised officer to conduct the proceeding under paragraph (2A)(d).
- (2D) Where a body corporate, unincorporated body or individual has made a gift or disposition of property of \$25,000 or more to a

registered political party or candidate, an authorised officer must conduct an investigation of that gift or disposition of property in accordance with this section.

- (3) Where an authorized officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention, or possible contravention, of section 315, or relating to matters that are set out in, or are required to be set out in, a claim or return under this Part, the authorized officer may, by notice served personally or by post on that person, require that person:
- (a) to produce, within the period and in the manner specified in the notice, such documents or other things as are referred to in the notice; or
 - (b) to appear, at a time and place specified in the notice, before the authorized officer to give evidence, either orally or in writing, and to produce such documents or other things as are referred to in the notice.

(3A) If:

- (a) an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things, or giving evidence, relating to whether an entity is, or was at a particular time, an associated entity; and
- (b) the person is, or has at any time been, the financial controller or an officer of the entity;

the authorised officer may, by notice served personally or by post on the person, require the person:

- (c) to produce, within the period and in the manner specified in the notice, such documents or other things as are specified in the notice; or
- (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, whether orally or in writing, and to produce the documents or other things specified in the notice.

The notice must not require the person to produce documents, or to appear, until after the end of the period of 14 days beginning on the day on which the notice was received, and must set out the person's right to request a review under subsection (3B).

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(3B) A person who is given a notice under subsection (3A) may request that the Electoral Commission review the decision to issue the notice. The request must be:

- (a) in writing; and
- (b) given to the Electoral Commission during the period of 14 days beginning on the day on which the notice was received.

(3C) The Electoral Commission must:

- (a) review the decision as soon as practicable after receiving a request under subsection (3B); and
- (b) affirm, vary or set aside the decision; and
- (c) notify the person in writing of its decision on the review.

(3D) If a person requests a review of a decision, the person is not taken to have refused or failed to comply with the notice to which the review relates at any time before the Electoral Commission has notified the person of its decision on the review.

(4) An authorized officer may require any evidence that is to be given to him or her in compliance with a notice under subsection (2A), (3) or (3A) to be given on oath or affirmation and for that purpose the authorized officer may administer an oath or affirmation.

(5) A person is guilty of an offence if the person refuses to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.

Penalty: \$1,000.

(5A) A person is guilty of an offence if the person fails to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.

Penalty: \$1,000.

(5B) Strict liability applies to an offence against subsection (5A).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(5C) Subsection (5) or (5A) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5C) (see subsection 13.3(3) of the *Criminal Code*).

- (6) A person shall not, in purported compliance with a notice under subsection (2A), (3) or (3A), give evidence that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (7) Where:

- (a) an authorized officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of section 315; and
- (b) the authorized officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed;

the authorized officer may make an application to a magistrate for the issue of a warrant under subsection (8).

- (8) Subject to subsection (9), where an application under subsection (7) is made by an authorized officer to a magistrate, the magistrate may issue a warrant authorizing the authorized officer or any other person named in the warrant, with such assistance as the officer or person thinks necessary and if necessary by force:

- (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
- (b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of section 315, being documents or other things of a kind described in the warrant; and
- (c) to seize any documents or other things of the kind referred to in paragraph (b).

- (9) A magistrate shall not issue a warrant under subsection (8) unless:

- (a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought;
- (b) the authorized officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate

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requires concerning the grounds on which the issue of the warrant is being sought; and

- (c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (10) Where a magistrate issues a warrant under subsection (8), the magistrate shall state on the affidavit furnished in accordance with subsection (9) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.
- (11) A warrant issued under subsection (8) shall:
- (a) include a statement of the purpose for which the warrant is issued, which shall include a reference to the contravention of section 315 in relation to which the warrant is issued;
 - (b) state whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;
 - (c) include a description of the kind of documents or other things authorized to be seized; and
 - (d) specify a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.
- (12) Where a document or other thing is seized by a person pursuant to a warrant issued under subsection (8):
- (a) the person may retain the document or other thing so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and
 - (b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person shall cause the document or other thing to be delivered to the person who appears to the first-mentioned person to be entitled to possession of the document or other thing.

317 Records to be kept

Where, on or after the commencement of Part 3 of the *Political Broadcasts and Political Disclosures Act 1991*, a person makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are, or could be, required

to be set out in a claim or return under this Part relating to an election, not being a record that, in the normal course of business or administration, would be transferred to another person, the first-mentioned person must retain that record for a period of at least 3 years commencing on the polling day in that election.

318 Inability to complete returns

- (1) Where a person who is required to furnish a return under Division 4, 5 or 5A considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may:
 - (a) prepare the return to the extent that it is possible to do so without those particulars;
 - (b) furnish the return so prepared; and
 - (c) give to the Electoral Commission notice in writing:
 - (i) identifying the return;
 - (ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars;
 - (iii) identifying those particulars;
 - (iv) setting out the reasons why he or she is unable to obtain those particulars; and
 - (v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person;and a person who complies with this subsection shall not, by reason of the omission of those particulars, be taken, for the purposes of subsection 315(2), to have furnished a return that is incomplete.
- (2) Where the Electoral Commission has been informed under paragraph (1)(c) or (3)(c) that a person can supply particulars that have not been included in a return, the Electoral Commission may, by notice in writing served on that person, require the person to furnish to the Electoral Commission, within the period specified in the notice and in writing, those particulars and, subject to subsection (3), the person shall comply with that requirement.

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- (3) If a person who is required to furnish particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person shall give to the Electoral Commission a written notice:
- (a) setting out the particulars (if any) that the person is able to give;
 - (b) stating that the person is unable to obtain some or all of the particulars;
 - (c) identifying the particulars the person is unable to obtain;
 - (d) setting out the reasons why the person considers he or she is unable to obtain those particulars; and
 - (e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—setting out the name and address of that other person and the reasons why he or she believes that that other person is able to give those particulars.
- (3A) A person who complies with subsection (3) shall not, because of the omission of particulars required under subsection (2), be taken, for the purpose of subsection 315(2), to have furnished a return that is incomplete.

318A Application of subsections 305(1) and 309(4) in certain cases

- (1) If subsection 305(1) or 309(4) applies to a person, the fact that the person's name is not included in a list of the kind mentioned in subsection 17(2A) does not affect that application.
- (2) Subsection 305(1) or 309(4) is not taken to apply to a person merely because the person's name is included in a list of the kind mentioned in subsection 17(2A).

319 Non-compliance with Part does not affect election

- (1) A failure of a person to comply with a provision of this Part in relation to an election does not invalidate that election.
- (2) Without limiting the generality of subsection (1), where:
 - (a) a political party endorsed a candidate in an election; and

- (b) the candidate was elected at the election;
any failure by the agent of the political party or by the agent of any State branch of the political party to comply with a provision of this Part in relation to the election does not invalidate the election of the candidate.
- (3) Without limiting the generality of subsection (1), if the agent of a candidate who is elected at an election fails to comply with a provision of this Part in relation to the election, that failure does not invalidate the election of the candidate.
- (4) Without limiting the generality of subsection (1), if the agent of a group, being a group one or more of the members of which is or are elected at an election, fails to comply with a provision of this Part in relation to the election, that failure does not invalidate the election of the member or members.

319A Amendment of claims and returns

- (1) Where the Electoral Commissioner is satisfied that a claim or return under this Part contains a formal error or is subject to a formal defect, the Commissioner may amend the claim or return to the extent necessary to correct the error or remove the defect.
- (2) A person who has lodged a claim or furnished a return under this Part may request the permission of the Electoral Commission to make a specified amendment of the claim or return for the purpose of correcting an error or omission.
- (2A) If the claim was lodged, or the return was furnished, by a person as the agent of a registered political party, the request under subsection (2) may be made either by:
- (a) the person who lodged the claim or return; or
 - (b) the person who is currently registered as the agent of the political party.
- (3) A request under subsection (2) shall:
- (a) be by notice in writing signed by the person making the request; and
 - (b) be lodged with the Electoral Commission.

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- (4) Where:
- (a) a request has been made under subsection (2); and
 - (b) the Electoral Commission is satisfied that there is an error in, or omission from, the claim or return to which the request relates;
- the Commission shall permit the person making the request to amend the claim or return in accordance with the request.
- (5) Where the Electoral Commission decides to refuse a request under subsection (2), the Commission shall give to the person making the request written notice of the reasons for the decision.
- (6) An officer authorised for the purpose by the Electoral Commission may exercise the power of the Commission under subsection (4).
- (7) Where an officer acting under subsection (6) decides to refuse a request under subsection (2):
- (a) subsection (5) applies as if the officer were the Electoral Commission; and
 - (b) the person who made the request may, by notice in writing lodged with the Commission within 28 days after notice of the refusal was given, request the Commission to review the decision.
- (8) Where a request is made under subsection (7), the Electoral Commission shall review the decision to which the request relates and make a fresh decision.
- (9) The amendment of a claim or return under this section does not affect the liability of a person to be convicted of an offence against subsection 315(2), (3) or (4) arising out of the lodging of the claim or the furnishing of the return.

320 Inspection and supply of copies of claims and returns

- (1) The Electoral Commission shall keep, at its principal office in Canberra, a copy of:
- (a) each claim under Division 3; and
 - (b) each return under Division 4 or 5; and
 - (c) each return under Division 5A.

- (2) Any person is entitled to peruse, at the principal office of the Electoral Commission in Canberra, a copy of a claim or return referred to in subsection (1).
- (2A) The Electoral Commission shall, on request, make a copy of a claim or return referred to in subsection (1) available for inspection by a person at the principal office of the Commission in the capital city of a State or in Darwin.
- (3) A person is entitled, on payment of a fee determined by the Electoral Commission to cover the cost of copying, to obtain a copy of a claim or return referred to in subsection (1).
- (4) A person is not entitled under this section to peruse, or obtain a copy of, a return under Division 4 or 5 (other than section 305B) until after the end of 24 weeks after the polling day in the election to which the return relates.
- (5) A person is not entitled under this section to peruse, or obtain a copy of:
 - (a) a return under section 305B; or
 - (b) a return under Division 5A;until February in the calendar year after the return is furnished.

321 Indexation

- (1) In this section:

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

relevant amount means the amount specified in subsection 294(1) or (2).

relevant period means the period of 6 months commencing on 1 July 1995 and each subsequent period of 6 months.

- (2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published in respect of

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that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

- (3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.
- (4) Where the factor ascertained under subsection (5) in relation to a relevant period is greater than 1, this Part has effect in relation to any election the polling day in which occurs during that relevant period as if for each relevant amount there were substituted an amount, calculated to 3 decimal places, ascertained by multiplying by that factor:
 - (a) in a case to which paragraph (b) does not apply—the relevant amount; or
 - (b) if, by virtue of another application or other applications of this section, this Part has had effect as if another amount was substituted, or other amounts were substituted, for the relevant amount—the substituted amount or the last substituted amount, as the case may be.
- (5) The factor to be ascertained for the purposes of subsection (4) in relation to a relevant period is the number, calculated to 3 decimal places, ascertained:
 - (a) if the relevant period commences on 1 July—by dividing the index number for the last preceding March quarter by the index number for the last preceding September quarter; or
 - (b) if the relevant period commences on 1 January—by dividing the index number for the last preceding September quarter by the index number for the last preceding March quarter.
- (6) Where an amount or factor, if calculated to 4 decimal places, would end with a number greater than 4, the amount or factor shall be taken to be the amount or factor calculated to 3 decimal places and increased by 0.001.

Part XXI—Electoral offences

322 Interpretation

In this Part, *relevant period*, in relation to an election under this Act, means the period commencing on the issue of the writ for the election and expiring at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election.

323 Officers and scrutineers to observe secrecy

A person who is, or has been, an officer or a scrutineer shall not, except for the purposes of Part XVII, either directly or indirectly, divulge or communicate any information with respect to the vote of an elector acquired by him or her in the performance of functions, or in the exercise of powers, under this Act or the regulations in a manner that is likely to enable the identification of the elector.

Penalty: \$1,000 or imprisonment for 6 months, or both.

324 Officers not to contravene Act etc.

A person who, being an officer, contravenes:

- (a) a provision of this Act for which no other penalty is provided; or
 - (b) a direction given to him or her under this Act;
- is guilty of an offence punishable on conviction by a fine not exceeding \$1,000.

325 Officers not to influence vote

- (1) A person who, being an officer other than an Antarctic officer, does any act or thing with the intention of influencing the vote of another person, is guilty of an offence punishable on conviction by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.

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- (2) A person who, being an Antarctic officer, during the relevant period in relation to an election under this Act, does any act or thing with the intention of influencing the vote of another person, is guilty of an offence punishable on conviction by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.
- (3) In this section, *Antarctic officer* means:
- (a) an Antarctic Returning Officer;
 - (b) an Assistant Antarctic Returning Officer; or
 - (c) a person appointed to act as an Antarctic Returning Officer or as an Assistant Antarctic Returning Officer.

325A Influencing votes of hospital patients etc.

- (1) A person who is the proprietor of, or an employee of the proprietor of, a hospital or nursing home shall not do anything with the intention of influencing the vote of a patient in, or resident at, the hospital or nursing home.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) The reference in subsection (1) to the proprietor of a hospital or nursing home includes a reference to a person who is a member or officer of a body corporate that is the proprietor of a hospital or nursing home.

326 Bribery

- (1) A person shall not ask for, receive or obtain, or offer or agree to ask for, or receive or obtain, any property or benefit of any kind, whether for the same or any other person, on an understanding that:
- (a) any vote of the first-mentioned person;
 - (b) any candidature of the first-mentioned person;
 - (c) any support of, or opposition to, a candidate, a group of candidates or a political party by the first-mentioned person;
 - (d) the doing of any act or thing by the first-mentioned person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector;
- or

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(e) the order in which the names of candidates nominated for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper; will, in any manner, be influenced or affected.

Penalty: \$5,000 or imprisonment for 2 years, or both.

- (2) A person shall not, with the intention of influencing or affecting:
- (a) any vote of another person;
 - (b) any candidature of another person; or
 - (c) any support of, or opposition to, a candidate, a group of candidates or a political party by another person;
 - (d) the doing of any act or thing by another person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or
 - (e) the order in which the names of candidates for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper;
- give or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

Penalty: \$5,000 or imprisonment for 2 years, or both.

- (3) This section does not apply in relation to a declaration of public policy or a promise of public action.

327 Interference with political liberty etc.

- (1) A person shall not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to an election under this Act.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) A person must not discriminate against another person on the ground of the making by the other person of a donation to a political party, to a State branch or a division of a State branch of a political party, to a candidate in an election or by-election or to a group:
- (a) by denying him or her access to membership of any trade union, club or other body;

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- (b) by not allowing him or her to work or to continue to work;
- (c) by subjecting him or her to any form of intimidation or coercion;
- (d) by subjecting him or her to any other detriment.

Penalty:

- (a) if the offender is a natural person—\$5,000 or imprisonment for 2 years, or both; or
 - (b) if the offender is a body corporate—\$20,000.
- (3) A law of a State or Territory has no effect to the extent to which the law discriminates against a member of a local government body on the ground that:
- (a) the member has been, is, or is to be, nominated; or
 - (b) the member has been, is, or is to be, declared;
- as a candidate in an election for the House of Representatives or the Senate.
- (4) In subsection (3):

member of a local government body means a member of a local governing body established by or under a law of a State or Territory.

328 Printing and publication of electoral advertisements, notices etc.

- (1) A person shall not print, publish or distribute or cause, permit or authorize to be printed, published or distributed, an electoral advertisement, handbill, pamphlet, poster or notice unless:
 - (a) the name and address of the person who authorized the advertisement, handbill, pamphlet, poster or notice appears at the end thereof; and
 - (b) in the case of an electoral advertisement, handbill, pamphlet, poster or notice that is printed otherwise than in a newspaper—the name and place of business of the printer appears at the end thereof.
- (1A) A person must not produce, publish or distribute or cause, permit or authorise to be produced, published or distributed an electoral video recording unless the name and address of the person who authorised the video recording appears at the end of it.

- (1AB) Subject to subsection (1AC), a person must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement that takes up the whole or part of each of 2 opposing pages of a newspaper unless, in addition to fulfilling the requirement under paragraph (1)(a) that the name and address of the person who authorised the electoral advertisement appear at the end of it, such name and address also appears on the other page, or the part of the other page, taken up by the electoral advertisement.
- (1AC) Subsection (1AB) does not apply to an advertisement of the kind referred to in that subsection:
- (a) that is contained within:
 - (i) a broken or unbroken border; or
 - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
 - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
 - (b) that is printed so that to read one or more lines of the text of the advertisement it is necessary to read across both pages.
- (2) A person who contravenes subsection (1), (1A) or (1AB) is guilty of an offence punishable on conviction:
- (a) if the offender is a natural person—by a fine not exceeding \$1,000; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$5,000.
- (3) Subsection (1) does not apply in relation to:
- (a) T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
 - (b) business or visiting cards that promote the candidacy of any person in an election for the Parliament; or
 - (c) letters and cards:
 - (i) that bear the name and address of the sender; and
 - (ii) that do not contain a representation or purported representation of a ballot-paper for use in an election for the Parliament; or
 - (d) an article included in a prescribed class of articles.

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(4) Nothing in paragraph (3)(a), (b) or (c) is taken, by implication, to limit the generality of regulations that may be made by virtue of paragraph (3)(d).

(5) In this section:

address of a person means an address, including a full street address and suburb or locality, at which the person can usually be contacted during the day. It does not include a post office box.

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

electoral video recording means a video recording that contains electoral matter.

329 Misleading or deceptive publications etc.

(1) A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.

(4) A person who contravenes subsection (1) is guilty of an offence punishable on conviction:

(a) if the offender is a natural person—by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both; or

(b) if the offender is a body corporate—by a fine not exceeding \$5,000.

(5) In a prosecution of a person for an offence against subsection (4) by virtue of a contravention of subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the matter or thing was likely to mislead an elector in relation to the casting of a vote.

Note: A defendant bears a legal burden in relation to the defence in subsection (5) (see section 13.4 of the *Criminal Code*).

(6) In this section, **publish** includes publish by radio or television.

330 False statements in relation to Rolls

A person who, on polling day, makes a statement to an elector, either orally or in writing, with respect to the enrolment of the elector that, to the knowledge of the first-mentioned person, is false or misleading in a material respect, is guilty of an offence punishable on conviction by a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months, or both.

331 Heading to electoral advertisements

- (1) Subject to subsection (2), where an advertisement in a journal contains electoral matter (whether or not the advertisement was inserted for consideration) the proprietor of the journal must cause the word “advertisement” (in letters not smaller than 10 point) to be printed as a headline to the advertisement:
 - (a) if the advertisement takes up one page or part of one page—on that page; or
 - (b) if the advertisement takes up the whole or part of each of 2 opposing pages—on each page.

Penalty: 5 penalty units.

- (2) Where an advertisement of the kind referred to in subsection (1) that takes up the whole or part of each of 2 opposing pages of a journal:
 - (a) is contained within:
 - (i) a broken or unbroken border; or
 - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the advertisement; or
 - (iii) a broken or unbroken line extending along, or partly along, each side of the advertisement; or
 - (b) is printed so that to read one or more lines of the text of the advertisement it is necessary to read across both pages;the proprietor of the journal must cause the word “advertisement” to be printed as a headline in letters not smaller than 10 point to the advertisement on one of the pages.

Penalty: \$500.

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- (3) In this section:

journal means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

334 Depiction etc. of certain electoral matter

- (1) A person shall not write, draw or depict any electoral matter directly on any roadway, footpath, building, vehicle, vessel, hoarding or place (whether it is or is not a public place and whether on land or water or in the air).

Penalty: \$1,000.

- (2) It is hereby declared that the application of subsection (1) extends in relation to an election although the writ for that election has not been issued.

- (2A) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Nothing in this section shall prohibit:

- (a) the writing, drawing or depicting of a sign on or at the office or committee room of a candidate or political party indicating only that the office or room is the office or committee room of the candidate or party, and specifying the name of the candidate, or the names of the candidates, or the name of the party, concerned; or
- (b) the projection, by means of a cinematograph or other similar apparatus, of electoral matter on to a screen in a public theatre, hall or premises used for public entertainment.

335 Cards in polling booth

- (1) A person shall not, except for the purposes of section 234, exhibit or leave in any polling booth any card or paper having thereon any direction or instruction as to how an elector should vote or as to the method of voting.

Penalty: \$500.

- (2) This section shall not apply to any official instructions exhibited by proper authority at any polling booth.

336 Signature to electoral paper

- (1) Every electoral paper which by this Act or the regulations has to be signed by any person shall be signed by that person with his or her personal signature.
- (2) Where a person who is unable to sign his or her name in writing makes a mark as his or her signature to an electoral paper, the mark shall be deemed to be his or her personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness:

Provided that nothing in this section shall authorize any person to sign any electoral paper by a mark or otherwise than in his or her own handwriting in cases where the Act or the regulations require that the electoral paper be signed in the persons' own handwriting.

- (3) A person shall not make the signature of any other person on an electoral paper.

Penalty: \$1,000.

- (4) Subsection (3) shall not affect the liability of any person to be proceeded against for forgery, but so that a person shall not be liable to be punished twice in respect of the same offence.
- (5) In this section, *electoral paper* includes a prescribed form and an approved form.

337 Witnessing electoral papers

- (1) A person shall not:
- (a) sign as witness any blank electoral paper; or
 - (b) sign as witness any electoral paper which has been wholly or partly filled up unless it has been signed by the person intended to sign it; or
 - (c) sign as witness any electoral paper unless he or she has seen the person, whose signature he or she purports to witness, sign it; or

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- (d) write on any electoral paper as his or her own name:
 - (i) the name of another person; or
 - (ii) any name not being his or her own name.

Penalty: Imprisonment for 12 months.

- (2) In this section, *electoral paper* includes a document in a prescribed or approved form or in a form in Schedule 1.

Note: The *Criminal Code Act 1995* contains defences for offences involving mistake or ignorance.

338 Unlawfully marking ballot-papers

Except where expressly authorized by this Act, a person (other than the elector to whom the ballot-paper has been lawfully issued) shall not mark a vote or make any mark or writing on the ballot-paper of any elector.

Penalty: \$1,000 or imprisonment for 6 months, or both.

339 Other offences relating to ballot-papers etc.

- (1) A person shall not:
 - (a) impersonate any person with the intention of securing a ballot-paper to which the impersonator is not entitled; or
 - (b) impersonate any person with the intention of voting in that other person's name; or
 - (c) fraudulently do an act that results in the destruction or defacement of any nomination paper or ballot-paper; or
 - (d) fraudulently put any ballot-paper or other paper into the ballot-box; or
 - (e) fraudulently take any ballot-paper out of any polling booth or counting centre; or
 - (g) supply ballot-papers without authority; or
 - (h) do an act that results in the unlawful destruction of, taking of, opening of, or interference with, ballot-boxes or ballot-papers.

Penalty: Imprisonment for 6 months.

(1A) A person is guilty of an offence if the person votes more than once in the same election.

Penalty: 10 penalty units.

(1B) An offence against subsection (1A) is an offence of strict liability.

(1C) A person is guilty of an offence if the person intentionally votes more than once in the same election.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

(1D) If a person votes more than once in the same election, the number of offences the person is guilty of under subsection (1A) or (1C) because of that voting is the number of times the person voted in that election less one.

Note: This subsection means that each act of voting (other than the one act of voting that would be legitimate) gives rise to a separate offence but it is not necessary to know which act of voting was the first one and therefore legitimate.

(2) A person is guilty of an offence if the person:

- (a) does an act; and
- (b) the act results in the defacement, mutilation, destruction or removal of any notice, list or other document affixed by, or by the authority of, any Divisional Returning Officer.

Penalty: \$500.

(5) In this section, a reference to a nomination paper includes a reference to a facsimile of a nomination paper.

340 Prohibition of canvassing near polling booths

(1) The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling booth, or in any public or private place within 6 metres of an entrance of a polling booth, namely:

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) inducing any elector not to vote for any particular candidate;
or
- (d) inducing any elector not to vote at the election; or

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- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

Penalty: \$500.

- (1A) A person commits an offence against this subsection if:
 - (a) on polling day, or on a day to which the polling is adjourned, the person engages in any of the following activities:
 - (i) canvassing for votes;
 - (ii) soliciting the vote of an elector;
 - (iii) inducing an elector not to vote for a particular candidate;
 - (iv) inducing an elector not to vote at the election; and
 - (b) the person engages in that activity 6 metres or more from an entrance of a polling booth; and
 - (c) the person uses any of the following to engage in that activity:
 - (i) a loud speaker;
 - (ii) a public address system;
 - (iii) an amplifier (whether fixed or mobile);
 - (iv) a broadcasting van;
 - (v) a sound system;
 - (vi) radio equipment;
 - (vii) any other equipment or device for broadcasting; and
 - (d) that activity is audible:
 - (i) within the polling booth; or
 - (ii) at an entrance of the polling booth; or
 - (iii) within 6 metres of an entrance of the polling booth.

Penalty: 5 penalty units.

- (1B) Subsection (1A) applies whether the person engages in the activity in a public place or a private place.

(2) Where:

- (a) a building used as a polling booth is situated in grounds within an enclosure; and
- (b) the appropriate Divisional Returning Officer causes to be displayed throughout the hours of polling at each entrance to

those grounds a notice signed by the Divisional Returning Officer stating that those grounds are, for the purposes of this section, part of the polling booth;
those grounds shall, for the purposes of this section, be deemed to be part of the polling booth.

341 Badges or emblems in polling booths

- (1) Any officer or scrutineer who wears or displays in a polling booth on polling day any badge or emblem of a candidate or political party shall be guilty of an offence.

Penalty: \$1,000.

- (2) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

342 Duty of witness to claim

The person witnessing any claim for age 17 enrolment or any claim for enrolment or transfer of enrolment shall, before signing the claim as witness, satisfy himself or herself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true unless he or she knows that the statements contained in the claim are true.

Penalty: \$1,000.

343 Failure to transmit claim

- (1) Any person who accepts, for transmission to a Divisional Returning Officer, the custody of, a claim for age 17 enrolment or a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the Divisional Returning Officer.

Penalty: \$1,000.

- (2) Strict liability applies to an offence against subsection (1).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

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345 Employers to allow employees leave of absence to vote

- (1) If an employee who is an elector notifies his or her employer before the polling day that the employee desires leave of absence for the purpose of voting at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow the employee leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding 2 hours as is necessary to enable the employee to vote at the election.
- (2) No employee shall under pretence that he or she intends to vote at the election, but without the *bona fide* intention of doing so, obtain leave of absence under this section.
- (3) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he or she is engaged.

Penalty:

- (a) if the offender is a natural person—\$500; or
- (b) if the offender is a body corporate—\$2,500.

346 Protection of the official mark

- (1) A person shall not, without lawful authority, proof whereof shall lie upon the person:
 - (a) make any official mark on or in any paper;
 - (b) be in possession of any paper bearing any official mark; or
 - (c) make use of or be in possession of any instrument capable of making on or in any paper an official mark.

Penalty: \$1,000.

- (2) A person who, without lawful authority, proof whereof shall lie upon the person, makes on or in any ballot-paper, or on or in any paper purporting to be a ballot-paper, an official mark, shall be deemed to have a forged ballot-paper, and shall be punishable accordingly.
- (3) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made, used, or in the

possession of any person without lawful authority (proof whereof shall lie upon the person) shall be forfeited to the Commonwealth, and may without warrant be seized by a member of the Australian Federal Police or a member of the police force of a State or Territory and destroyed or dealt with as prescribed.

- (4) In this section the words *official mark* mean any prescribed mark to be placed or made on or in any electoral paper, and include any mark so nearly resembling an official mark as to be likely to deceive.

347 Disorderly behaviour at meeting

- (1) Any person who, at any public meeting to which this section applies, acts in a disorderly manner with the intention of preventing the transaction of the business for which the meeting is held shall be guilty of an offence against this Act.

Penalty: \$500.

- (2) This section applies to any lawful public political meeting held in relation to any election of members of the Parliament between the date of the issue of the writ for the election and the date of the return of the writ.
- (3) The chairperson of any meeting to which this section applies may direct a member of the Australian Federal Police or of the police force of a State or Territory to remove from the room or building in which the meeting is being held any person who, in the opinion of the chairperson, is preventing the transaction of the business for which the meeting is held, and thereupon the member may take such steps as are necessary for the removal of the person from the room or building.
- (4) Any person:
- (a) who has been removed from a room or building in accordance with a direction given under subsection (3); or

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(b) whose removal from a room or building has been directed under subsection (3) and who has left that room or building; and who returns to that room or building while the meeting is in progress, shall be guilty of an offence.

Penalty for contravention of this subsection: \$1,000 or imprisonment for 6 months, or both.

(5) Subsection (4) does not apply if the person proves that he or she is authorised by the chairperson to return.

Note: A defendant bears a legal burden in relation to the matter in subsection (5) (see section 13.4 of the *Criminal Code*).

348 Control of behaviour at polling booths etc.

(1) A person shall not:

- (a) commit misconduct in premises to which this section applies;
- (b) while in such premises, disobey a lawful direction given by the person in charge of the premises; or
- (c) enter or remain in such premises without the permission of the person in charge of the premises.

Penalty: \$500.

(2) This section applies to the following premises:

- (a) a polling booth;
- (b) a counting centre;
- (c) premises in Australia at which an application may be made for a pre-poll vote.

(3) Paragraph (1)(c) does not apply to:

- (a) a polling official;
- (b) a scrutineer who is entitled to be on the premises; or
- (c) in the case of a polling booth—a voter who enters the booth for the purpose of voting and remains no longer than is reasonably necessary for that purpose.

(4) The person in charge of premises is:

- (a) in the case of a polling booth—the presiding officer or substitute presiding officer;

- (b) in the case of a counting centre—the Australian Electoral Officer, DRO or Assistant Returning Officer conducting the scrutiny at the centre; and
- (c) in the case of premises at which an application may be made for a pre-poll vote:
 - (i) if the premises are the office of a DRO—the DRO;
 - (ii) if the premises have been declared under subsection 200D(2), any pre-poll voting officer at those premises.
- (5) A person who contravenes subsection (1) may be removed from the premises by a police officer or by an authorised person.
- (6) In this section:

authorised person means a person acting at the request of the person in charge of premises.

counting centre means premises being used for the purpose of the preliminary scrutiny of declaration votes or the scrutiny of ballot-papers.

350 Defamation of candidate

- (1) A person is guilty of an offence if the person makes or publishes any false and defamatory statement in relation to the personal character or conduct of a candidate.

Penalty: \$1,000 or imprisonment for 6 months, or both.

Note: Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

- (1A) Subsection (1) does not apply if the person proves that he or she had a reasonable ground for believing, and did believe, the statement to be true.

Note: A defendant bears a legal burden in relation to the defence in subsection (1A) (see section 13.4 of the *Criminal Code*).

- (2) Any person who makes a false and defamatory statement in relation to the personal character or conduct of a candidate in contravention of this section may be restrained by injunction at the suit of the candidate aggrieved, from repeating the statement or any similar false and defamatory statement.

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351 Publication of matter regarding candidates

- (1) If, in any matter announced or published by any person, or caused by any person to be announced or published, on behalf of any association, league, organization or other body of persons, it is:
- (a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or
 - (b) expressly or impliedly advocated or suggested:
 - (i) in the case of an election of Senators for any State—that a voter should place in the square opposite the name of a candidate on a ballot-paper a number not greater than the number of Senators to be elected; or
 - (ii) in the case of an election of a Member of the House of Representatives—that that candidate is the candidate for whom the first preference vote should be given;
- that person shall be guilty of an offence.

Penalty:

- (a) if the offender is a natural person—\$1,000; or
 - (b) if the offender is a body corporate—\$5,000.
- (1A) Subsection (1) does not apply if the person proves that he or she is authorised in writing by the candidate to announce or publish the thing claimed, suggested or advocated.

Note: A defendant bears a legal burden in relation to the matter in subsection (1A) (see section 13.4 of the *Criminal Code*).

- (2) Where any matter, the announcement or publication of which by any person without the written authority of a candidate would be an offence against subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, any association, league, organization or other body of persons, every person who was an officer thereof at the time of that announcement or publication shall be deemed to be guilty of an offence against subsection (1).
- (3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, any association, league, organization or other body of persons, the matter shall, in

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the absence of proof to the contrary, be deemed to be announced or published by or on behalf, or with the support, of the association, league, organization or other body of persons.

Note: A defendant bears a legal burden in relation to proof to the contrary under subsection (3) (see section 13.4 of the *Criminal Code*).

- (4) Nothing in the foregoing provisions of this section shall apply to or in relation to any announcement or publication made or authorized by any *bona fide* political party or by any *bona fide* branch thereof respecting a candidate who, by public announcement, has declared his or her candidature to be a candidature on behalf of or in the interests of that party.
- (5) The person whose name and address appears at the end of any matter as the person who authorised the matter under section 328, in the absence of evidence to the contrary, is taken to have announced or published the matter, or caused it to be announced or published, for the purpose of this section.

Note: A defendant bears an evidential burden in relation to evidence to the contrary under subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

Part XXII—Court of Disputed Returns

Division 1—Disputed Elections and Returns

352 Interpretation

- (1) In this Part:

bribery or *corruption* means a contravention of section 326.

illegal practice means a contravention of this Act or the regulations.

undue influence means a contravention of section 327 of this Act or section 28 of the *Crimes Act 1914*.

- (2) For the purposes of this Part, a person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly knowingly concerned in, or party to, the contravention of a provision of this Act, the *Crimes Act 1914* or the regulations under this Act shall be deemed to have contravened that provision.

353 Method of disputing elections

- (1) The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise.
- (2) The choice of a person to hold the place of a Senator by the Houses of Parliament of a State or the appointment of a person to hold the place of a Senator by the Governor of a State under section 15 of the Constitution shall be deemed to be an election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.
- (3) The choice of a person to hold the place of a Senator for the Australian Capital Territory by the Legislative Assembly for the Australian Capital Territory or the appointment of a person to hold the place of such a Senator by the Chief Minister for the Australian Capital Territory under subsection 44(1) shall be deemed to be an

election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.

- (4) The choice of a person to hold the place of a Senator for the Northern Territory by the Legislative Assembly of the Northern Territory or the appointment of a person to hold the place of a Senator by the Administrator of the Northern Territory under subsection 44(2) shall be deemed to be an election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.

354 The Court of Disputed Returns

- (1) The High Court shall be the Court of Disputed Returns, and shall have jurisdiction either to try the petition or to refer it for trial to the Federal Court of Australia (the *Federal Court*).
- (2) When a petition has been so referred for trial, the Federal Court shall have jurisdiction to try the petition, and shall in respect of the petition be and have all the powers and functions of the Court of Disputed Returns.
- (3) The High Court may refer to the Federal Court part of a petition in respect of an election or return, being a part that consists of a question or questions of fact.
- (4) Subject to any directions by the High Court, if the High Court refers part of a petition to the Federal Court under subsection (3):
 - (a) the Federal Court has jurisdiction to deal with the part of the petition that has been referred; and
 - (b) the Federal Court has, in respect of the petition, the powers and functions of the Court of Disputed Returns, other than the powers referred to in paragraphs 360(1)(v), (vi), (vii) and (viii) and in section 379; and
 - (c) subject to any directions by the High Court, further proceedings in relation to the part of the petition are as directed by the Federal Court.

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- (5) The High Court may have regard to the findings of the Federal Court in dealing with the petition and may in its discretion receive further evidence on questions of fact.
- (6) The jurisdiction conferred by this section may be exercised by a single Justice or Judge.

355 Requisites of petition

Subject to section 357, every petition disputing an election or return in this Part called the petition shall:

- (a) set out the facts relied on to invalidate the election or return;
- (aa) subject to subsection 358(2), set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;
- (b) contain a prayer asking for the relief the petitioner claims to be entitled to;
- (c) be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat, or, in the case of the choice or the appointment of a person to hold the place of a Senator under section 15 of the Constitution or section 44 of this Act, by a person qualified to vote at Senate elections in the relevant State or Territory at the date of the choice or appointment;
- (d) be attested by 2 witnesses whose occupations and addresses are stated;
- (e) be filed in the Registry of the High Court within 40 days after:
 - (i) if the polling day for the election in dispute is not the polling day for any other election—the return of the writ for the election; or
 - (ii) if the polling day for the election in dispute is also the polling day for another election or other elections—the return of whichever of the writs for the election in dispute and that other election or those other elections is returned last; or
 - (iii) if the choice or the appointment of a person to hold the place of a Senator under section 15 of the Constitution

is in dispute—the notification of that choice or appointment.

356 Deposit as security for costs

When filing the petition, the petitioner must deposit with the Chief Executive and Principal Registrar, the Senior Registrar, or a Deputy Registrar, of the High Court \$500 as security for costs.

357 Petition by Electoral Commission

- (1) The Electoral Commission is entitled to file a petition disputing an election.
- (1A) The Electoral Commission shall file a petition disputing an election in relation to which a DRO has given notice under subsection 274(9C).
- (2) Paragraphs 355(c) and (d) do not apply in relation to a petition filed by the Electoral Commission disputing an election but such a petition shall be signed by the Electoral Commissioner for and on behalf of the Commission.

358 No proceedings unless requirements complied with

- (1) Subject to subsection (2), no proceedings shall be had on the petition unless the requirements of sections 355, 356 and 357 are complied with.
- (2) The Court may, at any time after the filing of a petition and on such terms (if any) as it thinks fit, relieve the petitioner wholly or in part from compliance with paragraph 355(aa).
- (3) The Court shall not grant relief under subsection (2) unless it is satisfied that:
 - (a) in spite of the failure of the petition to comply with paragraph 355(aa), the petition sufficiently identifies the specific matters on which the petitioner relies; and
 - (b) the grant of relief would not unreasonably prejudice the interests of another party to the petition.

359 Right of Electoral Commissioner to be represented

The Electoral Commission shall be entitled by leave of the Court of Disputed Returns to enter an appearance in any proceedings in which the validity of any election or return is disputed, and to be represented and heard thereon, and in such case shall be deemed to be a party respondent to the petition.

360 Powers of Court

- (1) The Court of Disputed Returns shall sit as an open Court and its powers shall include the following:
 - (i) To adjourn;
 - (ii) To compel the attendance of witnesses and the production of documents;
 - (iii) To grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot-papers) used at or in connexion with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents;
 - (iv) To examine witnesses on oath;
 - (v) To declare that any person who was returned as elected was not duly elected;
 - (vi) To declare any candidate duly elected who was not returned as elected;
 - (vii) To declare any election absolutely void;
 - (viii) To dismiss or uphold the petition in whole or in part;
 - (ix) To award costs;
 - (x) To punish any contempt of its authority by fine or imprisonment.
- (2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.
- (3) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election.

- (4) The power of the Court of Disputed Returns under paragraph (1)(ix) to award costs includes the power to order costs to be paid by the Commonwealth where the Court considers it appropriate to do so.

361 Inquiries by Court

- (1) The Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of any Roll.
- (2) Where the Court makes inquiries in relation to ballot-papers marked in Antarctica pursuant to the provisions of Part XVII, a statement of the particulars of the marking of the ballot-papers prepared by an Australian Electoral Officer under subsection 260(3) is, unless the Court otherwise orders, conclusive evidence of the particulars stated.

362 Voiding election for illegal practices etc.

- (1) If the Court of Disputed Returns finds that a successful candidate has committed or has attempted to commit bribery or undue influence, the election of the candidate shall be declared void.
- (2) No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.
- (3) The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void:
 - (a) on the ground of any illegal practice committed by any person other than the candidate and without the knowledge or authority of the candidate; or
 - (b) on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption;unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

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- (4) The Court of Disputed Returns must not declare that any person returned as elected was not duly elected, or declare any election void, on the ground that someone has contravened the *Broadcasting Services Act 1992* or the *Radiocommunications Act 1992*.

363 Court to report cases of illegal practices

When the Court of Disputed Returns finds that any person has committed an illegal practice, the Chief Executive and Principal Registrar of the High Court shall forthwith report the finding to the Minister.

363A Court must make its decision quickly

The Court of Disputed Returns must make its decision on a petition as quickly as is reasonable in the circumstances.

364 Real justice to be observed

The Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

364A Provision for Court to have regard to certain rejected ballot-papers

In making its decision on a petition, the Court may:

- (a) have regard to postal ballot-papers rejected at the preliminary scrutiny because of paragraph 7 of Schedule 3 if the Court is satisfied that the votes marked on the ballot-papers were recorded prior to the close of the poll; and
- (b) have regard to any declaration vote ballot-papers (including postal ballot-papers) rejected at the preliminary scrutiny if the Court is of the opinion that the ballot-papers should not have been rejected.

365 Immaterial errors not to vitiate election

No election shall be avoided on account of any delay in the declaration of nominations, the provision of certified lists of voters to candidates, the polling, or the return of the writ, or on account of the absence or error of or omission by any officer which did not affect the result of the election:

Provided that where any elector was, on account of the absence or error of, or omission by, any officer, prevented from voting in any election, the Court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did or did not affect the result of the election, admit any evidence of the way in which the elector intended to vote in the election.

365A Election not affected by failure of delivery arrangement

- (1) This section applies if a DRO or Assistant Returning Officer, under section 188, arranges for delivery of a certificate and ballot-paper instead of posting them.
- (2) The Court of Disputed Returns must not:
 - (a) declare that a person returned as elected was not duly elected;
or
 - (b) declare an election void;on the ground of a failure of the arrangement for delivery.
- (3) This section is not intended to imply anything about the effect of a failed delivery by post.

366 Errors relating to printing of party affiliations

The Court of Disputed Returns shall not declare that a person returned as elected was not duly elected, or declare an election void, by reason only that:

- (a) there was printed, on a ballot-paper, or ballot-papers, used in the election the name, or an abbreviation of the name, of a political party adjacent to the name of a candidate or group of candidates;
- (b) the name, or abbreviation of the name, of a political party so printed was misspelt or the name, or abbreviation of the

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name, of a political party so printed was otherwise inaccurate or incorrect;

- (c) there was not printed on ballot-papers used in the election, the name, or an abbreviation of the name, of a political party adjacent to the name of a candidate or group of candidates; or
- (d) an officer failed to comply with the provisions of section 210A or 214 in relation to the election.

367 Evidence that person not permitted to vote

On the trial of any petition the Court shall not admit the evidence of any witness that the witness was not permitted to vote in any election during the hours of polling on polling day unless the witness satisfies the Court:

- (a) that the witness claimed to vote, in the election, pursuant to that provision of this Act under which he or she was entitled or might be permitted to vote; and
- (b) that the witness complied with the requirements of this Act and the regulations made thereunder relative to voting by electors in so far as he or she was permitted so to do.

367A Disposal of petition where election cannot be decided

- (1) The Court shall give its decision on a petition filed by the Electoral Commission under subsection 357(1A), and shall make an order on the petition, within 3 months after the day on which the petition was filed.
- (2) In the case of a petition under subsection 357(1A), subsection 360(1) applies as if for subparagraphs (v), (vi), (vii) and (viii) the following subparagraphs were substituted:
 - “(v) to declare a candidate elected;
 - (vi) to declare the election absolutely void;”.

368 Decisions to be final

All decisions of the Court shall be final and conclusive and without appeal, and shall not be questioned in any way.

369 Copies of petition and order of Court to be sent to House affected, Governor-General and Speaker

The Chief Executive and Principal Registrar of the High Court must, forthwith after the filing of the petition, give to the Clerk of the House of Parliament affected by the petition a copy of the petition, and, forthwith after the trial of the petition, give to:

- (a) that Clerk; and
- (b) in the case of a general election or a House of Representatives election the writ for which was issued by the Governor-General—the Governor-General; and
- (c) in the case of a House of Representatives election the writ for which was not issued by the Governor-General—the Speaker;

a copy of the order of the Court.

370 Representation of parties before Court

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

371 Costs

The Court may award costs against an unsuccessful party to the petition.

372 Deposit applicable for costs

If costs are awarded to any party against the petitioner, the deposit shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

373 Other costs

All other costs awarded by the Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the High Court of Australia, and such order, certified by the Court, may be entered as a judgment of the High Court of Australia, and enforced accordingly.

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374 Effect of decision

Effect shall be given to any decision of the Court as follows:

- (i) If any person returned is declared not to have been duly elected, the person shall cease to be a Senator or Member of the House of Representatives;
- (ii) If any person not returned is declared to have been duly elected, the person may take his or her seat accordingly;
- (iii) If any election is declared absolutely void a new election shall be held.

375 Power to make Rules of Court

- (1) The Justices of the High Court or a majority of them may make Rules of Court not inconsistent with this Act for carrying this Part of this Act into effect and in particular for regulating the practice and procedure of the Court the forms to be used and the fees to be paid by parties.

Note: Section 86 of the *Judiciary Act 1903* provides that certain provisions of the *Legislative Instruments Act 2003* apply, with modifications, to rules of court made by the Court. Section 88 of the *Judiciary Act 1903* provides that regulations may be made modifying and adapting certain provisions of the *Legislative Instruments Act 2003* in their application to the Court.

375A Right of Electoral Commission to have access to documents

Unless the Court orders otherwise, the filing of a petition does not deprive the Electoral Commission of any right to have access to a document for the purposes of the performance of its functions.

Division 2—Qualifications and vacancies

376 Reference of question as to qualification or vacancy

Any question respecting the qualifications of a Senator or of a Member of the House of Representatives or respecting a vacancy in either House of the Parliament may be referred by resolution to the Court of Disputed Returns by the House in which the question arises and the Court of Disputed Returns shall thereupon have jurisdiction to hear and determine the question.

377 President or Speaker to state case

When any question is referred to the Court of Disputed Returns under this Part, the President if the question arises in the Senate, or the Speaker if the question arises in the House of Representatives, shall transmit to the Court of Disputed Returns a statement of the question upon which the determination of the Court is desired, together with any proceedings, papers, reports, or documents relating to the question in the possession of the House in which the question arises.

378 Parties to the reference

The Court of Disputed Returns may allow any person who in the opinion of the Court is interested in the determination of any question referred to it under this Part to be heard on the hearing of the reference, or may direct notice of the reference to be served on any person, and any person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

379 Powers of Court

On the hearing of any reference under this Part the Court of Disputed Returns shall sit as an open Court and shall have the powers conferred by section 360 so far as they are applicable, and in addition thereto shall have power:

- (a) to declare that any person was not qualified to be a Senator or a Member of the House of Representatives;

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- (b) to declare that any person was not capable of being chosen or of sitting as a Senator or a Member of the House of Representatives; and
- (c) to declare that there is a vacancy in the Senate or in the House of Representatives.

380 Order to be sent to House affected

After the hearing and determination of any reference under this Part the Chief Executive and Principal Registrar of the High Court shall forthwith forward to the Clerk of the House by which the question has been referred a copy of the order or declaration of the Court of Disputed Returns.

381 Application of certain sections

The provisions of sections 364, 368, 370, 371, 373, 374 and 375 shall apply so far as applicable to proceedings on a reference to the Court of Disputed Returns under this Part.

Part XXIII—Miscellaneous**381A Extension of time for acts by officers**

Where:

- (a) an officer is required by a provision of this Act or the regulations to do an act;
- (b) the officer refuses or fails to do the act at the time, or within the period, required by that provision;

the Commission may determine that the act may be done within such further time, not exceeding 48 hours, as the Commission fixes.

383 Injunctions

- (1) Where a person has engaged, is engaging or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of, or an offence against, this Act or any other law of the Commonwealth in its application to elections, the Federal Court of Australia (the *Federal Court*) may, on the application of:
 - (a) in a case where the conduct relates to an election—a candidate in the election; or
 - (b) in any case—the Electoral Commission;grant an injunction restraining the first-mentioned person from engaging in the conduct and, if in the opinion of the Federal Court it is desirable to do so, requiring that person to do any act or thing.
- (2) Where:
 - (a) a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and
 - (b) the refusal or failure was, is, or would be, a failure to comply with, or an offence against, this Act or any other law of the Commonwealth in its application to elections;the Federal Court may, on the application of:
 - (c) in a case where the refusal or failure relates to an election—a candidate in the election; or

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- (d) in any case—the Electoral Commission;
grant an injunction requiring the first-mentioned person to do that act or thing.
- (3) Where an application is made to the Federal Court for an injunction under subsection (1), the Federal Court may, if in the opinion of the Federal Court it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in that subsection pending the determination of the application.
- (4) The Federal Court may discharge or vary an injunction granted under subsection (1), (2) or (3).
- (5) Where an application is made to the Federal Court for the grant of an injunction restraining a person from engaging in conduct of a particular kind, the power of the Federal Court to grant the injunction may be exercised:
- (a) if the Federal Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Federal Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or
 - (b) if it appears to the Federal Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.
- (6) Where an application is made to the Federal Court for the grant of an injunction requiring a person to do a particular act or thing, the power of the Federal Court to grant the injunction may be exercised:
- (a) if the Federal Court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the Federal Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or
 - (b) if it appears to the Federal Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the

person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

- (7) Where the Electoral Commission makes an application to the Federal Court for the grant of an injunction under this section, the Federal Court shall not require the Electoral Commission or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.
- (10) The powers conferred on the Federal Court under this section are in addition to, and not in derogation of, any other powers of the Federal Court, whether conferred by this Act or otherwise.

384 Prosecution of offences

- (1) Subject to subsection (2), an offence against subsection 315(3) or section 326 is an indictable offence.
- (2) A court of summary jurisdiction may hear and determine proceedings in respect of an offence referred to in subsection (1) if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.
- (3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against subsection 315(3) or section 326, the penalty that the court may impose is:
 - (a) in the case of an offence against subsection 315(3)—a fine not exceeding \$5,000; or
 - (b) in the case of an offence against section 326—a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months, or both.

385 Certificate evidence

On any prosecution under this Act the certificate of the Electoral Commissioner, Australian Electoral Officer, or Divisional Returning Officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be evidence of the matter stated.

Section 385A

385A Evidence of authorship or authorisation of material

- (1) In proceedings for an offence against this Act:
- (a) an electoral advertisement, handbill, pamphlet, notice or video recording that includes a statement that it was authorised by a specified person is admissible as evidence of that fact; and
 - (b) a printed electoral advertisement, handbill, pamphlet or notice that includes a statement that a specified person or firm was the printer is admissible as evidence of that fact; and
 - (c) a newspaper, circular, pamphlet or “dodger” containing an article, or part of an article, containing electoral matter that includes a name purporting to be the author’s name is admissible as evidence that the person named is the author of the article.
- (2) In this section:

article means an article, report, letter or other matter to which section 332 applies.

electoral advertisement, handbill, pamphlet or notice and *electoral video recording* have the same meaning as in section 328.

386 Disqualification for bribery and undue influence

Any person who:

- (a) is convicted of an offence against:
 - (i) section 326 or 327 of this Act or section 28 of the *Crimes Act 1914*; or
 - (ii) an offence against section 11.1 of the *Criminal Code* that relates to an offence referred to in subparagraph (i);or
- (b) is found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence, within the meaning of Part XXII, when a candidate;

shall, during a period of 2 years from the date of the conviction or finding, be incapable of being chosen or of sitting as a Member of either House of the Parliament.

387 Electoral matters to be sent free by post

All electoral papers provided for by this Act may be transmitted through the post free of charge to any elector or person claiming to be an elector, subject to the regulations in force under the *Postal Services Act 1975*, and all papers so transmitted to an elector, if duly addressed, shall, on proof of posting, unless the contrary be shown, be deemed to have been duly served on and received by the elector to whom they were addressed on the day when in the ordinary course of post they should have been received at the elector's address.

387A Service of process by mail

For the purposes of proceedings for an offence under section 245, process is taken to be served on a person if it is delivered by mail to the person's latest known address.

388 Averments deemed to be proved

In any prosecution in a court of summary jurisdiction in respect of a contravention of the provisions of this Act or the regulations relating to compulsory enrolment or compulsory voting, instituted by an officer or by any person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

389 Defendant may be called upon to give evidence

Where any person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment and any proceedings arise in any court of competent jurisdiction in respect of such claim for enrolment or transfer of enrolment the person may be called upon to give evidence upon oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

Section 390

390 Production of claims for enrolment etc.

- (1) A person who is, or has been, an officer shall not, except for the purposes of this Act, be required:
 - (a) to produce in court a claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act; or
 - (b) to divulge or communicate to a court any matter or thing in relation to a claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act, being a matter or thing that has come under the person's notice in the performance of duties or functions under this Act.
- (2) In this section, *officer* includes any person performing duties, or exercising powers or functions, under or in relation to this Act.

390A Claims for enrolment etc. not to be subject to warrants

- (1) A warrant issued under section 10 of the *Crimes Act 1914* does not authorise the seizure of a claim for enrolment or transfer of enrolment in the possession of the Electoral Commission or of an officer.
- (2) In this section:

claim for enrolment includes a provisional claim for enrolment.

officer includes any person performing duties, or exercising powers or functions, under or in relation to this Act.

391 Record of claims for enrolment etc.

- (1) A claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act may, with the approval of the Australian Electoral Officer or, in the case of a claim relating to the Australian Capital Territory, the Electoral Commissioner, be destroyed if a record of the particulars contained in the claim is made and kept by microfilm or microfiche or in any other permanent form approved by the Australian Electoral Officer or Electoral Commissioner, as the case may be.

- (2) A record made and kept under subsection (1) of particulars contained in a claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment is admissible in evidence in any proceeding and is *prima facie* evidence of any such particular.

392 Forms

- (1) Strict compliance with the forms in Schedule 1 shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.
- (2) The regulations may provide:
- (a) that a form in Schedule 1 be altered as specified in the regulations; or
 - (b) that a form be used in place of a form in Schedule 1.
- (2A) Where regulations have been made in relation to a form in Schedule 1, a provision of this Act that refers to the form shall be taken to refer:
- (a) if the regulations provide that the form be altered, to the form so altered; and
 - (b) if the regulations provide that another form be used in place of the form, to that other form.
- (3) The regulations may prescribe combined forms containing the substance of any 2 or more forms to the intent that the combined form may be used in lieu of any of those forms.
- (4) The regulations may permit the use of any repealed form for any prescribed period, notwithstanding that a new form has been prescribed in lieu of it, and without any attestation or witnessing further than is provided for in the repealed form.
- (5) In subsection (4) *repealed form* includes:
- (a) a form prescribed under any Act repealed by this Act and in force at the commencement of this Act; and
 - (b) a form prescribed by any regulations made under this Act and subsequently repealed.

Section 393A

393A Preservation of documents

- (1) In this section, *electoral documents* includes:
 - (a) ballot-papers; and
 - (b) certified lists of voters; and
 - (c) certified copies of the Roll; and
 - (d) declarations; and
 - (e) postal vote certificates; and
 - (f) pre-poll vote certificates; and
 - (g) lists prepared under section 245.
- (2) An Australian Electoral Officer is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of ballot-papers transmitted to him or her in accordance with paragraph 273(5)(f) until the ballot-papers are destroyed.
- (3) The DRO for a Division is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of electoral documents used in the Division in connection with an election until the documents are destroyed.
- (4) An officer who conducts a scrutiny shall, after the completion of the scrutiny, parcel up and seal all electoral documents dealt with or used in the scrutiny.
- (5) Each Assistant Returning Officer shall send to the DRO, in parcels fastened and sealed, all electoral documents used in an election in that portion of the Division for which he or she was appointed.
- (6) A DRO may open a parcel sent to the DRO by an Assistant Returning Officer.
- (7) Material removed from a parcel shall:
 - (a) be retained by the DRO; or
 - (b) be dealt with according to the directions of the Electoral Commissioner.
- (8) When the purpose for which material was removed from a parcel has been satisfied, the DRO shall:
 - (a) as soon as practicable, replace the material in the parcel and refasten and reseal the parcel; and

- (b) write on the covering of the parcel a notation indicating that the parcel has been opened by the DRO and specifying the purpose for which it was opened.
- (9) A DRO who opens a parcel shall not mark or alter, or permit any other person to mark or alter, a document removed from the parcel.
- (10) Subject to Part XXII, the Electoral Commissioner may direct that electoral documents be destroyed if:
 - (a) not less than 6 months have elapsed since the declaration of the poll in the election in which the documents were used; and
 - (b) the documents are no longer required by the Electoral Commission for the performance of its functions.

394 No State referendum or vote to be held on polling day

- (1) On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election or referendum or vote of the electors of a State or part of a State shall, without the authority of the Governor-General, be held or taken under a law of the State.
- (2) In this section:

State includes:

 - (a) the Australian Capital Territory; and
 - (b) the Northern Territory; and
 - (c) Norfolk Island.

395 Regulations

The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and in particular:

- (a) prescribing penalties not exceeding \$500 for any contravention of any regulation made in pursuance of this Act;

Section 395

- (b) prescribing the procedure in relation to the imposition and recovery of penalties for offences against the compulsory enrolment or compulsory voting provisions of this Act;
- (c) the grounds upon which postal ballot-papers are to be rejected as informal; and
- (d) requiring electors who are registered in accordance with section 185 as general postal voters for a Division to notify the Divisional Returning Officer for the Division of any change in address or of any other circumstances relevant to the elector's registration under that section as a general postal voter for the Division.

Schedule 1—Forms

Section 152

FORM A

COMMONWEALTH OF AUSTRALIA

To _____ the Australian Electoral Officer for the State of
[here insert name of State].

GREETING.

We command you to cause election to be made according to law of *[here insert number]*
 Senators for our State of *[here insert name of State]* to serve in the Senate of the Parliament of the
 Commonwealth of Australia. And we appoint the _____ day of _____ 20____
 as the day for the close of the Rolls. And we appoint the _____ day of _____
 20____, at twelve o'clock noon to be the day and time before which nominations of Senators at and
 for the said election are to be made. And we appoint the _____ day of _____
 20____, to be the day on which the poll is to be taken in the event of the said election being
 contested. And we command you to certify the names of the Senators elected and to return this
 our writ with the certificate attached to our Governor in and over our said State on or before the
 day of _____ 20____.

Witness *[here insert the title of the Governor of the State issuing the writ]* at *[here insert
 place]* in our said State the _____ day of _____ in the year of our
 Lord Two thousand and _____

Section 152

FORM AA

COMMONWEALTH OF AUSTRALIA

To _____ the Australian Electoral Officer for the Territory
of [*here insert name of Territory*].

GREETING.

We command you to cause election to be made according to law of 2 Senators for our Territory of [*here insert name of Territory*] to serve in the Senate of the Parliament of the Commonwealth of Australia from and after the date of their election. And we appoint the _____ day of _____ 20____ as the day for the close of the Rolls. And we appoint the _____ day of _____ 20____, at twelve o'clock noon to be the day and time before which nominations of Senators at and for the said election are to be made. And we appoint the _____ day of _____ 20____, to be the day on which the poll is to be taken in the event of the said election being contested. And we command you to certify the names of the Senators elected and to return this our writ with the certificate attached to our Governor-General in and over our said Commonwealth of Australia on or before the _____ day of _____ 20____.

Witness [*here insert the Governor-General's title*] at [*here insert place*] the
day of _____ in the year of our Lord Two thousand and _____

Section 152

FORM B

Writ for the Election of [here insert members or a member, as the case requires,] of the House of Representatives.

COMMONWEALTH OF AUSTRALIA

To _____, Electoral Commissioner.
GREETING.

We command you that you cause *[here insert elections or election, as the case requires]*, to be made according to law of *[here insert Members of the House of Representatives or one Member of the House of Representatives for the Electoral Division of [here insert name of Division], as the case requires]*, to serve in the Parliament of our Commonwealth of Australia and we appoint the following dates for the purposes of the said, *[elections or election as the case requires]*

1. For the close of the Rolls _____ the _____ day of _____ 20 ____ .
2. For nomination _____ the _____ day of _____ 20 ____ .
3. For taking the poll at the different polling places in the event of the election being contested _____ the _____ day of _____ 20 ____ .
4. For the return of the writ on or before _____ the _____ day of 20 ____ .

Witness *[here insert the Governor-General's title or Speaker's title, as the case requires]* at *[here insert place]* the _____ day of _____ in the year of our Lord Two thousand and _____

I, the candidate named above, state that:

- | | Please tick [<input checked="" type="checkbox"/>] | |
|--|---|---------------------------------|
| • I am an Australian citizen | Yes [<input type="checkbox"/>] | No [<input type="checkbox"/>] |
| • I am at least 18 years of age | Yes [<input type="checkbox"/>] | No [<input type="checkbox"/>] |
| • I am an elector or qualified to be an elector | Yes [<input type="checkbox"/>] | No [<input type="checkbox"/>] |
| • I am not, by virtue of section 44 of the Constitution,
incapable of being chosen or of sitting as a Senator | Yes [<input type="checkbox"/>] | No [<input type="checkbox"/>] |

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

I wish my Christian or given names to appear on the ballot-paper in the form shown above.

[Signature of candidate]

Section 166

FORM CA
Nomination of a Senator

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the person named below as a Senator for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

Dated 20 .

[*Signature*]

Candidate

Name of candidate as enrolled		Form of Christian or given names to appear on ballot-paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

- | | |
|---|---|
| | Please tick [<input checked="" type="checkbox"/> ,] |
| • I am an Australian citizen | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am at least 18 years of age | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am an elector or qualified to be an elector | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

I wish my Christian or given names to appear on the ballot-paper in the form shown above.

[*Signature of candidate*]

Section 166

FORM CB**Nomination of Senators**

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

We, electors on the electoral roll for the above [State/Territory] and entitled to vote at the election of Senators for that [State/Territory], hereby nominate the persons named below as Senators for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

Dated 20 .

Nominators

Surname or family name	Christian or given names	Residential address for which enrolled	Date of Birth	Signature

Each of the candidates named below, states that:

- | | |
|---|--|
| | Please tick [<input checked="" type="checkbox"/>] |
| • I am an Australian citizen | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am at least 18 years of age | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am an elector or qualified to be an elector | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |

and declares as follows:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

Schedule 1 Forms

Each of the candidates named below requests that the Christian or given names of the candidate appear on the ballot-paper in the form shown below.

Name of candidate as enrolled		Form of Christian or given names to appear on ballot-paper	Residential address	Occupation	Signature
Surname or family name	Christian or given names				

Section 166

FORM CC

Nomination of Senators

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the persons named below as Senators for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

Dated 20 .

[*Signature*]

Each of the candidates named below, states that:

- | | |
|---|---|
| | Please tick [<input checked="" type="checkbox"/>] |
| • I am an Australian citizen | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am at least 18 years of age | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am an elector or qualified to be an elector | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |

and declares as follows:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

Each of the candidates named below requests that the Christian or given names of the candidate appear on the ballot-paper in the form shown below.

Name of candidate as enrolled		Form of Christian or given names to appear on ballot-paper	Residential address	Occupation	Signature
Surname or family name	Christian or given names				

Section 166

FORM D

Nomination of a Member of the House of Representatives

To the Divisional Returning Officer for the Division of [*name of Division*]

We, electors on the electoral roll for the above Division and entitled to vote at the election of a Member of the House of Representatives for that Division, hereby nominate the person named below as a Member of that House for the above Division.

Dated 20 .

Nominators

Surname or family name	Christian or given names	Residential address for which enrolled	Date of Birth	Signature

Candidate

Name of candidate as enrolled		Form in which Christian or given names to appear on ballot-paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

- | | |
|--|-----------------|
| | Please tick [√] |
| • I am an Australian citizen | Yes [] No [] |
| • I am at least 18 years of age | Yes [] No [] |
| • I am an elector or qualified to be an elector | Yes [] No [] |
| • I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a member of the House of Representatives | Yes [] No [] |

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Member of the House of Representatives;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Member of the House of Representatives for the above Division if elected.

I wish my Christian or given names to appear on the ballot-paper in the form shown above.

[Signature of candidate]

Section 166

FORM DA

Nomination of a Member of the House of Representatives

To the Divisional Returning Officer for the Division of [*name of Division*]

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the person named below as a Member of the House of Representatives for the above Division.

Dated 20 .

[*Signature*]

Name of candidate as enrolled		Form in which Christian or given names to appear on ballot-paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

- | | |
|--|---|
| | Please tick [<input checked="" type="checkbox"/>] |
| • I am an Australian citizen | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am at least 18 years of age | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am an elector or qualified to be an elector | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |
| • I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a member of the House of Representatives | Yes [<input type="checkbox"/>] No [<input type="checkbox"/>] |

and I declare that:



- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Member of the House of Representatives;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Member of the House of Representatives for the above Division if elected.

I wish my Christian or given names to appear on the ballot-paper in the form shown above.

[*Signature of candidate*]

Section 209

FORM E

							SENATE BALLOT PAPER (5) ELECTION OF (6) SENATORS
<p>You may vote in one of two ways</p>							
<p>either</p> <p>By placing the single figure 1 in one and only one of these squares to indicate the voting ticket you wish to adopt as your vote</p>	A <input type="checkbox"/> or (2)	B <input type="checkbox"/> or (2)	C <input type="checkbox"/> or (2)	D <input type="checkbox"/> or (4)	E <input type="checkbox"/> or (4)	F <input type="checkbox"/> or (2)	G <input type="checkbox"/> or (2)
	A (2)	B (2)	C (2)	D (2)	E	F (2)	Ungrouped



Schedule 1 Forms

<p><i>or</i></p> <p>By placing the numbers 1 to (7) in the order of your preference</p>	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)
	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)		<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)
		<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)			<input type="checkbox"/> (1) <input type="checkbox"/> (3)	
		<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)				<input type="checkbox"/> (1) <input type="checkbox"/> (4)

- (1) Here insert name of a candidate.
- (2) Here insert name of a registered political party or composite name of registered political parties if to be printed.
- (3) Here insert the name of a registered political party if to be printed.
- (4) Here insert name of a registered political party or word 'Independent' if to be printed.
- (5) Here insert name of State or Territory and year of election.
- (6) Here insert number of vacancies.
- (7) Here insert number of candidates.

Section 209

FORM F

	<p>BALLOT PAPER HOUSE OF REPRESENTATIVES [<i>here insert name of State or Territory as appropriate</i>]</p>	
Electoral Division of [<i>here insert name of Division</i>].		
Number the boxes from 1 to [<i>here insert number of candidates</i>] in the order of your choice		
<input type="checkbox"/> 1 2	<p>[1 <i>Here insert name of a candidate</i> 2 <i>Here insert name of a registered political party, composite name of registered political parties or "Independent" if to be printed.</i>]</p>	
<input type="checkbox"/> 1 2		
<input type="checkbox"/> 1 2		
<input type="checkbox"/> 1 2		
Remember. . . . number <i>every</i> box to make your vote count.		

Schedule 2—Grounds of application for postal or pre-poll vote

Sections 183 and 200A

1. Throughout the hours of polling on polling day, the elector will be absent from the State or Territory for which the elector is enrolled.
2. The elector will not, at any time during the hours of polling on polling day, be within 8 kilometres by the nearest practicable route of any polling booth in the State or Territory for which the elector is enrolled.
3. Throughout the hours of polling on polling day, the elector will be travelling under conditions that will prevent the elector attending a polling booth in the State or Territory for which the elector is enrolled.
4. The elector will be unable to attend a polling booth on polling day because of:
 - (a) serious illness;
 - (b) infirmity; or
 - (c) approaching childbirth.

(In the case of an elector who will be a patient at a hospital on polling day, this paragraph applies regardless of the operation of sections 224 and 225.)
5. On polling day, the elector will be unable to attend a polling booth because the elector will be at a place (other than a hospital) caring for a person who is seriously ill or infirm or who is expected shortly to give birth.
6. Throughout the hours of polling on polling day, the elector will be a patient at a hospital (other than a special hospital) and unable to vote at the hospital.
7. Throughout the hours of polling on polling day, the elector will be a patient at a special hospital but will be unable to have his or her vote taken under section 225.

8. Because of the elector's religious beliefs or membership of a religious order, the elector:
 - (a) is precluded from attending a polling booth; or
 - (b) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth.
9. On polling day, the elector will be serving a sentence of imprisonment or otherwise under detention.
10. The elector's address has been excluded from the Roll under section 104.
11. Throughout the hours of polling on polling day, the elector will be engaged in his or her employment or occupation and:
 - (a) if the elector is an employee, the elector is not entitled to leave of absence under section 345; and
 - (b) in any other case, the absence of the elector for the purpose of attending at a polling booth to vote would be likely to cause loss to the person in his or her occupation.

Schedule 3—Rules for the conduct of a preliminary scrutiny of declaration votes

Subsection 266(3)

1. The DRO shall produce unopened all envelopes containing declaration votes of the kind to which the preliminary scrutiny relates received by the DRO:
 - (a) in the case of the first preliminary scrutiny—before the commencement of that scrutiny; and
 - (b) in the case of a subsequent preliminary scrutiny—after the commencement of the last preceding preliminary scrutiny and before the commencement of the subsequent preliminary scrutiny.
2. All written applications for postal votes not already dealt with at a preliminary scrutiny shall be produced at each preliminary scrutiny of postal votes.
3. The DRO shall compare the signature of the elector on each postal vote application with the signature on the relevant postal vote certificate and allow the scrutineers to inspect both signatures.
- 3A. For each postal vote certificate not dealt with under paragraph 3, the DRO must compare the signature of the elector on the postal vote certificate with the signature of the elector on:
 - (a) the elector's application for registration as a general postal voter; or
 - (b) the elector's application for enrolment or transfer of enrolment;and allow the scrutineers to inspect both signatures.
4. The DRO shall divide the envelopes being dealt with into groups, as follows:
 - (a) in one group, the envelopes that meet the requirements of paragraph 6;

- (b) in another group, the envelopes that do not meet those requirements.
5. The DRO shall, without opening the envelopes, subject to the operation of paragraphs 23 and 24, exclude from further scrutiny the ballot-papers contained in envelopes that do not meet the requirements of paragraph 6.
6. An envelope meets the requirements of this paragraph if the DRO is satisfied:
- (a) in the case of an envelope purporting to contain a postal ballot-paper, other than an envelope sent under section 186 to a registered general postal voter who was registered on the ground specified in paragraph 184A(2)(e) or (f), that the signature on the certificate is that of the elector and that:
 - (i) the signature purports to be witnessed by an authorised witness; or
 - (ii) the signature is taken to be witnessed by an authorised witness because of subsection 194(1A);
 - (b) in the case of an envelope purporting to contain a pre-poll vote ballot-paper, that the certificate has been signed in accordance with section 200E and that the signature purports to be witnessed by the officer who issued the certificate;
 - (c) in the case of an envelope purporting to contain an absent vote ballot-paper or a provisional vote ballot-paper, that the certificate has been signed in accordance with section 222 or 235 or subsection 234(4), as the case requires, and that the signature purports to be witnessed in accordance with that section or subsection, as the case may be;
 - (d) in the case of an envelope purporting to contain a ballot-paper recording a vote cast at a station in Antarctica, the envelope is signed in accordance with subsection 260(1); and
 - (e) in the case of an envelope purporting to contain a postal ballot-paper, that the vote marked on the ballot-paper was recorded prior to the close of the poll.
- 6A. If the DRO is satisfied that more than one envelope that meets the requirements of paragraph 6 purports to contain a declaration vote by the same elector, the DRO must:
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- (a) treat only one of the envelopes, as selected by the DRO, as meeting the requirements of paragraph 6; and
- (b) exclude from further scrutiny the ballot-papers contained in the other envelope or envelopes, without opening the envelope or envelopes; and
- (c) seal up in a parcel the envelope or envelopes excluded from further scrutiny by subparagraph (b); and
- (d) write on the parcel a description of its contents, the name of the Division and the date of the commencement of the preliminary scrutiny.

In applying subparagraph (a), the DRO should, to the extent that it is possible, select the envelope that was received first.

- 6B. Paragraphs 23 and 24 do not apply to envelopes excluded from further scrutiny because of subparagraph 6A(b).
- 7. Where the envelope purporting to contain a postal ballot-paper bears a postmark that includes a date after polling day, the vote marked on the ballot-paper shall be taken not to have been recorded prior to the close of the poll.
- 7A. A vote marked on a postal ballot-paper must be taken not to have been recorded prior to the close of the poll if:
 - (a) in the case of a ballot-paper taken to be witnessed because of subsection 194(1A)—the envelope purporting to contain the ballot-paper does not bear a legible postmark; or
 - (b) in any other case—the envelope purporting to contain the ballot-paper does not bear a legible postmark and the signature of the witness bears a date after polling day.
- 8. An envelope purporting to contain an absent vote ballot-paper or a provisional vote ballot-paper or a pre-poll vote ballot-paper shall not be regarded as failing to meet the requirements of paragraph 6 only because the declaration or certificate, as the case requires, is not witnessed if the voter's name appears on a record made under subsection 232(2) or section 200G, as the case requires, or, if neither of those requirements is met, if the DRO is satisfied that the ballot-paper was properly issued.
- 9. The DRO shall seal up in a parcel the envelopes that do not meet the requirements of paragraph 6 and shall write on the parcel a

description of its contents, the name of the Division and the date of commencement of the preliminary scrutiny.

10. If the preliminary scrutiny relates to a Senate election held concurrently with a House of Representatives election or a Senate election held alone, the DRO shall divide the envelopes that meet the requirements of paragraph 6 into groups as follows:
 - (a) in one group, the envelopes bearing certificates or declarations by persons who are enrolled for the Division or whose claims for enrolment are claims to which subsection 102(4A) of the Act applies;
 - (b) in another group the envelopes to which paragraph 12 or 13A applies;
 - (ba) in another group, the envelopes to which paragraph 13C applies;
 - (c) in another group, the envelopes bearing certificates or declarations by persons who are not enrolled for the Division but are enrolled for the State or Territory in which the Division is situated;
 - (d) in another group, the envelopes bearing certificates or declarations by persons who are not enrolled for the Division or for the State or Territory in which the Division is situated.
11. If the preliminary scrutiny relates to a House of Representatives election not held concurrently with a Senate election, the DRO shall divide the envelopes that meet the requirements of paragraph 6 into groups as follows:
 - (a) in one group, the envelopes bearing certificates or declarations by persons who are enrolled for the Division or whose claims for enrolment are claims to which subsection 102(4A) of the Act applies;
 - (b) in another group, the envelopes to which paragraph 12 or 13A applies;
 - (c) in another group, the envelopes bearing certificates or declarations by persons who are not enrolled for the Division.
12. This paragraph applies to an envelope if the DRO is satisfied:
 - (a) that the elector who signed a certificate or declaration on the envelope is not enrolled for the Division; and
 - (b) after making enquiry:

- (i) that the elector was, at the time of voting, entitled to be enrolled for the Division; and
- (ii) that the omission of the elector's name from the Roll for the Division was due to an error made by an officer or to a mistake of fact.

13. Subparagraph 12(b) does not apply if:

- (a) more than one election (excluding the election to which the scrutiny relates) has been held since the error or mistake was made; or
- (b) where there has been a redistribution of the State or Territory that includes the Division since the last election but one before the election to which the scrutiny relates, the error or mistake was made before the last such redistribution.

13A. This paragraph applies to an envelope if the DRO is satisfied:

- (a) that the elector who signed the certificate or declaration on the envelope is not enrolled for the Division; and
- (b) after making enquiry:
 - (i) that the elector was, at the time of voting, entitled to be enrolled for the Division; and
 - (ii) that the elector has previously been enrolled for the Division; and
 - (iii) that the elector's name was omitted from the Roll for the Division; and
 - (iv) that the omission of the elector's name from the Roll for the Division was attributable to subsection 118(4A).

13B. Subparagraph 13A(b) does not apply if:

- (a) an election (excluding the election to which the scrutiny relates) has been held since the omission from the Roll; or
- (b) if there has been a redistribution of the State or Territory that includes the Division since the last election before the election to which the scrutiny relates—the omission from the Roll was made before the last such redistribution.

13C. This paragraph applies to an envelope if the DRO is satisfied:

- (a) that the elector who signed a certificate or declaration on the envelope is not enrolled for the State or Territory in which the Division is situated; and

- (b) after making enquiry:
 - (i) that the elector was, at the time of voting, entitled to be enrolled for the State or Territory in which the Division is situated; and
 - (ii) that the elector was not, at the time of voting, entitled to be enrolled for the Division; and
 - (iii) that the elector has previously been enrolled for the Division; and
 - (iv) that the elector's name was omitted from the Roll for the Division; and
 - (v) that the omission of the elector's name from the Roll for the Division was attributable to subsection 118(4A).

13D. Subparagraph 13C(b) does not apply if:

- (a) an election (excluding the election to which the scrutiny relates) has been held since the omission from the Roll; or
- (b) if there has been a redistribution of the State or Territory that includes the Division since the last election before the election to which the scrutiny relates—the omission from the Roll was made before the last such redistribution.

14. In paragraphs 13, 13B and 13D, *election* means:

- (a) a general election for the House of Representatives;
- (b) a Senate election not held concurrently with a general election for the House of Representatives; or
- (c) a referendum not held concurrently with a general election.

15. The DRO shall, without opening the envelopes, subject to the operation of paragraphs 23 and 25, exclude from further scrutiny the ballot-papers contained in envelopes referred to in subparagraphs 10(d) and 11(c).

16. The DRO shall seal up in a parcel the envelopes referred to in subparagraphs 10(d) and 11(c) and shall write on the parcel a description of the contents, the name of the Division and the date.

17. The DRO shall, after the close of the poll for the Division, without unfolding or inspecting them or allowing any other person to do so, withdraw the ballot-papers from the envelopes referred to in paragraph 10 or 11 that still remain in the preliminary scrutiny.

18. Ballot-papers withdrawn from envelopes referred to in subparagraph 10(a) or (b) or 11(a) or (b) shall be placed in a ballot-box by themselves for further scrutiny.
19. A ballot-paper for a Senate election withdrawn from an envelope referred to in subparagraph 10(ba) or (c) shall be placed in the ballot-box referred to in paragraph 18 for further scrutiny. A ballot-paper for a House of Representatives election withdrawn from such an envelope shall be excluded from further scrutiny.
20. The DRO shall seal up in a parcel ballot-papers excluded under paragraph 19 and shall write on the parcel a description of its contents, the name of the Division and the date.
21. Where a ballot-paper has been finally excluded from further scrutiny, other than because of subparagraph 6A(b), the DRO shall send to the voter a written statement of the reason for the rejection.
22. For the purposes of paragraph 17, an envelope that contains a ballot-paper for a referendum shall be dealt with as if it did not contain that ballot-paper.
23. In the course of a preliminary scrutiny of declaration votes, the DRO, as soon as practicable after the ballot-papers that are required, under that scrutiny, to be placed in a ballot-box under paragraph 18 or 19 are so placed, but not before the close of the poll for the Division, must:
 - (a) open the parcel of envelopes that contains the ballot-papers that are, under paragraph 5 and subject to the operation of this paragraph and paragraph 24, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 24; and
 - (b) open the parcel of envelopes that contains the ballot-papers that are, under paragraph 15 and subject to the operation of this paragraph and paragraph 25, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 25.
24. For the purpose of dealing further with declaration votes referred to in subparagraph 23(a), paragraphs 3 to 22, inclusive, reapply in relation to those votes as if:

- (a) the words “subject to the operation of paragraphs 23 and 24,” were omitted from paragraph 5; and
 - (b) the words “subject to the operation of paragraphs 23 and 25,” were omitted from paragraph 15.
25. For the purpose of dealing further with declaration votes referred to in subparagraph 23 (b), paragraphs 10 to 22, inclusive, reapply in relation to those votes as if the words “subject to the operation of paragraphs 23 and 25,” were omitted from paragraph 15.

Table of Acts**Notes to the *Commonwealth Electoral Act 1918*****Note 1**

The *Commonwealth Electoral Act 1918* as shown in this compilation comprises Act No. 27, 1918 amended as indicated in the Tables below.

The *Commonwealth Electoral Act 1918* was amended by the *Electoral and Referendum Regulations 1940* (as amended). The amendments are incorporated in this compilation. For application, saving or transitional provisions relating to these amendments see subregulation 3.1 of Statutory Rules 1995 No. 21.

The *Commonwealth Electoral Act 1918* was amended by the *Public Employment (Consequential and Transitional) Regulations 1999* (1999 No. 301 as amended by 2000 No. 332). The amendments are incorporated in this compilation.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 13 October 1999 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Electoral Act 1918</i>	27, 1918	21 Nov 1918	Ss. 1–3, 76, Part XII (ss. 85–97), ss. 105, 113, 124, 133, 134, 136, 138–140, 168, 169, 174, 178, 219 and Form F in Schedule: 25 Nov 1918 (see <i>Gazette</i> 1918, p. 2257) S. 32: 14 Dec 1920 (see <i>Gazette</i> 1920, p. 2277) Remainder: 21 Mar 1919 (see <i>Gazette</i> 1919, p. 401)	
<i>Commonwealth Electoral Act 1919</i>	31, 1919	28 Oct 1919	28 Oct 1919 (a)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Electoral Act 1921</i>	14, 1921	15 Dec 1921	15 Dec 1921 (a)	—
<i>Commonwealth Electoral Act 1922</i>	14, 1922	28 Sept 1922	4 Oct 1922 (see <i>Gazette</i> 1922, p. 1787) (a)	—
<i>Commonwealth Electoral Act 1924</i>	10, 1924	31 July 1924	31 July 1924 (a)	—
<i>Commonwealth Electoral Act 1925</i>	20, 1925	26 Sept 1925	26 Sept 1925 (a)	—
<i>Commonwealth Electoral Act 1928</i>	17, 1928	22 June 1928	22 June 1928 (a)	—
<i>Commonwealth Electoral Act 1929</i>	2, 1929	25 Feb 1929	25 Feb 1929	—
<i>Commonwealth Electoral Act 1934</i>	9, 1934	27 July 1934	27 July 1934 (a)	—
<i>Commonwealth Electoral Act 1940</i>	19, 1940	29 May 1940	16 Aug 1940 (see <i>Gazette</i> 1940, p. 1727) (a)	—
<i>Commonwealth Electoral Act 1946</i>	42, 1946	15 Aug 1946	15 Aug 1946	—
<i>Commonwealth Electoral Act 1948</i>	17, 1948	18 May 1948	18 May 1948	—
<i>Commonwealth Electoral Act 1949</i>	10, 1949	25 Mar 1949	22 Apr 1949	—
<i>Commonwealth Electoral Act (No. 2) 1949</i>	47, 1949	27 Oct 1949	27 Oct 1949	S. 4(2)
<i>Commonwealth Electoral Act 1952</i>	106, 1952	18 Nov 1952	16 Dec 1952	—
<i>Commonwealth Electoral Act 1953</i>	79, 1953	10 Dec 1953	7 Jan 1954	—
<i>Commonwealth Electoral Act 1961</i>	26, 1961	19 May 1961	16 June 1961	—
<i>Commonwealth Electoral Act 1962</i>	31, 1962	21 May 1962	18 June 1962	—
<i>Commonwealth Electoral Act 1965</i>	48, 1965	3 June 1965	1 July 1965	—
<i>Commonwealth Electoral Act (No. 2) 1965</i>	70, 1965	22 Nov 1965	1 July 1965	—
<i>Commonwealth Electoral Act 1966</i>	32, 1966	24 May 1966	24 May 1966	—
<i>Statute Law Revision (Decimal Currency) Act 1966</i>	93, 1966	29 Oct 1966	1 Dec 1966	—
<i>Commonwealth Electoral Act 1973</i>	7, 1973	16 Mar 1973	21 Mar 1973 (see <i>Gazette</i> 1973, No. 33A)	S. 8
<i>Commonwealth Electoral Act (No. 2) 1973</i>	38, 1974	7 Aug 1974	20 Sept 1974 (see <i>Gazette</i> 1974, No. 77A)	S. 3(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Postal and Telecommunications Commissions (Transitional Provisions) Act 1975</i>	56, 1975	12 June 1975	Ss. 4 and 38: 1 July 1975 (see s. 2(1) and <i>Gazette</i> 1975, No. S122) Remainder: Royal Assent	—
<i>Commonwealth Electoral Amendment Act 1977</i>	14, 1977	28 Feb 1977	28 Feb 1977	—
<i>Commonwealth Electoral Amendment Act (No. 2) 1977</i>	116, 1977	7 Nov 1977	S. 3(1): 28 Feb 1977 Remainder: Royal Assent	Ss. 3(2) and 4
<i>Jurisdiction of Courts (Miscellaneous Amendments) Act 1979</i>	19, 1979	28 Mar 1979	Parts II–XVII (ss. 3–123): 15 May 1979 (see <i>Gazette</i> 1979, No. S86) Remainder: Royal Assent	S. 124
<i>Commonwealth Electoral Amendment Act 1980</i>	102, 1980	6 June 1980	6 June 1980	—
<i>High Court of Australia (Consequential Provisions) Act 1980</i>	155, 1980	19 Sept 1980	19 Sept 1980	—
<i>Statute Law (Miscellaneous Amendments) Act 1981</i>	176, 1981	2 Dec 1981	Part IX (ss. 31–35): 26 Jan 1984 (see <i>Gazette</i> 1983, No. S247) (b)	—
as amended by				
<i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i>	26, 1982	7 May 1982	Part XXXVII (ss. 214, 215): 26 Jan 1984 (c)	—
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part XVI (ss. 42–44): Royal Assent (d)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1983</i>	39, 1983	20 June 1983	S. 3: 18 July 1983 (e)	S. 7(1)
<i>Migration (Miscellaneous Amendments) Act 1983</i>	84, 1983	14 Nov 1983	Part IV (ss. 7, 8): 2 Apr 1984 (f)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Electoral Legislation Amendment Act 1983</i>	144, 1983	22 Dec 1983	21 Feb 1984 (see <i>Gazette</i> 1984, No. S62)	Ss. 10(2)–(4), 11(2)–(6), 14(2), (3), 40(2), 65(2), 113(2), 150(2), (3), 151(2)–(6) and 152–154
as amended by				
<i>Commonwealth Electoral Legislation Amendment Act 1984</i>	45, 1984	25 June 1984	(see 45, 1984 below)	—
<i>Commonwealth Electoral Legislation Amendment Act 1984</i>	45, 1984	25 June 1984	Ss. 1 and 2: Royal Assent Ss. 3(2) and 7: 21 Feb 1984 Remainder: 23 July 1984	Ss. 6 and 8
<i>Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Act 1984</i>	46, 1984	25 June 1984	Part VII (ss. 22–26): 6 Apr 1984 Remainder: Royal Assent	—
<i>Christmas Island Administration (Miscellaneous Amendments) Act 1984</i>	120, 1984	18 Oct 1984	Part VIII (ss. 27–31): 1 Oct 1984 Remainder: Royal Assent	—
<i>Electoral and Referendum Amendment Act 1984</i>	133, 1984	25 Oct 1984	25 Oct 1984	—
<i>Broadcasting and Television (Consequential Amendments) Act 1985</i>	67, 1985	5 June 1985	1 Jan 1986	S. 4
<i>Public Service and Statutory Authorities Amendment Act 1985</i>	166, 1985	11 Dec 1985	S. 45: 8 Jan 1986 (g)	S. 45(2)
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1985</i>	193, 1985	16 Dec 1985	S. 3: 1 May 1987 (see s. 2(5) and <i>Gazette</i> 1987, No. S68) (h)	S. 16
<i>Commonwealth Electoral Amendment Act 1987</i>	35, 1987	3 June 1987	3 June 1987	S. 35(2)
<i>Statute Law (Miscellaneous Provisions) Act 1987</i>	141, 1987	18 Dec 1987	S. 3: Royal Assent (j)	S. 5(1)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Broadcasting Amendment Act (No. 3) 1987</i>	184, 1987	30 Dec 1987	S. 34(8): 4 Aug 1989 (see <i>Gazette</i> 1989, No. S259) S. 40: 1 Jan 1986 (see s. 2(2)) Remainder: 27 Jan 1988	—
<i>Industrial Relations (Consequential Provisions) Act 1988</i>	87, 1988	8 Nov 1988	Ss. 1 and 2: Royal Assent Remainder: 1 Mar 1989 (see s. 2(2) and <i>Gazette</i> 1989, No. S53)	—
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—
<i>A.C.T. Self-Government (Consequential Provisions) Act 1988</i>	109, 1988	6 Dec 1988	S. 32 (in part): 11 May 1989 (see <i>Gazette</i> 1989, No. S164) (k)	—
<i>Migration Legislation Amendment (Consequential Amendments) Act 1989</i>	159, 1989	18 Dec 1989	S. 4: (l) Remainder: (l)	—
<i>Electoral and Referendum Amendment Act 1989</i>	24, 1990	23 Jan 1990	Ss. 1–3, 4(d), 5–30, 36, 40, 43, 50 and 117: Royal Assent Ss. 4(a), (c), (e), 38, 44–48, 54, 55(c), 57, 58, 61, 73, 74, 76, 80(e), 81(e)–(n), 85(a), (d), (e), (f), 86–109, 111–113, 115, 116, 119, 120 and Schedule 3 (in part): 9 Feb 1990 (see <i>Gazette</i> 1990, No. S30) Remainder: 30 Sept 1990	Ss. 7(2), 9(2), 10(2), 22(2), 34(2), 45(2), 91(2), 95(2), (3) and 96(2)
as amended by <i>Electoral and Referendum Amendment Act 1991</i>	167, 1991	13 Nov 1991	(see 167, 1991 below)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15–20: 1 Dec 1988 Ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)
<i>Electoral and Referendum Amendment Act 1991</i>	167, 1991	13 Nov 1991	Ss. 1–3, 33 and 44: Royal Assent S. 45: 30 Sept 1990 Remainder: 13 May 1992	S. 26(2)
<i>Special Broadcasting Service Act 1991</i>	180, 1991	25 Nov 1991	S. 116: 23 Dec 1991 (<i>m</i>)	—
<i>Political Broadcasts and Political Disclosures Act 1991</i>	203, 1991	19 Dec 1991	Part 3 (ss. 10–31): Royal Assent (<i>n</i>)	Ss. 3, 15(2), 18(2) and 31
<i>Australian Capital Territory Self-Government Legislation Amendment Act 1992</i>	10, 1992	6 Mar 1992	Ss. 14–17: Royal Assent (<i>o</i>)	—
<i>Commonwealth Electoral Amendment Act 1992</i>	45, 1992	11 June 1992	11 June 1992	—
<i>Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992</i>	105, 1992	9 July 1992	5 Oct 1992 (see s. 2 and <i>Gazette</i> 1992, No. GN38)	S. 3
<i>Norfolk Island (Electoral and Judicial) Amendment Act 1992</i>	121, 1992	17 Oct 1992	17 Oct 1992	—
<i>Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1992</i>	167, 1992	11 Dec 1992	1 July 1993	S. 14(2)
<i>Electoral and Referendum Amendment Act 1992</i>	219, 1992	24 Dec 1992	S. 15: 24 June 1993 Remainder: Royal Assent	—
<i>Law and Justice Legislation Amendment Act 1993</i>	13, 1994	18 Jan 1994	S. 22: 13 Jan 1993 Part 6 (ss. 27–41): 11 Apr 1994 (see <i>Gazette</i> 1994, No. S126) Remainder: Royal Assent	—
<i>Commonwealth Electoral Amendment Act 1994</i>	21, 1994	16 Feb 1994	16 Feb 1994	—
<i>Migration Legislation Amendment Act 1994</i>	60, 1994	9 Apr 1994	S. 85: (<i>p</i>)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Electoral Amendment Act 1995</i>	42, 1995	15 June 1995	15 June 1995	Ss. 4–6
<i>Electoral and Referendum Amendment Act 1995</i>	166, 1995	16 Dec 1995	16 Dec 1995	S. 5
<i>Workplace Relations and Other Legislation Amendment Act 1996</i>	60, 1996	25 Nov 1996	Schedule 16 (items 2, 3): 25 May 1997 (q) Schedule 19 (items 14, 15): Royal Assent (q)	S. 2(2) and (6) (am. by 77, 1996, Sch. 3 [items 1, 2])
as amended by				
<i>Workplace Relations and Other Legislation Amendment Act (No. 2) 1996</i>	77, 1996	19 Dec 1996	Schedule 3 (items 1, 2): (qa)	—
<i>Financial Sector Reform (Consequential Amendments) Act 1998</i>	48, 1998	29 June 1998	Schedule 1 (item 35): Royal Assent (r)	—
<i>Electoral and Referendum Amendment Act 1998</i>	94, 1998	17 July 1998	Schedule 1 (items 38–42, 147, 153 and 154): 14 Aug 1998 Remainder: 18 July 1998	—
<i>Electoral and Referendum Amendment Act (No. 1) 1999</i>	134, 1999	13 Oct 1999	Schedule 1 (items 1–9): 10 Nov 1999 Schedule 1 (items 10–12): (ra) Remainder: Royal Assent	S. 4 [see Table A]
as amended by				
<i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i>	115, 2004	13 July 2004	Schedule 1 (item 103): Royal Assent	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 301–317): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (s)	—
<i>Commonwealth Electoral Amendment Act (No. 1) 2000</i>	126, 2000	26 Oct 2000	Schedule 2: 3 Oct 2000 Remainder: Royal Assent	Sch. 2 (items 10–12) [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Electoral and Referendum Amendment Act (No. 1) 2001</i>	34, 2001	28 Apr 2001	16 July 2001 (see <i>Gazette</i> 2001, No. S284)	Sch. 1 (items 80, 81) [see Table A]
<i>Corporations (Repeals, Consequential and Transitional) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14 and Schedule 3 (items 125, 126): 15 July 2001 (see <i>Gazette</i> 2001, No. S285) (f)	Ss. 4–14
<i>Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001</i>	109, 2001	17 Sept 2001	15 Oct 2001	S. 5 [see Table A]
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch. 1 (item 97) [see Table A]
<i>Commonwealth Electoral Amendment Act (No. 1) 2002</i>	81, 2002	10 Oct 2002	10 Oct 2002	—
<i>Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002</i>	105, 2002	14 Nov 2002	Schedule 3 (items 34, 36): 12 May 2003 (see <i>Gazette</i> 2002, No. GN49)	—
<i>Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003</i>	140, 2003	17 Dec 2003	Schedule 1 (items 13, 14): (u)	—
<i>Commonwealth Electoral Amendment (Members of Local Government Bodies) Act 2003</i>	144, 2003	17 Dec 2003	17 Dec 2003	—
<i>Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004</i>	34, 2004	20 Apr 2004	Schedule 1: 27 Apr 2004 Remainder: Royal Assent	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004</i>	78, 2004	23 June 2004	Schedule 1: 21 July 2004 Remainder: Royal Assent	Sch. 1 (items 110–120) [see Table A]
<i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i>	115, 2004	13 July 2004	Schedule 1 (items 1–4, 6–8, 11, 14, 15, 20–25, 27–36, 38–41, 43, 44, 46–61, 64–74, 76, 77, 88–92, 92A, 93–102, 132A, 133–135): 10 Aug 2004 Schedule 1 (items 5, 18A, 19, 42): [see (v) and Note 7]	Sch. 1 (items 133–135) [see Table A] S. 2(1) (item 14) (am. by 123, 2004, Sch. 3 [item 1]) Sch. 1 (item 132A) (rs. by 123, 2004, Sch. 3 [item 2]) Sch. 1 (item 132B) (ad. by 123, 2004, Sch. 3 [item 2]) [see Table A]
as amended by				
<i>Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004</i>	123, 2004	16 Aug 2004	Schedule 3: (w)	—
<i>Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004</i>	123, 2004	16 Aug 2004	Schedule 1 (items 1–5): (x)	—
<i>Administrative Appeals Tribunal Amendment Act 2005</i>	38, 2005	1 Apr 2005	Schedule 1 (item 206): 16 May 2005	—

Act Notes

- (a) Section 3 of the *Commonwealth Electoral Act 1946* provides as follows:
3. Each section inserted in the *Commonwealth Electoral Act 1918*, or in that Act as amended, by the *Commonwealth Electoral Act 1919*, the *Commonwealth Electoral Act 1921*, the *Commonwealth Electoral Act 1922*, the *Commonwealth Electoral Act 1924*, the *Commonwealth Electoral Act 1925*, the *Commonwealth Electoral Act 1928*, the *Commonwealth Electoral Act 1934* or the *Commonwealth Electoral Act 1940*, shall be deemed to have commenced on the date of commencement of the section by which it was so inserted.
- (b) The *Commonwealth Electoral Act 1918* was amended by Part IX (sections 31–35) only of the *Statute Law (Miscellaneous Amendments) Act 1981*, subsection 2(5) of which provides that Part IX shall come into operation on a date to be fixed by Proclamation.
- (c) The *Statute Law (Miscellaneous Amendments) Act 1981* was amended by Part XXXVII (sections 214 and 215) only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsection 2(10) of which provides as follows:
- (10) Part XXXVII shall come into operation on the date fixed under subsection 2(5) of the *Statute Law (Miscellaneous Amendments) Act 1981*.
- (d) The *Commonwealth Electoral Act 1918* was amended by Part XVI (sections 42–44) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides that Part XVI shall come into operation on Royal Assent.
- (e) The *Commonwealth Electoral Act 1918* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (f) The *Commonwealth Electoral Act 1918* was amended by Part IV (sections 7 and 8) only of the *Migration (Miscellaneous Amendments) Act 1983*, subsection 2(1) of which provides that Part IV shall come into operation on the day on which the *Migration Amendment Act 1983* comes into operation.
- (g) The *Commonwealth Electoral Act 1918* was amended by section 45 only of the *Public Service and Statutory Authorities Amendment Act 1985*, subsection 2(7) of which provides as follows:
- (7) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (h) The *Commonwealth Electoral Act 1918* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1985*, subsection 2(5) of which provides as follows:
- (5) The amendments of the *Commonwealth Electoral Act 1918* made by this Act shall come into operation on the day fixed by Proclamation for the purposes of subsection 2(2) of the *Australian Citizenship Amendment Act 1984*.
- (i) The *Commonwealth Electoral Act 1918* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.
- (k) The *Commonwealth Electoral Act 1918* was amended by section 32 (in part) only of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, subsection 2(3) of which provides as follows:
- (3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.
- (l) The *Commonwealth Electoral Act 1918* was amended by the *Migration Legislation Amendment (Consequential Amendments) Act 1989*, section 2 of which provides as follows:
- (1) This Act, other than section 4, commences immediately before the commencement of section 4 of the *Migration Legislation Amendment Act 1989*.
 - (2) Section 4 commences on the commencement of section 4 of the *Migration Legislation Amendment Act 1989*.

The *Migration Legislation Amendment Act 1989* came into operation on 19 December 1989.

Act Notes

- (m) The *Commonwealth Electoral Act 1918* was amended by section 116 only of the *Special Broadcasting Service Act 1991*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences 28 days after the day on which it receives the Royal Assent.
- (n) The *Commonwealth Electoral Act 1918* was amended by Part 3 (sections 10–31) only of the *Political Broadcasts and Political Disclosures Act 1991*, subsection 2(1) of which provides as follows:
- (1) Parts 1 and 3 commence on the day on which this Act receives the Royal Assent.
- (o) The *Commonwealth Electoral Act 1918* was amended by sections 14–17 only of the *Australian Capital Territory Self-Government Legislation Amendment Act 1992*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (p) The *Commonwealth Electoral Act 1918* was amended by section 85 only of the *Migration Legislation Amendment Act 1994*, subsection 2(3) of which provides as follows:
- (3) The remaining provisions commence immediately after the commencement of section 3 of the *Migration Reform Act 1992*.
- Section 3 of the *Migration Reform Act 1992* commenced on 1 September 1994.
- (q) The *Commonwealth Electoral Act 1918* was amended by Schedule 16 (items 2 and 3) and Schedule 19 (items 14 and 15) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, subsections 2(1)–(3), of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (2) Subject to subsection (3), the items of the Schedules, other than Schedule 5, item 1 of Schedule 9, items 2 and 3 of Schedule 12, item 90 of Schedule 16 and the items of Schedule 19, commence on a day or days to be fixed by Proclamation.
 - (3) If an item of a Schedule does not commence under subsection (2) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (qa) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by Schedule 3 (items 1 and 2) of the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:
- (4) The items of Schedule 3 are taken to have commenced immediately after the *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.
- The *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent on 25 November 1996.
- (r) The *Commonwealth Electoral Act 1918* was amended by Schedule 1 (item 35) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (ra) The *Commonwealth Electoral Act 1918* was amended by the *Electoral and Referendum Amendment Act (No. 1) 1999*, subsection 2(3) of which provides as follows:
- (3) Items 10, 11 and 12 commence on a date to be fixed by Proclamation.
- Items 10, 11 and 12 of the *Electoral and Referendum Amendment Act (No. 1) 1999* were repealed by Schedule 1 (item 103) of the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* before a date was fixed for their commencement.

Act Notes

- (s) The *Commonwealth Electoral Act 1918* was amended by Schedule 1 (items 301–317) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (t) The *Commonwealth Electoral Act 1918* was amended by Schedule 3 (items 125 and 126) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(3) of which provides as follows:
- (3) Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
- (u) Subsection 2(1) (item 3) of the *Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences on the day or at the time specified in column 2 of the table.

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
3. Schedule 1	Immediately after the commencement of sections 3 to 62 of the <i>Legislative Instruments Act 2003</i>	1 January 2005

- (v) Subsection 2(1) (items 3, 14 and 18) of the *Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004* provide as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 1, item 5	A single day to be fixed by Proclamation.	[see Note 7]
14. Schedule 1, items 18A and 19	At the same time as the provision covered by table item 3.	[see Note 7]
18. Schedule 1, item 42	At the same time as the provision covered by table item 3.	[see Note 7]

- (w) Subsection 2(1) (item 9) of the *Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
9. Schedule 3	Immediately after the commencement of item 132A of the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004

Act Notes

(x) Subsection 2(1) (items 2–6) of the *Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004* provide as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedule 1, item 1	Immediately after the commencement of item 6 of Schedule 1 to the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004
3. Schedule 1, item 2	Immediately after the commencement of item 7 of Schedule 1 to the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004
4. Schedule 1, item 3	Immediately after the commencement of item 46 of Schedule 1 to the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004
5. Schedule 1, item 4	Immediately after the commencement of item 71 of Schedule 1 to the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004
6. Schedule 1, item 5	Immediately after the commencement of item 95 of Schedule 1 to the <i>Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004</i> .	10 August 2004

Table of Amendments

The amendment history of the *Commonwealth Electoral Act 1918* after renumbering by the *Commonwealth Electoral Legislation Amendment Act 1984* appears in the Table below. For repealed provisions up to and including Act No. 45 of 1984 see the Repeal Table.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part I	
S. 3	am. No. 9, 1934
S. 4	am. No. 144, 1983; Nos. 45, 46 and 120, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 121, 1992; No. 94, 1998; No. 34, 2001; Nos. 34 and 78, 2004
S. 4A.....	ad. No. 35, 1987
S. 4B.....	ad. No. 35, 1987 am. No. 121, 1992
S. 4C.....	ad. No. 35, 1987
S. 4D.....	ad. No. 109, 2001
Part II	
Division 1	
Heading to Div. 1 of Part II	ad. No. 144, 1983
S. 5	rs. No. 144, 1983 am. No. 87, 1988; No. 24, 1990; No. 219, 1992; No. 60, 1996; No. 105, 2002
S. 5A.....	ad. No. 24, 1990
Division 2	
Heading to Div. 2 of Part II	ad. No. 144, 1983
S. 6	rs. No. 144, 1983 am. No. 24, 1990; No. 60, 1996; No. 146, 1999
S. 7	ad. No. 144, 1983 am. Nos. 10 and 219, 1992
Heading to s. 7A	rs. No. 94, 1998
S. 7A.....	ad. No. 219, 1992 am. No. 94, 1998
Heading to s. 7B	rs. No. 94, 1998
S. 7B.....	ad. No. 219, 1992 am. No. 94, 1998
S. 8	ad. No. 144, 1983 am. No. 24, 1990; No. 219, 1992
S. 9	ad. No. 144, 1983
Ss. 10–14	ad. No. 144, 1983 am. No. 24, 1990
S. 14A.....	ad. No. 24, 1990 am. No. 219, 1992

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 15	ad. No. 144, 1983 am. No. 24, 1990
S. 16	ad. No. 144, 1983 rs. No. 24, 1990 am. No. 94, 1998
S. 17	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 219, 1992; No. 126, 2000
S. 17A.....	ad. No. 203, 1991
Division 3	
Div. 3 of Part II	ad. No. 144, 1983
S. 18	ad. No. 144, 1983 am. No. 141, 1987; No. 24, 1990; No. 10, 1992
S. 19	ad. No. 144, 1983 am. No. 24, 1990
S. 20	ad. No. 144, 1983 am. No. 141, 1987; No. 24, 1990
S. 21	ad. No. 144, 1983 am. No. 24, 1990; No. 159, 2001
S. 22	ad. No. 144, 1983 am. No. 24, 1990 (as am. by No. 167, 1991)
S. 23	ad. No. 144, 1983 rs. No. 122, 1991 am. No. 146, 1999
S. 24	ad. No. 144, 1983 am. No. 24, 1990
S. 25	ad. No. 144, 1983 am. No. 24, 1990; No. 122, 1991
Ss. 26, 27	ad. No. 144, 1983 am. No. 24, 1990
S. 28	ad. No. 144, 1983 rs. No. 24, 1990
Division 4	
Div. 4 of Part II	ad. No. 144, 1983
S. 29	ad. No. 144, 1983 am. No. 24, 1990; No. 146, 1999
S. 30	ad. No. 144, 1983 am. No. 24, 1990; No. 167, 1991
S. 31	ad. No. 144, 1983 am. No. 24, 1990
S. 32	am. No. 144, 1983; No. 141, 1987; No. 24, 1990
S. 33	am. No. 31, 1919; No. 19, 1940; No. 106, 1952; No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 34	rs. No. 144, 1983 am. Nos. 46 and 120, 1984
S. 35	rs. No. 144, 1983 am. No. 166, 1985; No. 219, 1992; No. 166, 1995; No. 146, 1999

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Division 5	
Heading to Div. 5 of Part II	ad. No. 144, 1983
S. 36	am. No. 24, 1990
S. 37	am. No. 144, 1983
S. 38	rs. No. 144, 1983
Part III	
Part III	ad. No. 144, 1983
Division 1AA	
Div. 1AA of Part III	ad. No. 24, 1990
S. 38A	ad. No. 24, 1990
Division 1	
S. 39	am. No. 14, 1977 rs. No. 144, 1983
Division 2	
S. 40	rs. No. 144, 1983 am. No. 24, 1990
S. 41	rs. No. 144, 1983
S. 42	rs. No. 48, 1965; No. 38, 1974 am. No. 14, 1977 rs. No. 144, 1983 am. No. 24, 1990
S. 43	rs. No. 48, 1965; No. 144, 1983
S. 44	rs. No. 48, 1965; No. 144, 1983 am. No. 109, 1988; No. 24, 1990; No. 167, 1991
Division 3	
Heading to Div. 3 of Part III	am. No. 24, 1990
S. 45	rs. No. 48, 1965; No. 144, 1983 am. No. 121, 1992
S. 46	rs. No. 48, 1965 am. No. 14, 1977 rs. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 34, 2004
S. 47	am. No. 14, 1977 rs. No. 144, 1983 am. No. 24, 1990 rs. No. 34, 2004
S. 48	am. No. 38, 1974; Nos. 14 and 116, 1977 rs. No. 144, 1983 am. No. 24, 1990; No. 34, 2004
S. 48A	ad. No. 34, 2004
S. 49	ad. No. 14, 1977 rs. No. 144, 1983 am. No. 24, 1990; No. 34, 2004
Note to s. 49(1)	ad. No. 34, 2004
S. 50	ad. No. 144, 1983 am. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to Div. 4 of Part III	rep. No. 24, 1990
S. 51	ad. No. 144, 1983 rs. No. 24, 1990 am. No. 121, 1992
S. 52	ad. No. 144, 1983 rep. No. 24, 1990
Ss. 53, 54	ad. No. 144, 1983
Part IV	
Part IV	ad. No. 144, 1983
S. 55	ad. No. 144, 1983
S. 55A	ad. No. 24, 1990
S. 56	ad. No. 144, 1983
S. 56A	ad. No. 24, 1990
Ss. 57, 58	ad. No. 144, 1983
S. 59	ad. No. 144, 1983 am. No. 35, 1987; No. 167, 1991; No. 94, 1998
Heading to s. 60	am. No. 94, 1998
S. 60	ad. No. 144, 1983 am. No. 35, 1987; No. 21, 1994; No. 94, 1998; No. 146, 1999; Statutory Rules 1999 No. 301 (as am. by Statutory Rules 2000 No. 332)
S. 61	ad. No. 144, 1983 rep. No. 94, 1998
S. 62	ad. No. 144, 1983 am. No. 24, 1990
S. 63	ad. No. 144, 1983
S. 63A	ad. No. 94, 1998
S. 64	ad. No. 144, 1983 rs. No. 94, 1998
S. 65	ad. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 66	ad. No. 144, 1983 am. No. 35, 1987; No. 94, 1998
S. 67	am. No. 24, 1990
S. 67A	ad. No. 35, 1987
S. 68	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 94, 1998
S. 69	ad. No. 144, 1983 am. No. 35, 1987; No. 94, 1998
S. 70	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 94, 1998
S. 71	ad. No. 144, 1983 am. No. 24, 1990
S. 72	ad. No. 144, 1983 am. No. 35, 1987; No. 94, 1998

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 73	ad. No. 144, 1983 am. No. 35, 1987; No. 94, 1998
S. 74	ad. No. 144, 1983 am. No. 24, 1990
S. 75	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 94, 1998
S. 76	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 94, 1998
S. 76A.....	ad. No. 24, 1990
Ss. 77, 78	ad. No. 144, 1983 am. No. 24, 1990
Part V	
S. 79	am. No. 19, 1940 rs. No. 144, 1983 am. Nos. 46 and 120, 1984; No. 24, 1990
S. 80	am. No. 144, 1983; No. 78, 2004
Part VI	
S. 81	am. No. 9, 1934; No. 144, 1983
S. 82	am. No. 144, 1983
S. 83	rs. No. 144, 1983
S. 84	am. No. 39, 1983; No. 45, 1984; No. 10, 1992
S. 85	am. No. 144, 1983; No. 24, 1990; No. 94, 1998
S. 86	ad. No. 144, 1983 am. No. 24, 1990; No. 219, 1992
Ss. 87, 88	am. No. 144, 1983
S. 89	am. No. 19, 1940; No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 90	rs. No. 144, 1983 am. No. 24, 1990 rs. No. 78, 2004
S. 90A.....	ad. No. 78, 2004
S. 90B.....	ad. No. 78, 2004 am. No. 115, 2004
S. 91	ad. No. 144, 1983 am. No. 45, 1984 rs. No. 24, 1990 am. No. 167, 1991; No. 219, 1992; No. 94, 1998; Nos. 134 and 146, 1999; No. 126, 2000 rep. No. 78, 2004
Ss. 91AA, 91AB	ad. No. 126, 2000 rep. No. 78, 2004
S. 91A.....	ad. No. 24, 1990 am. No. 219, 1992; No. 94, 1998; No. 134, 1999; No. 126, 2000; No. 78, 2004
S. 91B.....	ad. No. 24, 1990 am. No. 219, 1992; No. 94, 1998; No. 134, 1999; No. 78, 2004
Ss. 91C–91E	ad. No. 167, 1991 rep. No. 78, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 92.....	am. No. 166, 1995
S. 92.....	am. No. 144, 1983 (as am. by No. 45, 1984); No. 166, 1995; No. 78, 2004
Part VII	
S. 93.....	am. No. 14, 1922; No. 20, 1925; No. 17, 1928; No. 10, 1949; No. 26, 1961; No. 31, 1962; No. 7, 1973; No. 176, 1981 (as am. by No. 26, 1982); Nos. 84 and 144, 1983; No. 45, 1984; No. 193, 1985; No. 35, 1987; No. 159, 1989; No. 24, 1990; No. 167, 1991; No. 166, 1995; Nos. 115 and 123, 2004
S. 93A.....	ad. No. 34, 2001
S. 94.....	ad. No. 79, 1953 am. No. 26, 1961; No. 32, 1966; No. 7, 1973; No. 176, 1981 rs. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 121, 1992; No. 166, 1995; No. 94, 1998; No. 34, 2001; No. 78, 2004
S. 94A.....	ad. No. 94, 1998 am. No. 34, 2001; Nos. 78 and 115, 2004
S. 95.....	ad. No. 26, 1961 rs. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 121, 1992; No. 166, 1995; No. 94, 1998; No. 34, 2001; Nos. 78 and 115, 2004
S. 95AA.....	ad. No. 121, 1992 am. No. 94, 1998; No. 115, 2004
S. 95AB.....	ad. No. 121, 1992
S. 95AC.....	ad. No. 121, 1992
S. 96.....	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 121, 1992; No. 166, 1995; No. 34, 2001
S. 96A.....	ad. No. 24, 1990 am. No. 167, 1991
S. 97.....	ad. No. 144, 1983 am. No. 24, 1990
Part VIII	
S. 98.....	am. No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 98A.....	ad. No. 34, 2001
S. 99.....	am. No. 20, 1925; No. 17, 1928; No. 9, 1934; No. 26, 1961; No. 144, 1983; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 115, 2004
S. 99A.....	ad. No. 219, 1992 am. No. 115, 2004
S. 100.....	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 115, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 101	am. No. 26, 1961; No. 31, 1962; No. 48, 1965; No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 109, 2001; No. 115, 2004
Note to s. 101(4)	ad. No. 109, 2001
Note to s. 101(5A).....	ad. No. 109, 2001
Note to s. 101(6A).....	ad. No. 109, 2001
S. 102	am. No. 10, 1949 rs. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 166, 1995; No. 94, 1998; No. 115, 2004
S. 103	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 109, 2001
S. 104	ad. No. 144, 1983 am. No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 115, 2004
S. 105	am. No. 9, 1934; No. 19, 1940; No. 144, 1983; No. 24, 1990; No. 115, 2004
S. 106	ad. No. 9, 1934 am. No. 144, 1983; No. 24, 1990
S. 107	am. No. 26, 1961; No. 144, 1983
S. 108	am. No. 7, 1973; No. 144, 1983; No. 24, 1990
S. 109	am. No. 144, 1983; No. 166, 1995; Nos. 115 and 123, 2004
S. 110	am. No. 144, 1983 (as am. by No. 45, 1984)
S. 111	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 78, 2004
S. 111A.....	ad. No. 166, 1995
S. 112	ad. No. 144, 1983 am. No. 24, 1990
Part IX	
Part IX	rs. No. 24, 1990
S. 113	am. No. 93, 1966; No. 144, 1983 rs. No. 24, 1990 am. No. 94, 1998; No. 115, 2004
S. 114	am. No. 144, 1983 rs. No. 24, 1990 am. No. 94, 1998; No. 115, 2004
S. 115	am. No. 144, 1983 rs. No. 24, 1990 am. No. 94, 1998; No. 115, 2004
S. 116	am. No. 144, 1983 rs. No. 24, 1990
S. 117	rs. No. 24, 1990
S. 118	am. No. 93, 1966; No. 144, 1983 rs. No. 24, 1990 am. No. 167, 1991; No. 94, 1998; No. 115, 2004
S. 119	ad. No. 144, 1983 rep. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part X	
Part X	ad. No. 144, 1983
S. 120	rs. No. 144, 1983 am. No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 34, 2001; No. 78, 2004
S. 121	ad. No. 144, 1983 am. No. 94, 1998; No. 34, 2001; No. 78, 2004
S. 122	ad. No. 144, 1983 am. No. 24, 1990
Part XI	
Part XI	ad. No. 144, 1983
S. 123	ad. No. 144, 1983 am. No. 109, 1988; No. 24, 1990; No. 126, 2000
Ss. 124, 125	ad. No. 144, 1983
S. 126	ad. No. 144, 1983 am. No. 24, 1990; No. 126, 2000
S. 127	ad. No. 144, 1983
S. 128	ad. No. 144, 1983 rep. No. 24, 1990
S. 129	ad. No. 144, 1983 am. No. 126, 2000; No. 115, 2004
S. 130	ad. No. 144, 1983
S. 131	ad. No. 144, 1983 am. No. 219, 1992
S. 132	ad. No. 144, 1983 am. No. 24, 1990; No. 219, 1992
S. 132A	ad. No. 78, 2004
S. 133	ad. No. 144, 1983
S. 134	ad. No. 144, 1983 am. No. 24, 1990; No. 126, 2000; No. 78, 2004
S. 134A	ad. No. 94, 1998 am. Nos. 78 and 115, 2004
Heading to s. 135	am. No. 94, 1998
S. 135	ad. No. 144, 1983 am. No. 94, 1998
S. 136	ad. No. 144, 1983 am. No. 24, 1990; No. 219, 1992; No. 94, 1998
Heading to s. 137	am. No. 94, 1998
S. 137	ad. No. 144, 1983 am. No. 94, 1998; No. 34, 2001
Heading to s. 138	rs. No. 94, 1998
S. 138	ad. No. 144, 1983 am. No. 94, 1998
S. 138A	ad. No. 34, 2001
S. 139	ad. No. 144, 1983

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 140	ad. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 141	ad. No. 144, 1983 am. No. 24, 1990; No. 94, 1998; No. 38, 2005
Part XII	ad. No. 144, 1983 rep. No. 35, 1987
S. 142	ad. No. 144, 1983 am. No. 45, 1984 rep. No. 35, 1987
S. 143	ad. No. 144, 1983 rs. No. 45, 1984 rep. No. 35, 1987
Ss. 144, 145	ad. No. 144, 1983 am. No. 45, 1984 rep. No. 35, 1987
Ss. 146–148	ad. No. 144, 1983 rep. No. 35, 1987
S. 149	ad. No. 144, 1983 am. No. 45, 1984 rep. No. 35, 1987
S. 150	ad. No. 144, 1983 rep. No. 35, 1987
Part XIII	
S. 151	ad. No. 144, 1983
S. 152	am. No. 144, 1983; No. 24, 1990
S. 153	rs. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 154	rs. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 155	ad. No. 144, 1983
S. 156	am. No. 144, 1983; No. 94, 1998
S. 157	am. No. 144, 1983; No. 94, 1998
S. 159	am. No. 144, 1983; No. 35, 1987
S. 161	rs. No. 144, 1983
Part XIV	
S. 163	rs. No. 20, 1925 am. No. 10, 1949; No. 7, 1973; No. 176, 1981; No. 144, 1983 rs. No. 24, 1990
S. 164	rs. No. 14, 1921; No. 144, 1983 am. No. 109, 1988
S. 165	ad. No. 144, 1983
S. 166	am. No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; No. 78, 2004
S. 167	am. No. 144, 1983 rs. No. 167, 1991 am. No. 94, 1998

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 168	ad. No. 14, 1922 am. No. 48, 1965; No. 144, 1983; No. 45, 1984 rs. No. 35, 1987
S. 169	ad. No. 19, 1940 am. No. 144, 1983 rs. No. 35, 1987 am. No. 24, 1990
S. 169A.....	ad. No. 35, 1987
S. 169B.....	ad. No. 35, 1987 am. No. 219, 1992
S. 169C	ad. No. 35, 1987
S. 170	am. No. 20, 1925; No. 48, 1965; No. 93, 1966; No. 144, 1983; No. 35, 1987; No. 24, 1990 rs. No. 167, 1991 am. Nos. 48 and 94, 1998
S. 171	am. No. 144, 1983; No. 24, 1990
S. 172	rs. No. 144, 1983 am. No. 35, 1987
S. 173	rs. No. 31, 1919 am. No. 14, 1922; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995; No. 34, 2001; No. 115, 2004
S. 174	am. No. 17, 1928; No. 144, 1983
S. 175	am. No. 144, 1983; No. 94, 1998
S. 176	am. No. 144, 1983; No. 24, 1990 rs. No. 167, 1991 am. No. 94, 1998; No. 115, 2004
S. 177	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995; No. 34, 2001 rs. No. 78, 2004
S. 178	am. No. 24, 1990; No. 166, 1995; No. 115, 2004
S. 179	am. No. 48, 1965; No. 144, 1983
S. 180	rs. No. 17, 1928 am. No. 166, 1995; No. 34, 2001
S. 181	am. No. 17, 1928
Part XV	
Part XV	rs. No. 24, 1990
Ss. 182, 183.....	ad. No. 144, 1983 rs. No. 24, 1990
S. 184	am. No. 31, 1919; No. 14, 1922; No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 26, 1961; No. 70, 1965; Nos. 32 and 93, 1966; No. 144, 1983; No. 45, 1984 rs. No. 24, 1990 am. No. 167, 1991; No. 137, 2000; No. 34, 2001
S. 184A.....	ad. No. 24, 1990 am. No. 167, 1991; No. 166, 1995; No. 137, 2000; Nos. 115 and 123, 2004
S. 184AA	ad. No. 94, 1998
S. 184B.....	ad. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 185	am. No. 31, 1919; No. 14, 1922 rep. No. 17, 1928 ad. No. 144, 1983 rs. No. 24, 1990
S. 185A.....	ad. No. 24, 1990 rep. No. 166, 1995
Ss. 185B, 185C.....	ad. No. 24, 1990
Heading to s. 186.....	am. No. 166, 1995
S. 186	ad. No. 144, 1983 am. No. 45, 1984 rs. No. 24, 1990 am. No. 166, 1995; No. 94, 1998; No. 134, 1999; No. 78, 2004
S. 187	am. No. 17, 1928; No. 10, 1949; No. 93, 1966; No. 144, 1983 rs. No. 24, 1990
S. 188	am. No. 14, 1922; No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 26, 1961; No. 144, 1983 (as am. by No. 45, 1984); No. 45, 1984 rs. No. 24, 1990 am. No. 167, 1991; No. 94, 1998; No. 78, 2004
Note to s. 188(1)	ad. No. 34, 2001
S. 189	am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 144, 1983; No. 45, 1984 rs. No. 24, 1990 am. No. 167, 1991; No. 94, 1998
Ss. 189A, 189B	ad. No. 34, 2001
S. 190	am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 144, 1983 rs. No. 24, 1990 am. No. 34, 2001
S. 191	am. No. 48, 1965; No. 32, 1966; No. 144, 1983; No. 45, 1984 ad. No. 24, 1990 rep. No. 167, 1991
S. 192	ad. No. 14, 1922 am. No. 17, 1928; No. 144, 1983; No. 45, 1984 rs. No. 24, 1990
S. 193	ad. No. 17, 1928 am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 48, 1965; No. 144, 1983 rs. No. 24, 1990 am. No. 94, 1998; No. 146, 1999; No. 78, 2004
S. 194	am. No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 35, 1987 rs. No. 24, 1990 am. No. 34, 2001; No. 78, 2004
S. 195	am. No. 9, 1934; No. 93, 1966; No. 144, 1983 rs. No. 24, 1990
S. 195A.....	ad. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 196	ad. No. 14, 1922 am. No. 19, 1940; No. 10, 1949; No. 93, 1966; No. 144, 1983 rs. No. 24, 1990 am. No. 109, 2001
S. 197	am. No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 93, 1966; No. 144, 1983; No. 45, 1984 rs. No. 24, 1990
S. 198	ad. No. 10, 1949 am. No. 93, 1966; No. 144, 1983 rs. No. 24, 1990
S. 199	am. No. 17, 1928; No. 93, 1966; No. 144, 1983 rs. No. 24, 1990
S. 200	am. No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 48, 1965; No. 32, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987 rs. No. 24, 1990
Part XVA	
Part XVA	ad. No. 24, 1990
Ss. 200A–200C	ad. No. 24, 1990
S. 200D	ad. No. 24, 1990 am. No. 166, 1995; No. 94, 1998
Ss. 200DA, 200DB	ad. No. 78, 2004
S. 200E	ad. No. 24, 1990 am. No. 34, 2001
S. 200F	ad. No. 24, 1990 am. No. 167, 1991
S. 200G	ad. No. 24, 1990
S. 200H	ad. No. 24, 1990 rep. No. 167, 1991
S. 200J	ad. No. 24, 1990 am. No. 109, 2001
S. 200K	ad. No. 24, 1990
S. 201	ad. No. 144, 1983 rep. No. 24, 1990 ad. No. 24, 1990
S. 202	rep. No. 24, 1990 ad. No. 24, 1990
Part XVI	
S. 202A	ad. No. 24, 1990
S. 203	am. No. 144, 1983; No. 24, 1990; No. 219, 1992
S. 204	am. No. 24, 1990
S. 205	am. No. 80, 1982; No. 144, 1983; No. 24, 1990 rs. No. 167, 1991
S. 207	am. No. 144, 1983; No. 24, 1990
S. 208	am. No. 144, 1983; No. 24, 1990 rs. No. 94, 1998 am. No. 115, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 209	rs. No. 48, 1965; No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 94, 1998; No. 78, 2004
S. 209A.....	ad. No. 24, 1990 rs. No. 94, 1998
S. 210	ad. No. 14, 1922 am. No. 19, 1940; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991
S. 210A.....	ad. No. 35, 1987
S. 211	am. No. 14, 1922 rs. No. 144, 1983 am. No. 45, 1984; No. 35, 1987; No. 94, 1998; No. 34, 2001
S. 211A.....	ad. No. 35, 1987 am. No. 167, 1991; No. 94, 1998; No. 34, 2001
S. 212	ad. No. 144, 1983
S. 213	ad. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 214	ad. No. 144, 1983 am. No. 45, 1984 rs. No. 35, 1987
S. 215	am. No. 144, 1983 rs. No. 34, 2001
S. 216	ad. No. 144, 1983 am. No. 45, 1984 rs. No. 35, 1987; No. 34, 2001
S. 217	am. No. 144, 1983; No. 78, 2004
S. 218	am. No. 93, 1966; No. 144, 1983; No. 24, 1990
S. 219	am. No. 144, 1983; No. 45, 1984 rs. No. 24, 1990
S. 220	am. No. 17, 1928; No. 144, 1983; No. 24, 1990
S. 221	am. No. 144, 1983; No. 24, 1990
S. 222	am. No. 31, 1919; No. 32, 1966; No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 223	ad. No. 144, 1983
S. 224	ad. No. 144, 1983 rs. No. 24, 1990
S. 225	ad. No. 144, 1983 am. No. 24, 1990; No. 94, 1998
S. 226	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 94, 1998
S. 226A.....	ad. No. 24, 1990 am. No. 78, 2004
Note to s. 226A(1).....	ad. No. 78, 2004
S. 227	rs. No. 144, 1983 am. No. 45, 1984; No. 24, 1990 (as am. by No. 167, 1991); No. 167, 1991; No. 166, 1995
S. 228	ad. No. 45, 1984 rs. No. 35, 1987 am. No. 24, 1990; No. 94, 1998; No. 78, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 229	rs. No. 14, 1922 am. No. 17, 1928; No. 10, 1949; No. 7, 1973; No. 176, 1981 rs. No. 144, 1983 am. No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 115, 2004
S. 230	am. No. 144, 1983; No. 115, 2004
S. 231	am. No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 232	rs. No. 45, 1984 am. No. 35, 1987; No. 24, 1990
S. 233	am. No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 234	rs. No. 17, 1928 am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995
S. 234A	ad. No. 94, 1998
S. 235	am. No. 14, 1922; No. 17, 1928; No. 26, 1961; No. 144, 1983; No. 45, 1984 rs. No. 24, 1990 am. No. 167, 1991; No. 115, 2004
S. 236	ad. No. 14, 1922 am. No. 144, 1983; No. 45, 1984 rep. No. 24, 1990
S. 237	ad. No. 144, 1983 am. No. 45, 1984 rep. No. 24, 1990
S. 238	am. No. 144, 1983; No. 24, 1990 (as am. by No. 167, 1991)
S. 239	am. No. 31, 1919; No. 9, 1934; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990
S. 240	am. No. 144, 1983; No. 45, 1984 rs. No. 24, 1990 am. No. 94, 1998
S. 240A	ad. No. 78, 2004
S. 241	rs. No. 48, 1965 am. No. 78, 2004
S. 242	am. No. 144, 1983
S. 243	rs. No. 14, 1922 am. No. 144, 1983
S. 245	ad. No. 10, 1924 am. No. 17, 1928; No. 48, 1965; Nos. 32 and 93, 1966; No. 144, 1983; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; Nos. 34 and 109, 2001; No. 78, 2004
Part XVII	
Part XVII	ad. No. 144, 1983
Ss. 246–248	ad. No. 144, 1983 am. No. 24, 1990
S. 249	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 94, 1998
Ss. 250–254	ad. No. 144, 1983
S. 255	rs. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Ss. 256, 257	ad. No. 144, 1983 am. No. 24, 1990
S. 258	ad. No. 144, 1983
S. 259	ad. No. 144, 1983 am. No. 24, 1990
Ss. 260, 261	ad. No. 144, 1983 am. No. 24, 1990; No. 34, 2001
S. 262	ad. No. 144, 1983
Part XVIII	
S. 264	rs. No. 26, 1961 am. No. 144, 1983; No. 24, 1990; No. 78, 2004
S. 265	am. No. 144, 1983; No. 219, 1992; No. 94, 1998
S. 266	ad. No. 45, 1984 rs. No. 24, 1990 am. No. 134, 1999
S. 267	am. No. 24, 1990
S. 268	am. No. 31, 1919; No. 14, 1922; No. 9, 1934; No. 19, 1940; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 94, 1998
S. 269	ad. No. 144, 1983 am. No. 45, 1984; No. 35, 1987; No. 24, 1990
S. 270	ad. No. 144, 1983 am. No. 94, 1998
S. 271	am. No. 93, 1966; No. 144, 1983
S. 272	ad. No. 144, 1983 am. No. 35, 1987
S. 273	rs. No. 31, 1919 am. No. 14, 1922; No. 17, 1928; No. 9, 1934; No. 17, 1948; No. 144, 1983; Nos. 45 and 133, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 78, 2004
S. 273A.....	ad. No. 94, 1998 am. Statutory Rules 1999 No. 301 (as am. by Statutory Rules 2000 No. 332)
S. 273B.....	ad. No. 94, 1998
S. 274	rs. No. 31, 1919 am. No. 14, 1922; No. 17, 1928; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; No. 78, 2004
S. 275	ad. No. 31, 1919 am. No. 14, 1922; No. 17, 1928; No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 276	ad. No. 144, 1983 am. No. 167, 1991; No. 94, 1998
S. 277	ad. No. 144, 1983 am. No. 24, 1990
Ss. 278, 279	am. No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 279A.....	ad. No. 24, 1990
S. 279B.....	ad. No. 24, 1990 am. No. 146, 1999

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 281	am. No. 144, 1983; No. 24, 1990
S. 282	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990
Part XIX	
S. 283	am. No. 14, 1922; No. 17, 1928; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 94, 1998; No. 78, 2004
S. 284	am. No. 14, 1922; No. 17, 1928; No. 10, 1949; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 34, 2001; No. 78, 2004
S. 285	am. No. 78, 2004
S. 286	am. No. 144, 1983; No. 45, 1984; No. 35, 1987
Part XX	
Heading to Part XX	rs. No. 102, 1980
Part XX	ad. No. 144, 1983
Division 1	
S. 287	rs. No. 42, 1946 am. No. 93, 1966 rep. No. 102, 1980 ad. No. 144, 1983 am. No. 45, 1984; No. 67, 1985; No. 35, 1987; No. 24, 1990; No. 180, 1991; Nos. 45 and 105, 1992; No. 42, 1995; No. 60, 1996; No. 94, 1998; No. 134, 1999; No. 55, 2001; Nos. 81 and 105, 2002
S. 287A	ad. No. 24, 1990 am. No. 45, 1992
S. 287B	ad. No. 81, 2002
Division 2	
S. 288	rs. No. 42, 1946 rep. No. 102, 1980 ad. No. 144, 1983 rs. No. 24, 1990
S. 288A	ad. No. 166, 1995
S. 289	rep. No. 102, 1980 ad. No. 144, 1983 am. No. 24, 1990
S. 290	rep. No. 102, 1980 ad. No. 144, 1983 am. No. 24, 1990; No. 42, 1995
Ss. 291, 292	am. No. 93, 1966 rep. No. 102, 1980 ad. No. 144, 1983 rs. No. 24, 1990
S. 292A	ad. No. 24, 1990
S. 292B	ad. No. 24, 1990 am. No. 45, 1992
Ss. 292C, 292D	ad. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 293	am. No. 93, 1966 rep. No. 102, 1980 ad. No. 144, 1983 rep. No. 42, 1995
Division 3	
S. 294	am. No. 93, 1966 rep. No. 102, 1980 ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 42, 1995
S. 295	am. No. 93, 1966 rs. No. 144, 1983 am. No. 35, 1987; No. 24, 1990 rep. No. 42, 1995
S. 296	ad. No. 144, 1983 rep. No. 42, 1995
S. 297	ad. No. 144, 1983 am. No. 24, 1990
S. 298	ad. No. 144, 1983 rep. No. 42, 1995
S. 299	ad. No. 144, 1983 am. No. 35, 1987; Nos. 42 and 166, 1995; No. 81, 2002
S. 299A.....	ad. No. 24, 1990 rep. No. 42, 1995 ad. No. 81, 2002
S. 300	ad. No. 144, 1983 am. No. 24, 1990; No. 42, 1995
S. 301	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 42, 1995
S. 302	ad. No. 144, 1983
Division 4	
S. 303	ad. No. 144, 1983 am. No. 203, 1991
S. 304	ad. No. 144, 1983 am. No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992
S. 305	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995; No. 134, 1999
Heading to s. 305A	am. No. 42, 1995
S. 305A.....	ad. No. 45, 1992 am. No. 42, 1995
S. 305B.....	ad. No. 42, 1995 am. No. 134, 1999
S. 306	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 45, 1992
S. 306A.....	ad. No. 134, 1999 am. No. 55, 2001
S. 306B.....	ad. No. 81, 2002

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 307	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 203, 1991
Division 5	
S. 308	ad. No. 144, 1983 am. No. 45, 1984; No. 203, 1991; No. 45, 1992; No. 42, 1995
S. 309	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995; No. 94, 1998
S. 310	ad. No. 144, 1983 am. No. 67, 1985; No. 24, 1990; No. 105, 1992
S. 311	ad. No. 144, 1983 am. No. 24, 1990
S. 311A.....	ad. No. 203, 1991 am. No. 146, 1999
S. 312	ad. No. 144, 1983 rep. No. 35, 1987
S. 313	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 42, 1995
S. 314	ad. No. 144, 1983 am. No. 24, 1990
Division 5A	
Heading to Div. 5A of Part XX	am. No. 42, 1995
Div. 5A of Part XX	ad. No. 203, 1991 rs. No. 45, 1992
S. 314AA	ad. No. 203, 1991 rs. No. 45, 1992 am. No. 42, 1995; No. 134, 1999
S. 314AB	ad. No. 45, 1992 am. No. 42, 1995; No. 94, 1998
S. 314AC.....	ad. No. 45, 1992 am. No. 42, 1995; No. 134, 1999
S. 314AD.....	ad. No. 45, 1992 am. No. 42, 1995 rep. No. 94, 1998
S. 314AE	ad. No. 45, 1992
S. 314AEA.....	ad. No. 42, 1995 am. No. 134, 1999
S. 314AF	ad. No. 45, 1992
S. 314AG.....	ad. No. 45, 1992 am. No. 42, 1995
Division 6	
S. 314A.....	ad. No. 24, 1990 am. No. 45, 1992
S. 315	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 109, 2001
S. 315A.....	ad. No. 24, 1990

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 316	ad. No. 144, 1983 am. No. 24, 1990; No. 203, 1991; No. 42, 1995; No. 94, 1998; No. 109, 2001; No. 81, 2002
S. 317	ad. No. 144, 1983 am. No. 24, 1990; Nos. 167 and 203, 1991
S. 318	ad. No. 144, 1983 am. No. 45, 1984; No. 24, 1990; No. 45, 1992
S. 318A.....	ad. No. 203, 1991
S. 319	ad. No. 144, 1983 am. No. 35, 1987
S. 319A.....	am. No. 35, 1987; No. 42, 1995
S. 320	ad. No. 144, 1983 am. No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995
S. 321	ad. No. 144, 1983 am. No. 24, 1990; No. 42, 1995
Part XXI	
S. 322	rs. No. 144, 1983; No. 45, 1984 am. No. 24, 1990
S. 323	am. No. 93, 1966 rs. No. 144, 1983 am. No. 24, 1990
S. 324	am. No. 31, 1962 rs. No. 144, 1983 am. No. 24, 1990
S. 325	am. No. 31, 1962 rs. No. 144, 1983 am. No. 45, 1984; No. 109, 2001
S. 325A.....	ad. No. 24, 1990 am. No. 190, 2001
S. 326	am. No. 31, 1962 rs. No. 144, 1983 am. No. 24, 1990; No. 109, 2001
S. 327	am. No. 31, 1962 rs. No. 144, 1983 am. No. 203, 1991; No. 144, 2003
S. 328	rs. No. 144, 1983 am. No. 35, 1987; No. 167, 1991; No. 94, 1998; No. 34, 2001; No. 78, 2004
S. 329	am. No. 17, 1928; No. 102, 1980 rs. No. 144, 1983 am. No. 133, 1984; No. 24, 1990; No. 94, 1998
Note to s. 329(5)	ad. No. 109, 2001
S. 329A.....	ad. No. 219, 1992 rep. No. 94, 1998
S. 330	am. No. 93, 1966 rs. No. 144, 1983

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 331	am. No. 93, 1966; No. 144, 1983; No. 35, 1987; No. 24, 1990 rs. No. 167, 1991 am. No. 94, 1998; No. 115, 2004
S. 332	am. No. 17, 1928; No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 94, 1998 rep. No. 134, 1999
S. 333	ad. No. 19, 1940 am. No. 93, 1966; No. 144, 1983 (as am. by No. 45, 1984); No. 45, 1984; No. 67, 1985 rep. No. 184, 1987
S. 334	ad. No. 43, 1946 am. No. 47, 1949; No. 26, 1961; No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 109, 2001
S. 335	am. No. 93, 1966; No. 144, 1983; No. 109, 2001
S. 336	am. No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 167, 1991
S. 337	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 115, 2004
Note to s. 337.....	ad. No. 115, 2004
S. 338	am. No. 93, 1966; No. 144, 1983; No. 24, 1990
S. 339	am. No. 93, 1966 rs. No. 144, 1983 am. No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 137, 2000; No. 109, 2001; No. 115, 2004
S. 340	am. No. 26, 1961; No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 78, 2004
S. 341	ad. No. 19, 1940 am. No. 93, 1966; No. 144, 1983; No. 109, 2001
S. 342	am. No. 93, 1966; No. 144, 1983; No. 24, 1990
S. 343	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 109, 2001
S. 344	am. No. 144, 1983; No. 94, 1998 rep. No. 137, 2000
S. 345	am. No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 24, 1990
S. 346	am. No. 93, 1966; No. 144, 1983; No. 24, 1990
S. 347	am. No. 9, 1934; No. 93, 1966; No. 144, 1983; No. 167, 1991; No. 109, 2001
S. 348	am. No. 144, 1983; No. 45, 1984 rs. No. 24, 1990
S. 349	am. No. 144, 1983 rep. No. 24, 1990
S. 350	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 109, 2001
S. 351	ad. No. 19, 1940 am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 167, 1991; No. 109, 2001
Note to s. 351(3)	ad. No. 109, 2001
Note to s. 351(5)	ad. No. 109, 2001

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part XXII	
Division 1	
S. 352	rs. No. 144, 1983
S. 353	am. No. 19, 1940; No. 144, 1983; No. 109, 1988
S. 354	am. No. 144, 1983; No. 94, 1998; No. 34, 2001
S. 355	am. No. 19, 1940; Nos. 102 and 155, 1980; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 115, 2004
S. 356	am. No. 93, 1966; No. 155, 1980; No. 144, 1983 rs. No. 13, 1994 am. No. 166, 1995
S. 357	ad. No. 144, 1983 am. No. 24, 1990
S. 358	am. No. 144, 1983; No. 24, 1990
S. 359	am. No. 144, 1983
S. 360	am. No. 14, 1922; No. 144, 1983
S. 361	am. No. 144, 1983
S. 362	am. No. 144, 1983; No. 133, 1984; No. 24, 1990; No. 203, 1991; No. 167, 1992; No. 94, 1998
S. 363	am. No. 155, 1980; No. 13, 1994
S. 363A	ad. No. 94, 1998
S. 364A	ad. No. 24, 1990
S. 365	am. No. 14, 1922; No. 167, 1991
S. 365A	ad. No. 134, 1999
S. 366	ad. No. 144, 1983 am. No. 35, 1987
S. 367	ad. No. 14, 1922 am. No. 24, 1990
S. 367A	ad. No. 24, 1990
S. 369	am. No. 155, 1980 rs. No. 167, 1991 am. No. 13, 1994
S. 370	rs. No. 166, 1995
S. 374	am. No. 24, 1990
S. 375	am. No. 19, 1940; No. 80, 1982; No. 99, 1988; No. 140, 2003
S. 375A	ad. No. 24, 1990
Division 2	
Ss. 377–379	am. No. 144, 1983
S. 380	am. No. 155, 1980; No. 144, 1983; No. 13, 1994
S. 381	am. No. 144, 1983
Part XXIII	
S. 381A	ad. No. 35, 1987
S. 382	am. No. 144, 1983 rep. No. 34, 2001
S. 383	ad. No. 144, 1983 am. No. 34, 2001; No. 78, 2004

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 384	ad. No. 144, 1983
S. 385	am. No. 144, 1983
S. 385A.....	ad. No. 219, 1992
S. 386	am. No. 144, 1983; No. 109, 2001
S. 386A.....	ad. No. 203, 1991 rep. No. 219, 1992
S. 387	am. No. 56, 1975; No. 144, 1983; No. 24, 1990
S. 387A.....	ad. No. 219, 1992 am. No. 78, 2004
S. 388	am. No. 17, 1928
S. 389	am. No. 19, 1940
S. 390	ad. No. 26, 1961 am. No. 24, 1990; No. 219, 1992
S. 390A.....	ad. No. 219, 1992
S. 391	ad. No. 45, 1984 am. No. 24, 1990; No. 219, 1992
S. 392	am. No. 144, 1983; No. 24, 1990
S. 393	am. No. 144, 1983 rs. No. 24, 1990 rep. No. 94, 1998
S. 393A.....	ad. No. 24, 1990 am. No. 94, 1998
S. 394	ad. No. 14, 1922 am. No. 144, 1983; No. 45, 1984; No. 167, 1991; No. 121, 1992
S. 395	am. No. 10, 1924; No. 93, 1966; No. 144, 1983
Schedules	
Heading to Schedule	rep. No. 24, 1990
Heading to Schedule 1	ad. No. 24, 1990
Schedule	ad. No. 144, 1983 am. No. 45, 1984; No. 35, 1987; Statutory Rules 1984 No. 287; 1988 No. 339; 1989 No. 32
Schedule 1	am. No. 24, 1990; Statutory Rules 1995 No. 21; No. 34, 2001; No. 78, 2004
Schedule 2	ad. No. 24, 1990 am. No. 167, 1991; Nos. 115 and 123, 2004
Schedule 3	ad. No. 24, 1990 am. No. 167, 1991; No. 166, 1995; No. 94, 1998; No. 134, 1999; No. 34, 2001; No. 115, 2004

Repeal Table

Certain provisions of the *Commonwealth Electoral Act 1918*, as amended, were repealed prior to renumbering by the *Commonwealth Electoral Legislation Amendment Act 1984* (No. 45 of 1984) or by that Act. The amendment history of the repealed provisions appears in the Table below.

Repeal Table

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 4	rs. No. 26, 1961 rep. No. 14, 1977
S. 12	rep. No. 144, 1983
Part III	rep. No. 144, 1983
(ss. 14A, 15–18, 18A, 19–23, 23A, 24, 25, 25A)	
S. 14A.....	ad. No. 14, 1977 rep. No. 144, 1983
S. 15	rep. No. 144, 1983
S. 18A.....	ad. No. 48, 1965 am. No. 14, 1977 rep. No. 144, 1983
S. 23A.....	ad. No. 48, 1965 rep. No. 144, 1983
S. 28	rep. No. 144, 1983
Ss. 44, 45	rep. No. 144, 1983
Part IX (s. 58).....	rep. No. 144, 1983
S. 87A.....	ad. No. 10, 1949 am. No. 93, 1966 rep. No. 144, 1983
S. 93A.....	ad. No. 14, 1922 am. No. 17, 1928; No. 93, 1966 rep. No. 144, 1983
S. 105	rep. No. 144, 1983
S. 105B.....	ad. No. 48, 1965 rep. No. 144, 1983
Part XVI (s. 153)	rep. No. 144, 1983
S. 164BA	ad. No. 47, 1949 am. No. 93, 1966 rep. No. 144, 1983
S. 164BB	ad. No. 47, 1949 am. No. 19, 1979 rep. No. 144, 1983
S. 166	am. No. 93, 1966 rep. No. 144, 1983
S. 178	am. No. 93, 1966 rep. No. 144, 1983
S. 182	rep. No. 144, 1983

Repeal Table

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 189A.....	ad. No. 14, 1922 am. No. 17, 1928 rep. No. 48, 1965
S. 212.....	rs. No. 9, 1934 rep. No. 56, 1975
S. 214.....	am. No. 2, 1929 rep. No. 144, 1983
The Schedule.....	am. No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 9, 1934; No. 19, 1940; No. 26, 1961; No. 93, 1966; No. 102, 1980 rep. No. 144, 1983

Note 2

Note 2

Section 3—For Proclamations fixing the dates of repeal of these Acts: *see Gazettes* 1918, p. 2257; 1919, p. 401 and 1934, p. 1351.

Note 3

Section 93—Section 30FD of the *Crimes Act 1914* provides as follows:

30FD Disqualification from voting of member of unlawful association

Any person who, at the date of any declaration made by a court under this Part declaring any body of persons to be an unlawful association, is a member of the Committee or Executive of that association, shall not for a period of 7 years from that date be entitled to have his name placed on or retained on any roll of electors for the Senate or House of Representatives, or to vote at any Senate election or House of Representatives election unless so entitled under section 41 of the Constitution.

Note 4

Section 95—Section 41 of the Constitution provides as follows:

41 Right of electors of States

No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

Note 5

Section 152—Sections 12, 32 and 33 of the Constitution provide as follows:

12 Issue of writs

The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

Note 6

32 Writs for general election

The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33 Writs for vacancies

Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

Note 6

Section 163—*Note also* sections 43 and 44 of the Constitution, which provide as follows:

43 Member of one House ineligible for other

A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

44 Disqualification

Any person who:

- (i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or
- (ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or
- (iii) Is an undischarged bankrupt or insolvent; or
- (iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth; or
- (v) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the

Note 7

Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons; shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But subsection (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Note 7

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004 (No. 115, 2004)

The following amendments commence on proclamation:

Schedule 1

5 Subsection 92(1)

Omit "and electoral officers", substitute "electoral and other prescribed officers".

18A Before section 98

Insert:

98AA Regulations

- (1) Where regulations are made to implement a requirement of this Part or Part VII in relation to identification for enrolment:
 - (a) the regulations must require the applicant for enrolment to provide documentary evidence of their name and address by providing their driver's licence number;provided that:
 - (b) where the applicant does not possess a driver's licence, the application must be countersigned by two persons on the electoral roll who can confirm the applicant's identity and

Note 7

current residential address. The counter-signatories must have known the applicant for at least one month or have sighted identification showing the applicant's name and address.

- (2) Regulations must not be made in accordance with subsection (1) until after 1 July 2005.

19 At the end of subsection 98(2)

Add:

- ; and (d) be supported by the evidence of:
- (i) the claimant's identity; and
 - (ii) the place where the claimant lives if subparagraph (iii) does not apply; and
 - (iii) any matter that is relevant to determining which Subdivision the claimant should be enrolled in if the claimant's entitlement to enrolment arises under section 95AA (Norfolk Island electors);
that is required by the regulations; and
- (e) the requirement in paragraph (c) does not apply once the regulations in relation to evidentiary requirements for enrolment are in operation.

To avoid doubt, the requirement in paragraph (d) does not apply unless regulations are in operation for the purposes of that paragraph when the claim is made.

42 Before subsection 105(2)

Insert:

- (1B) An application by an elector under subsection 105(1) to alter the elector's name on a Subdivision Roll must be supported by the evidence of the elector's identity that is required by the regulations.
- (1C) An application by an elector under subsection 105(1) to alter the elector's address on a Subdivision Roll must be supported by the evidence (if any) of:
- (a) the elector's identity; and
 - (b) the place where the elector lives;
- that is required by the regulations.

Note 7

(1D) To avoid doubt, the requirement in subsection (1C) does not apply unless regulations are in operation for the purposes of that subsection when the application is made.

As at 16 May 2005 the amendments are not incorporated in this compilation.

Table A

Table A

Application, saving or transitional provisions

Electoral and Referendum Amendment Act (No. 1) 1999 (No. 134, 1999)

4 Application of amendments relating to donations

The amendment made by item 21 applies to the financial year in which this Act receives the Royal Assent, and to all subsequent financial years.

Commonwealth Electoral Amendment Act (No. 1) 2000 (No. 126, 2000)

Schedule 2

10 Transitional—existing registered political parties

If:

- (a) immediately before the commencement of this Schedule a registered political party was a Parliamentary party; and
- (b) immediately after the commencement of this Schedule the political party would, apart from this item, not be a Parliamentary party;

the political party is taken to be a Parliamentary party for the period of 6 months starting at the commencement of this Schedule.

11 Transitional—applications made before commencement

(1) If:

- (a) before the commencement of this Schedule a political party had made an application under section 126 of the *Commonwealth Electoral Act 1918* (application for registration); and
- (b) the application had not been finally determined before the commencement of this Schedule; and
- (c) immediately before the commencement of this Schedule the political party was a Parliamentary party; and

Table A

- (d) immediately after the commencement of this Schedule the political party would, apart from this item, not be a Parliamentary party;

the political party is taken to be a Parliamentary party for the period of 6 months starting at the commencement of this Schedule.

- (2) For the purposes of subitem (1), an application is *finally determined* when the application, and any appeals arising out of it, have been finally determined or otherwise disposed of.

12 Transitional—provision of information to Electoral Commission

If:

- (a) item 10 or 11 applies to a political party; and
 (b) the political party has not provided such evidence as the Electoral Commission requires to satisfy the Electoral Commission, within the period of 6 months mentioned in those items, that the political party is an eligible political party;

the political party is taken not to be an eligible political party.

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item;
 or
 (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.

Table A

- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Electoral and Referendum Amendment Act (No. 1) 2001 (No. 34, 2001)

Schedule 1

80 Abbreviations of party names already included in the Register

- (1) This item applies to a registered political party if:
- (a) immediately before this item commences, an abbreviation of the party's name is included in the Register kept under section 125 of the *Commonwealth Electoral Act 1918*; and
 - (b) the abbreviation would not be able to be included in the Register after that time because of the amendment, made by item 1 of this Schedule, of the definition of **abbreviation** in subsection 4(1) of that Act.
- (2) For the period of 6 months starting when this item commences, the abbreviation is taken to be within that definition. However, that 6 month period does not include:
- (a) the day of the issue of a writ for a Senate election or a House of Representatives election; and
 - (b) the day on which the writ is returned; and
 - (c) any day between those days.

Table A

- (3) If the abbreviation remains in the Register after the 6 month period ends, the Electoral Commission must remove it from the Register and give written notice to the registered officer of the party.

81 Inappropriate names already included in Rolls

- (1) This item applies if:
- (a) before sections 93A and 98A of the *Commonwealth Electoral Act 1918* (the **CEA**) commence, a person's name (the **current name**) is included in a Roll, or transferred to a Roll, under a provision of the CEA; and
 - (b) a Divisional Returning Officer (the **DRO**) or Australian Electoral Officer (the **AEO**) is of the view that if he or she were considering, after sections 93A and 98A of the CEA commence, whether to cause the current name to be included in, or transferred to, the Roll under the same provision, the DRO or AEO would refuse, under either of those sections, to cause the name to be included or transferred.
- (2) If:
- (a) there is another name under which the person has been included in a Roll; and
 - (b) the DRO or AEO is of the view that if he or she were considering, after sections 93A and 98A of the CEA commence, whether to cause the other name to be included in the Roll or transferred to the Roll, the DRO or AEO would *not* refuse, under either of those sections, to cause it to be included or transferred;

the DRO or AEO must cause the person's current name to be removed from the Roll and replaced with the other name. If there is more than one other name to which paragraphs (a) and (b) apply, the current name must be replaced with the other name that was most recently included in the Roll.

- (3) If there is no name to which paragraphs (2)(a) and (b) apply, the DRO or AEO must request in writing that the person provide, within 20 days after the request is made, written evidence of a name, other than the current name, by which the person is or has been generally known in the community.

Table A

- (4) If a person complies with a request under subitem (3) and the DRO or AEO:
- (a) is satisfied that the person is or has been generally known in the community by a name other than the current name; and
 - (b) is of the view that if he or she were considering, after sections 93A and 98A of the CEA commence, whether to cause the name by which the person is or has been generally known in the community to be included in the Roll or transferred to the Roll, the DRO or AEO would *not* refuse, under either of those sections, to cause it to be included or transferred;
- the DRO or AEO must cause the person's current name to be removed from the Roll and replaced with the name by which the person is or has been generally known in the community.
- (5) The DRO or AEO must cause a person's current name to be removed from the Roll, without being replaced with another name, if:
- (a) the person fails to comply with a request under subitem (3); or
 - (b) the person complies with a request under subitem (3) but either or both of paragraphs (4)(a) and (b) do not apply.
- (6) The DRO or AEO must give written notice to a person if the person's current name is removed from the Roll under this item and the notice must specify whether it is replaced with another name. For the purposes of sections 120 and 121 of the CEA, the notice is taken to be a notice under subsection 98A(4) of the CEA.

Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001 (No. 109, 2001)

5 Application of amendments generally

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or

Table A

omission is alleged to have taken place before the amendment commences.

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.

Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004 (No. 78, 2004)

Schedule 1

110 Saving regulations specifying prescribed authorities

Regulations that:

- (a) were made for the purposes of the definition of *prescribed authority* in subsection 91(11) of the *Commonwealth Electoral Act 1918*; and
- (b) were in force immediately before the commencement of item 3 of this Schedule;

continue to have effect after that item commences as if they had been made for the purposes of the definition of *prescribed authority* in subsection 4(1) of that Act.

111 Saving regulations specifying permitted purposes for prescribed authorities

Regulations that:

- (a) prescribed a permitted purpose for a prescribed authority for the purposes of subsection 91A(2A) of the *Commonwealth Electoral Act 1918*; and
- (b) were in force immediately before the commencement of item 6 of this Schedule;

Table A

continue to have effect after that item commences as if they had been made for the purposes of subsection 91A(2AA) of that Act.

112 Transitional—provision of Rolls and habitation indexes to political parties etc.

- (1) This item applies to:
 - (a) requests made under section 90B of the *Commonwealth Electoral Act 1918* after the commencement of this item; and
 - (b) requests made under section 91 of the *Commonwealth Electoral Act 1918* before the commencement of this item that have not been dealt with before the commencement of this item.
- (2) The requests have effect, after the commencement of this item, as if the requests had been made under section 90B of the *Commonwealth Electoral Act 1918* as amended by this Act.

113 Application of item 4 amendment

Subsection 91A(1) of the *Commonwealth Electoral Act 1918*:

- (a) applies to information whether given before or after the commencement of item 4 of this Schedule; and
- (b) applies to information that was given under section 91AA or 91AB of the *Commonwealth Electoral Act 1918* before the commencement of that item as if the reference in subsection 91A(1) of that Act to section 90B included a reference to sections 91AA and 91AB as in force before the commencement of that item.

114 Application of item 7 amendment

Subsection 91A(2B) of the *Commonwealth Electoral Act 1918* applies to information that was given under subsection 91(9B) of the *Commonwealth Electoral Act 1918* before the commencement of item 7 of this Schedule as if the reference in subsection 91A(2B) of that Act to item 16 of the table in subsection 90B(1) included a reference to subsection 91(9B) as in force before the commencement of that item.

Table A**115 Application of item 8 amendment**

- (1) Section 91B of the *Commonwealth Electoral Act 1918* applies to information whether given before or after the commencement of item 8 of this Schedule.
- (2) Subsection 91B(1) of the *Commonwealth Electoral Act 1918* applies to information that was given under section 91AA or 91AB of the *Commonwealth Electoral Act 1918* before the commencement of item 8 of this Schedule as if the reference in subsection 91B(1) of that Act to section 90B included a reference to sections 91AA and 91AB as in force before the commencement of that item.

116 Application of amended subsection 94(1B) and paragraph 94A(2)(d)

Subsection 94(1B) and paragraph 94A(2)(d) of the *Commonwealth Electoral Act 1918* apply to a person who ceased to reside in Australia before the commencement of this item (including a person who ceased to reside in Australia more than 2 years before the commencement of this item).

117 Application of item 11 amendment

The amendment made by item 11 of Schedule 1 to this Act applies to applications:

- (a) made after the commencement of that item; and
- (b) made, but not determined, before the commencement of that item.

118 Application of item 53 amendment

The amendment made by item 53 of Schedule 1 to this Act applies to decisions whether made before or after the commencement of that item.

119 Application of item 64 amendment

The amendment made by item 64 of Schedule 1 to this Act applies to a penalty notice sent or delivered before the commencement of that item.

Table A

120 Application of item 70 amendment

The amendment made by item 70 of Schedule 1 to this Act applies in relation to offences committed after the commencement of that item.

Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004 (No. 115, 2004)

Schedule 1

132A Transitional—sunset of provisions for evidentiary requirements for enrolment

Items 18A, 19 and 42 of Schedule 1 cease to have effect on the third anniversary of the day on which item 19 of Schedule 1 commences.

132B Transitional—review of provisions for evidentiary requirements for enrolment

- (1) On the first business day after the second anniversary of the day on which item 19 of Schedule 1 commences, the Electoral Commission must start a review of the operation of the provisions of the *Commonwealth Electoral Act 1918* that relate to the evidentiary requirements for enrolment (including section 98AA, paragraph 98(2)(d) and subsections 105(1B), (1C) and (1D) of that Act).
- (2) In undertaking the review, the Electoral Commission must consider:
 - (a) those requirements, particularly as they relate to the integrity of the electoral roll; and
 - (b) the effect (if any) of those provisions on enrolment and enrolment procedures.
- (3) Within 6 months after starting the review, the Electoral Commission must give copies of a written report of the review, including any recommendations, to the Minister and the Joint Standing Committee on Electoral Matters. The Minister and the Joint Standing Committee on Electoral Matters must be given their copies of the report at the same time.

Table A**133 Transitional—enrolment in respect of an address**

- (1) If, immediately before the commencement of this item:
- (a) a person's name was on the Roll for a Subdivision; and
 - (b) a particular address was shown on the Roll as the person's place of living;
- the *Commonwealth Electoral Act 1918* has effect, after that commencement, as if the person's name had been placed on the Roll in respect of that address.
- (2) If, immediately before the commencement of this item:
- (a) a person's name was on the Roll for a Subdivision; and
 - (b) because of a request made by the person under subsection 104(1) or (2), the person's address was not shown on the Roll;
- the *Commonwealth Electoral Act 1918* has effect, after that commencement, as if the person's name had been placed on the Roll:
- (c) if the person has not given notice of a change under subsection 105(1) of that Act—in respect of the address that would have been shown on the Roll had the request not been made; or
 - (d) if the person gives notice of a change of address under subsection 101(5) of that Act—in respect of the new address.
- (3) Subitems (1) and (2) do not prevent:
- (a) the removal or deletion of the person's name from the Roll in accordance with the *Commonwealth Electoral Act 1918* as amended by this Schedule; or
 - (b) the alteration of the Roll in accordance with the *Commonwealth Electoral Act 1918* as amended by this Schedule.
- (4) This item is enacted for the avoidance of doubt.

134 Application of subparagraph 134A(1)(a)(ii) of the *Commonwealth Electoral Act 1918*

Subparagraph 134A(1)(a)(ii) of the *Commonwealth Electoral Act 1918* applies only if the second party referred to in that subparagraph is registered after the commencement of item 59 of this Schedule.

Table A

**135 Transitional—objections under Part IX of the
*Commonwealth Electoral Act 1918***

Despite the amendments of Part IX of the *Commonwealth Electoral Act 1918* made by this Schedule, Parts IX and X of that Act continue to apply, in relation to an objection made under Part IX of that Act before the commencement of this item, as if those amendments had not been made.

Renumbering Table**Renumbering Table**

Table showing new part and section numbers of the *Commonwealth Electoral Act 1918* after renumbering by the *Commonwealth Electoral Legislation Amendment Act 1984* (No. 45, 1984).

NOTE—This Table does not form part of the *Commonwealth Electoral Act 1918*, and is printed for convenience of reference only.

Old Number	New Number	Old Number	New Number
Section	Section	Section	Section
1	1	7X	29
2	2	7Y	30
3	3	7Z	31
5	4	8	32
6	5	9	33
7	6	10	34
7A	7	11	35
7B	8	13	36
7C	9	14	37
7D	10	15	38
7E	11	16	39
7F	12	17	40
7G	13	18	41
7H	14	19	42
7J	15	20	43
7K	16	21	44
7L	17	22	45
7M	18	23	46
7N	19	24	47
7O	20	25	48
7P	21	25A	49
7Q	22	25B	50
7R	23	25C	51
7S	24	25D	52
7T	25	25E	53
7U	26	25F	54
7V	27	Part IIIA	Part IV
7W	28	Section	Section

Renumbering Table

Old Number	New Number	Old Number	New Number
Section 25G	Section 55	Section 36	Section 89
25H	56	37	90
25I	57	37A	91
25J	58	38	92
25K	59	Part VI	Part VII
25L	60	Section	Section
25M	61	39	93
25N	62	39A	94
25P	63	39B	95
25Q	64	39C	96
25R	65	39D	97
25S	66	Part VII	Part VIII
25T	67	Section	Section
25U	68	40	98
25V	69	41	99
25W	70	41A	100
25X	71	42	101
25Y	72	43	102
25Z	73	46	103
25ZA	74	46A	104
25ZB	75	47	105
25ZC	76	47A	106
25ZD	77	48	107
25ZE	78	49	108
Part IV	Part V	50	109
Section	Section	51	110
26	79	51A	111
27	80	51B	112
Part V	Part VI	Part VIII	Part IX
Section	Section	Section	Section
29	81	52	113
30	82	53	114
31	83	54	115
32	84	55	116
33	85	56	117
33A	86	57	118
34	87	57A	119
35	88	Part IX	Part X

Renumbering Table

Old Number	New Number	Old Number	New Number
Section	Section	Section	Section
58	120	59	152
58AA	121	60	153
58AB	122	61	154
Part IXA	Part XI	61A	155
Section	Section	62	156
58A	123	63	157
58B	124	64	158
58C	125	65	159
58D	126	66	160
58E	127	67	161
58F	128	Part XI	Part XIV
58G	129	Section	Section
58H	130	68	162
58J	131	69	163
58K	132	70	164
58L	133	70A	165
58M	134	71	166
58N	135	72	167
58P	136	72A	168
58Q	137	72B	169
58R	138	73	170
58S	139	74	171
58T	140	75	172
58U	141	76	173
Part IXB	Part XII	77	174
Section	Section	78	175
58V	142	79	176
58W	143	80	177
58X	144	81	178
58Y	145	82	179
58Z	146	83	180
58ZA	147	84	181
58ZB	148	Part XII	Part XV
58ZC	149	Section	Section
58ZD	150	85AA	182
Part X	Part XIII	85AB	183
Section	Section	85	184
59AA	151	86	185

Renumbering Table

Old Number	New Number	Old Number	New Number
Section 86A	Section 186	Section 113	Section 222
87	187	113A	223
88	188	113B	224
89	189	113C	225
90	190	113D	226
91	191	114	227
91A	192	114A	228
91B	193	115	229
92	194	116	230
93	195	117	231
93B	196	118	232
94	197	119	233
94A	198	120	234
95	199	121	235
96	200	121A	236
96A	201	121B	237
97	202	122	238
Part XIII	Part XVI	123	239
Section	Section	124	240
98	203	125	241
99	204	126	242
100	205	127	243
101	206	128	244
102	207	128A	245
103	208	Part XIII A	Part XVII
104	209	Section	Section
105A	210	128B	246
106	211	128C	247
106A	212	128D	248
106B	213	128E	249
106C	214	128F	250
107	215	128G	251
107A	216	128H	252
108	217	128J	253
109	218	128K	254
110	219	128L	255
111	220	128M	256
112	221	128N	257

Renumbering Table

Old Number	New Number	Old Number	New Number
Section 128P	Section 258	Section 148	Section 290
128Q	259	149	291
128R	260	150	292
128S	261	151	293
128T	262	152	294
Part XIV	Part XVIII	153	295
Section 129	Section 263	153A	296
130	264	153B	297
131	265	153C	298
131A	266	153D	299
132	267	153E	300
133	268	153F	301
133A	269	153G	302
133B	270	153H	303
134	271	153J	304
134A	272	153K	305
135	273	153L	306
136	274	153M	307
136A	275	153N	308
136B	276	153P	309
136C	277	153Q	310
137	278	153R	311
138	279	153S	312
139	280	153T	313
140	281	153U	314
140A	282	153V	315
Part XV	Part XIX	153W	316
Section 141	Section 283	153X	317
142	284	153Y	318
143	285	153Z	319
144	286	153ZA	320
Part XVI	Part XX	153ZB	321
Section 145	Section 287	Part XVII	Part XXI
146	288	Section 154	Section 322
147	289	155	323
		156	324
		157	325

Renumbering Table

Old Number	New Number	Old Number	New Number
Section	Section	Section	Section
158	326	190	361
159	327	191	362
160	328	192	363
161	329	193	364
162	330	194	365
163	331	194AA	366
164	332	194A	367
164A	333	195	368
164B	334	196	369
165	335	197	370
167	336	198	371
168	337	199	372
169	338	200	373
170	339	201	374
171	340	202	375
171A	341	203	376
172	342	204	377
173	343	205	378
174	344	206	379
175	345	207	380
176	346	208	381
177	347	Part XIX	Part XXIII
179	348	Section	Section
180	349	209	382
181	350	209A	383
181A	351	209B	384
Part XVIII	Part XXII	210	385
Section	Section	211	386
182	352	213	387
183	353	215	388
184	354	216	389
185	355	216A	390
186	356	216B	391
186A	357	217	392
187	358	218	393
188	359	218A	394
189	360	219	395
