Commonwealth Electoral Act 1918

No. 27, 1918

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This compilation is in 2 volumes

Volume 1:	**sections 1–286**
Volume 2:	sections 286A–396 Schedules Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Commonwealth Electoral Act 1918* that shows the text of the law as amended and in force on 14 December 2021 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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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

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

2 Commencement

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

3 Repeal

(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.

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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.

above the line: a square is printed ***above the line*** on a ballot paper if the square is printed on the ballot paper in accordance with subparagraph 210(1)(f)(ii).

AFP officer or staff member means:

(a) a member or special member of the Australian Federal Police, within the meaning of the *Australian Federal Police Act 1979*; or

(b) a special protective service officer, within the meaning of that Act; or

(c) an AFP employee, within the meaning of that Act; or

(d) a person assisting the Australian Federal Police in the performance of its functions under an agreement under section 69D of that Act.

answers: a person ***answers*** a mandatory question in the qualification checklist if the person marks one (and only one) box that is:

(a) directly under the question; and

(b) adjacent to the word "Yes" or "No", or (if applicable) "Unknown" or "N/A".

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 is, in the course of the elector's employment:

(a) in Antarctica; or

(b) on a ship at sea in transit to or from Antarctica.

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approved form means:

(a) a form that:

(i) is approved by the Electoral Commissioner in writing; and

(ii) has been published by the Electoral Commissioner; or

(b) a manner, approved by the Electoral Commissioner in writing, for giving a notice (however described).

Note 1: An approved form under paragraph (a) might be published by the Electoral Commissioner on the Electoral Commission's website.

Note 2: An example of an approved form under paragraph (b) is giving a notice by using a specified web portal.

approved list of voters for a Division means a list in electronic form that:

(a) contains the same information as the certified list of voters for the Division most recently prepared before the preparation of the list in electronic form; and

(b) is approved by the Electoral Commissioner for use in connection with voting under this Act.

Australia includes:

(a) Norfolk Island; and

(b) the Territory of Cocos (Keeling) Islands; and

(c) the Territory of Christmas Island.

Australian Capital Territory includes (except in Part III) Norfolk Island and the Jervis Bay Territory.

Note: For the definition of ***Australian Capital Territory*** in Part III, see section 38A.

Australian passport means a passport issued under the *Australian Passports Act 2005*.

below the line: a square is printed ***below the line*** on a ballot paper if the square is printed on the ballot paper in accordance with subparagraph 210(1)(f)(i).

bulk nomination has the meaning given by subsection 167(3).

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capital city office of the Electoral Commission has the meaning given by subsection 90A(3).

carriage service provider has the meaning given by section 87 of the *Telecommunications Act 1997*.

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; and

(c) a child of the person within the meaning of the *Family Law Act 1975*.

civil penalty order has the meaning given by subsection 82(4) of the Regulatory Powers Act.

civil penalty provision has the meaning given by the Regulatory Powers Act.

compartment means:

(a) in relation to a polling booth—a compartment constructed in the polling booth pursuant to section 206; and

(b) in relation to a place at which pre-poll ordinary voting is available—a compartment constructed in the place pursuant to section 200DE.

Note: For the places at which pre-poll ordinary voting is available, see section 200DD.

Controller-General of Prisons:

(a) of a State, the Australian Capital Territory (not including a non-self-governing Territory) or the Northern Territory (not including a non-self-governing Territory)—means the principal officer (however described) having control of the prisons and gaols of the State or Territory; and

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(b) of a non-self-governing Territory—means the principal officer (however described) having control of the prisons and gaols of the non-self-governing 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 time has the meaning given by subsection 175(2).

declaration vote means:

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

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

defence civilian has the same meaning as in the *Defence Force Discipline Act 1982*.

defence member has the same meaning as in the *Defence Force Discipline Act 1982*.

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

designated elector: see subsection 202AH(1).

dividing line means the line on a ballot paper that separates the voting method described in subsection 239(1) from the voting method described in subsection 239(2).

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

DRO means Divisional Returning Officer.

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election and ballot matters means matters relating to Parliamentary elections, elections, ballots under the *Fair Work Act 2009* or the *Fair Work (Registered Organisations) Act 2009*, and referendums.

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 has the meaning given by section 4AA.

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

Finance Minister means the Minister administering the *Public Governance, Performance and Accountability Act 2013*.

Foreign Affairs Minister means the Minister administering the *Diplomatic Privileges and Immunities Act 1967*.

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.

how-to-vote card means a card, handbill or pamphlet:

(a) that:

(i) is, or includes, a representation of a ballot paper or part of a ballot paper for an election (or something apparently intended to represent a ballot paper or part of a ballot paper for an election); and

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(ii) is apparently intended to affect, or is likely to affect, how votes are cast for any or all of the candidates in the election; or

(b) that lists the names of 2 or more of the candidates or registered political parties in an election, with a number indicating the order of voting preference in conjunction with the names of 2 or more of the candidates or parties; or

(c) that otherwise directs or encourages the casting of votes in an election in a particular way, other than a card, handbill or pamphlet:

(i) that only relates to first preference votes; or

(ii) that only relates to last preference votes.

Immigration Department means the Department administered by the Minister who administers the *Migration Act 1958*.

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.

listed carriage service has the meaning given by section 16 of the *Telecommunications Act 1997*.

mandatory question in the qualification checklist means a question to which the answer is "Yes" or "No", or (if applicable) "Unknown" or "N/A".

next of kin has a meaning affected by subsection (11).

non-self-governing Territory means Norfolk Island, the Jervis Bay Territory, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.

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Northern Territory includes (except in Part III) the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

Note: For the definition of ***Northern Territory*** in Part III, see section 38A.

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, a presiding officer, a deputy presiding officer, a substitute presiding officer, an assistant presiding officer, a pre-poll voting officer, a mobile polling team leader and a mobile polling team member, and any other member of the staff of the Electoral Commission who is a delegate of the Electoral Commissioner under section 28.

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 entity means any of the following:

(a) a registered political party;

(b) a State branch (within the meaning of Part XX) of a registered political party;

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(c) a candidate (within the meaning of that Part) in an election (including a by-election);

(d) a member of a group (within the meaning of that Part).

Note: For candidates and groups, see subsection 287(9).

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 declaration vote: see subsection 200AA(2).

pre-poll ordinary vote: see subsection 200AA(2).

pre-poll voting office for an election means a place declared by the Electoral Commissioner under subsection 200BA(1) 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.

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provisionally enrolled has the meaning given by subsection (1B).

provisional vote means a vote cast under section 235.

qualification checklist means the checklist in Form DB of Schedule 1.

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.

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:

(a) of a State, the Australian Capital Territory (not including a non-self-governing Territory) or the Northern Territory (not including a non-self-governing Territory)—means the principal officer (however described) who is charged with the duty of registering births, deaths and marriages occurring in the State or Territory; and

(b) of a non-self-governing Territory—means the principal officer (however described) who is charged with the duty of registering births, deaths and marriages occurring in the non-self-governing Territory.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

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

Roll means an Electoral Roll under this Act.

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

sentence of imprisonment has the meaning given subsection (1A).

Subdivision means a subdivision of a Division.

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

Territory means (except in Part III) the Australian Capital Territory or the Northern Territory.

Note: For the definition of ***Territory*** in Part III, see section 38A.

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

(1A) For the purposes of this Act, a person is serving a ***sentence of imprisonment*** only if:

(a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and

(b) that detention is attributable to the sentence of imprisonment concerned.

(1B) A person is ***provisionally enrolled*** if the person is provisionally enrolled under section 99B.

(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 16 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.

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(5) In this Act, unless the contrary intention appears:
  (a) a reference to a Division shall be read as including a reference to a Territory to which section 55A does not apply; 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).

(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.

(7A) Unless the contrary intention appears, a reference in this Act to an election or poll in, for or in relation to, a Division or Subdivision, includes a reference to a Senate election, or a poll for a Senate election, for the State or Territory that includes the Division or Subdivision.

(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.

(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.

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(11) In determining whether a person is next of kin of another person, the following persons are also to be taken into account:

(a) a de facto partner of the person;

(b) a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in this section;

(c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

(12) In this Act:

(a) a reference to a postal vote certificate printed on an envelope is taken to include a reference to a postal vote certificate that is placed inside an envelope; and

(b) a reference to an envelope on which a postal vote certificate is printed is taken to include a reference to an envelope that has a postal vote certificate placed inside.

4AA Meaning of *electoral matter*

(1) ***Electoral matter*** means matter communicated or intended to be communicated for the dominant purpose of influencing the way electors vote in an election (a ***federal election***) of a member of the House of Representatives or of Senators for a State or Territory, including by promoting or opposing:

(a) a political entity, to the extent that the matter relates to a federal election; or

(b) a member of the House of Representatives or a Senator.

Note: Communications whose dominant purpose is to educate their audience on a public policy issue, or to raise awareness of, or encourage debate on, a public policy issue, are not for the dominant purpose of influencing the way electors vote in an election (as there can be only one dominant purpose for any given communication).

(2) For the purposes of subsection (1), each creation, recreation, communication or recommunication of matter is to be treated separately for the purposes of determining whether matter is electoral matter.

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Note: For example, matter that is covered by an exception under subsection (5) when originally communicated may become electoral matter if recommunicated for the dominant purpose referred to in subsection (1).

Rebuttable presumption for matter that expressly promotes or opposes political entities etc.

(3) Without limiting subsection (1), the dominant purpose of the communication or intended communication of matter that expressly promotes or opposes:

(a) a political entity, to the extent that the matter relates to a federal election; or

(b) a member of the House of Representatives or a Senator, to the extent that the matter relates to a federal election;

is presumed to be the purpose referred to in subsection (1), unless the contrary is proved.

Matters to be taken into account

(4) Without limiting subsection (1), the following matters must be taken into account in determining the dominant purpose of the communication or intended communication of matter:

(a) whether the communication or intended communication is or would be to the public or a section of the public;

(b) whether the communication or intended communication is or would be by a political entity or significant third party (within the meaning of Part XX);

(c) whether the matter contains an express or implicit comment on a political entity, a member of the House of Representatives or a Senator;

(d) whether the communication or intended communication is or would be received by electors near a polling place;

(e) how soon a federal election is to be held after the creation or communication of the matter;

(f) whether the communication or intended communication is or would be unsolicited.

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Exceptions

(5) Despite subsections (1) and (3), matter is not ***electoral matter*** if the communication or intended communication of the matter:

(a) forms or would form part of the reporting of news, the presenting of current affairs or any genuine editorial content in news media; or

(b) is or would be by a person for a dominant purpose that is a satirical, academic, educative or artistic purpose, taking into account any relevant consideration including the dominant purpose of any other communication of matter by the person; or

(c) is or would be a private communication by a person to another person who is known to the first person; or

(d) is or would be by or to a person who is a Commonwealth public official (within the meaning of the *Criminal Code*) in that person's capacity as such an official; or

(e) is or would be a private communication to a political entity (who is not a Commonwealth public official) in relation to public policy or public administration; or

(f) occurs or would occur in the House of Representatives or the Senate, or is or would be to a parliamentary committee.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the Regulatory Powers Act).

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 and of the Northern Territory, but nothing in this Act renders the Crown liable to be prosecuted for an offence.

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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.

Note: A person must not be the registered officer or a deputy registered officer of more than one registered political party at a particular time (see subsection 126(2B)).

(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) must be in writing, signed by the registered officer and lodged with the Commission; and

(b) must specify the name and address of the person nominated and bear the signature of that person; and

(ba) must include a signed declaration by the person nominated that subsection 126(2B) is not contravened by lodging the nomination of the person as the deputy registered officer; and

(c) may be revoked at any time by the registered officer by written notice lodged with the Commission.

(4) A nomination of a person as a deputy registered officer under subsection (2) is invalid if subsection 126(2B) is contravened by lodging the nomination of the person as the deputy registered officer.

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.

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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 Chairperson 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 Chairperson.

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.

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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.

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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.

(2A) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
  (a) the Commission is a listed entity; and
  (b) the Electoral Commissioner is the accountable authority of the Commission; and
  (c) the following persons are officials of the Commission:
    (i) the Electoral Commissioner;
    (ii) the Deputy Electoral Commissioner;
    (iii) the Australian Electoral Officer for a State or Territory;
    (iv) the staff of the Commission referred to in section 29; and
  (d) the purposes of the Commission include:
    (i) the functions of the Commission referred to in section 7; and
    (ii) the functions of the Electoral Commissioner referred to in subsection 18(2).

(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.

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(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, election and ballot matters referred to it by the Minister and such other election and ballot matters as it thinks fit; and
  (c) to promote public awareness of election and ballot matters, 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 election and ballot matters to the Parliament, the Government, Departments and authorities of the Commonwealth; and
  (e) to conduct and promote research into election and ballot 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 Foreign Affairs Minister, 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

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(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.

(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.

(1C) The use by the Commission of personal information (including information contained in a Roll) for the purposes of conducting an activity (such as a plebiscite) under an arrangement under subsection (1) is taken to be authorised by this Act.

Note: The effect of this subsection includes (but is not limited to) an authorisation for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6.

(1D) To avoid doubt, the disclosure by the Commission of personal information (including information contained in a Roll) for the

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purposes of conducting an activity (such as a plebiscite) under an arrangement under subsection (1) is taken:

(a) to be authorised by this Act; and

(b) not to contravene any provision of this Act.

Note: The effect of paragraph (a) includes (but is not limited to) an authorisation for the purposes of paragraph 6.2(b) of Australian Privacy Principle 6.

(1E) A law of a State or Territory has no effect to the extent to which the law in any way prohibits a person or body from, or penalises or discriminates against a person or body for:

(a) entering into, or proposing to enter into, an arrangement under subsection (1); or

(b) taking part in or assisting with, or proposing to take part in or assist with, the conduct of an activity (such as a plebiscite) to which an arrangement under subsection (1) relates.

(1F) If the operation of subsection (1E) would, but for this subsection, exceed the legislative powers of the Commonwealth, it is the intention of the Parliament that it operate to the extent that the law of the State or Territory would be inconsistent with Article 19, or paragraph (a) of Article 25, of the International Covenant on Civil and Political Rights.

Note: Articles 19 and 25 of the International Covenant on Civil and Political Rights are set out in Schedule 2 to the *Australian Human Rights Commission Act 1986*.

(1G) Subsection (1F) does not limit the operation of section 15A of the *Acts Interpretation Act 1901*.

(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.

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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.

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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.

(3) This section applies in addition to section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests).

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

(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.

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13 Acting Chairperson

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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

14 Acting non-judicial appointee

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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

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

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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.

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(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.

17 Reports by the Commission

(1A) A report prepared by the Electoral Commissioner and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period must include particulars for the period of:

(a) each person or organisation to whom the Commission has provided a copy of a Roll under subsection 90B(1); and

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(b) each person or organisation to whom the Commission has given a copy of a Roll, or an extract of a Roll, under subsection 90B(4).

(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 305A(1) or (1A) 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 referred to in this section particulars of the operation of subsection 316(2A) since the preparation of the last report referred to in 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 (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 referred to in this section need not include particulars of a matter if those particulars have been included in an earlier report referred to in this section.

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17A Certain particulars not to be included in reports

(1) A report referred to in 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 a contravention or potential contravention of a civil penalty provision in this Act.

(2) In this section:

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

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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.

Note: For rules that apply to persons acting as the Electoral Commissioner, see section 33A of the *Acts Interpretation Act 1901*.

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(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.

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.

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(2) An electoral officer shall be paid such allowances (if any) as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunal 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.

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(3) The Governor-General must terminate the appointment of the Electoral Commissioner, or the Deputy Electoral Commissioner while acting as the Electoral Commissioner, if the Commissioner or Deputy fails, without reasonable excuse, to comply with his or her obligations under:

(a) section 11; or

(b) section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests) or rules made for the purposes of that section.

26 Acting Electoral Commissioner

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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

27 Acting Deputy Electoral Commissioner

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

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(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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

28 Delegation by Electoral Commissioner

(1) The Electoral Commissioner may, in writing, delegate all or any of his or her powers or functions under this Act, other than the powers and functions conferred by Parts III and IV and sections 240A, 241, 242 and 396, and sections 273AA and 273AC, to any of the following:

(a) any officer;

(b) any other member of the staff of the Electoral Commission.

Note: The definition of ***officer*** covers Australian Electoral Officers and Divisional Returning Officers, as well as various other people.

(2) In exercising powers or performing functions delegated under subsection (1), the delegate must comply with any directions of the Electoral Commissioner.

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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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

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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.

Note: For rules that apply to persons acting as the Australian Electoral Officer for a State, see section 33A of the *Acts Interpretation Act 1901*.

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.

(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.

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33 Assistant Returning Officers

(1) The Electoral Commissioner may, for the purposes of a particular election, appoint a person to be an Assistant Returning Officer.

(2) A person appointed to be an Assistant Returning Officer 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.

(3) An appointment under subsection (1) terminates upon completion of the election.

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

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(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.

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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 AEC staff may act as Divisional Returning Officers or Assistant Divisional Returning Officers

(1) The Electoral Commissioner may, in writing, authorise one or more persons who are members of the staff of the Electoral Commission to exercise or perform:

(a) in relation to one or more specified Divisions, powers, functions or duties that are conferred on a Divisional Returning Officer for those Divisions; or

(b) in relation to one or more specified Subdivisions, powers, functions or duties that are conferred on an Assistant Divisional Returning Officer for those Subdivisions.

(2) An authorisation:

(a) may be made subject to conditions or limitations specified in the authorisation; and

(b) does not limit the power of a Divisional Returning Officer or Assistant Divisional Returning Officer (as the case requires) to act in any matter.

Effect of authorisation relating to DROs

(3) If an authorisation is given in relation to the powers, functions or duties of a Divisional Returning Officer for a specified Division:

(a) the person authorised in relation to the Division may exercise or perform any power, function or duty of a Divisional Returning Officer for the Division, subject to:

(i) any condition or limitation under paragraph (2)(a); and

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(ii) any direction of a Divisional Returning Officer for the Division; and

(b) a reference to a Divisional Returning Officer or DRO in this Act is taken to include a reference to the person.

Effect of authorisation relating to Assistant Divisional Returning Officers

(4) If an authorisation is given in relation to the powers, functions or duties of an Assistant Divisional Returning Officer for a specified Subdivision:

(a) the person authorised in relation to the Subdivision may exercise or perform any power, function or duty of an Assistant Divisional Returning Officer for the Subdivision, subject to:

(i) any condition or limitation under paragraph (2)(a); and

(ii) any direction of an Assistant Divisional Returning Officer for the Subdivision, or of a Divisional Returning Officer for the Division in which the Subdivision is situated; and

(b) a reference to an Assistant Divisional Returning Officer in this Act is taken to include a reference to the person.

Note: As a result of subsection 34(3), the person authorised may also exercise or perform, in relation to the Subdivision, any power, function or duty of the Divisional Returning Officer for the Division in which the Subdivision is situated.

38 Offices of Divisional Returning Officers

(1) The office of a Divisional Returning Officer must be located within the Division, unless the Minister has given written authority for the office not to be so located.

(2) However, subsection (1) does not apply if:

(a) the office was located within a Division, but immediately after a redistribution of the State or Territory that includes the Division, the office is no longer located within the Division; and

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(b) either:

(i) within a reasonable time, the Electoral Commissioner seeks written authority for the office not to be located within the Division; or

(ii) the office is currently being relocated within the Division.

(3) A written authority given under subsection (1) is not a legislative instrument.

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Part III—Representation in the Parliament

Division 1AA—Preliminary

38AA Simplified outline of this Part

This Part deals with how members and Senators are chosen for the Parliament, and related rules.

Division 1 deals with Senators for Queensland. These Senators are chosen by the people of Queensland voting as one electorate.

Division 2 deals with Senators for the Territories, setting out some rules relating to Senators of Territories (such as numbers of Senators, powers, privileges and immunities, and term of service).

Division 3 deals with representation of States and Territories in the House of Representatives. The number of members of the House of Representatives is based on the population of the Commonwealth, the States and the Territories, as determined by the Australian Statistician.

The number of members is worked out using a quota, which is the number of people of the Commonwealth (excluding the populations of Territories) divided by twice the number of Senators for the States. This produces a national average population for each member.

For States, the number of members is worked out by dividing the population which is worked out for the State by the quota (rounding up if the remainder is more than 0.5).

For Territories, the number of members is worked out the same way, except that the result is rounded using the harmonic mean. The harmonic mean is a method of rounding that improves

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proportionality and addresses under-representation of Territories by minimising the gap between the average population per member in the Territories, compared with the national average population for the States (as measured by the quota).

38A Interpretation

In this Part, unless the contrary intention appears:

Australian Capital Territory includes the Jervis Bay Territory but does not include Norfolk Island.

harmonic mean has the meaning given by subsection 48(2AA).

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

quota has the meaning given by paragraph 48(2)(a).

Territory means the Australian Capital Territory, the Northern Territory or an external territory.

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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.

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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.

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(6A) Until Norfolk Island becomes entitled to separate representation in the Senate under subsection (5), this section has effect as if Norfolk Island were a part of the Australian Capital Territory.

(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 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.

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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

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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

(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.

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(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.

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

45 Interpretation

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.

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;

(da) Norfolk Island;

(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;

(ca) the population of Norfolk Island;

(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.

47 Supply of statistical information by Australian Statistician

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

(c) any other statistical information that the Electoral Commissioner requires for the purposes of this Division.

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

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(b) determine, in accordance with subsections (2A), (2AA), (2B), (2BA) and (2C), the number of members (if any) of the House of Representatives to be chosen in the several Territories at a general election.

Determining number of members for States

(2) The number of members of the House of Representatives to be chosen in the several States at a general election shall, subject to 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.

Determining number of members for Territories

(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 (2AA), (2B), (2BA) and (2C), 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 1—that one member of the House of Representatives be chosen in the Territory at a general election; or

(ba) if the result of the division is 1 or more, and less than 3—that the number of members to be chosen for the Territory at a general election is the result of the division, rounding the result using the harmonic mean in accordance with subsection (2AA); or

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(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.

Note: For the definition of ***Territory***, see section 38A.

Rounding using harmonic mean for Territories

(2AA) If paragraph (2A)(ba) applies in relation to a Territory, the result of the division under subsection (2A) is to be rounded up if the result is equal to or greater than the amount worked out using the following formula (the ***harmonic mean***):

$$\frac{\left(2 \times \text{Minimum number of members} \times \text{Minimum number plus 1}\right)}{\left(\text{Minimum number of members} + \text{Minimum number plus 1}\right)}$$

where:

minimum number of members for a Territory means the number of members for the Territory worked out under subsection (2A) (disregarding any remainder).

minimum number plus 1 for a Territory means the minimum number of members for the Territory plus 1.

Minimum number of members for the Australian Capital Territory and Northern Territory

(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.

Note: For the definitions of ***Australian Capital Territory*** and ***Northern Territory***, see section 38A.

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When no separate member for Norfolk Island is determined

(2BA) If the Electoral Commissioner determines that, at a general election, no member of the House of Representatives is to be chosen in Norfolk Island, the following provisions have effect:

(a) the ascertainments under section 46, and the determinations under this section, in respect of Norfolk Island, and in respect of the Australian Capital Territory, are taken never to have been made;

(b) Norfolk Island is taken to be part of the Australian Capital Territory;

(c) subject to subsections (2B) and (2G), the Electoral Commissioner must, as soon as possible:

(i) ascertain, under section 46, the number of the people of the Australian Capital Territory; and

(ii) determine, under this section, the number of members of the House of Representatives to be chosen in the Australian Capital Territory at a general election.

(2BB) To avoid doubt, subsection 46(1A) does not apply to the ascertainment of the number of the people of the Australian Capital Territory under subparagraph (2BA)(c)(i) of this section.

Note: Subsection 46(1A) might otherwise require the fresh ascertainment of the number of the people of the Australian Capital Territory under subparagraph (2BA)(c)(i) of this section to be made immediately after the end of the 12 month period referred to in subsection 46(1).

When no separate member for Cocos (Keeling) Islands or Christmas Island is determined

(2C) 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 ascertainments under section 46, and the determinations under this section, in respect of that Territory or those

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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 subsections (2B) and (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).

When determinations must be made

(2G) The determinations made under subsection (1), and paragraphs (2BA)(c) and (2C)(e), must be made within 1 month after the end of the period of 12 months referred to in subsection 46(1).

Decision final and conclusive

(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

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(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.

Determination to be in writing

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

48A Setting aside 2020 determination in relation to the Northern Territory

(1) The determination made by the Electoral Commissioner under subsection 48(1) on 3 July 2020 (the ***2020 determination***) is set aside, on and from the day on which the *Electoral Amendment (Territory Representation) Act 2020* 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 sections 50 and 59, 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 2020 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 2020 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 2020 determination was the

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determination made on 31 August 2017. 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.

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;

(DA) Norfolk Island;

(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 subsection 48(2BA) or (2C).

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(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

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

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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.

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.

54A Review of this Division

(1) The Joint Standing Committee on Electoral Matters, or any other parliamentary committee determined in writing by the Minister, is to:

(a) review the operation of this Division as soon as practicable after the Electoral Commissioner makes the first determination under subsection 48(2A) for the Australian Capital Territory or the Northern Territory after this section commences; and

(b) report the Committee's comments and recommendations to each House of the Parliament.

(2) The determination is not a legislative instrument.

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Part IV—Electoral Divisions

55 Interpretation

(1) In this Part:

average divisional enrolment, in relation to a State, the Australian Capital Territory or the Northern 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.

redistribution quota has the meaning given by section 65.

(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 Territories with 2 or more members

A reference in this Part to a State includes (except in section 59) a reference to a Territory that has 2 or more members to be chosen at a general election.

Note: Section 59 deals with times at which redistributions are to commence. Some other provisions expressly exclude the Australian Capital Territory (see subsection 62(3), and paragraphs 64(3)(a) and 69(5)(a)).

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56 States to be distributed into Electoral Divisions

Each State shall be distributed into Electoral Divisions.

56AA Inclusion of Territories in Australian Capital Territory Divisions

(1) Any distribution or redistribution of the Australian Capital Territory into Electoral Divisions under this Act must be such that the whole of the Jervis Bay Territory is included in one Electoral Division.

(2) Until the Electoral Commissioner, under subsection 48(2A), determines that a member of the House of Representatives be chosen in Norfolk Island at a general election, any distribution or redistribution of the Australian Capital Territory into Electoral Divisions under this Act must be such that:

(a) the whole of Norfolk Island is included in one Electoral Division; and

(b) if there is more than one Electoral Division—Norfolk Island and the Jervis Bay Territory are included in different Electoral Divisions.

56A Inclusion of Territories in Northern Territory Divisions

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.

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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, 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, 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 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, the Australian Capital Territory or the Northern Territory into Divisions shall commence whenever the Electoral Commission so directs by notice published in the *Gazette*.

Redistributions of States

(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;

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(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 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

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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.

Redistributions of Australian Capital Territory or Northern Territory

(7) Subject to subsections (8) and (9A), a direction under subsection (1) shall be made in relation to the Australian Capital Territory or the Northern 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 or the Northern Territory by virtue of paragraph (7)(a) or (b):

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(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 or the Northern 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 or the Northern 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).

(9B) Where:

(a) the Australian Capital Territory or the Northern 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);

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

Interpretation

(10) A reference in this section to a malapportioned Division is a reference to a Division in a State, the Australian Capital Territory or the Northern 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, the Australian Capital Territory or the Northern 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

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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,

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substantially the same as, or include, functions that would be performed by a Surveyor-General for the State.

(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).

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(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.

(7A) This section applies to the Australian Capital Territory as if a reference to an Australian Electoral Officer for the Australian Capital Territory were a reference to the member of the staff of the Electoral Commission appointed under subsection (7B).

(7B) For the purposes of a redistribution for the Australian Capital Territory, the Electoral Commission must appoint, in writing, a member of the staff of the Electoral Commission to act as a member of the Redistribution Committee for that 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.

(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 (except the Australian Capital Territory), 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

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member of the Redistribution Committee appointed under subsection 60(7B) is to preside.

(5) At a meeting of a Redistribution Committee, 3 members constitute a quorum.

(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 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.

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(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 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, the Electoral Commissioner must publish a notice in the *Gazette* and in 2 newspapers circulating throughout the State (or, if there is only 1 such newspaper, in that newspaper):

(a) inviting written suggestions relating to the redistribution of the State to be lodged with the Redistribution Committee for the State 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 before 6 pm on the 7th Friday after publication of the notice in the *Gazette*; and

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(c) stating that the suggestions and comments may be (but are not required to be) lodged at an office specified in the notice.

(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 (except the Australian Capital Territory); or

(b) in the case of a redistribution of the Australian Capital Territory—the office specified in the notice under subsection (1).

(4) The Redistribution Committee must consider all the suggestions and comments lodged with it under subsection (1).

65 Redistribution quota

(1) For the purposes of each redistribution of a State, the Electoral Commissioner shall, by instrument in writing, determine, in accordance with subsection (2), the ***redistribution quota*** for the State.

(2) As soon as practicable after the redistribution commences, the redistribution quota for a State 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 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 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

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(b) if the number so obtained includes a fraction that is one-half or more—increasing that number to the nearest whole number.

Note: This section rounds the number of electors for a State or Territory. Section 48 rounds the number of members for a State or Territory (and the method of rounding for Territories under that section may be different).

66 Redistribution Committee to make proposed redistribution

(1) A Redistribution Committee for a State shall, in accordance with subsections (2), (3) and (4), make a proposed redistribution of the State.

(2) The proposed redistribution shall propose the distribution of the State into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen in the State 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 were redistributed in accordance with the proposed redistribution, the number of electors enrolled in each Electoral Division in the State 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 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

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(v) the boundaries of existing Divisions in the State;

and subject thereto the redistribution quota for the State 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 redistribution 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).

Note: See also sections 56AA and 56A in relation to redistributions of the Australian Capital Territory and the Northern Territory.

67 Reasons for proposed redistribution

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

68 Notice of proposed redistribution

(1) A Redistribution Committee for a State shall, as soon as practicable after it has made its proposed redistribution of the State:

(a) cause a map or maps showing the names and boundaries of each proposed Electoral Division in the State to be exhibited at each office of the Electoral Commission in the State;

(b) cause copies of:

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(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;

(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; 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; 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:

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(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).

(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 (except the Australian Capital Territory)—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 specified in the notice under subsection 64(1).

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70 Augmented Electoral Commission

(1) For the purposes of each redistribution of a State, there is established by this subsection an augmented Electoral Commission for the State.

(2) The members of an augmented Electoral Commission for a State 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.

(3) Subject to subsection (4), the performance of the functions, and the exercise of the powers, of an augmented Electoral Commission for a State 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 by the Redistribution Committee for the State), 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.

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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.

(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, 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.

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(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 shall consider all initial objections, initial comments and further objections.

(2) The augmented Electoral Commission shall complete its consideration of the initial 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 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.

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(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; 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.

(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

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(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, before the end of the period of 7 days beginning on the day of the announcement, 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, before the end of the period of 7 days beginning on the day of the announcement, lodge with the Electoral Commission a written further objection; and

(b) subject to subsection (3), the augmented Electoral Commission shall hold an inquiry into a further objection; and

(ba) the augmented Electoral Commission must complete its inquiry into a further objection as soon as is practicable and, in any event, before the end of the period of 14 days after the end of the period referred to in paragraph (a); 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).

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

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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.

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

73 Redistribution of State

(1) An augmented Electoral Commission for a State 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 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.

Note: See also sections 56AA and 56A in relation to redistributions of the Australian Capital Territory and the Northern 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 into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen in the State 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 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 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;

and subject thereto the redistribution quota for the State 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 redistribution 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).

(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.

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(9) In this section:

further objection has the same meaning as in section 72.

initial 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 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 has determined under subsection 73(1) the names and boundaries of the Electoral Divisions into which the State is to be distributed, forward to the Minister a copy of:

(a) the suggestions relating to the redistribution of the State lodged with the Redistribution Committee for the State 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;

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(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

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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

(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

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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;

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(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.

(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.

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(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:

(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 subsection substituted:

"(2) For the purposes of the redistribution, the Electoral Commissioner and a member of the staff of the Electoral Commission appointed under subsection 60(7B) are to be the Redistribution Commissioners for the Australian Capital Territory.".

(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.

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, an augmented Electoral Commission for a State or the Redistribution Commissioners for a State 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.

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(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, a member of an augmented Electoral Commission for a State or a Redistribution Commissioner for a State in the performance of his or her duties under this Part.

Penalty: Imprisonment for 12 months or 20 penalty units, or both.

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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 a Territory to which section 55A does not apply into such Districts as are specified and set out the boundaries of each District so specified.

(2) The Territory of Christmas Island and the Territory of Cocos (Keeling) Islands are each to be a District of the Division of the Northern Territory in which they are included (if applicable).

80 Polling places

(1) The Electoral Commissioner may in writing:

(a) appoint, by name, such polling places for each Division as he or she 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.

(2A) The Electoral Commissioner must cause to be published, on the Electoral Commission's website and in any other way he or she considers appropriate, notice of an appointment, declaration or abolition made under subsection (1).

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(2B) Failure to publish notice of an appointment, declaration or abolition made under subsection (1), as required by subsection (2A), does not affect the validity of the appointment, declaration or abolition.

(3) The Electoral Commissioner 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.

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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

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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.

(3) However, particulars contained in the Rolls in accordance with paragraph (2)(c) must not relate to whether a person is a designated elector.

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:

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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;

(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 Electoral Commissioner, a reasonably effective notification of that transfer can be given by notice published in a newspaper—the Electoral Commissioner 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 Electoral Commissioner:

(i) must cause a notice of that transfer to be delivered to the address of each elector affected by the transfer; and

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(ii) may cause a notice of that transfer to be delivered to other addresses.

87 Additions etc. to new Rolls

If a new Roll for a Subdivision is prepared, the Electoral Commissioner must:

(a) make additions, alterations, and corrections therein; and

(b) remove names therefrom;

pursuant to claims or notifications received, and action taken under section 103A or 103B, 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.

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.

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(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;
  (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

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(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.

Limitation

(5) A right of inspection under this section does not include the right to copy or record by electronic means the Roll or a part of the Roll.

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.

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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**
2	a registered political party	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).
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).

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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**
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.
8	a Senator for a State or Territory	3 copies 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.

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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**
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.
12	a member of the House of Representatives	3 copies 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 member is not entitled to a copy of the same list under item 11.

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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**
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.
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).

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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.

Giving parliamentarians electronic copies on request

(3A) On request by the Senator or member of the House of Representatives to whom item 7, 9, 11 or 13 of the table in subsection (1) relates, the Electoral Commission may comply with the item by giving the Senator or member:

(a) a single electronic copy of the relevant certified list; and

(b) if the Senator or member requests 1 or 2 other copies of the list, that number of other copies of the list.

(3B) On request by the Senator or member of the House of Representatives to whom item 8 or 12 of the table in subsection (1) relates, the Electoral Commission may comply with the item by giving the Senator or member:

(a) a single electronic copy of the relevant Roll; and

(b) if the Senator or member requests 1 or 2 other copies of that Roll, that number of other copies of that Roll.

(3C) On request by the Senator or member of the House of Representatives to whom item 10, 14 or 15 of the table in

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subsection (1) relates, the Electoral Commission may comply with the item by giving the Senator or member an electronic copy of the relevant Roll.

(3D) Subsections (3A), (3B) and (3C) do not limit the operation of subsections 90(1) and (2) or the *Electronic Transactions Act 1999* in relation to subsection (1) of this section.

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	(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**
		See also subsection (5).	
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).
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).
5	a prescribed person or organisation that verifies, or contributes to the verification of, the identity of persons for the purposes of the *Financial Transaction Reports Act 1988*	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**
6	a prescribed person or organisation that: (a) is a reporting entity or an agent of a reporting entity; and (b) carries out applicable customer identification procedures under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*	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).
7	a prescribed person or organisation that, under an arrangement with: (a) a reporting entity; or (b) an agent of a reporting entity; provides information for the purpose of facilitating the carrying out of applicable customer identification procedures under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*	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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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.

Information about designated electors

(6A) The Electoral Commission must not include in information given under subsection (1) or (4) information about whether a person is a designated elector.

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 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.

Certain information about defence and AFP personnel not to be disclosed

(8A) Nothing in this section (or in an arrangement under section 84) allows or requires the Electoral Commission to give a person or organisation information that the Electoral Commission is aware would or might enable any of the following to be ascertained:

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(a) the fact that a particular person has been, is or will be serving outside Australia as:
  (i) a defence member or a defence civilian; or
  (ii) an AFP officer or staff member;
(b) the place where a particular person has been, is or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);
(c) the period of time when a particular person has been, is or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);
(d) without limiting any of the preceding paragraphs—the postal address of a person who is serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);
(e) any other information of a kind specified in the regulations, being information that relates to persons who have been, are or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii).

(8B) Paragraph (8A)(d) does not apply in relation to the postal address of a person who is a general postal voter.

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, 4, 5, 6 or 7 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;

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(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.

applicable customer identification procedure has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

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.

reporting entity has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

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

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(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 election and ballot 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.

(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 election and ballot matters; and

(b) monitoring the accuracy of information contained in a Roll; and

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(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; and

(c) any other purpose that is prescribed by the regulations for the purposes of this paragraph.

(2C) For information provided under item 5 of the table in subsection 90B(4), the only permitted purpose in relation to a prescribed person or organisation is for the person or organisation to verify, or contribute to the verification of, the identity of persons for the purposes of the *Financial Transaction Reports Act 1988*.

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(2D) For information provided under item 6 of the table in subsection 90B(4), the only permitted purpose in relation to a prescribed person or organisation is for the person or organisation to carry out an applicable customer identification procedure under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

(2E) For information provided under item 7 of the table in subsection 90B(4), the only permitted purpose in relation to a prescribed person or organisation is facilitating the carrying out of an applicable customer identification procedure under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

(3) In this section:

applicable customer identification procedure has the same meaning as in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

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.

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(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 (other than information provided under item 5, 6 or 7 of the table in subsection 90B(4) that is used for a permitted purpose).

Penalty: 1,000 penalty units.

92 Roll reviews

(1) All officers in the service of the Commonwealth, a State or a Territory, officers in the service of any local governing body, and all occupiers of habitations shall upon application furnish to the Electoral Commissioner or to any officer acting under the Electoral Commissioner's direction all such information as the Electoral Commissioner requires in connexion with the preparation, maintenance or revision of the Rolls.

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

(3) There must be paid to the Electoral Commissioner, out of the Consolidated Revenue Fund, amounts equal to the sum of the expenses reasonably incurred by him or her 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 Finance Minister may make advances to the Electoral Commissioner on account of the amount that is expected to become payable under this section to the Electoral Commissioner.

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(8) Amounts payable to the Electoral Commissioner under this section shall be paid in such amounts, and at such times, as the Finance Minister determines.

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Part VII—Qualifications and disqualifications for enrolment and for voting

93 Persons entitled to enrolment and to vote

(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), (5) and (8AA), 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 the 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.

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(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 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) has been convicted of treason or treachery and has not been pardoned;

is not entitled to have his or her name placed or retained on any Roll or to vote at any Senate election or House of Representatives election.

(8AA) A person who is serving a sentence of imprisonment of 3 years or longer is not entitled to vote at any Senate election or House of Representatives election.

Note: For the definition of ***sentence of imprisonment***, see subsection 4(1A).

(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

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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) The Electoral Commissioner may refuse to include a person's name in a Roll if the Electoral Commissioner 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) The Electoral Commissioner 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) If the Electoral Commissioner decides under this section to refuse to include a person's name in a Roll, the Electoral Commissioner 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;

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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 Electoral Commissioner.

(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 Electoral Commissioner 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 Electoral Commissioner 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 Electoral Commissioner 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 Electoral Commissioner 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;

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(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 Electoral Commissioner to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Electoral Commissioner 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:

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(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 Electoral Commissioner to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Electoral Commissioner 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 Electoral Commissioner 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);

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(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 Electoral Commissioner has annotated a Roll for a Subdivision of a Division in relation to a person under subsection (2) and the Electoral Commissioner 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 Electoral Commissioner 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.

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(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 Electoral Commissioner became aware of the happening of the event—the Electoral Commissioner 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.

94A Enrolment from outside Australia

(1) A person may apply to the Electoral Commissioner for enrolment for a Subdivision 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) An application:

(a) must be in the approved form; and

(b) must be signed by the applicant; and

(c) must be made within 3 years of the day on which the applicant ceased to reside in Australia; and

(d) must comply with section 98AA (evidence of identity requirements).

(3) The Electoral Commissioner must add the person's name to the Roll:

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(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, for the Subdivision with which the person has the closest connection.

(4) If:

(a) the application is received by the Electoral Commissioner 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 Electoral Commissioner must notify the person in writing:

(a) of a decision to grant or refuse the application; or

(b) of the Electoral Commissioner's opinion that the application cannot be proceeded with because of subsection (4).

(6) If the application is granted, the Electoral Commissioner 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, de facto partner or child of eligible overseas elector

(1) Where a person:

(a) who is the spouse, de facto partner 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***);

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(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 Electoral Commissioner to have his or her name placed on the Roll for the relevant Subdivision and to be treated as an eligible overseas elector, the Electoral Commissioner 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) An application:

(a) must be in the approved form; and

(b) must be signed by the applicant; and

(c) must comply with section 98AA (evidence of identity requirements).

(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.

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(4) If:

(a) an application under this section is received by the Electoral Commissioner 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, and the annotation of the Roll under subsection (1) in relation to the person must not be made, until after the close of the poll for that election.

(5) The Electoral Commissioner must notify the person in writing:

(a) of a decision to grant or refuse the application; or

(c) of the Electoral Commissioner'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 Electoral Commissioner 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.

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(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 Electoral Commissioner to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Electoral Commissioner 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 Electoral Commissioner to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Electoral Commissioner 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

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(b) ceases to have the intention to resume residing in Australia;

the person shall, as soon as practicable, give notice in writing to the Electoral Commissioner 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 (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;

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the relevant period expires.

(14) Where the Electoral Commissioner has annotated a Roll for a Subdivision of a Division in relation to a person under subsection (1) and the Electoral Commissioner 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 Electoral Commissioner 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 Electoral Commissioner became aware of the happening of the event—the Electoral Commissioner 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.

96 Itinerant electors

(1) A person who:

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(a) is in Australia; and

(b) is not entitled to be enrolled for any Subdivision because:

(i) the person does not reside in any Subdivision; or

(ii) the person is a homeless person;

may apply to the Electoral Commissioner for enrolment under this section for a Subdivision.

(2) An application:

(a) must be in the approved form; and

(b) must be signed by the applicant; and

(c) must comply with section 98AA (evidence of identity requirements), if that section applies to the application.

(2A) The Electoral Commissioner must add the name of the applicant 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, for the Subdivision with which the applicant has the closest connection.

(2B) The Electoral Commissioner 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:

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(a) have his or her name retained on the Roll for the Subdivision; and

(b) vote as an elector of the Subdivision.

(4) If:

(a) an application under this section is received by the Electoral Commissioner 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, and the annotation of the Roll under subsection (2B) in relation to the person must not be made, until after the close of the poll for that election.

(5) Where the Electoral Commissioner:

(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 Electoral Commissioner shall notify the applicant in writing of that decision or opinion, as the case may be.

(6) If the Electoral Commissioner refuses an application made by a person under subsection (1), the notice under subsection (5) must also include notice of the person's right to apply for review under Part X.

(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; or

(aa) if subparagraph (1)(b)(ii) applied in relation to the application—ceases to be a homeless person; or

(b) forms the intention to depart from Australia and to remain outside Australia for a period of 1 month or longer; or

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(c) ceases to be entitled to enrolment;

the person shall, as soon as practicable, give notice in writing to the Electoral Commissioner of the happening of the event referred to in paragraph (a), (aa), (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.

(8A) Paragraph (7)(a) and subsection (8) do not apply in relation to a homeless person.

(8B) Subject to subsection (9), if:

(a) a person is being treated as an itinerant elector under this section because the person is a homeless person; and

(b) the person ceases to be a homeless person;

the person ceases to be eligible to be treated as an itinerant elector under this section upon ceasing to be a homeless person.

(9) A person ceases to be entitled to be treated as an itinerant elector under this section if:

(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.

(10) If the Electoral Commissioner adds the name of a person to the Roll for a Subdivision of a Division under this section and the Electoral Commissioner 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), (8B) or (9), he or she must:

(a) if the person ceases to be entitled otherwise than because of paragraph (9)(b) and the Electoral Commissioner is aware that the person resides in the Division—cancel the annotation made in relation to the person under subsection (2B); or

(b) in any other case—cancel the enrolment of the person on the Roll for the Subdivision.

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(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 Electoral Commissioner became aware of the happening of the event—the Electoral Commissioner must 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 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:

homeless person includes:

(a) a person living in:

(i) crisis accommodation; or

(ii) transitional accommodation; and

(b) a person who has inadequate access to safe and secure housing within the meaning of section 4 of the *Supported Accommodation Assistance Act 1994*.

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.

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(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.

96B Entitlement of Antarctic electors to vote

(1) An Antarctic elector is entitled to vote in accordance with Part XVB (electronically assisted voting).

Electors in Antarctica who are already on the Roll

(2) Despite subsection 99(1) or (2), while a person is an Antarctic elector, the person is entitled to:

(a) have the person's name retained on the Roll for the Subdivision in which the person was enrolled when the person first began to be in Antarctica or on the ship that is in transit to or from Antarctica; and

(b) vote as an elector of the Subdivision.

(3) A person who is an Antarctic elector may, by notice given to the Electoral Commissioner, notify the Electoral Commissioner that the person is an Antarctic elector.

Persons in Antarctica who are not already on the Roll

(4) Subsection (5) applies if:

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(a) a person is, under section 93, entitled to enrolment; and
(b) the person is, in the course of the person's employment:
(i) in Antarctica; or
(ii) on a ship at sea in transit to or from Antarctica; and
(c) the person was not enrolled when the person began to be in Antarctica or on the ship.

(5) The person is entitled to be enrolled:
(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—for the Subdivision with which the person has the closest connection.

Annotating the Roll

(6) The Electoral Commissioner must annotate the Roll for the Subdivision for which a person is enrolled so as to indicate that the person is an Antarctic elector if:
(a) the person gives a notice under subsection (3); or
(b) the Electoral Commissioner adds the person's name to the Roll in accordance with subsection (5); or
(c) the Electoral Commissioner is otherwise satisfied that the person is an Antarctic elector.

(7) The Electoral Commissioner must delete the annotation immediately after the Commissioner becomes aware that the elector has ceased to be an Antarctic elector.

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97 Application of Part to Australian Capital Territory and Northern Territory

This Part applies in relation to the Australian Capital Territory or the Northern Territory as if references in this Part to a State were references to that Territory.

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Part VIII—Enrolment

98AA Evidence of identity requirements

(1) This section applies to:

(a) an application or claim that a person makes under section 94A, 95 or 99A; or

(b) an application or claim that a person makes under section 96 or 98, if:

(i) the person is not already enrolled; or

(ii) the person is already enrolled, but the person's name is no longer the same as the name under which he or she is enrolled.

(2) The person's claim or application must include or be accompanied by any of the following:

(a) if the person holds a driver's licence issued under the law of a State or Territory, or a law in force in Norfolk Island—the number of that driver's licence;

(b) if the person holds an Australian passport—the number of that Australian passport;

(c) an attestation as to the person's identity that is:

(i) in the approved form; and

(ii) signed by another person who is enrolled;

(d) any other evidence of the person's identity that is of a kind prescribed by the regulations for the purpose of this paragraph.

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 16 enrolment.

Note: Names may also be added to Rolls in some circumstances without making a claim or giving notice (see sections 103A and 103B).

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(2) A claim:
  (a) must be in an approved form; and
  (b) subject to subsection (3), must be signed by the claimant; and
  (c) must comply with section 98AA (evidence of identity requirements), if that section applies to the claim.

(3) Where a person wishes to make a claim for enrolment, for transfer of enrolment or for age 16 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 a 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) The Electoral Commissioner may refuse to include in a Roll, or transfer to a Roll, a person's name if the Electoral Commissioner 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) The Electoral Commissioner 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) If the Electoral Commissioner decides under this section to refuse to include a person's name in a Roll, the Electoral Commissioner must notify the person in writing of that decision.

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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, 96, 96A and 96B, 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

(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.

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99A Provisional claim for enrolment by applicant for citizenship

(1) A person who:

(a) makes an application to become an Australian citizen under section 21 of the *Australian Citizenship Act 2007*; 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:

(a) must be in the approved form; and

(b) subject to subsection (5), must be signed by the claimant; and

(c) must be lodged:

(i) if the claim is made under subsection (1)—together with the claimant's application to become an Australian citizen; or

(ii) if the claim is made under subsection (2)—with the Electoral Commissioner; and

(d) must comply with section 98AA (evidence of identity requirements).

(5) If:

(a) a person wishes to make a provisional claim for enrolment; and

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(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 Immigration Department must:

(a) send to the Electoral Commissioner, as soon as practicable, any provisional claim for enrolment lodged by a person under subparagraph (4)(c)(i); and

(b) if the person becomes an Australian citizen as a result of the person's application to become an Australian citizen—inform the Electoral Commissioner, as soon as practicable, that the person has become an Australian citizen.

(7) If a person who has made a provisional claim for enrolment for a subdivision becomes an Australian citizen, 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 becomes an Australian citizen.

(8) If a person who has made a provisional claim for enrolment is refused approval to become an Australian citizen, the provisional claim has no effect.

99B Provisional enrolment by applicant for citizenship

Application by those about to become Australian citizens

(1) A person may apply to the Electoral Commissioner for provisional enrolment for a Subdivision if, at the time of making the application:

(a) either:

(i) a public announcement has been made of the proposed date for polling for an election for the Subdivision; or

(ii) a writ for an election for the Subdivision has been issued; and

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(b) the person has been notified by the Immigration Department that the person will become an Australian citizen under the *Australian Citizenship Act 2007* between:

(i) the date of the writ; and

(ii) the polling day for the election; and

(c) the person is not enrolled; and

(d) the person is not qualified for enrolment, but would be so qualified if he or she were an Australian citizen.

Note: A person who is provisionally enrolled under this section is not immediately added to a Roll but can cast a postal vote, a pre-poll declaration vote, an absent vote or a provisional vote. However, the vote is excluded from further scrutiny if the person does not provide evidence of citizenship by the first Friday following the polling day (see paragraph 6 of Schedule 3).

Requirements for application

(2) An application must:

(a) be in the approved form; and

(b) be signed by the person (but see subsection (3)); and

(c) be made between the following times:

(i) the earlier of the public announcement of the proposed date for polling for the election and the date of the writ;

(ii) 8 pm on the day of the close of the Rolls for the election; and

(d) in accordance with subsection (4), be supported by evidence of the Immigration Department's notification.

(3) A person may fill out and sign an application under this section, on behalf of another person (the ***applicant***), in accordance with the directions of the applicant if:

(a) the applicant wishes to make the application; and

(b) a registered medical practitioner has certified, in writing, that the applicant is so physically incapacitated that the applicant cannot sign the application.

(4) For the purposes of paragraph (2)(d), an application is supported by evidence of the Immigration Department's notification if:

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(a) all of the following apply:
  (i) the original notification is shown to an officer;
  (ii) the officer attests that he or she has sighted the notification;
  (iii) the officer attests that he or she is satisfied that the notification relates to the person making the application; or

(b) all of the following apply:
  (i) the original or a copy of the notification is shown to an elector in a prescribed class of electors;
  (ii) the elector attests that he or she has sighted the notification;
  (iii) the elector attests that he or she is satisfied that the notification relates to the person making the application.

Electoral Commissioner to keep records

(5) If a person makes an application in accordance with this section, then:
  (a) the person is provisionally enrolled under this section for the Subdivision to which the application relates; and
  (b) the Electoral Commissioner must keep a record of the details of the application.

Confirmation of citizenship

(6) If, by the first Friday following the polling day for the election, the person provides an officer with evidence that the person has become an Australian citizen, then:
  (a) the provisional enrolment ceases; and
  (b) the application is taken to be a claim for enrolment for the Subdivision to which the application relates; and
  (c) sections 102, 103 and 104 apply to the application as if it were a claim made under section 101.

(7) Otherwise, the Electoral Commissioner must notify the person, in writing, that the person's provisional enrolment has ceased.

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100 Claims for age 16 enrolment

(1) A person who:

(a) has turned 16, but is under 18, 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 the Electoral Commissioner.

(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) 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 the Electoral Commissioner.

(4) 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, commits 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 the Electoral Commissioner, 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*).

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(5) 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 Electoral Commissioner.

(6) A person who fails to comply with subsection (1), (4) or (5) commits 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.

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 the Electoral Commissioner, 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.

(8) If the Electoral Commissioner enters a person's name or address in a Roll under section 103A or 103B, proceedings must not be instituted against the person for an offence against subsection (1), (4), (5) or (6) of this section constituted by an omission occurring before that entry.

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102 Action on receipt of claim

(1) Subject to subsection (4), if, pursuant to section 101, the Electoral Commissioner receives a claim for enrolment, or transfer of enrolment, the Electoral Commissioner must:

(a) note on the claim the date of its receipt; and

(b) if the claim is in order and the Electoral Commissioner is satisfied that the claimant is entitled, in respect of residence at an address, to be enrolled for a Subdivision, without delay:

(i) enter on the Roll for the Subdivision the name of the claimant and the other particulars required by section 83; and

(ii) notify the claimant in writing that he or she has been enrolled for that Subdivision; and

(iii) in the case of a claim for transfer of an enrolment from the Roll for another Subdivision—delete the name of the claimant from the Roll for that other Subdivision; and

(c) if the claim is in order but the Electoral Commissioner 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

(d) if the claim is not in order or the Electoral Commissioner is not satisfied that the claimant is entitled, in respect of residence at an address, to be enrolled for a Subdivision—notify the claimant in writing that the claim has been rejected.

(2) Before dealing with a claim under paragraph (1)(b), (c) or (d), the Electoral Commissioner may make any inquiries that he or she thinks necessary.

(3) Notice of a decision given to a claimant by the Electoral Commissioner under paragraph (1)(d) must include:

(a) a statement of the reasons for the decision; and

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(b) a statement setting out the rights of the claimant to have the decision reviewed under Part X.

(4) Subject to subsection (5), if:

(a) a claim under section 101 is received by the Electoral Commissioner during the period (the ***suspension period***):

(i) starting at 8 pm on the day of the close of the Rolls for an election to be held in a Division; and

(ii) ending on the close of the poll for the election; and

(b) the claim relates to a Subdivision of that Division;

the claim must not be considered until after the end of the suspension period.

(5) If:

(a) a claim under section 101 is received by the Electoral Commissioner during the suspension period; and

(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 start of the suspension period; and

(c) the claim is included in the mail identified in the notification;

then, despite subsection (4):

(d) the claim must be regarded as having been received before the start of the suspension period; and

(e) if the claimant's name is entered on the Roll in accordance with the claim, the enrolment must, in relation to any vote recorded by the claimant in an election, be regarded as having been effected before the start of the suspension period.

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

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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 commits an offence.

Penalty: 10 penalty units.

(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*).

103A Updating or transferring a person's enrolment without claim or notice from the person

Application

(1) This section applies if the Electoral Commissioner:

(a) is satisfied that a person's address is entered on a Roll (the ***old Roll***); and

(b) is satisfied, for reasons other than a claim under section 98 and a notice under subsection 101(5), that the person lives at another address (the ***new address***).

Notice of proposed action to update or transfer enrolment

(2) The Electoral Commissioner may give the person a notice in writing setting out the date of the notice, the new address and the fact that the Electoral Commissioner is satisfied that the person lives at the new address and stating:

(a) if the person's residence at the new address entitles the person to have his or her name placed on the old Roll—that the Electoral Commissioner proposes to enter the new address for the person on the old Roll; and

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(b) if the person's residence at the new address entitles the person to have his or her name transferred to another Roll (the ***new Roll***)—that the Electoral Commissioner proposes:

(i) to delete the person's name from the old Roll; and

(ii) to enter on the new Roll the person's name and other particulars required by section 83; and

(c) in any case—that the Electoral Commissioner will not take the proposed action if satisfied by information given by the person to the Electoral Commissioner within 28 days after the date of the notice that the person does not live at the new address.

Taking action to update or transfer enrolment

(3) The Electoral Commissioner may take the proposed action described in paragraph (2)(a) or (b) unless satisfied by information given by the person to the Electoral Commissioner within 28 days after the date of the notice that the person does not live at the new address.

(4) The Electoral Commissioner may take the action before the end of the 28 days if the person indicates to the Electoral Commissioner within that period that the person does live at the new address.

(5) Despite subsections (3) and (4), the Electoral Commissioner must not take the proposed action described in paragraph (2)(b) within a period:

(a) starting at 8 pm on the day of the close of the Rolls for an election to be held in a Division to which the new Roll relates; and

(b) ending on the close of the poll for the election.

Notice of decision or decision not to take action

(6) If the Electoral Commissioner takes the proposed action described in paragraph (2)(a) or (b) or decides not to take that action, the Electoral Commissioner must give the person notice in writing of the action or the decision.

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(7) If:

(a) under subsection (6) the Electoral Commissioner gives the person notice in writing of the action; and

(b) the Electoral Commissioner has received a claim for transfer of the person's enrolment to the new address;

the Electoral Commissioner need not give the person notice under subparagraph 102(1)(b)(ii).

Electronic notification

(8) A notice may be given under this section by an electronic communication as defined in the *Electronic Transactions Act 1999*, whether or not the person consents as described in paragraph 9(2)(d) of that Act. This does not limit the ways in which the notice may be given.

103B Enrolling unenrolled person without claim or notice from the person

Application

(1) This section applies if the Electoral Commissioner is satisfied that a person:

(a) is entitled to enrolment; and

(b) has lived at an address (the ***proposed enrolment address***) in a Subdivision (the ***relevant Subdivision***) for at least one month; and

(c) the person is not enrolled.

Notice of proposed action to enrol a person

(2) The Electoral Commissioner may give the person a notice in writing setting out the date of the notice, the proposed enrolment address and the fact that the Electoral Commissioner is satisfied that the person lives at that address and stating:

(a) that the Electoral Commissioner proposes to enter the person's name and other particulars required by section 83 on

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the Roll for the relevant Subdivision (the ***proposed action***); and

(b) that the Electoral Commissioner will not take the proposed action if satisfied by information given by the person to the Electoral Commissioner within 28 days after the date of the notice that the person:

(i) does not live at the proposed enrolment address; or

(ii) is not entitled to enrolment.

Taking action to enrol a person

(3) The Electoral Commissioner may take the proposed action unless satisfied by information given by the person to the Electoral Commissioner within 28 days after the notice that the person:

(a) does not live at the proposed enrolment address; or

(b) is not entitled to enrolment.

(4) The Electoral Commissioner may take the proposed action before the end of the 28 days if the person indicates to the Electoral Commissioner within that period that the person:

(a) does live at the proposed enrolment address; and

(b) is entitled to enrolment.

(5) Despite subsections (3) and (4), the Electoral Commissioner must not take the proposed action within a period:

(a) starting at 8 pm on the day of the close of the Rolls for an election to be held in a Division to which the Roll for the relevant Subdivision relates; and

(b) ending on the close of the poll for the election.

Notice that action has or has not been taken

(6) If the Electoral Commissioner takes the proposed action, or decides not to take that action, the Electoral Commissioner must give the person notice in writing of:

(a) the action or the decision; and

(b) the person's full name and address as entered on the Roll for the person (if applicable).

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(7) If:

(a) under subsection (6) the Electoral Commissioner gives the person notice in writing of the action; and

(b) the Electoral Commissioner has received a claim for enrolment in respect of the relevant address;

the Electoral Commissioner need not give the person notice under subparagraph 102(1)(b)(ii).

Electronic notification

(8) A notice may be given under this section by an electronic communication as defined in the *Electronic Transactions Act 1999*, whether or not the person consents as described in paragraph 9(2)(d) of that Act. This does not limit the ways the notice may be given.

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) 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 Electoral Commissioner a request, in the approved form, that his or her address be deleted from the particulars that are entered on that Roll.

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(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.

(4) Where:

(a) a request has been made under subsection (1) or (2); and

(b) the Electoral Commissioner 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 Electoral Commissioner:

(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.

(4A) If:

(a) the address of an elector is not shown on the Roll for a Subdivision because of this section; and

(b) the elector's name is transferred to a Roll for another Subdivision;

the Electoral Commissioner must not enter the elector's address on the Roll for the other Subdivision.

(5) Where the Electoral Commissioner grants or refuses a request made by a person under subsection (1) or (2), the Electoral Commissioner 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.

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(7) The Electoral Commissioner may conduct a review of the Roll for a Subdivision of a 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 Electoral Commissioner is not satisfied that the personal safety of a 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 Electoral Commissioner must notify the elector in writing that the Electoral Commissioner 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(5), 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 Electoral Commissioner 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.

(11) For the purposes of this section, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in section 4;

(c) anyone else who would be a member of the person's family because a person mentioned in paragraph (a) or (b) is taken to be a member of the family.

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105 Alteration of Rolls

(1) In addition to other powers of alteration conferred by this Act, the Electoral Commissioner may alter any Roll by:

(a) correcting any mistake or omission in the particulars of the enrolment of an elector;

(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 Electoral Commissioner 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 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)(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) If:

(a) 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

(b) the elector was entitled on that date to be enrolled for the Subdivision in which he or she was living;

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the Electoral Commissioner 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.

(3) An alteration to a Roll in pursuance of subsection (1) or (2) may be made at any time.

(4) The Electoral Commissioner may enter the name of an elector who is not enrolled, and who has made a declaration vote, on the Roll for the Subdivision in which the elector was living at the time of voting if:

(a) at a preliminary scrutiny of declaration votes conducted in accordance with Schedule 3:

(i) the envelope containing the elector's ballot paper meets the requirements of paragraph 6 of that Schedule (about ballot papers being properly issued); and

(ii) paragraph 12 of that Schedule (about omissions from a Roll due to error or a mistake of fact) applies to the envelope; or

(b) at a preliminary scrutiny of declaration votes conducted in accordance with Schedule 4 to the *Referendum (Machinery Provisions) Act 1984*:

(i) the envelope containing the elector's ballot paper meets the requirements of paragraph 6 of that Schedule (about ballot papers being properly issued); and

(ii) paragraph 11 of that Schedule (about omissions from a Roll due to error or a mistake of fact) applies to the envelope.

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 Electoral Commissioner, 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

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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 person who makes the alteration.

108 Lists of deaths to be forwarded

The Registrar-General of a State must 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 the Electoral Commissioner (or to an officer nominated by the Electoral Commissioner) a list of the names, addresses, occupations, ages, sexes and dates of death of all persons of the age of 16 years or upwards whose deaths have been registered during the preceding month for the State; and

(b) forward to the Electoral Commissioner (or to an officer nominated by the Electoral Commissioner) 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.

Note: For the application of this section to the Australian Capital Territory, the Northern Territory and the non-self-governing Territories, see section 112.

109 Lists of persons serving, or ceasing to serve, sentences of imprisonment to be forwarded

(1) The Controller-General of Prisons of a State must, as soon as practicable after the beginning of each month, forward to the Electoral Commissioner (or to an officer nominated by the Electoral Commissioner) a list of:

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(a) the names, addresses, occupations and sexes of all persons who began serving a sentence of imprisonment of 3 years or longer in the State; and

(b) the names, addresses, occupations and sexes of all persons who ceased to serve a sentence of imprisonment of 3 years or longer in the State;

during the preceding month.

(2) Within 4 days of the day of the close of the Rolls for an election for a Division in a State, the Controller-General of Prisons of the State must forward to the Electoral Commissioner (or to an officer nominated by the Electoral Commissioner) a list of:

(a) the names, addresses, occupations and sexes of all persons who began serving a sentence of imprisonment of 3 years or longer in the State; and

(b) the names, addresses, occupations and sexes of all persons who ceased to serve a sentence of imprisonment of 3 years or longer in the State;

between the time the last list was forwarded by the Controller-General under subsection (1) and the day of the close of the Rolls.

Note 1: For the definition of ***sentence of imprisonment***, see subsection 4(1A).

Note 2: For the application of this section to the Australian Capital Territory, the Northern Territory and the non-self-governing Territories, see section 112.

110 Electoral Commissioner to act on receipt of information

(1) The Electoral Commissioner shall, upon receipt (whether by the Commissioner or by an officer nominated by the Commissioner) of information pursuant to sections 108 and 109, take action under this Act to effect such alterations of the Rolls as are necessary.

(2) The Electoral Commissioner 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.

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111 Computer records relating to Roll

(1) Where, but for this subsection, the Electoral Commissioner 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 Electoral Commissioner 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 the Electoral Commissioner 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 Electoral Commissioner 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 the Electoral Commissioner is required under this Act or the regulations to enter particulars on, vary particulars on, or remove particulars from, a Roll and the Electoral Commissioner complies with the requirement by taking action in accordance with this section, the Electoral Commissioner shall, for the purposes of this Act, including any provisions imposing obligations on the Electoral Commissioner, 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.

112 Application of Part to Australian Capital Territory and Northern Territory

(1) This Part applies in relation to the Australian Capital Territory or the Northern Territory as if references in this Part to a State were references to that Territory.

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Application of sections 108 and 109 to the Australian Capital Territory

(2) For the purposes of the application of sections 108 and 109 in relation to the Australian Capital Territory:

(a) the Australian Capital Territory does not include Norfolk Island or the Jervis Bay Territory; and

(b) subject to subsections (3) and (5), those sections apply in relation to Norfolk Island as if references in those sections to a State were references to Norfolk Island; and

(c) subject to subsections (4) and (5), those sections apply in relation to the Jervis Bay Territory as if references in those sections to a State were references to the Jervis Bay Territory.

(3) For the purposes of the application of section 108 in relation to Norfolk Island, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the responsible Commonwealth Minister (within the meaning of the *Norfolk Island Act 1979*).

(4) For the purposes of the application of section 108 in relation to the Jervis Bay Territory, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Jervis Bay Territory Acceptance Act 1915*.

(5) For the purposes of the application of subsection 109(2) in relation to Norfolk Island or the Jervis Bay Territory, the reference in that subsection to an election for a Division in a State is taken to be a reference to an election for a Division in the Australian Capital Territory.

Application of sections 108 and 109 to the Northern Territory

(6) For the purposes of the application of sections 108 and 109 in relation to the Northern Territory:

(a) the Northern Territory does not include the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; and

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(b) subject to subsections (7) and (9), those sections apply in relation to the Territory of Christmas Island as if references in those sections to a State were references to the Territory of Christmas Island; and

(c) subject to subsections (8) and (9), those sections apply in relation to the Territory of Cocos (Keeling) Islands as if references in those sections to a State were references to the Territory of Cocos (Keeling) Islands.

(7) For the purposes of the application of section 108 in relation to the Territory of Christmas Island, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Christmas Island Act 1958*.

(8) For the purposes of the application of section 108 in relation to the Territory of Cocos (Keeling) Islands, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Cocos (Keeling) Islands Act 1955*.

(9) For the purposes of the application of subsection 109(2) in relation to the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands, the reference in that subsection to an election for a Division in a State is taken to be a reference to an election for a Division in the Northern Territory.

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Part IX—Objections

113 Interpretation

In this Part:

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 the Electoral Commissioner 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.

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.

(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

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(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:

(i) an Antarctic elector; or

(ii) entitled to remain enrolled under section 96A (enrolment of prisoners).

(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 Electoral Commissioner shall object to the enrolment of a person for a Subdivision of a Division if there are reasonable grounds for believing that the person is not entitled to be enrolled for that Subdivision.

(3) The Electoral Commissioner shall not object on the ground set out in paragraph 93(8)(a).

(4) The Electoral Commissioner must object to the enrolment of a person for a Subdivision of a 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:

(i) an Antarctic elector; or

(ii) entitled to remain enrolled under section 96A (enrolment of prisoners).

(5) The Electoral Commissioner must not object under subsection (2) to the enrolment of a person if the Electoral Commissioner could object under subsection (4) to the enrolment of the person.

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(6) The Electoral Commissioner must not object under subsection (2) or (4) of this section to the enrolment of a person if the Electoral Commissioner has given the person a notice under subsection 103A(2) after becoming aware of the grounds mentioned in subsection (2) or (4) of this section.

115 Form and manner of objection

(1) An objection shall be in writing in the approved form.

(2) A private objection must be lodged, in the manner approved under subsection (3), with the Electoral Commissioner together, in the case of an objection under subsection 114(1) or (1B), with an amount of $2.

(3) For the purposes of subsection (2), and without limiting the definition of ***approved form*** in subsection 4(1), the Electoral Commissioner may approve, in writing, a manner for lodging a private objection.

116 Notice of objection

(1) The Electoral Commissioner 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) advise the elector of what he or she must do if he or she wishes to answer the objection; and
  (c) may be given to the challenged elector by posting it to that elector at:

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(i) a place notified by that elector to the Electoral Commissioner as the place to which notices under this Act may be sent;

(ii) if there is no such place, the place at which the Electoral Commissioner 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 Electoral Commissioner is satisfied that an objection is frivolous or vexatious, the Electoral Commissioner 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 Electoral Commissioner shall dismiss the objection without giving notice to the challenged elector.

(5) The Electoral Commissioner must dismiss an objection under subsection 114(1) or (1B) without giving notice to the challenged elector, and repay the objector the amount of $2 lodged with the objection, if:

(a) the Electoral Commissioner gave the challenged elector a notice under subsection 103A(2) before the objection was made; and

(b) the Electoral Commissioner is satisfied that the objection does not provide any information inconsistent with the information the Electoral Commissioner considered in deciding to give the notice.

(6) The Electoral Commissioner must dismiss an objection, except one under subsection 114(1A), without giving notice to the challenged elector if the Electoral Commissioner gives the challenged elector a notice under subsection 103A(2) after the objection was made but before giving notice of the objection.

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118 Determination of objection

(1) The Electoral Commissioner shall determine an objection as soon as practicable after:

(a) the receipt by the Electoral Commissioner of the answer of the challenged elector; or

(b) the end of 20 days after the giving of the notice of the objection;

whichever is the earlier.

(1A) However, the Electoral Commissioner must not determine an objection other than one under subsection 114(1A) if, after giving notice of the objection, the Electoral Commissioner gives the challenged elector a notice under subsection 103A(2).

(2) Before determining an objection, the Electoral Commissioner may make any inquiries the Electoral Commissioner 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 Electoral Commissioner that the challenged elector is not entitled to be enrolled for the relevant Subdivision, the Electoral Commissioner shall remove the elector's name from the Roll for that Subdivision.

(4) The Electoral Commissioner 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 Electoral Commissioner that:

(a) the challenged elector's name has been placed on the Roll for the relevant Subdivision in respect of a particular address; and

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(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:

(i) an Antarctic elector; or

(ii) entitled to remain enrolled under section 96A (enrolment of prisoners);

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

(5) During the period:

(a) starting at 8 pm on the day of the close of the Rolls for an election to be held in a Division; and

(b) ending on the close of the poll for the election;

the Electoral Commissioner must not remove an elector's name from the Roll for a Subdivision of that Division under subsection (3) or (4A).

(6) The Electoral Commissioner shall give to the objector and to the challenged elector written notice in the approved form of the decision of the Electoral Commissioner 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.

If objection is not determined because of notice under subsection 103A(2)

(9) If the Electoral Commissioner does not determine an objection because, after giving notice of the objection, the Electoral Commissioner gives the challenged elector a notice under subsection 103A(2), the Electoral Commissioner:

(a) must, if the objection is a private objection:

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(i) give the objector written notice in the approved form that the Electoral Commissioner will not determine the objection; and

(ii) repay the objector the amount of $2 lodged with the objection; and

(b) must give the challenged elector notice that the Electoral Commissioner will not determine the objection; and

(c) may give the notice to the challenged elector in the same way as the Electoral Commissioner gives the notice under subsection 103A(2).

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Part X—Review of decisions

120 Internal review

(1A) This section only applies in relation to decisions made by a delegate of the Electoral Commissioner who is not:

(a) the Deputy Electoral Commissioner; or

(b) an Australian Electoral Officer.

(1) A person notified of a reviewable decision made in relation to the person may apply, in writing, to the Electoral Commissioner for a review of the decision.

(2) For the purposes of this section, a decision by the Electoral Commissioner mentioned in an item in the following table is a ***reviewable decision*** in relation to the person mentioned in that item:

Reviewable decisions	
Item	**Reviewable decision**
1	A decision under section 93A to refuse to include a person's name in a Roll.
1A	A decision under section 94A to refuse an application under subsection 94A(1) by a person for enrolment for a Subdivision from outside Australia.
2	A decision under section 95 to refuse an application under subsection 95(1) by a person to have his or her name placed on a Roll and be treated as an eligible overseas elector.
2A	A decision under section 96 to refuse an application under subsection 96(1) by a person for enrolment as an itinerant elector.
3	A decision under section 98A to refuse to include in a Roll, or transfer to a Roll, a person's name.
4	A decision under subsection 102(1) to reject a person's claim for enrolment, for transfer of enrolment, or for age 16 enrolment.

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Reviewable decisions	
Item	**Reviewable decision**
5	A decision under subsection 103A(3) or (4) to take action to update or transfer a person's enrolment.
6	A decision under subsection 103B(3) or (4) to take action to enrol a person.
7	A decision under subsection 104(4) to refuse a request under subsection 104(1) or (2) that a person's address not be entered on a Roll or that it be deleted from a Roll.
8	A decision under subsection 104(8) that a person's address should be entered on the Roll.
9	A decision under section 105 to alter an entry on the Roll for a person (including a decision to add or remove a person's name from a Roll).
10	A decision under section 116 or 118 to dismiss an objection made by a person or, because of subsection 118(1A), not to determine an objection made by a person.
11	A decision under section 118, on an objection, to remove a person's name from the Roll.
12	A decision under section 185 to refuse to register a person as a general postal voter.
13	A decision under subsection 185C(1) to cancel a person's registration as a general postal voter.
14	A decision under section 287S or 302H (anti-avoidance) to give a notice to a person or entity.

(3) An application under subsection (1) may only be made before the end of the period of 28 days starting on the day on which notice is given as mentioned in that subsection.

(4) After receiving an application under subsection (1), the Electoral Commissioner must:

(a) personally review the reviewable decision; or

(b) cause the reviewable decision to be reviewed by a person to whom the Commissioner's powers and functions under this section are delegated and who was not involved in making the reviewable decision.

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(5) After the person mentioned in paragraph (4)(a) or (b) (the ***reviewer***) has reviewed the reviewable decision, the reviewer must make a decision (an ***internal review decision***):

(a) confirming the reviewable decision; or

(b) varying the reviewable decision; or

(c) setting aside the reviewable decision and substituting a new decision.

Note: An internal review decision is reviewable by the Administrative Appeals Tribunal (see section 121). Under the *Administrative Appeals Tribunal Act 1975*, notice must be given to persons whose interests are affected by an internal review decision.

(6) For the purpose of the review, the reviewer may exercise all the powers and discretions conferred by this Act on the person who made the reviewable decision.

121 Review by Administrative Appeals Tribunal

(1A) Except for decisions described in paragraph (1)(k), this section only applies in relation to:

(a) a decision made by the Electoral Commissioner personally; or

(b) a decision made by a delegate of the Electoral Commissioner who is:

(i) the Deputy Electoral Commissioner; or

(ii) an Australian Electoral Officer.

(1) Application may be made to the Administrative Appeals Tribunal for review of:

(a) a decision under section 93A or 98A to refuse to include in a Roll, or transfer to a Roll, a person's name; or

(b) a decision to refuse an application made under subsection 94A(1), 95(1) or 96(1); or

(c) a decision under section 102 to reject a claim for enrolment, for transfer of enrolment or for age 16 enrolment; or

(d) a decision to refuse a request made under subsection 104(1) or (2); or

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(e) a decision under subsection 104(8) that a person's address should be entered on a Roll; or

(f) a decision under section 105 to alter a Roll (including a decision to add or remove a person's name from the Roll); or

(g) a decision under section 116 or 118 to dismiss an objection or not to determine an objection because of subsection 118(1A); or

(h) a decision under section 118 to remove a person's name from a Roll pursuant to an objection; or

(i) a decision to refuse an application made under subsection 184A(1); or

(j) a decision to cancel a person's registration as a general postal voter; or

(k) an internal review decision made under subsection 120(5).

(2) In this section, ***decision*** has the same meaning as it has in the *Administrative Appeals Tribunal Act 1975*.

122 Application of Part to Australian Capital Territory and Northern Territory

This Part applies in relation to the Australian Capital Territory or the Northern Territory as if references in this Part to a State were references to that Territory.

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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.

eligible political party means a political party that:

(a) either:

(i) is a Parliamentary party; or

(ii) has at least 1,500 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) an elector.

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123A Determining whether a non-Parliamentary party has at least 1,500 members

(1) In determining for the purposes of this Part whether a political party that is not a Parliamentary party has at least 1,500 members, the same member may not be relied on by more than one party.

(2) If an individual is a member of more than one political party that is not a Parliamentary party, then, for the purposes of subsection (1):

(a) only the party nominated by the member may rely on the individual as a member; and

(b) no party may rely on the individual as a member if, after the Electoral Commission has given the individual at least 30 days to do so, the individual has not nominated a party.

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

(1) The Electoral Commissioner must 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.

(2) The Register may be included on the Transparency Register under section 287N.

126 Application for registration

Who may make an application

(1) An application for the registration of an eligible political party may be made to the Electoral Commission by:

(a) in the case of a Parliamentary party:

(i) the secretary of the party; or

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(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.

Requirements for an application

(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; and

(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; and

(ba) if the party wishes a logo of the party to be entered in the Register—set out a copy of a logo; and

(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; and

(ca) for an eligible political party that is not a Parliamentary party—include a list of the names of the 1,500 members of the party to be relied on for the purposes of registration; and

(d) state whether or not the party wishes to receive moneys under Division 3 of Part XX; and

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(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.

Requirements for logos

(2AA) For the purposes of paragraph (2)(ba), a logo set out in an application must:

(a) be in black and white; and

(b) meet any other requirements determined under subsection (2AB).

(2AB) For the purposes of paragraph (2AA)(b), the Electoral Commissioner may, by legislative instrument, determine requirements in relation to setting out a logo in an application.

A person must not be a registered officer etc. of more than one registered political party

(2B) A person must not, at a particular time, be:

(a) the registered officer of more than one registered political party; or

(b) a deputy registered officer of more than one registered political party; or

(c) the registered officer of one registered political party and a deputy registered officer of another registered political party.

The registration of a political party is not to be cancelled because of this subsection unless the Electoral Commission has taken action to determine whether the party should be deregistered because of paragraph 137(1)(cc).

Note: The registered officer of a registered political party may be changed at any time under paragraph 134(1)(g).

(2C) Subsection (2B) does not prevent a person from being both:

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(a) the registered officer or a deputy registered officer of a registered political party for the purposes of this Act; and

(b) the registered officer or a deputy registered officer (however described), for the purposes of an Act of a State or Territory or an Ordinance of an external Territory, of a political party or a branch of a political party.

Electoral Commission to deal with application

(3) Upon receipt of an application for the registration of a political party, the Electoral Commission shall deal with the application in accordance with this Part and determine whether the party can be registered.

Note: The Electoral Commission may also decide under section 129A to refuse to enter a logo of the political party in the Register.

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 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 Electoral Commission that relates to such an application.

129 Parties with certain names not to be registered

Names not to be registered

(1) The Electoral 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, frivolous or vexatious;

(c) is the name, or is an abbreviation or acronym of the name, of another political party (not being a political party that is

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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.

Names to be registered only with consent

(3) The Electoral Commission must refuse an application for the registration of a political party if:

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(a) either of the following apply:
  (i) the applicant party's name contains a word that is in the name, or the abbreviation of the name, of a registered political party;
  (ii) the proposed abbreviation of the applicant party's name contains a word that is in the name, or abbreviation of the name, of a registered political party; and
(b) the application is not accompanied by the written consent, to the use by the applicant party of the word in its name or abbreviation, of:
  (i) if there is only one registered political party to which paragraph (a) applies—the registered political party's registered officer; or
  (ii) otherwise—the registered officer of the first such political party to be registered.

(4) For the purposes of subparagraph (3)(b)(ii), if the registered political parties to which paragraph (3)(a) applies are a State branch, and the federal branch, of a federal party that were registered on the same day, the federal branch is taken to be the first of those political parties to be registered.

(5) Subsection (3) of this section, and subsections 129A(2) and 134A(1), do not apply to:
  (a) a function word; or
  (b) a collective noun for people; or
  (c) the name of a country, the word "country", or a recognised geographical place in Australia; or
  (d) the word "democratic".

(6) In applying subsection (3) or (5) of this section, or subsection 129A(2) or subparagraph 134A(1)(a)(iii), in relation to a word, other grammatical forms, and commonly accepted variants (including abbreviations, contractions and alternative forms), of the word are to be treated in the same way as the word.

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129A Certain party logos not to be entered in the Register

(1) The Electoral Commission may refuse to enter in the Register a logo of a political party (the ***applicant***), set out in an application to register the applicant, if, in its opinion, the applicant's logo:

(a) is obscene; or

(b) is the logo of any other person; or

(c) so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo; or

(d) is one that a reasonable person would think suggests that a connection or relationship exists between the applicant and a registered political 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 (within the meaning of subsection 129(2)); or

(ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) 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) The Electoral Commission must refuse to enter in the Register a logo of a political party (the ***applicant***), set out in an application to register the applicant, if:

(a) the applicant's logo contains a word that is in the name, or the abbreviation of the name, of a registered political party; and

(b) the application is not accompanied by the written consent, to the use by the applicant of the word in its logo for the purposes of registration under this Part, of:

(i) if there is only one registered political party to which paragraph (a) applies—the registered political party's registered officer; or

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(ii) otherwise—the registered officer of the first such political party to be registered.

Note: Subsection (2) has effect subject to subsections 129(5) and (6).

(3) For the purposes of subparagraph (2)(b)(ii), if the registered political parties to which paragraph (2)(a) applies are a State branch, and the federal branch, of a federal party that were registered on the same day, the federal branch is taken to be the first of those political parties to be registered.

130 Different levels of party may be registered

The Electoral 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 Electoral Commission is of the opinion that it is required to refuse the application, or refuse to enter a logo of the party in the Register, 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).

Note: For example, if an application to register a political party would be refused because subsection 126(2B) would be contravened, the party could change the person who is to be the registered officer of the party so subsection 126(2B) is not contravened.

(2) Where notice is given under subsection (1) in relation to an application, the Electoral 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

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applicants may lodge with the Electoral 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.

(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 Electoral Commission; and

(b) the Commission does not give a notice under subsection 131(1) in respect of that application;

the Electoral Commissioner:

(c) must publish a notice of the application:

(i) in a newspaper circulating generally in each State and Territory; and

(ii) on the Electoral Commission's website; and

(d) may publish the notice in any other way the Electoral Commissioner considers appropriate.

(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:

(i) the application does not relate to an eligible political party; or

(ii) the application is not in accordance with section 126 (including because subsection 126(2B) would be contravened); or

(iii) the application should be refused under section 129; or

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(iv) the Electoral Commission should refuse to enter a logo of the party in the Register under section 129A;

to submit written particulars of the grounds for that belief to the Electoral Commission within 1 month after the date of the publication of the notice on the Electoral Commission's website.

(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 Electoral Commission in Canberra for inspection by members of the public.

(5) The Electoral 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 Electoral Commission in Canberra for inspection by members of the public.

(7) The Electoral 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 on the Electoral Commission's website;

(c) where particulars have been submitted under paragraph (2)(b), either:

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(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 Electoral Commission to give reasons for decisions under this Part

(1) The Electoral 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 or decides to refuse to enter a logo of the party in the Register; 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 Electoral 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:

(i) the name of the party; and

(ii) if an abbreviation of the name of the party was set out in the application—that abbreviation; and

(iia) if a logo of the party was set out in the application, and the Electoral Commission has not decided to refuse to enter the logo in the Register under section 129A—that logo; and

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(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; and

(b) give written notice to the applicant or applicants that it has registered the party; and

(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, or entered the logo in the Register, setting out in the notice to each person the reasons for rejecting the reasons particulars of which were so submitted by the person.

(1A) If the Electoral Commission makes a determination under subsection (1) that a political party should be registered, the Electoral Commissioner:

(a) must publish notice of the registration of the party on the Electoral Commission's website; and

(b) may publish notice of the registration in any other way the Electoral Commissioner considers appropriate.

(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) If the Electoral Commission refuses an application made by a person to register a political party, or refuses to enter in the Register a logo set out in such an application, the Electoral Commission must give written notice to the person giving reasons for the decision.

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134 Changes to Register

(1) Where a political party is registered under this Part, an application may be made to the Electoral 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; or

(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; or

(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; or

(ea) if the party's logo is entered in the Register—changing that logo to a logo set out in the application; or

(eb) if the party's logo is not entered in the Register—entering in the Register the logo set out in the application; or

(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.

Note: A person must not be the registered officer or a deputy registered officer of more than one registered political party at a particular time (see subsection 126(2B)).

(1A) Where a political party is registered under this Part, the registered officer of the party may apply to the Electoral Commission to change the Register by substituting for the address of the registered

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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 Electoral Commission shall deal with the application in accordance with this 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), (e), (ea) or (eb), sections 127, 129, 129A, 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) the reference in subparagraph 132(2)(b)(ii) to section 126 (but not the reference to subsection 126(2B)) 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 Electoral Commission shall:

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(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 Electoral 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), (e), (ea), (eb) or (g) 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.

(6A) If the Register is changed in accordance with paragraph (6)(a), the Electoral Commissioner:

(a) must publish notice of the change on the Electoral Commission's website; and

(b) may publish notice of the change in any other way the Electoral Commissioner considers appropriate.

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(7) Where the Electoral 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 Electoral 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), (e), (ea) or (eb) 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 or logo

(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 Electoral Commission is satisfied that:

(i) the name or logo of the parent party is the same as, or relevantly similar to, the name or logo of the second party and the parties are not related at the time of the objection; or

(ii) the name or logo 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; or

(iii) the name or logo of the second party contains a word that is in the name, or abbreviation of the name, of the parent party; and

(b) the registered officer of the parent party objects in writing to the continued use of the name or logo 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 or logo within 1 month of the date of the notice; or

(ii) it makes such an application, but the application is refused.

Note: Subparagraph (1)(a)(iii) has effect subject to subsections 129(5) and (6).

(1A) If, in relation to a second party mentioned in subsection (1), there is more than one registered political party that meets both of the following conditions (each such party is an ***earlier registered party***):

(a) the party was registered before the second party;

(b) the party has in its name, or the abbreviation of its name, a word contained in the name or logo of the second party;

then only the registered officer of the first of the earlier registered parties to be registered with that word in its name or abbreviation may make an objection under paragraph (1)(b) to the continued use of the name or logo by the second party.

(1B) For the purposes of subsection (1A), if the earlier registered parties are a State branch, and the federal branch, of a federal party that were registered on the same day, the federal branch is taken to be the first of the earlier registered parties to be registered with the word in its name or abbreviation.

(2) For the purposes of paragraph (1)(a), the name or logo of a party is ***relevantly similar*** to the name or logo of another party if, in the opinion of the Electoral Commission, the name or logo so nearly resembles the name or logo of the other party that it is likely to be confused with or mistaken for that name or logo.

(2A) The Electoral Commission must:

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(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:

logo of a registered political party means the logo of the party that is entered in the Register.

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 Electoral 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

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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

(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.

(1A) If a party becomes liable to deregistration, the Electoral 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.

(1B) If a political party is deregistered under subsection (1A), the Electoral Commissioner:

(a) must publish notice of the deregistration on the Electoral Commission's website; and

(b) may publish notice of the deregistration in any other way the Electoral Commissioner considers appropriate.

(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.

(3) A Parliamentary party shall not be deregistered under this section.

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137 Deregistration of political party on other grounds

(1) If the Electoral 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, does not have at least 1,500 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 or logo (both 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 or logo:

(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); or

(cc) a person who is the registered officer or a deputy registered officer of a registered political party is failing to comply with subsection 126(2B) (person must not be registered officer etc. of more than one registered political party);

the Commission must 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).

Note: In determining whether a party has at least 1,500 members, the same member may not be relied on by more than one party (see section 123A).

(1A) If the Electoral Commission gives a notice under subsection (1), the Electoral Commissioner:

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(a) must publish a notice, on the Electoral Commission's website:

(i) stating that the Commission is considering deregistering the party under this section; and

(ii) specifying the paragraph of subsection (1) by reason of which it is considering doing so; and

(b) may publish a notice covered by paragraph (a) of this subsection in any other way the Electoral Commissioner considers appropriate.

(2) Where a notice is given under subsection (1) 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 Electoral 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 subsection (1) in relation to a political party and a statement is not lodged under subsection (2) in response to that notice, the Electoral Commission shall deregister the party.

(5) Where, in response to a notice given under subsection (1) in relation to a political party, a statement is lodged under subsection (2), the Electoral 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 Electoral 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

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reasons for rejecting the reasons set out in the statement lodged under subsection (2).

(6A) If the Electoral Commission deregisters a party under subsection (4) or (6), the Electoral Commissioner:

(a) must publish a notice of the deregistration on the Electoral Commission's website; and

(b) may publish a notice of the deregistration in any other way the Electoral Commissioner considers appropriate.

(7) Where, under subsection (5), the Electoral 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 Electoral 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.

(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.

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(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 Electoral Commission in Canberra.

140 Service of documents

(1) Where the Electoral 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

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(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 Electoral 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 Electoral 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:

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

Electoral Commission does not include a delegate of the Electoral Commission.

person includes a political party.

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

(ba) to enter a logo of a political party in the Register; or

(bb) to refuse to enter a logo of a political party in the Register; or

(c) to grant an application under subsection 134(1); or

(ca) to uphold an objection under subsection 134A(1); or

(cb) to refuse to uphold an objection under subsection 134A(1); or

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(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 Electoral 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 Electoral 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 Electoral 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) Paragraph 19B(1)(b) 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 Electoral Commission makes a decision under subsection (4), it shall give written notice of that decision to:

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(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 Electoral 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 Electoral 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.

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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

(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.

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(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

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(h) a writ that relates to the members to be elected from the Northern Territory.

(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 is the seventh day after the date of the writ.

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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.

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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

(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.

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165 Multiple nominations prohibited

(1) Where:

(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

Nominations of single candidates as Senators or members

(1) Subject to subsections (1A), (1AA), (1B) and (1C), a nomination may be in Form C, CA, D or DA in Schedule 1, as the case requires, and must:

(a) set out the name, place of residence and occupation of the candidate; and

(b) be signed by:

(i) not less than 100 electors entitled to vote at the election for which the candidate is nominated; or

(ii) the registered officer of the registered political party by which the candidate has been endorsed for that election.

(1AAAA) If:

(a) 2 or more candidates in a Senate election make a joint request under section 168; and

(b) a person signs, under subparagraph (1)(b)(i), a nomination for more than one of the candidates;

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the person's signature must not be counted for any of the candidates for the purposes of that subparagraph.

Nominations of 2 or more candidates as Senators

(1AAA) Subject to subsections (1A), (1AA) and (1B), a nomination may be in Form CC in Schedule 1, and must:

(a) set out the name, place of residence and occupation of each candidate; and

(b) be signed by the registered officer of the registered political party by which the candidates have been endorsed for that election.

Other matters relating to nominations

(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.

(1AA) For a House of Representatives election for a particular Division, the registered officer of a particular registered political party must not sign nominations under subparagraph 166(1)(b)(ii) for that election for more than one candidate.

Note: This does not prevent an amendment of a nomination under section 177 (withdrawal of consent to a nomination) or 180 (death of candidate after nomination).

(1B) Where:

(a) a candidate in an election for the House of Representatives was, immediately before the dissolution or expiration of the

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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 need only be signed by at least one other person entitled to vote at the election (the ***new election***) for which the candidate is nominated if the 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

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(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 Commissioner approves.

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(6) Nothing in this Act is to be taken as requiring a person:
  (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 the person's address in a nomination.

(7) A candidate who does not set out the candidate's address in a nomination must provide the Electoral Commissioner with contact details for correspondence.

167 Nominations

(1) Nomination of candidates for election to the Senate or the House of Representatives must be made to the Electoral Commissioner in accordance with a determination under subsection (2).

Note: For when the nomination must be provided to the Electoral Commissioner, see paragraph 170(2)(a).

Requirements for nominations

(2) The Electoral Commissioner may determine, in writing, the manner in which nominations are to be lodged.

Bulk nominations

(3) A nomination (a ***bulk nomination***) may be made under subsection (1), by the registered officer of a registered political party, of more than one candidate endorsed by the party for election to the House of Representatives.

(4) The registered officer of a registered political party:
  (a) may make more than one bulk nomination; and
  (b) must not make more than one bulk nomination for a State or Territory.

168 Grouping of candidates

(1) Two or more candidates for election to the Senate may make a joint request:

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(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) must be:
(a) in writing; and
(b) signed by the candidates; and
(c) given to the Electoral Commissioner 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) must be:
(a) in writing; and
(b) signed by the person making the request; and
(c) given to the Electoral Commissioner with the nomination of the candidate.

(4) Where:
(a) a request has been made under subsection (1) in respect of candidates in a Senate election; and
(b) the candidates have made a request under section 168 that their names be grouped in the ballot papers for the election;

the request under subsection (1) 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 above the line in relation to the group.

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(5) In this section, ***registered abbreviation***, in relation to the name of a registered political party, has the same meaning as in section 210A.

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) must be:
  (a) in writing; and
  (b) signed by the candidate; and
  (c) given to the Electoral Commissioner 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; or
  (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 with the Electoral Commissioner before the close of nominations for the election; or
  (c) the Electoral Commissioner is satisfied, after making such inquiries as the Electoral Commissioner thinks appropriate of the registered officer of the party or otherwise, that the candidate is so endorsed.

(2) For the purposes of sections 214 and 214A, if a person would, apart from this subsection, be taken to have been endorsed as a

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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 notifies the Electoral Commissioner in writing of the person's endorsement by one, and only one, of the parties—by that party; or

(d) if none of paragraph (a), (b) or (c) applies—by the party that the Electoral Commissioner decides, after making such inquiries as the Electoral Commissioner 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 Electoral Commissioner may:

(a) be included in 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

Content of nomination

(1) A nomination is not valid (subject to sections 170A and 171) unless, in the nomination, 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

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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

(c) states whether the person is an Australian citizen by reason of birth in Australia or other means and provides:

(i) in the case of citizenship by birth in Australia—the date and place of birth; or

(iii) in the case of citizenship by any other means—particulars of those means; and

(d) answers every mandatory question in the qualification checklist set out in Form DB in Schedule 1.

Note 1: The qualification checklist in Form DB can be altered by regulations made under section 392. If the checklist is altered by the regulations, a valid nomination must include an answer to every mandatory question in the checklist as altered.

Note 2: In relation to the qualification checklist, see also sections 170A and 170B and sections 181A to 181C.

Note 3: A person may commit an offence under section 137.1 or 137.2 of the *Criminal Code* if the person provides information in the nomination that the person knows is false or misleading.

(1A) To avoid doubt, the validity of a person's nomination is not affected if an answer to a question in the qualification checklist in the nomination is incorrect, false or inadequate.

Requirement to provide additional documents relating to renunciation of citizenship

(1B) If a person contends that the person has renounced citizenship, or lost the status as a subject or citizen, of another country, a nomination of the person is not valid (subject to subsection 170A(4)) unless the person provides to the Electoral Commissioner, together with the nomination, one or more documents that the person is satisfied supports the person's contention in accordance with paragraph 170B(1)(b).

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Note: See also sections 181A to 181C (publication and delivery to the Parliament, and certain laws do not apply).

Deadline for nomination and deposit

(2) A nomination is not valid unless:

(a) the nomination is received by the Electoral Commissioner after the issue of the writ and before the following time:

(i) for a bulk nomination—48 hours before the hour of nomination;

(ii) otherwise—the hour of nomination; and

(b) the person nominated (or someone else on that person's behalf) gives to the Electoral Commissioner a deposit of $2,000 in relation to the person:

(i) before the time mentioned in paragraph (a) (whether or not the deposit is received at the same time as the nomination); and

(ii) in the manner approved by the Electoral Commissioner (including by electronic transfer).

(3) The Electoral Commissioner may, in writing, approve a manner of giving a deposit for the purposes of subparagraph (2)(b)(ii).

170A Objects and effect of qualification checklist

(1) The objects of the qualification checklist are:

(a) to ensure that electors are informed about the eligibility under the Constitution and this Act of candidates in elections; and

(b) to provide a way for candidates to actively consider their circumstances and whether they are eligible to be elected.

(2) To avoid doubt, the Electoral Commissioner, or a member of the staff of the Electoral Commission, has no power to make any determination in relation to the qualification checklist in a person's nomination, except whether the person has answered every mandatory question (see paragraph 170(1)(d)).

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(3) Without limiting subsection (2), the Electoral Commissioner, or a member of the staff of the Electoral Commission, has no power to determine whether:

(a) an answer to a question in a qualification checklist is incorrect, false or inadequate; or

(b) a person is satisfied that a document provided under subparagraph 170B(1)(a)(ii) or paragraph 170B(1)(b) supports the contention of the person; or

(c) a document so provided by a person supports the person's contention; or

(d) a declaration or statement under paragraph 170(1)(b) or (c) in a person's nomination, that is inconsistent with an answer in the qualification checklist in the nomination or a document provided under subsection 170B(1) with the nomination, is true or false; or

(e) the person is qualified to be elected as a Senator or member of the House of Representatives under the Constitution or this Act.

Note: A person's eligibility to be elected under the Constitution or this Act may be determined by the Court of Disputed Returns.

Limit on ability to dispute election as a result of decision relating to qualification checklist

(4) If a person's nomination for election is accepted, but paragraph 170(1)(d) or subsection 170(1B) was not in fact complied with in relation to the nomination:

(a) the nomination, and the decision to accept the nomination, are taken for all purposes to be valid; and

(b) the decision is not a contravention of this Act or an illegal practice (within the meaning of Part XXII).

This subsection does not affect the nomination, or the decision to accept the nomination, to the extent that the nomination is invalid for other reasons.

(5) If a person's nomination for election is rejected on the basis that paragraph 170(1)(d) or subsection 170(1B) was not complied with

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in relation to the nomination, but that provision was in fact complied with:

(a) the decision is an illegal practice (within the meaning of Part XXII), but a petition disputing the election or the return relating to the election must not be made except if it is signed by the person; and

(b) except as provided by paragraph (a), the decision:

(i) is final and conclusive; and

(ii) must not on any ground be challenged, appealed against, reviewed, quashed, set aside or called in question in any court or tribunal, including in the Court of Disputed Returns under Division 1 of Part XXII; and

(iii) is not subject on any ground to mandamus, prohibition, certiorari or injunction, or the making of a declaratory or other order, in any court, including in the Court of Disputed Returns under that Division.

This subsection does not affect the decision to reject the nomination to the extent that the nomination is rejected for any other reason despite being valid.

(6) Subsection (5) applies despite:

(a) section 355 (except as provided by paragraph (5)(a)); and

(b) section 383; and

(c) anything in any other law, except the Constitution, and section 39B and Part VII of the *Judiciary Act 1903*.

Note: For paragraph (a), a petition disputing an election or return may be made under section 355 because a person whose nomination is accepted is incapable of being chosen or sitting as a Senator or member of the House of Representatives under section 44 of the Constitution.

170B Providing additional documents with nomination

(1) A person who is nominating for election as a Senator or a member of the House of Representatives:

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(a) may provide to the Electoral Commissioner, together with the nomination of the person (and not otherwise), the following additional documents:

(i) documents providing particulars of the person's Australian citizenship;

(ii) documents providing particulars that the person is satisfied support the person's contention that the person is not disqualified or incapable of being chosen or of sitting as a Senator or member of the House of Representatives by reason of section 44 of the Constitution or this Act;

(iii) documents providing particulars as specified in the qualification checklist; and

(b) if the person contends that the person has renounced citizenship, or lost the status as a subject or citizen, of another country—must provide to the Electoral Commissioner, together with the nomination, one or more documents that the person is satisfied supports the person's contention.

Note 1: See also sections 181A to 181C (publication and delivery to the Parliament, and certain laws do not apply).

Note 2: A person may commit an offence under section 137.1 or 137.2 of the *Criminal Code* if the person provides a document under this subsection that the person knows is false or misleading.

Manner of providing documents

(2) Documents provided under subsection (1) must:

(a) be able to be uploaded, or published electronically or on a website; and

(b) if the Electoral Commissioner determines an electronic format under subsection (9)—be in that format.

Redacting etc. information from documents

(3) Before a person provides a document under subsection (1), the person:

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(a) may omit, redact or delete from the document any information that the person does not wish to be published under section 181A or delivered to a House of the Parliament under section 181B; and

(b) if the person does so—must indicate in the document, or in the manner (if any) determined under subsection (9), that information has been omitted, redacted or deleted; and

(c) if the Electoral Commissioner has determined under subsection (9) a manner for omitting, redacting or deleting the information—must do so in that manner and only that manner.

Silent electors

(4) The address of a person whose address is not shown on the Roll for a Subdivision under section 104 may be included in a document published or to be published under section 181A only if:

(a) the person is the person who provides the document, and the person's address is not shown on the Roll at the time the document is provided; or

(b) the person has consented to the publication of the address.

Note: A document published under section 181A includes the qualification checklist.

(5) The Electoral Commissioner must delete an address, from a document published or to be published under section 181A, if the Electoral Commissioner becomes aware that:

(a) the address of a person has been included in the document in contravention of subsection (4); or

(b) the person's address has been deleted from the Roll since the document was provided.

(6) The Electoral Commissioner may omit, redact or delete, from a document published or to be published under section 181A, any information that the Electoral Commissioner is satisfied on reasonable grounds is unreasonable, unacceptable, inappropriate or offensive.

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(7) Subsections (5) and (6) apply in relation to a document that has been published only while the document is published on the Electoral Commission's website.

(8) The Electoral Commissioner is not:

(a) under a duty to determine whether an address has been included in a document in contravention of subsection (4); or

(b) permitted to omit, redact or delete any information from a document published or to be published under section 181A other than in accordance with subsection (5) or (6) of this section.

Determinations

(9) The Electoral Commissioner may determine, in writing:

(a) an electronic format for the purposes of paragraph (2)(b); or

(b) a manner for the purposes of paragraph (3)(b) or (c).

(10) A determination under subsection (9) is not a legislative instrument.

171 Form of consent to act

(1) A consent to act if elected, and a declaration referred to in paragraph 170(1)(b), may be provided by signing the form of consent and declaration in the nomination.

(2) The Electoral Commissioner may accept any other form of consent, and declaration referred to in paragraph 170(1)(b), that the Commissioner is satisfied is satisfactory (whether or not the consent and declaration are in the nomination).

172 Rejection of nominations and requests

(1) Subject to subsections (1A) and (2), a nomination shall be rejected by the Electoral Commissioner if, and only if, the provisions of section 166, 167, 170 or 171 have not been complied with in relation to the nomination.

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(1A) If:

(a) contrary to subsection 166(1AA), the registered officer of a party signs nominations for 2 or more candidates (the ***same Division candidates***) for a single Division; and

(b) the same Division candidates are nominated by the registered officer in a bulk nomination together with a number of other candidates for other Divisions;

then:

(c) the nomination of the same Division candidates must be rejected; but

(d) the nomination of the other candidates must not be rejected merely because subsection 166(1AA) was not complied with in relation to the same Division candidates.

(2) No nomination may be rejected by reason of any formal defect or error in the nomination if the Electoral Commissioner is satisfied that the provisions of sections 166, 167, 170 (except paragraph 170(1)(d) and subsection 170(1B)) and 171 have been substantially complied with.

Note: A nomination must be rejected if a person does not answer every mandatory question in the qualification checklist or provide a document required by subsection 170(1B) (see subsections 170(1) and (1B)).

(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:

(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

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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, or any other place determined in writing by the Electoral Commissioner, is to 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, or any other place determined in writing by the Electoral Commissioner, is to be the place of nomination.

(3) A determination made under this section is not a legislative instrument.

175 Hour of nomination

(1) The hour of nomination shall be 12 o'clock noon on the day of nomination.

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Note: For when bulk nominations are required to be given to the Electoral Commissioner, see subparagraph 170(2)(a)(i).

(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, or any other officer authorised by the Electoral Commissioner, must, at the declaration time, attend at the place of nomination, or at the declaration place for the relevant State or Territory, and, in respect of each candidate, declare:

(a) the name of the candidate; and

(b) either of the following:

(i) the town or suburb of the candidate's place of residence;

(ii) if an address has been specified by the candidate under subsection 166(1A)—the town or suburb of that address; and

(c) the relevant State or Territory; and

(d) either:

(i) if the candidate is endorsed by a registered political party—the name of the party; or

(ii) otherwise—that the candidate is not endorsed by a registered political party; and

(e) if the candidate has requested under subsection 168(1) that the candidate's name be grouped with one or more other candidates' names in the ballot papers:

(i) the name requested to be printed on the ballot papers under subsection 169(4); or

(ii) if no such name is requested—a name given to the group by the Electoral Commissioner; and

(f) if the candidate has requested the word "Independent" be printed adjacent to the candidate's name on the ballot paper for the election—that fact.

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(2) Subject to subsection (3), in the case of a House of Representatives election, the DRO, or any other officer authorised by the Electoral Commissioner, must, at the declaration time, attend at the place of nomination for the Division, or at the declaration place for the Division, and, in respect of each candidate, declare:

(a) the name of the candidate; and

(b) either of the following:

(i) the town or suburb of the candidate's place of residence;

(ii) if an address has been specified by the candidate under subsection 166(1B)—the town or suburb of that address; and

(c) the State or Territory in which the Division is located; and

(d) either:

(i) if the candidate is endorsed by a registered political party—the name of the party; or

(ii) otherwise—that the candidate is not endorsed by a registered political party; and

(e) if the candidate has requested the word "Independent" to printed adjacent to the candidate's name on the ballot paper for the election—that fact.

(3) The Australian Electoral Officer, DRO or authorised officer, as the case requires, must not declare a candidate's town or suburb 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, or by the Electoral Commissioner; and

(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, or by the Electoral Commissioner.

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177 Withdrawal of consent to a nomination

Withdrawal by candidate in election

(1) A candidate for a Senate election or House of Representatives election may withdraw the candidate's consent to a nomination by lodging a notice of withdrawal with the Electoral Commissioner. The withdrawal must be made before the hour of nomination.

(2) If:

(a) a candidate for a House of Representatives election for a Division is nominated in a bulk nomination by the registered officer of a registered political party; and

(b) the candidate withdraws the candidate's consent to a nomination;

then:

(c) the withdrawal does not affect the nomination of the other candidates nominated in the bulk nomination; and

(d) 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 (2)(d) must:

(a) be made by notice in writing to the Electoral Commissioner; 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, 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, the nomination ceases to have effect.

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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 be elected, the Australian Electoral Officer, or any other person authorised by the Electoral Commissioner, must 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, or any other person authorised by the Electoral Commissioner, must 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 must, 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.

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(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 in a bulk nomination:

(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.

181A Publication of qualification checklist etc. on website

(1) As soon as practicable after nominations for an election are declared under section 176, the Electoral Commissioner must (subject to subsection (3) of this section) publish the following documents on the Electoral Commission's website:

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(a) the qualification checklist in the nomination of a person whose name is declared under that section;

(b) any additional documents that the Electoral Commissioner is satisfied were provided by the person, together with the nomination, in accordance with subsections 170B(1), (2) and (3).

Note: Certain laws do not apply in relation to personal information included in a document published under this section (see section 181C).

(2) The documents must remain available to the public until a petition disputing the election or return can no longer be filed under section 355.

(3) The Electoral Commissioner may decide not to publish a document under this section, or to remove a document published under this section from the Electoral Commission's website, if the Electoral Commissioner is satisfied on reasonable grounds that the publication of the document is unreasonable, unacceptable, inappropriate or offensive.

Note: The Electoral Commissioner may also omit, redact or delete information from documents under section 170B.

181B Delivery of qualification checklist etc. to the Parliament

(1) This section applies if:

(a) a document is published under section 181A, that is:

(i) the qualification checklist in a person's nomination for an election; or

(ii) an additional document provided by the person, together with the nomination, under section 170B; and

(b) the person is declared elected as a result of the election.

(2) As soon as practicable after the return of the last writ for the election and any other election held on the same day, the Electoral Commissioner must arrange for a copy of the document to be delivered for tabling to:

(a) for a person who is elected as a Senator—the Senate; and

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(b) for a person who is elected as a member of the House of Representatives—the House of Representatives.

Note: Certain laws do not apply in relation to personal information included in a document delivered under this section (see section 181C).

181C Certain laws do not apply

(1) This section applies in relation to personal information if:

(a) the information is included in:

(i) the qualification checklist in a person's nomination for an election; or

(ii) an additional document provided by the person, together with the nomination, under section 170B; and

(b) the checklist or document is:

(i) collected by the Electoral Commissioner for the purposes of paragraph 170(1)(d) or under section 170B; or

(ii) published under section 181A; or

(iii) delivered to a House of the Parliament under section 181B.

(2) The following do not apply in relation to the personal information:

(a) Australian Privacy Principles 3, 5, 6, 10 and 13 in Schedule 1 to the *Privacy Act 1988*;

(b) Part V of the *Freedom of Information Act 1982*.

Effect of this section

(3) This section does not limit the effect this Part has on any other law of the Commonwealth, a State or a Territory relating to information or privacy.

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Part XV—Postal voting

182 Interpretation

(1) In this Part:

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

(2) In this Part (other than in sections 184A to 186) and in Schedule 2, a reference to the Division for which a person is enrolled includes:

(a) in the case of a person who is provisionally enrolled—a reference to the Division for which the person is provisionally enrolled; and

(b) in the case of a person who is not enrolled—a reference to the Division for which the person would be enrolled if the person were an elector.

183 Grounds of application for postal vote

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

184 Application for postal vote

(1) An application must be in writing in the approved form and must contain a declaration by the applicant that he or she is entitled to apply for a postal vote.

(2) An application made in Australia shall be made to the Electoral Commissioner.

(3) An application made outside Australia shall be made to an Assistant Returning Officer or the Electoral Commissioner.

(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

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sought or the public announcement of the proposed date for the polling, whichever is the earlier.

(5) An application for a postal vote fails to meet the deadline if it is not received by the Electoral Commissioner or the Assistant Returning Officer until after 6 pm on the Wednesday that is 3 days before polling day in the election.

(6) If an application for a postal vote fails to meet the deadline, the Electoral Commissioner or the Assistant Returning Officer must make, or arrange for the making of, reasonable efforts to advise the applicant that his or her application for a postal vote failed to meet the deadline, and that the applicant will have to vote by other means.

(7) The Electoral Commissioner must cause a number to be allocated to each application for a postal vote.

184A Application for registration as general postal voter

(1) An elector may apply to the Electoral Commissioner for registration as a general postal voter for a Division.

(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, of any polling place;

(b) the applicant:

(i) is a patient at a hospital (other than 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;

(ca) because the applicant will be at a place (other than a hospital) caring for a person who is seriously ill or infirm, the

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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;

(i) the applicant is a defence member, or defence civilian, who is serving outside Australia;

(j) the applicant is an AFP officer or staff member who is serving outside Australia;

(k) the applicant is an eligible overseas elector.

(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.

(5) An elector may apply on the ground referred to in paragraph (2)(i) or (j) before he or she has left Australia.

(6) The regulations may specify whether a particular situation does, or does not, constitute serving outside Australia for the purposes of paragraph (2)(i) or (j). The regulations have effect accordingly.

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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 Electoral Commissioner must, for each Division, keep a Register of General Postal Voters for the Division.

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

185 Registration as general postal voter

(1) Subject to subsection (1A), if the Electoral Commissioner is satisfied that an application has been made in accordance with section 184A, the Electoral Commissioner must register the applicant as a general postal voter for the Division to which the application relates.

(1A) If, as permitted by subsection 184A(5), an elector applies to be registered as a general postal voter on the ground referred to in paragraph 184A(2)(i) or (j) before he or she has left Australia, the Electoral Commissioner must not register the applicant as a general postal voter until the Electoral Commissioner believes, on reasonable grounds, that the elector has left Australia.

(1B) For the purposes of subsection (1A), in considering whether he or she believes, on reasonable grounds, that an elector has left Australia, the Electoral Commissioner:

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(a) may have regard to information included in the elector's application relating to his or her likely date of departure; and

(b) is not required to obtain, or have regard to, other information, but may obtain, and have regard to, other information if the Electoral Commissioner considers it appropriate to do so.

(2) If:

(a) a claim for enrolment or transfer of enrolment is made to the Electoral Commissioner; and

(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 for a Division;

the Electoral Commissioner must register the claimant as a general postal voter for the Division.

(3) If 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 Electoral Commissioner must:

(a) cancel the registration of the elector as a general postal voter for the original Division; and

(b) register the elector as a general postal voter for the new Division, unless the Electoral Commissioner 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 for the Division 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;

(c) such other particulars (if any) as the Electoral Commissioner determines.

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(4AA) The Electoral Commissioner must not, for the purposes of paragraph (4)(c), determine any particulars relating to whether an elector is a designated elector.

(4A) Nothing in paragraphs (4)(b) and (c) allows or requires the Electoral Commissioner to include in the Register for a Division information that the Electoral Commissioner is aware would or might enable any of the following to be ascertained:

(a) the fact that a particular person has been, is or will be serving outside Australia as:

(i) a defence member or a defence civilian; or

(ii) an AFP officer or staff member;

(b) the place where a particular person has been, is or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);

(c) the period of time when a particular person has been, is or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);

(d) without limiting any of the preceding paragraphs—the postal address of a person who is serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii);

(e) any other information of a kind specified in the regulations, being information that relates to persons who have been, are or will be serving outside Australia in a capacity referred to in subparagraph (a)(i) or (ii).

(5) If the Electoral Commissioner registers an elector as a general postal voter for a Division, the Electoral Commissioner must notify the elector, in writing, of the registration.

(6) If the Electoral Commissioner decides not to register an elector as a general postal voter for a Division, the Electoral Commissioner must notify the elector, in writing, of the decision and of the reasons for it.

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185B Review of Registers

The Electoral Commissioner may review the Register for a Division and make such alterations 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 Electoral Commissioner may cancel the registration of an elector as a general postal voter for a Division if the Electoral Commissioner is satisfied that the ground on which the elector applied for registration no longer exists.

(2) The Electoral Commissioner must give the elector written notice of the cancellation and of the elector's right to apply for review under Part X.

186 Dispatch of postal voting papers to registered general postal voters

(1) As soon as ballot papers for an election for a Division are available, the Electoral Commissioner 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.

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188 Issue of certificate and ballot papers

Material to be sent to postal vote applicant

(1) If the Electoral Commissioner or an Assistant Returning Officer receives an application for a postal vote that is in accordance with subsection 184(1), he or she must (unless the application fails to meet the deadline as mentioned in subsection 184(5)) send, or arrange for the sending, to the applicant, as provided under subsection (2) of this section:

(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:

(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 is enrolled; or

(ii) otherwise—the DRO for the Division for which the applicant is enrolled;

an envelope addressed to that Assistant Returning officer or DRO.

Dealing with certificates and ballot papers before sending

(1A) Before a postal vote certificate and postal ballot paper are sent to an applicant under subsection (1):

(a) the date of issue of the certificate and ballot paper must be recorded; and

(b) the certificate must be numbered with the same number allocated to the application under subsection 184(7); and

(c) the top of the front of the ballot paper must be marked with the initials of the officer who issued the ballot paper, or caused it to be issued.

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How material to be sent

(2) If the Electoral Commissioner or Assistant Returning Officer receives the application for a postal vote at or before 6 pm on the Wednesday that is 3 days before polling day in the election, the material required by subsection (1) must be sent to the applicant by a means that the Electoral Commissioner or Assistant Returning Officer considers to be the most reasonable and practicable in the circumstances.

Note: If the application is received after 6 pm on the Wednesday that is 3 days before polling day in the election, it fails to meet the deadline (see subsection 184(5)), and therefore no material is required by subsection (1) to be sent to the applicant.

189 Inspection of applications

(1) A list of applications for postal votes for a Division must be available for public inspection at the office of the DRO for the Division.

(2) The list must:

(a) be available during ordinary office hours from and including the third day after polling day until the election can no longer be questioned; and

(b) set out, for each applicant:

(i) the applicant's full name; and

(ii) except in the case of an applicant whose address has been excluded from the Roll under section 104—the address of the applicant; and

(iii) such other particulars (if any) as the Electoral Commissioner determines.

(2A) The Electoral Commissioner must not, for the purposes of subparagraph (2)(b)(iii), determine any particulars relating to whether an applicant is a designated elector.

(3) The list may be kept in electronic or other form.

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(4) A right of inspection under this section does not include the right to copy or record by electronic means the list of applications (in whole or in part).

(5) If the Electoral Commissioner determines particulars under subparagraph (2)(b)(iii) in writing, the instrument is not a legislative instrument.

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 Commissioner 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 Commissioner must, as soon as practicable, comply with such a request.

(3) The list may include the name, date of birth and address of a postal vote applicant.

(4) However, before providing the list to a person or party, the Electoral Commissioner 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.

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189B Restriction on use or disclosure of information

Use of information

(1) A person commits an offence if the person:

(a) uses information obtained from an electronic list of postal vote applicants provided by the Electoral Commissioner under section 189A; and

(b) the use of the information is not for a permitted purpose (see subsections (4) and (5)).

Penalty: 100 penalty units.

Disclosure of information

(2) A person commits 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 Commissioner under section 189A; and

(c) the disclosure would not be a use of the information for a permitted purpose (see subsections (4) and (5)).

Penalty: 1,000 penalty units.

Use of information for a commercial purpose

(3) A person commits 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 Commissioner under section 189A.

Penalty: 1,000 penalty units.

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Permitted purposes

(4) If the list was provided by the Electoral Commissioner 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 election and ballot 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 Commissioner to a registered political party, the ***permitted purposes*** are:

(a) any purpose connected with an election or referendum; and

(b) research about election and ballot 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.

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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 body politic, or part of a body politic, 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 person voting must show the unsigned postal vote certificate and the unmarked postal ballot paper to an authorised witness;

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(b) except in the case of a person registered as a general postal voter on the ground set out in paragraph 184A(2)(e) or (f), the person must 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 person must 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;

(da) the person must declare, on the postal vote certificate, that the requirements referred to in paragraphs (a), (b) and (d) were satisfied before the close of the poll;

(db) the authorised witness must declare, on the postal vote certificate, that the requirements referred to in paragraphs (a) to (c) were satisfied before the close of the poll;

(e) the person must post or deliver the envelope to the DRO for the Division for which the person is enrolled;

(f) if the person (the ***elector***) cannot read or is so disabled as to be unable to vote without assistance, another 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 a person 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) a signed and dated statement by the person setting out why the person was unable to comply with those requirements:

(i) accompanies the postal vote; or

(ii) is produced by the person in the approved form; or

(iii) is given in writing by the person; and

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(b) the DRO or officer dealing with the postal vote under section 195A is satisfied that the person made reasonable efforts to comply with those requirements; and

(c) if subparagraph (a)(i) applies—the postal vote 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 the details set out in subsection (1B); and

(d) if subparagraph (a)(ii) or (iii) applies—a copy of a part of the person's passport that includes the details set out in subsection (1B) is produced in the approved form, or given in writing, by the person.

(1B) In spite of paragraphs (1)(d), (da), (db) and (f), if the postal vote certificate is not printed on the envelope but the postal vote certificate is to be placed in the envelope:

(a) the requirement referred to in paragraph (1)(d) for the person voting to fasten the envelope after placing the ballot paper in the envelope does not apply; and

(b) the person voting, or a person acting on behalf of that person under paragraph (1)(f), must declare, on the postal vote certificate, that, subject to paragraph (a) of this subsection, the requirements referred to in paragraphs (1)(a), (b) and (d) were satisfied before the close of the poll; and

(c) the authorised witness must declare, on the postal vote certificate, that the requirements referred to in paragraphs (1)(a) to (c) were satisfied before the close of the poll; and

(d) the person voting, or a person acting on behalf of that person under paragraph (1)(f), must, in the presence of the authorised witness, place the postal vote certificate in the envelope and fasten the envelope.

(1B) For the purposes of paragraphs (1A)(c) and (d), the details of the part of the person's passport are the following:

(a) the country and date of issue; and

(b) the number of the passport; and

(c) the person's name, date of birth and signature; and

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(d) a photograph of the person.

(1C) The following provisions of the *Electronic Transactions Act 1999* apply in relation to subparagraphs (1A)(a)(ii) and (iii) and paragraph (1A)(d) of this section despite any regulations in force for the purposes of subsection 7A(2) of that Act:

(a) subsection 8(1);

(b) Division 2 of Part 2;

(c) sections 14, 14A, 14B and 15.

To avoid doubt, this subsection does not affect the operation of that Act, including as affected by any such regulations, in relation to any other provision of this Act.

(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 DRO for the Division for which the person is enrolled within 13 days after polling day; or

(b) a ballot paper, if it were to be delivered to the DRO for the Division for which the person is enrolled, 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; or

(d) be handed to a pre-poll voting officer; or

(e) be delivered, on polling day and before the close of the poll, to a presiding officer (other than an electoral visitor or mobile polling team leader who is deemed to be a presiding officer); or

(g) be handed to a mobile polling team leader when the team is at a place for the purpose of taking votes under section 227; or

(h) be handed, before the close of the poll, to a person who is at a capital city office of the Electoral Commission and who is:

(i) the holder of a particular office provided for by Division 3 or 4 of Part II; or

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(ii) a member of the staff of the Electoral Commission (not being the holder of a particular office referred to in subparagraph (i)) who is engaged under the *Public Service Act 1999* as an ongoing APS employee within the meaning of that Act, or who is employed under paragraph 35(1)(b) of this Act.

(3) A person to whom an envelope containing a ballot paper is posted, delivered or handed 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 a person voting (the ***elector***), a person shall not:

(a) interfere with the 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 the elector marked a postal ballot paper.

Penalty: 10 penalty units.

195A Procedure for dealing with postal vote certificates etc.

(1) In this section:

officer means:

(a) a pre-poll voting officer; or

(b) a presiding officer; or

(c) the holder of a particular office (other than a DRO) provided for by Division 3 or 4 of Part II; or

(e) a mobile polling team leader; or

(f) a member of the staff of the Electoral Commission referred to in subparagraph 194(2)(h)(ii).

presiding officer does not include a mobile polling team leader who is deemed to be a presiding officer.

(2) Where:

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(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 appropriate designation (see subsection (3));

(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 whichever of subsections (4), (5) and (6) applies.

(3) For the purposes of paragraph (2)(d), the appropriate designation is as set out in the following table.

Item	If the person signing the endorsement is ...	the appropriate designation is ...
1	a DRO	the words "Divisional Returning Officer".
2	a pre-poll voting officer	the words "Pre-poll Voting Officer".
3	a presiding officer	the words "Presiding Officer".
5	a mobile polling team leader	the words "Mobile Polling Team Leader".
6	the holder of any other office provided for by Division 3 or 4 of Part II	the title of the office.
7	a member of the staff of the Electoral Commission referred to in subparagraph 194(2)(h)(ii)	the words "Member of the Staff of the Electoral Commission".

(4) If an envelope purporting to bear a postal vote is received as mentioned in subsection (2) by a DRO, or by an officer who is:

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(a) a pre-poll voting officer; or

(b) a presiding officer; or

(c) an Assistant Returning Officer who is outside Australia;

the DRO or officer must (after complying with the other requirements of subsection (2)):

(d) place the envelope in a ballot-box; and

(e) keep the envelope in the ballot-box until the envelope is dealt with in accordance with section 228.

(5) If an envelope purporting to bear a postal vote is received as mentioned in subsection (2) by an officer who is a mobile polling team leader, the officer must (after complying with the other requirements of subsection (2)):

(a) place the envelope in a ballot-box; and

(b) keep the envelope in the ballot-box until the ballot-box is forwarded to the designated Divisional Returning Officer or Assistant Returning Officer as required by subsection 227(10); and

(c) when so forwarding the ballot-box to the designated Divisional Returning Officer or Assistant Returning Officer, also forward to that Officer the record made by the mobile polling team leader under paragraph (2)(e).

(6) If an envelope purporting to bear a postal vote is received as mentioned in subsection (2) by an officer (other than an officer referred to in subsection (4) or (5)) who is at a capital city office of the Electoral Commission:

(a) the officer must (after complying with subsection (2)) place the envelope in a ballot-box made available for the purpose by the DRO (the ***capital city DRO***) for the Division in which the capital city office is located; and

(b) the capital city DRO must:

(i) remove the envelopes from the ballot-box and place in a parcel all the envelopes that relate to a particular Division; and

(ii) endorse on the parcel the number of the envelopes; and

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(iii) seal up the parcel and cause the parcel, and the record made by the officer under paragraph (2)(e), to be forwarded to, or made available to be collected by, the Divisional Returning Officer for that Division in accordance with the instructions of the capital city DRO.

(7) Instructions referred to in subparagraph (6)(b)(iii) are not legislative instruments.

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: 5 penalty units.

(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 another person 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: 10 penalty units.

198 Inducing person to hand over marked ballot paper

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

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Penalty: 10 penalty units.

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.

(3) A postal vote received in an envelope (an ***outer envelope***) that also contains an envelope bearing a postal vote certificate is not to be rejected because the postal vote is not inside the envelope bearing the postal vote certificate.

(4) For the purposes of this Act, the outer envelope is to be dealt with as if it were an envelope:

(a) bearing a postal vote certificate; and

(b) purporting to contain a postal ballot paper or postal vote.

(5) However, despite subsection (4), the following provisions apply only in relation to the envelope bearing the postal vote certificate:

(a) paragraphs 195A(2)(c), (d) and (e);

(b) section 196;

(c) paragraph 6 of Schedule 3.

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Part XVA—Pre-poll voting

Division 1—Introduction

200AA Guide to this Part

(1) This Part deals with pre-poll votes.

(2) There are 2 different kinds of pre-poll vote:

(a) a ***pre-poll ordinary vote***, which is a vote made in accordance with Division 3; and

(b) a ***pre-poll declaration vote***, which is a vote made in accordance with Division 4.

(3) General matters relevant to both kinds of pre-poll vote are set out in Division 2.

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Division 2—General matters

200A Grounds of application for pre-poll vote

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

(2) A person who is provisionally enrolled may apply for a pre-poll vote.

Note 1: A person who is a designated elector is not entitled to vote by pre-poll ordinary vote: see paragraph 200DG(2)(ea).

Note 2: A person who is provisionally enrolled is not entitled to vote by pre-poll ordinary vote: see paragraph 200DG(2)(f).

(3) In this Part (other than Division 3) and in Schedule 3:

(a) a reference to an elector includes a reference to a person who has applied for a pre-poll vote under subsection (2); and

(b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

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.

200BA Pre-poll voting offices

(1) The Electoral Commissioner may declare, in writing, for an election:

(a) a specified place to be a pre-poll voting office; and

(b) the day or days on which, and the hours during which, applications for pre-poll votes may be made to a pre-poll voting officer at that place.

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(1AA) The day, or the earliest of the days, declared under paragraph (1)(b) must not be earlier than the day that is 12 days before polling day in the election.

(1AB) A day or days declared under paragraph (1)(b) must not be a public holiday in the State or Territory in which the place to which the declaration relates is located.

(1A) The Electoral Commissioner may, in a declaration under subsection (1) or in a separate written declaration under this subsection, specify that a particular pre-poll voting office located in a Division is a place at which pre-poll ordinary voting is available to voters enrolled for one or more specified other Divisions.

Note: For voters enrolled for a particular Division, pre-poll ordinary voting is also available at pre-poll voting offices located in the Division (see section 200DD).

(2) If the Electoral Commissioner makes a declaration under subsection (1), the Electoral Commissioner must:

(a) unless paragraph (b) applies, cause a copy of the declaration to be published, on the Electoral Commission's website and in any other way the Electoral Commissioner considers appropriate, before the first day (the ***first pre-poll voting day***) specified in the declaration under paragraph (1)(b); or

(b) if, because of exceptional circumstances, the declaration is made on the first pre-poll voting day, or so close to the first pre-poll voting day that the Electoral Commissioner is not able to cause a copy of the declaration to be published, on the Electoral Commission's website and in any other way the Electoral Commissioner considers appropriate, before that day:

(i) comply with subsection (3); and

(ii) cause a copy of the declaration to be published, on the Electoral Commission's website and in any other way the Electoral Commissioner considers appropriate, as soon as practicable after making the declaration.

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(3) For the purposes of subparagraph (2)(b)(i), the Electoral Commissioner must, as soon as practicable after making the declaration:

(a) take all reasonable steps to inform the following persons of the place, the day or days, and the hours specified in the declaration:

(i) each candidate for election to the House of Representatives for the Division in which the place is located;

(ii) each candidate for election to the Senate for the State or Territory in which the place is located;

(iii) if a candidate referred to in subparagraph (i) or (ii) has been endorsed by a registered political party—that political party; and

(b) if the Electoral Commissioner considers it appropriate to do so, publish in a newspaper circulating in the Division in which the place specified in the declaration is located a notice stating:

(i) that the place has been declared to be a pre-poll voting office; and

(ii) the day or days on which, and the hours during which, applications for pre-poll votes may be made to a pre-poll voting officer at that place.

(3A) If the Electoral Commissioner makes a declaration under subsection (1A), he or she must cause a copy of the declaration to be published on the Electoral Commission's website and in any other way he or she considers appropriate.

(4) A declaration made under subsection (1) or (1A) is not a legislative instrument.

(5) Failure to publish in accordance with this section a copy of a declaration made under subsection (1) or (1A) does not affect the validity of the declaration.

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200C Application for pre-poll vote

(1) An application for a pre-poll vote may be made to:

(b) any pre-poll voting officer; or

(c) an Assistant Returning Officer at a place outside Australia.

Note: Pre-poll voting at the office of an Assistant Returning Officer outside Australia must be by pre-poll declaration vote. Voting by pre-poll ordinary vote is not available at such offices (see section 200DD).

(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

(2) An application to a pre-poll voting officer must be made:

(a) at a pre-poll voting office; and

(b) on a day, and during the hours, specified in the declaration made under subsection 200BA(1) for making such applications at that office.

(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.

Note: Pre-poll voting at the office of an Assistant Returning Officer outside Australia must be by pre-poll declaration vote. Voting by pre-poll ordinary vote is not available at such offices (see section 200DD).

(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.

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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 commits 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 commits 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, declared under paragraph 200BA(1)(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.

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(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.

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Division 3—Voting by pre-poll ordinary vote

Subdivision A—Preliminary

200DC Definitions

In this Division:

pre-poll ordinary ballot-box: see section 200DN.

voter: see subsection 200DG(1).

voter's Division: see paragraph 200DG(1)(b).

voting officer, in relation to a place at which pre-poll ordinary voting is available, means a pre-poll voting officer at the place.

voting place: see paragraph 200DG(1)(b).

200DD Where is pre-poll ordinary voting available?

(1) Subject to subsections (2) and (4), for voters enrolled for a particular Division, pre-poll ordinary voting is available at the following places:
  (a) any pre-poll voting office that is located within the Division;
  (b) any other pre-poll voting office that is specified, as mentioned in subsection 200BA(1A), as a place at which pre-poll ordinary voting is available to voters enrolled for the Division.

(2) The Electoral Commissioner may, in writing, determine that pre-poll ordinary voting is not available at one or more specified places, either generally or as specified in the determination.

(3) A determination made under subsection (2) is not a legislative instrument.

(4) For voters enrolled for a particular Division, pre-poll ordinary voting is not available at a particular place referred to in

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subsection (1) unless a copy of the certified list of voters for the Division has been delivered to the place (see subsection 208(4)) or an approved list of voters for the Division is available to an officer at the place (see subsection 208A(2)).

200DE Separate voting compartments

Each place at which pre-poll ordinary voting is available must have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers. Each compartment must have an implement or method for voters to mark their ballot papers.

200DF Ballot-boxes

(1) Each place at which pre-poll ordinary voting is available must be provided with the necessary ballot-boxes.

(2) Each of those ballot-boxes must be capable of being securely fastened.

Subdivision B—Voting by pre-poll ordinary vote

200DG When is a person entitled to vote by pre-poll ordinary vote?

(1) Subject to subsection (2), a person (the ***voter***) is entitled to vote by pre-poll ordinary vote if:

(a) the voter has, in accordance with Division 2, applied for a pre-poll vote; and

(b) the voter's name is on a copy of the certified list of voters, or on an approved list of voters, for a particular Division (the ***voter's Division***) that has been delivered to, or is available to an officer at, the place (the ***voting place***) at which the application is made; and

(c) the voting place is a place at which pre-poll ordinary voting is available to voters enrolled for the voter's Division.

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Note: If the voter is not entitled to vote by pre-poll ordinary vote, the voter may instead be able to vote by pre-poll declaration vote under Division 4.

(2) The voter is not entitled to vote by pre-poll ordinary vote if:

(b) the voter:

(i) refuses to answer fully any question he or she is asked under section 200DI; or

(ii) answers a question under subsection 200DI(1) so as to indicate that the person has voted before in the relevant election or elections (as the case requires); or

(c) a voting officer has asked the voter one or more questions under subsection 200DI(2) about matters shown, for a particular person, on a copy of the certified list of voters, or on an approved list of voters, for the voter's Division to establish whether the voter is that particular person, and one of the following applies:

(i) the voter's answers do not accord with the relevant information shown for that particular person on the list;

(ii) the voter's answers accord with the relevant information shown for that particular person on the list but the voting officer is not satisfied that the person is that particular person; or

(d) the voter's name is on a copy of the certified list of voters, or on an approved list of voters, for the voter's Division but his or her address does not appear on the list; or

(e) a mark on a copy of the certified list of voters, or a record against an approved list of voters, for the voter's Division indicates that the voter has already voted; or

(ea) the voter is a designated elector; or

(f) the voter is provisionally enrolled.

200DI Questions to be put to voter

(1) A voting officer must put to each person attending before the voting officer, and claiming to vote in an election or elections (as the case requires), questions in order to ascertain:

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(a) the person's full name; and
(b) the person's place of living; and
(c) whether the person has voted before in the election or elections (as the case requires).

(2) If the answers the voter gives to the questions under subsection (1) do not satisfy the voting officer that the applicant is a particular person on a copy of the certified list of voters, or on an approved list of voters, for a particular Division, the officer may ask the voter one or more other questions about matters shown on the list for the particular person, to establish whether the voter is that particular person.

200DJ Right of voter to receive ballot paper

(1) If, under section 200DG, the voter is entitled to vote by pre-poll ordinary vote, a voting officer must give the voter a ballot paper, duly initialled by the officer.

(2) The voting officer, at the request of a scrutineer, must note any objection by the scrutineer to the right of the voter to vote by pre-poll ordinary vote, and must keep that record.

(3) If a ballot paper has been, or is to be, given to a voter, a voting officer must:
(a) place a mark against the person's name on a copy of the certified list of voters for the voter's Division; or
(b) record electronically against an approved list of voters for the voter's Division the fact that the voter has been, or is to be, given a ballot paper.

200DK Voter to mark vote on ballot paper

Except as otherwise prescribed by the regulations, the voter, upon receipt of a ballot paper under section 200DJ, must without delay:
(a) go to an unoccupied compartment of the voting place and mark his or her ballot paper in private; and

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(b) fold the ballot paper so as to conceal his or her vote and deposit it in a ballot-box; and
(c) leave the voting place.

200DL Assistance to certain voters

(1) If the voter satisfies a voting officer that the voter cannot read or is so disabled as to be unable to vote without assistance, a person chosen by the voter may, according to the directions of the voter, do any of the following acts:
(d) enter an unoccupied compartment of the voting place with the voter and mark the voter's vote on the ballot paper;
(e) fold the ballot paper and deposit it in a ballot-box.

(2) Directions under subsection (1) may be given by reference to a how-to-vote card.

(3) The other provisions of this Division have effect subject to this section.

200DM Voter not entitled to vote again etc.

After the voter has, under section 200DJ, been given a ballot paper:
(a) the voter is not entitled to remove the ballot paper from the voting place; and
(b) the voter is not entitled to vote again in the same election.

Subdivision C—Requirements relating to ballot-boxes

200DN Subdivision sets out requirements to be complied with

This Subdivision sets out requirements to be complied with in relation to each ballot-box (a ***pre-poll ordinary ballot-box***) that is used for pre-poll ordinary voting at a particular place.

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200DO Requirements to be complied with before first use of ballot-box

Before a ballot-box is first used for pre-poll ordinary voting at the place, a voting officer, in the presence of any scrutineers, must exhibit the ballot-box empty at the place, and then securely fasten its cover.

200DP Requirements to be complied with at end of each day of use of ballot-box

(1) At the end of each day when pre-poll ordinary voting is available at the place, and in the presence of any scrutineers, each pre-poll ordinary ballot-box used on that day must be closed, fastened and sealed by a voting officer.

(2) After a pre-poll ordinary ballot-box has been sealed, it must on no account be opened except as allowed by this Act.

200DQ Requirements to be complied with before ballot-box used again on later day

If:

(a) a pre-poll ordinary ballot-box has been sealed after use at the place on a day; and

(b) the ballot-box is to be used again on a later day for pre-poll ordinary voting at the place;

before the ballot-box is so used again, a voting officer, in the presence of any scrutineers, must examine the ballot-box, and make it ready to receive ballot papers.

200DR Forwarding of ballot-boxes for purposes of scrutiny

(1) Subject to any directions under subsection (2), at the close of the poll, a voting officer must, with the least possible delay, forward each sealed pre-poll ordinary ballot-box for the purposes of scrutiny.

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(2) The DRO for the Division in which the place is located may direct that one or more sealed pre-poll ordinary ballot-boxes at the place are to be forwarded, for the purposes of scrutiny, before the close of the poll.

(3) If a direction made under subsection (2) is in writing, the direction is not a legislative instrument.

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Division 4—Voting by pre-poll declaration vote

200DS Persons to whom this Division applies

This Division applies to a person who has, in accordance with Division 2, applied for a pre-poll vote but who is not, under Division 3, entitled to vote by pre-poll ordinary vote.

200E Pre-poll declaration voting

(1) If this Division applies to a person (the ***elector***) who has applied for a pre-poll vote, the officer to whom the application was made (in this section called ***the issuing officer***) shall issue to the elector:

(a) a pre-poll vote certificate for declaration voting; 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.

(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.

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(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 for declaration voting 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 for declaration voting

A pre-poll vote certificate for declaration voting shall:

(a) be in the approved form;

(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

(2) Where, under subsection 200E(1):

(b) a pre-poll voting officer; or

(c) an Assistant Returning Officer at a place outside Australia;

issues a pre-poll vote certificate for declaration voting 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

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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 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 under subsection 200E(1); or

(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: 5 penalty units.

(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, under section 200E, an elector signs a pre-poll vote certificate for declaration voting 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

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(iii) shall not do anything that would enable the person to find out how the elector marked the ballot paper.

Penalty: 10 penalty units.

201 Correction of formal errors

If an officer who receives a pre-poll vote certificate for declaration voting 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 declaration 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 declaration vote shall not be rejected because of a mistake in spelling if the elector's intention is clear.

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Part XVB—Electronically assisted voting

202AA Definitions

In this Part:

by-election means an election of a member of the House of Representatives that is not part of a general election.

sight-impaired person means a person whose sight is impaired to the extent that he or she is unable to vote without assistance.

vote record has the meaning given by section 202AD.

202AB Providing for voting by an electronically assisted voting method

(1) The regulations may provide for an electronically assisted voting method to be used by sight-impaired people to vote at general elections, Senate elections and by-elections.

(1A) The regulations must provide for an electronically assisted voting method to be used by Antarctic electors to vote at general elections, Senate elections and by-elections.

(2) Without limiting subsection (1) or (1A), the regulations may:

(a) determine, or provide for the determination of, the following:

(i) the electronically assisted voting method;

(ii) matters related to the voting using the electronically assisted voting method, including the provision of assistance to persons using the method, what has to be done after a person has used the method, and matters of privacy and secrecy;

(iii) the number of places where the electronically assisted voting method is to be available, where those places are, and the days and hours when the method is to be available;

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(iv) which persons may use the electronically assisted voting method; and

(aa) make provision for, and in relation to, the appointment by the Electoral Commissioner of officers in relation to the conduct of the electronically assisted voting method; and

(b) allow the electronically assisted voting method to be used in a particular period before polling day, as well as on polling day; and

(c) provide for other matters related to the integrity of the use of the electronically assisted voting method.

(3) The electronically assisted voting method must be such that a person using the method:

(a) for a Senate election:

(i) receives the same information (in the same order), and has the same voting options, as would appear in the ballot paper for the Senate election that the person would be given if he or she were instead voting under Part XVI; and

(ii) is able to indicate his or her vote in a way that, if he or she were instead marking a ballot paper, would satisfy the requirements of section 239; and

(b) for a general election or by-election:

(i) receives the same information (in the same order), and has the same voting options, as would appear in the ballot paper for the general election or by-election that the person would be given if he or she were instead voting under Part XVI; and

(ii) is able to indicate his or her vote in a way that, if he or she were instead marking a ballot paper, would satisfy the requirements of section 240.

(4) The regulations may provide for offences in relation to the electronically assisted voting method, and may prescribe penalties for those offences. A prescribed penalty must not exceed 50 penalty units.

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(5) Nothing in this Part or in regulations made for the purposes of this Part authorises any person to vote more than once at an election.

(6) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, regulations made for the purposes of this Part may make different provision in relation to sight-impaired persons and Antarctic electors.

202AC There must be a record of who has voted using the electronically assisted voting method

The regulations must require the making of a record of each person who has voted using the electronically assisted voting method. The regulations may specify the information that is to be included in the record.

202AD There must be a record of the vote

The regulations must provide, in relation to each vote cast by a person using the electronically assisted voting method, for the production of a record (a ***vote record***) of the vote the person has cast. The vote record must not contain any means of identifying the person who cast the vote.

202AE How this Act applies in relation to voting using the electronically assisted voting method

(1) This Act (other than Part XVA and Schedule 2) applies in relation to a vote cast using the electronically assisted voting method as if the vote were a pre-poll ordinary vote.

(2) For the purposes of this Act as it applies because of subsection (1), a vote record is to be treated as if it were a ballot paper.

(3) If a person casts a vote using the electronically assisted voting method, the requirements of this Act relating to the person's right to receive a ballot paper are taken to have been satisfied.

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(4) The regulations may make additional provisions relating to how this Act applies in relation to votes cast using the electronically assisted voting method.

202AF Electoral Commissioner may decide that electronically assisted voting method is not to be used by sight-impaired persons

(1) The Electoral Commissioner may, in writing, determine that the electronically assisted voting method is not to be used by sight-impaired persons either generally or at one or more specified places.

(2) The determination must specify the election to which the determination applies.

(3) A determination under subsection (1) is not a legislative instrument.

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Part XVC—Designated electors

202AG Simplified outline of this Part

The Electoral Commissioner may declare an elector to be a designated elector on the basis of a reasonable suspicion that the elector has voted more than once in an election.

A designated elector may only vote by declaration vote.

Information about whether a person is a designated elector is excluded from information relating to Rolls that may be disclosed under the Act.

202AH Electoral Commissioner may declare designated electors

(1) The Electoral Commissioner may, in writing, declare that an elector is a ***designated elector*** if the Electoral Commissioner reasonably suspects that the elector has voted more than once in an election (whether or not the elector has been convicted of an offence against subsection 339(1A) or (1C)).

(2) The Electoral Commissioner must give the elector written notice of the declaration. The notice must set out the elector's right to have the decision to make the declaration reviewed.

(3) A declaration under subsection (1) ceases to have effect if:
  (a) the declaration relates to an elector who has been convicted of an offence against subsection 339(1A) or (1C); and
  (b) the elector's conviction is quashed on appeal.

(4) A declaration made under subsection (1) is not a legislative instrument.

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202AJ Review by Electoral Commissioner

(1) An elector may apply to the Electoral Commissioner for review of a decision under subsection 202AH(1) (the ***original decision***) to declare that the elector is a designated elector.

(2) An application under subsection (1) must:
  (a) be in writing; and
  (b) include the elector's name and address and a statement of the elector's reasons for making the application; and
  (c) be made within 28 days of the day on which the elector is notified under subsection 202AH(2) of the original decision.

(3) After receiving an application under subsection (1), the Electoral Commissioner must:
  (a) personally review the original decision; or
  (b) cause the original decision to be reviewed by a person to whom the Commissioner's powers and functions under this section are delegated and who was not involved in making the original decision.

(4) The person who reviews the original decision under subsection (3) (the ***reviewer***) must make a decision to either:
  (a) confirm the original decision; or
  (b) set aside the original decision and substitute a new decision.

(5) The reviewer must give the elector written notice of the reviewer's decision under subsection (4), including the reasons for the decision. The notice must set out the elector's right to have the decision reviewed.

(6) This section does not apply if the original decision was made by the Electoral Commissioner personally.

202AK Review by Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of:

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(a) a decision under subsection 202AH(1) made by the Electoral Commissioner personally; or

(b) a decision under paragraph 202AJ(4)(a) by the reviewer (within the meaning of subsection 202AJ(4)).

202AL Voting by designated electors at elections

(1) A designated elector is not permitted to vote in an election except in accordance with this section.

(2) A designated elector may only vote by declaration vote.

Note: The effect of subsection (2) is that designated electors are able to cast declaration votes in accordance with the rules relating to postal voting (see Part XV), pre-poll declaration voting (see Part XVA) and absent and provisional voting (see Part XVI).

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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;
(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.

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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 and approved 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

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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 must have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers, and each voting compartment must have an implement or method for voters to mark their ballot papers.

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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; and

(c) is not covered by subsection 93(8AA) (sentences of imprisonment).

(2A) The list must also include the sex and date of birth of each person whose name is included in the list.

(2B) The list must not include the address of a person who is on the Roll for the Division if the person is a designated elector.

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

(4) The Electoral Commissioner must also arrange for a copy of the certified list of voters for a Division to be delivered to each place at which pre-poll ordinary voting is, under section 200DD (but disregarding subsection 200DD(4)), available to voters enrolled for the Division.

208A Approved list of voters

(1) The Electoral Commissioner may arrange for the preparation of an approved list of voters for a Division.

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(2) If the Electoral Commissioner thinks an approved list of voters for a Division should be available for an officer to use in connection with voting under this Act, the Electoral Commissioner must arrange for the list to be made available to the officer in time for that use.

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.

Note: One effect of this subsection is that party logos are printed only in black on ballot papers.

(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.

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(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, an officer must 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) a feature of the ballot paper approved by the Electoral Commissioner.

209B Administrative markings

(1) The Electoral Commissioner may also provide for a ballot paper to be marked with any other mark that the Electoral Commissioner thinks fit to assist in the administration of the election.

(2) A mark under subsection (1) does not need to be printed in black typeface.

(3) To avoid doubt, this section does not authorise a mark to be made that enables the identification of an elector or that identifies the

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personal information (within the meaning of the *Privacy Act 1988*) of an elector.

Note: An officer who marks a ballot paper enabling an elector to be identified may commit an offence under section 271.

210 Printing of Senate ballot papers

(1) In printing the ballot papers to be used in a Senate election:

(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:

(i) a square must be printed to correspond with the name of each candidate; and

(ii) for candidates who made a request under section 168 that their names be grouped in the ballot papers for the election—a square must be printed above the dividing line and above the squares printed to correspond with those names.

(3) The names of candidates not included in a group shall be printed on the ballot papers according to the following rules:

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(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 above the line on ballot papers for use in an election shall be printed in capital letters in

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type that is uniform in size and style for all names and abbreviations so printed.

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 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 of nomination under section 174 for the election 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;

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(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

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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 is so constructed that when it is rotated no control can be exercised over the order in which balls come out of the container.

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

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(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 above the line 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 above the line 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.

214A Printing of party logos on ballot papers

(1) This section applies if:

(a) a logo is, at the declaration time for an election, entered in the Register in relation to a registered political party; and

(b) the party has requested that the logo be used.

(2) If the election is a Senate election, a ballot paper for the election must have the logo printed adjacent to the square that is printed, in accordance with paragraph 214(2)(d), adjacent to the name of the party.

(3) For the purposes of subsection (2), if candidates who have made a request under section 168 are endorsed by more than one political party:

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(a) no more than 2 logos may be printed adjacent to the square that is printed, in accordance with paragraph 214(2)(d), adjacent to the names of the parties; and

(b) if more than 2 of those parties have logos entered in the Register—the parties must notify the Electoral Commission, in writing, which of the logos are to be printed adjacent to that square.

(4) If the election is a House of Representatives election, a ballot paper for the election must have the logo printed in accordance with Form F in Schedule 1.

(5) All logos of registered political parties must be printed on the ballot paper in a uniform size and format.

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.

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.

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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: Imprisonment for 6 months or 10 penalty units, 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.

(2B) A scrutineer commits an offence if:

(a) the actions mentioned in subsection 274(2AA) (early opening and sorting of pre-poll ballot papers) are taken, in accordance with that subsection, at a counting centre before the closing of the poll for a House of Representatives election; and

(b) the scrutineer is present while those actions are taken; and

(c) the scrutineer discloses or communicates information that relates to those actions to persons outside the counting centre; and

(d) the disclosure or communication is made before the closing of the poll.

Note: See also section 323 (officers and scrutineers to observe secrecy).

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(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

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the presiding officer, may be removed from the polling booth or counting centre (as applicable) 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.

(4) In this section, ***counting centre*** means premises being used for the purposes of the scrutiny of ballot papers.

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).

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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.

(3) For the purposes of this section, the electoral Rolls in force at the time of the election are conclusive evidence of the right of each person enrolled on the Rolls, other than:

(a) a person whose name has been placed on a Roll because of a claim made under section 100 and who will be under 18 on the date fixed for the polling in the election; or

(b) a person who is covered by subsection 93(8AA) (sentences of imprisonment);

to vote as an elector, unless a person shows by his or her answers to the questions under section 200DI or 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.

Note: See section 202AL for rules about voting by designated electors.

(1A) On polling day a person who is provisionally enrolled is entitled to vote as an absent voter, on making a declaration in an approved form, at any polling place within the State or Territory for which he or she is provisionally enrolled at which a polling booth is open (other than a polling place for the Division for which he or she is provisionally enrolled).

(1B) In this Part (other than section 245) and in Schedule 3:

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(a) a reference to an elector includes a reference to a person who has cast an absent vote under subsection (1A); and

(b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

(2) Notwithstanding subsections (1) and (1A), 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) or (1A) 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 and 226, ***patient***, in relation to a hospital, does not include a person attending the hospital as an out-patient.

224 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

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(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 for the election.

(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.

226 Provisions related to section 224

(1) Notwithstanding any arrangement in force under section 224, a visit under that section to a patient in a hospital shall not be made if the presiding officer 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 applies, and any literature so supplied shall be made available on request to patients entitled to vote under that section.

(2A) A presiding officer who visits a patient under section 224 must:

(a) advise the patient that literature relating to the election supplied by candidates or political parties is available; and

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(b) give to the patient any such literature that the patient requests.

The literature may include how-to-vote cards.

(4) So far as is practicable, a vote under section 224 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), 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 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) or (1A) 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.

(6) Where an elector has voted under section 224 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.

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(8) As far as is reasonably practicable, votes taken under section 224 shall be taken on the day or days and at the time or times specified in the relevant notice under subsection (7), but any failure to take those votes in that manner does not invalidate the result of the election.

227 Mobile booths

(1) In this section:

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

team means a mobile polling team appointed under this section.

(2) The Electoral Commissioner 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) 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 Commissioner:

(a) may determine in writing the places that teams will visit for the purposes of taking votes under this section in an election; and

(b) must give notice to the public on the Electoral Commission's website and by any other means that the Electoral Commissioner thinks fit of:

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

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

(4A) Before determining a prison under subsection (4), the Electoral Commissioner must consult the Controller-General of Prisons for the place in which the prison is located.

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(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 for the election.

(6) Subject to subsection (6A), 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) give notice to the public on the Electoral Commission's website and by any other means that he or she thinks fit of the substituted place, day or time; and

(b) inform the Divisional Returning Officer for the Division in which the visit is to occur.

(6A) A visit to a prison must not be made if the Australian Electoral Officer for the State or Territory in which the prison is located 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) 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 place for the purposes of taking votes under this section in an election:

(a) the team shall have:

(i) ballot-boxes, ballot papers and such other things as are necessary for the votes of electors to be taken at the place; and

(ii) the "how-to-vote" cards (if any) supplied to it by the candidates;

(b) every person at the place who is:

(i) in the case of a by-election—entitled to vote in the election; or

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(ii) in any other case—an elector for the State or Territory in which the place 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 place 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 section 224) 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;"; and

(e) section 340 applies as if the references (however described) in subsections 340(1), (1A) and (2) to polling day, or a day to which the polling is adjourned for the election, were a reference to the time of the visit.

(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 Divisional Returning

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Officer or Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer for the Division in which that last visit occurred.

(12) A determination under paragraph (4)(a) is not a legislative instrument.

228 Forwarding of declaration votes

Presiding officer to forward declaration votes to ARO

(1) A presiding officer at a polling place must forward to the Assistant Returning Officer designated for the purposes of this subsection by a 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 or a polling official 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);

must forward the envelope, and the record made under paragraph 195A(2)(e) or subsection 200G(2), as the case may be, 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) must be so forwarded according to the instructions of the Divisional Returning Officer.

Obligations on AROs in relation to declaration votes

(2) An Assistant Returning Officer to whom a ballot-box is forwarded under subsection (1) or subsection 227(10) must:

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(a) compare the particulars on the envelopes with the particulars appearing in the relevant records forwarded to the Assistant Returning Officer under this Act, note the number of envelopes and report any discrepancies to a Divisional Returning Officer; and

(b) place the envelopes in one or more securely fastened containers, and cause them to be delivered to a Divisional Returning Officer; and

(c) forward to that Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the containers delivered to that Divisional Returning Officer.

(2A) Each Divisional Returning Officer to whom envelopes or records are forwarded under subsection (1A) must:

(a) compare the particulars on the envelopes with the particulars appearing in the records made under paragraph 195A(2)(e) or subsection 200G(2), note the number of envelopes and, if the envelopes are to be forwarded to another Divisional Returning Officer, report any discrepancies to that Divisional Returning Officer; and

(b) place the envelopes, together with the record made under paragraph 195A(2)(e) or subsection 200G(2), in one or more securely fastened containers; and

(c) if the envelopes are to be forwarded to another Divisional Returning Officer:

(i) cause the envelopes to be delivered to the other Divisional Returning Officer; and

(ii) forward to the other Divisional Returning Officer advice in writing of the total number of envelopes delivered to that Divisional Returning Officer.

Obligations on DROs in relation to declaration votes

(3) Each Divisional Returning Officer to whom advices or envelopes are forwarded under subsection (2) or (2A), or who deals with advices or envelopes under subsection (2A), must:

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(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; and

(b) until they are dealt with under another provision of this Act, keep the envelopes so received in one or more securely fastened containers; and

(c) compare the record referred to in paragraph (a) with the envelopes received and note any discrepancies.

(3A) After receiving envelopes in accordance with subparagraph 195A(6)(b)(iii), each DRO:

(a) must compare the records received by the DRO in accordance with that subparagraph with the envelopes and note any discrepancy; and

(b) except as necessary for the purposes of paragraph (a), keep the envelopes in one or more securely fastened containers until the envelopes are dealt with under other provisions of this Act.

DROs to forward declaration votes to the appropriate DROs

(4) A Divisional Returning Officer must do the following in relation to envelopes bearing certificates or declarations dealt with under this section:

(a) place in a parcel all the envelopes bearing certificates or declarations that relate to a particular Division;

(b) endorse on the parcel the number of envelopes;

(c) seal up the parcel and cause the parcel to be delivered to the Divisional Returning Officer for that Division to be dealt with in accordance with subsection (5);

(d) forward to that Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the parcel delivered to that Divisional Returning Officer.

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Obligations on DROs who receive declaration votes under subsection (4) or (9)

(5) Each Divisional Returning Officer for a Division to whom advices, or envelopes bearing certificates or declarations, are forwarded under subsection (4) or (9) must:

(a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received under that subsection; and

(b) maintain a securely fastened container and identify it as a declaration vote container; and

(c) keep in that container, until the scrutiny, all envelopes bearing a certificate or declaration and purporting to contain a ballot paper recording a declaration vote in relation to the 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 (9)).

Note: An envelope is also received within sufficient time to be taken into account in the scrutiny if it is received by a person who is authorised under section 37.

(6) Before placing in the container 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 must endorse on the envelope the date of its receipt and must initial the endorsement.

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Declaration votes received outside Australia to be forwarded to a specified person

(8) An Assistant Returning Officer at a place outside Australia must, in accordance with the written instructions of the Electoral Commissioner, deal with and forward envelopes bearing certificates or declarations, 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 or 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 must, 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 or a polling official must put to each person attending before the officer or official, and claiming to vote in an election or elections (as the case requires), questions in order to ascertain:

(a) the person's full name; and

(b) the person's place of living; and

(c) whether the person has voted before in the election or elections (as the case requires).

(2) In addition to the questions put under subsection (1), the officer or official must 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 under subsection (1) do not satisfy the officer or official that the claimant is a particular person on the certified list of voters or an approved list of voters for the relevant Division, the officer or official may ask the claimant one or more other questions about

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matters shown on the list for the particular person, to establish whether the claimant is that particular person.

(5) A person's claim to vote must (subject to section 235) be rejected if:

(a) questions are put to the person under subsection (1) and the person:

(i) refuses to answer fully any of the questions; or

(ii) answers a question so as to indicate that the person has voted before in the relevant election or elections (as the case requires); and

(b) the presiding officer is satisfied that subparagraph (a)(i) or (ii) applies in relation to the person.

Note: Section 235 deals with provisional votes.

230 Errors not to forfeit vote

No omission in the Roll or in the certified list of voters or an approved 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, a polling official, or a voting officer within the meaning of Division 3 of Part XVA, and no elector shall be disqualified from voting under the name appearing on the Roll because his or 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 officer or official:

(a) if the name under which the person claims to vote is on the certified list of voters or an approved list of voters for the polling place and the person's answers to questions put to the person show that he or she is entitled to vote; or

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(b) if the person claims to vote under the provisions relating to absent voting and complies with those provisions.

(2) The presiding officer or a polling official, 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) If a ballot paper has been, or is to be, given to a person whose name is on the certified list of voters, or an approved list of voters, available at a polling place, the presiding officer or a polling official at the place must:

(a) place a mark against the person's name on the certified list; or

(b) record electronically against the approved list the fact that the person has been, or is to be, handed a ballot paper.

(2) The presiding officer or a polling official at a polling place must 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) or (1A) that he or she is enrolled, and must, 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 or a polling official; and

(c) quit the booth.

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(2) A presiding officer or polling official must enclose each ballot paper of an absent voter returned to the officer or official under subsection (1) in the envelope bearing the declaration made by the voter under subsection 222(1) or (1A), 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 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 or a polling official, in the presence of such scrutineers as are present, or, if there be no scrutineers present, then in the presence of:

(a) another person who is either the presiding officer or a polling official; or

(b) if the voter so desires, in the presence of a person appointed by such voter, instead of the presiding officer or 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 or polling official the manner in which the voter wishes the officer or official to mark his or her ballot paper by presenting to the officer or official 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.

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(4) Where subsection (1) applies in relation to an absent or provisional voter, the presiding officer or a polling official shall:

(a) fill in the declaration referred to in subsection 222(1) or (1A) 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 another person who is either the presiding officer or 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:

(a) must mark his or her vote on the ballot paper in the presence of the presiding officer or 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 officer or official.

(4) The presiding officer or 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.

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(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, mark and fold, or allow a polling official to mark and fold, the voter's ballot paper.

(6) The voter must indicate to the presiding officer or polling official how the voter wishes the officer or 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 presiding officer or 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 presiding officer or polling official must:
  (a) fill in the declaration referred to in subsection 222(1) or (1A) 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 another person who is either the presiding officer or 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, or an approved 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, or an approved list of voters, for the Division but his or her address does not appear on the list; or
  (c) the presiding officer or a polling official has asked the person one or more questions under subsection 229(4) about matters shown on the certified list of voters, or an approved list of

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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 or official 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, or a record against an approved list of voters, for the Division indicates that the voter has already voted; or

(e) the person is provisionally enrolled.

(1A) In this Part (other than section 245) and in Schedule 3:

(a) a reference to an elector includes a reference to a person who casts a provisional vote under paragraph (1)(e); and

(b) a reference to the Division in which an elector is enrolled includes a reference to the Division in which the person is provisionally enrolled.

(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 the presiding officer or a polling official.

(4) The presiding officer or polling official shall then sign the declaration as witness, adding the date.

(5) Before issuing a ballot paper to the person, the presiding officer or 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 presiding officer or polling official who issued it.

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(7) The presiding officer or 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.

(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, a voting officer within the meaning of Division 3 of Part XVA, or a polling official, 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 officer or official, 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 or official 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 or official, receive a new ballot paper from the officer or official, who shall there and then cancel the spoilt ballot paper.

(3) An officer or official 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 that have been cancelled under subsection (1) or (2) shall be bundled up and given to the Divisional Returning Officer for the Division after the close of the poll.

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238A Discarded ballot papers

(1) This section applies if:
  (a) a ballot paper has been issued to a voter; and
  (b) an officer is satisfied that the ballot paper has been discarded by the voter.

(2) The officer must:
  (a) immediately cancel the ballot paper; and
  (b) write "discarded" on the back of the ballot paper; and
  (c) 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 discarded; and
  (d) sign the envelope.

(3) The envelopes containing discarded ballot papers that have been cancelled under this section must be bundled up and given to the Divisional Returning Officer for the Division after the close of the poll.

238B Ballot-boxes opened before close of poll

(1) This section applies if, in relation to an election, an officer becomes aware that a ballot-box containing ballot papers for the election (including ballot papers enclosed in envelopes) has been opened before the close of the poll other than in accordance with this Act.

(2) An officer (the ***reporting officer***) must:
  (a) place the ballot papers, or envelopes containing the ballot papers, in a parcel; and
  (b) seal the parcel; and
  (c) write on the parcel an indication of the type of ballot papers enclosed and that the ballot-box has been prematurely opened; and
  (d) sign the parcel.

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Report

(3) The reporting officer must prepare a report about the circumstances in which the ballot-box was opened before the close of the poll other than in accordance with this Act (including details of any witnesses).

Material to be given to DRO

(4) The reporting officer must give the report, parcel, ballot-box and any other thing the reporting officer considers appropriate to the DRO for the Division as soon as practicable.

Role of DRO

(5) The DRO for the Division must examine the report, parcel, ballot-box and any other thing given to the DRO under subsection (4) and then give them to the Australian Electoral Officer (the ***AEO***) for the State or Territory concerned.

Role of AEO

(6) The AEO must:
  (a) open the parcel and examine the ballot papers not enclosed in envelopes, the envelopes, the report, the ballot-box and any other thing given to the AEO under subsection (5); and
  (b) for each ballot paper not enclosed in an envelope—decide whether the ballot paper is to be included in the scrutiny under Part XVIII (see subsections (7) and (8)); and
  (c) for each envelope—decide whether the envelope is to be included in the preliminary scrutiny conducted in accordance with Schedule 3 (see subsections (9) and (10)).

(7) The AEO must decide that a ballot paper is to be included in the scrutiny under Part XVIII unless the AEO is satisfied that the ballot paper has been fraudulently altered or otherwise interfered with so as not to reflect the voter's intention.

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(8) If the AEO decides that a ballot paper is not to be included in the scrutiny under Part XVIII, the ballot paper is to be excluded from that scrutiny.

(9) The AEO must decide that an envelope is to be included in the preliminary scrutiny conducted in accordance with Schedule 3 unless the AEO is satisfied that the envelope has been fraudulently altered.

(10) If the AEO decides that an envelope is not to be included in the preliminary scrutiny conducted in accordance with Schedule 3, the envelope is to be excluded from that scrutiny.

(11) The AEO must, after examining all the ballot papers and envelopes:

(a) place in a parcel the ballot papers that are to be included in the scrutiny under Part XVIII; and

(b) place in another parcel the ballot papers that are to be excluded from the scrutiny under Part XVIII; and

(c) place in another parcel the envelopes that are to be included in the preliminary scrutiny conducted in accordance with Schedule 3; and

(d) place in another parcel the envelopes that are to be excluded from the preliminary scrutiny conducted in accordance with Schedule 3; and

(e) seal each parcel; and

(f) write on each parcel an indication of the type of ballot papers or envelopes enclosed and that the ballot-box has been prematurely opened; and

(g) sign each parcel.

(12) The AEO must give the parcels referred to in paragraphs (11)(a) and (c) to the DRO for the Division, and the ballot papers or envelopes in the parcels are to be included in the scrutiny under Part XVIII or in the preliminary scrutiny conducted in accordance with Schedule 3, as the case requires.

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(13) Before the declaration of the poll in the election, the AEO must advise the Electoral Commissioner and the candidates concerned of the following:

(a) a ballot-box was opened before the close of the poll other than in accordance with this Act;

(b) the number of ballot papers the AEO examined;

(c) the number of ballot papers that were excluded from the scrutiny under Part XVIII because the AEO was satisfied that they had been fraudulently altered or otherwise interfered with so as not to reflect the voter's intention;

(d) the number of envelopes the AEO examined;

(e) the number of envelopes that were excluded from the preliminary scrutiny conducted in accordance with Schedule 3 because the AEO was satisfied that they had been fraudulently altered.

Preservation of material

(14) The AEO is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of the parcels referred to in paragraphs (11)(b) and (d), the ballot-box and the report and any other thing given to the AEO under subsection (5) until they are destroyed.

(15) Subject to Part XXII, the Electoral Commissioner may direct that the things referred to in subsection (14) be destroyed if:

(a) not less than 6 months have elapsed since the declaration of the poll in the election in which the things were used; and

(b) the things are no longer required by the Electoral Commission for the performance of its functions.

239 Marking of votes in Senate election

Voting below the line

(1) Subject to subsection (2), a person must mark his or her vote on the ballot paper in a Senate election by:

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(a) writing at least the numbers 1 to 12 in the squares printed on the ballot paper below the line (with the number 1 being given to the candidate for whom the person votes as his or her first preference, and the numbers 2, 3, 4 and so on to at least the number 12 being given to other candidates so as to indicate the order of the person's preference for them); or

(b) if there are 12 or fewer squares printed on the ballot paper below the line—numbering the squares consecutively from the number 1 (in order of preference as described in paragraph (a)).

Note: See also section 268A for when the vote is formal.

Voting above the line

(2) A vote may be marked on a ballot paper by:

(a) writing at least the numbers 1 to 6 in the squares (if any) printed on the ballot paper above the line (with the number 1 being given to the party or group for whom the person votes as his or her first preference, and the numbers 2, 3, 4, 5 and 6 being given to other parties or groups so as to indicate the order of the person's preference for them); or

(b) if there are 6 or fewer squares printed on the ballot paper above the line—numbering the squares consecutively from the number 1 (in order of preference as described in paragraph (a)).

Note: See also section 269 for when the vote is formal.

Candidates who die before polling day

(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 in a square corresponding with that name; or

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(c) of the omission to place any number in a square corresponding with 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 Electoral Commissioner may temporarily suspend the polling for a period if the Electoral Commissioner 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.

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241 Adjournment of polling

The Electoral Commissioner 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 Electoral Commissioner 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.

Note: See also subsection 265(3) (delayed scrutiny for Divisions where there is an adjournment at a polling place in that Division).

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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.

(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:

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(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

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(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 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.

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(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 commits an offence if the elector fails to vote at an election.

Penalty: 1 penalty unit.

(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*).

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(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 commits an offence.

Penalty: 1 penalty unit.

(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.

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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.

(2A) For the purposes of subsection (2), if scrutiny is being conducted at a counting centre by using a computer as mentioned in section 273A (computerised scrutiny of votes in Senate election), the number of officers who are engaged in the scrutiny or counting of ballot papers at the centre is taken to include the number of persons performing the function of second tier data entry operator conducting exception checks at the 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.

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(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) Subject to subsection (3), the scrutiny shall commence as soon as practicable after the closing of the poll (subject to subsection 274(2AA));

(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;

(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.

(3) If the polling is adjourned at any polling place in a Division under section 241 or 242, the scrutiny for the House of Representatives election for that Division must not commence until after the close of the poll for that polling place.

266 Preliminary scrutiny of declaration votes

(1) At any time after receiving any declaration votes, a DRO must conduct preliminary scrutinies of the declaration votes received until:

(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

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(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, a polling official, or a voting officer

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(within the meaning of Division 3 of Part XVA), or by the presence of the official mark;

(b) subject to sections 268A and 269, 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 then consecutively number at least 11 other candidates in the order of his or her preference;

(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 corresponding with 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:

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 corresponding with 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) or (1A).

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(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 and the officer has endorsed the ballot paper with the words 'I am satisfied that this ballot paper 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.

268A Formal votes below the line

(1) A ballot paper in a Senate election is not informal under paragraph 268(1)(b) if:

(a) the voter has marked the ballot paper in accordance with paragraph 239(1)(b); or

(b) if there are more than 6 squares printed on the ballot paper below the line—the voter has consecutively numbered any of those squares from 1 to 6 (whether or not the voter has also included one or more higher numbers in those squares).

(2) For the purposes of this Act:

(a) a voter who, in a square printed on the ballot paper below the line, marks only a single tick or cross is taken as having written the number 1 in the square; and

(b) the following numbers written in a square printed on the ballot paper below the line are to be disregarded:

(i) numbers that are repeated and any higher numbers;

(ii) if a number is missed—any numbers that are higher than the missing number.

Note: Paragraph (2)(b) applies both for the purposes of determining whether a ballot paper is formal, and for the purposes of determining which numbers marked on a ballot paper are counted in the election.

Example: A ballot paper has squares below the line that are numbered 1, 2, 3, 3, 4, 5 and 6. The vote is informal because, by disregarding the numbers

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3 and upwards under subparagraph (2)(b)(i), only 2 squares have been numbered.

A second ballot paper has squares below the line that are numbered consecutively from 1 to 9 and then 11, 12, 13 and 14. The vote is formal under paragraph (1)(b). However, only the squares numbered from 1 to 9 are counted for the purposes of sections 273 and 273A because the numbers 11 and upwards are disregarded under subparagraph (b)(ii) of this subsection.

269 Formal votes above the line

(1) A ballot paper in a Senate election is not informal under paragraph 268(1)(b) if:

(a) the voter has marked the ballot paper in accordance with subsection 239(2); or

(b) the voter has marked the number 1, or the number 1 and one or more higher numbers, in squares printed on the ballot paper above the line.

(1A) For the purposes of this Act:

(a) a voter who, in a square printed on the ballot paper above the line, marks only a single tick or cross is taken as having written the number 1 in the square; and

(b) the following numbers written in a square printed on the ballot paper above the line are to be disregarded:

(i) numbers that are repeated and any higher numbers;

(ii) if a number is missed—any numbers that are higher than the missing number.

Note: Paragraph (1A)(b) applies both for the purposes of determining whether a ballot paper is formal, and for the purposes of determining which numbers marked on a ballot paper are counted in the election.

Example: A ballot paper has squares above the line that are numbered 1, 1, 2 and 3. The vote is informal because, by disregarding the numbers 1 and upwards under subparagraph (1A)(b)(i), no squares have been numbered.

A second ballot paper has squares above the line that are numbered consecutively from 1 to 9 and then 11, 12, 13 and 14. The vote is formal under paragraph (1)(b). However, only the squares numbered from 1 to 9 are counted for the purposes of sections 273 and 273A

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because the numbers 11 and upwards are disregarded under subparagraph (b)(ii) of this subsection.

Votes that are formal both above and below the line

(2) If a ballot paper in a Senate election:

(a) has squares marked above the line in accordance with subsection 239(2) or paragraph (1)(b) of this section; and

(b) has squares marked below the line in accordance with subsection 239(1) or section 268A;

then, for the purposes of sections 272 and 273, the only squares that are taken to have been marked on the ballot paper are the squares that are marked below the line.

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: 10 penalty units.

272 Treatment of Senate ballot papers of voters who have voted above the line

(1) This section applies if:

(a) a ballot paper for a Senate election is marked in accordance with subsection 239(2) or paragraph 269(1)(b); and

(b) one or more numbers, that are not disregarded under paragraph 269(1A)(b), are written in squares printed on the ballot paper above the line in relation to groups of candidates (each group being a ***preferenced group***).

(2) The ballot paper is taken to have been marked as if, instead of the numbers referred to in paragraph (1)(b):

(a) each candidate in a preferenced group was given a different number starting from 1; and

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(b) candidates in a preferenced group were numbered consecutively starting with the candidate whose name on the ballot paper is at the top of the group to the candidate whose name is at the bottom; and

(c) the order in which candidates in different preferenced groups are numbered is worked out by reference to the order in which the groups were numbered on the ballot paper, starting with the group marked 1; and

(d) when all the candidates in a preferenced group have been numbered, the candidate whose name is at the top of the next preferenced group is given the next consecutive number.

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) An Assistant Returning Officer must take the following steps in the presence of a polling official, and of any authorised scrutineers who attend:

(a) exhibit each securely fastened ballot-box for the inspection of the scrutineers;

(b) record the condition of the ballot-box;

(c) open the ballot-box and remove the ballot papers from the box;

(ca) count the number of first preference votes marked in each of the squares above the line;

(d) make, sign and keep a copy of a statement (which may be countersigned by a polling official, and by any scrutineers who are present if they so desire) setting out the number of first preference votes marked in each of the squares above the line and the number of ballot papers;

(da) transmit the number of first preference votes marked in each of the squares above the line to the Divisional Returning Officer as soon as practicable;

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(e) seal up the ballot papers in a securely fastened container and endorse on each container a description of the contents of the container, and permit any scrutineers present, if they so desire, to countersign the endorsement;

(f) transmit the container to the Divisional Returning Officer for the relevant Division as soon as practicable, together with the statement under paragraph (d).

(3) The Divisional Returning Officer for a Division must:

(a) in relation to each container of ballot papers for the Division received under paragraph (2)(f):

(i) open the container; and

(ii) remove the ballot papers from the container; and

(iii) count the number of ballot papers removed from the container; and

(b) in relation to ballot-boxes for the Division received under this Act by the Divisional Returning Officer—repeat the steps in paragraphs (2)(c) to (e) (as if the reference in paragraph (2)(da) to the Divisional Returning Officer were a reference to the Australian Electoral Officer for the State that includes the Division); and

(c) keep a copy of:

(i) the statement made under paragraph (2)(d) by the Assistant Returning Officer; and

(ii) the statements made by the Divisional Returning Officer under that paragraph (as a result of paragraph (b) of this subsection); and

(d) transmit the containers sealed under paragraph (2)(e) (as a result of paragraph (b) of this subsection) to the Australian Electoral Officer for the State that includes the Division as soon as practicable, together with the statements made by the Divisional Returning Officer.

(4) An Australian Electoral Officer must:

(a) scrutinise all ballot papers received by him or her under paragraph (3)(d); and

(b) reject any informal ballot papers; and

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(c) make, sign and keep a record of the preferences on the ballot papers that have been received by him or her (including informal ballot papers, and formal ballot papers that are not sequentially numbered).

(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

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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

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(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

(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:

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(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 sub-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.

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(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 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

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(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 must determine by lot which of those candidates is to be elected.

(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 must place in containers all ballot papers transmitted to the officer under paragraph (3)(d), seal the containers and endorse a description of the contents on each container.

(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

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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 by lot 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 by lot the order in which the surpluses shall be dealt with.

(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.

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(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 in a square corresponding with 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.

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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.

relative order of standing, at a particular time, of 2 continuing candidates with the same number of votes in a Senate election for a State means:

(a) the relative order of standing of those candidates by reference to the last count at which they had a different number of votes, with the candidate with the greater number of votes at that count having a higher relative order of standing than the other candidate; or

(b) if those candidates are in an unbreakable tie at that time—the relative order of standing of those candidates by reference to the order of standing determined under subsection (29A) in relation to the unbreakable tie.

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.

unbreakable tie: 2 or more continuing candidates who have the same number of votes in a Senate election at a particular time are in an ***unbreakable tie*** at that time if:

(a) they had the same number of votes at every count before that time; or

(b) there was no count before that time.

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

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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.

(29A) If, at a particular time, 2 or more continuing candidates in a Senate election for a State are in an unbreakable tie, the Australian Electoral Officer for the State must determine by lot the order of standing of those candidates relative to each other at that time.

(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 paragraphs (b) and (c), 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 and the continuing candidate with the fewest number of votes standing lowest in the poll;

(b) if 2 continuing candidates have the same number of votes at that time—those candidates are to stand in the poll in their relative order of standing at that time;

(c) if 3 or more continuing candidates have the same number of votes at that time—those candidates are to stand in the poll in the order determined in accordance with subsection (31A).

(31A) For the purposes of paragraph (31)(c), if 3 or more continuing candidates (the ***tied candidates***) have the same number of votes at a particular time, the tied candidates are to stand in the poll in the order determined by:

(a) identifying each possible combination of 2 tied candidates; and

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(b) for each combination of 2 tied candidates identified under paragraph (a), working out the relative order of standing, at that time, of those 2 candidates; and

(c) ranking all of the tied candidates such that:

(i) the tied candidate who has a higher relative order of standing, at that time, than each other tied candidate stands highest in the poll; and

(ii) a tied candidate who has a higher relative order of standing, at that time, than another tied candidate stands higher in the poll than that other candidate; and

(iii) the tied candidate who does not have a higher relative order of standing, at that time, than any other tied candidate stands lowest 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 received by Australian Electoral Officer

(4) The Australian Electoral Officer must scrutinise all the ballot papers received by him or her under paragraph 273(3)(d), 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 (13AA) and subsections 273(14) to (32). A tie at any step in the process is to be

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resolved in the same way as a tie in the corresponding step is resolved under section 273.

Rights of scrutineers

(6) Subject to subsections (6AA) and (6AB), for proceedings under section 273 and 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 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.

(6AA) A scrutineer who is present at proceedings under section 273 and subsections (4) and (5) of this section may ask the officer conducting the scrutiny for access to an original ballot paper for the purposes of resolving a question about:

(a) the formality of the original ballot paper; or

(b) a preference vote being counted in the scrutiny.

(6AB) If, under subsection (6AA), a scrutineer asks an officer for access to an original ballot paper for the purposes of resolving a question of a kind referred to in that subsection:

(a) the officer must grant the request unless, in the opinion of the Australian Electoral Officer, granting the request would:

(i) unreasonably delay the scrutiny; and

(ii) put at risk the writ for the election being returned before the start of the term of service of the successful candidates; and

(b) if the officer grants the request—the question is to be resolved by reference to the original ballot paper.

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Note: The Australian Electoral Officer may form the opinion that granting a scrutineer's request under subsection (6AA) would unreasonably delay the scrutiny because, for example, the scrutineer has made multiple unreasonable, frivolous or vexatious requests under that subsection and the Australian Electoral Officer has warned the scrutineer that further requests under that subsection may not be granted because they would unreasonably delay the scrutiny.

Statements setting out numbers of ballot papers

(6A) After complying with subsections (4) and (5), the Australian Electoral Officer must make, sign and keep a copy of a statement (which may be countersigned by any scrutineers who are present if they so desire) setting out the number of ballot papers scrutinised by the officer under those subsections.

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 containers (for those ballot papers that are in containers) 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 containers to their original containers, and place the remaining ballot papers in one or more containers;

(d) seal up all the containers and write on each container:

(i) the number of ballot papers in the container; and

(ii) a statement that all the ballot papers have been the subject of decisions by the Australian Electoral Officer;

(e) sign each container and permit other persons who were present when the ballot papers were scrutinised to add their signatures.

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(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 (13AA) and subsections 273(14) to (30), modified in the way set out in section 282.

273AA Assurance of security of computer systems for scrutiny of votes in Senate election

(1) The Electoral Commissioner must arrange for an independent person or body (the ***accredited assessor***) accredited by the Australian Signals Directorate to conduct a risk assessment (a ***security risk assessment***) of the security of the computer systems (including the systems for scanning ballot papers and counting votes) used to scrutinise the votes in a Senate election for a particular State or Territory in compliance with section 273A.

(2) A security risk assessment of the computer systems required by subsection (1) must be conducted before the next Senate election for which the computer systems are to be used.

(3) After a security risk assessment of the computer systems has been completed, the accredited assessor must give a written report of the assessment to the Electoral Commissioner. The report may include recommendations to reduce or eliminate any risks that could affect the security of the computer systems.

(4) As soon as practicable after the Electoral Commissioner receives the report of a security risk assessment of the computer systems under subsection (3), the Electoral Commissioner must publish a statement of assurance on the Electoral Commission's website

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stating that a security risk assessment of the computer systems has been completed as required by subsection (1).

273AC Ballot paper sampling assurance throughout computerised scrutiny of votes in Senate election

(1) This section applies if the scrutiny of votes in a Senate election for a particular State or Territory is, or is to be, conducted in compliance with section 273A.

(2) The Electoral Commissioner must arrange for statistically significant samples of ballot papers to be checked throughout the scrutiny of votes for the election to assure that the electronic data used in counting the votes reflects the data recorded on the ballot papers.

(3) The Electoral Commissioner must ensure that:

(a) if the election was held concurrently with a general election for the House of Representatives—at least 5,000 ballot papers in total are checked under subsection (2) throughout the scrutiny of votes for the election and for the other Senate elections that were held concurrently with that general election; or

(b) if the election was held alone—at least 1,000 ballot papers are checked under subsection (2) throughout the scrutiny of votes for the election.

(4) The ballot paper sampling process is not part of the scrutiny in relation to the election.

(5) The ballot paper sampling process may be inspected by the scrutineers at the counting centre where the scrutiny is being conducted.

(6) Before the polling day for the election, the Electoral Commissioner must publish on the Electoral Commission's website:

(a) the methodology to be used for the ballot paper sampling process; and

(b) the process to be used for reconciling preferences.

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(7) Within 14 days after the return of the writ for the election, the Electoral Commissioner must publish on the Electoral Commission's website a statement setting out the outcomes of the ballot paper sampling process.

(8) In this section:

counting centre means the premises where the scrutiny or counting of ballot papers is being conducted.

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, do the following:

(a) exhibit for the inspection of the scrutineers:

(i) each ballot-box received from a presiding officer or mobile polling team leader; and

(ii) each pre-poll ordinary ballot-box (within the meaning of Division 3 of Part XVA) received from a voting officer (within the meaning of that Division);

(aa) record the condition of the ballot-box when it was received;

(ab) open the ballot-box and remove the ballot papers from the box;

(ac) for a pre-poll ordinary ballot-box being dealt with before the close of the poll in accordance with subsection (2AA)—unfold the ballot papers and sort them into groups as follows:

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(i) a group for each candidate for whom a ballot paper indicates a first preference;

(ii) a group for informal votes;

(b) count:

(i) the number of ballot papers with first preference votes marked for each candidate; and

(ii) the number of informal ballot papers, and reject those papers;

(c) bundle up the ballot papers in accordance with the directions of the Electoral Commissioner;

(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;

(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) record on each bundle a description of the contents;

(ga) seal up the bundles in a securely fastened container in accordance with the directions of the Electoral Commissioner, and endorse on each container a description of the contents of the container, and permit any scrutineers present to countersign the endorsement;

(h) transmit the container to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d).

(2AA) The actions set out in paragraphs (2)(a), (aa), (ab) and (ac) may be taken in relation to a pre-poll ordinary ballot-box after 4 pm on polling day. A scrutineer present while the actions are being taken is not entitled to object to a ballot paper before the closing of the poll, but may after the closing make any objections as if the ballot-box had not been dealt with under this subsection.

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Note: The actions set out in paragraphs (2)(a), (aa), (ab) and (ac) do not including counting (see paragraph (2)(b)).

(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.

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(7) The Divisional Returning Officer:

(a) shall open the containers of ballot papers received from the Assistant Returning Officers in or for the Division;

(b) shall make a fresh scrutiny of the ballot papers, 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 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

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(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.

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(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.

(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) 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.

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(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 endorse on each parcel a description of the contents, and permit any scrutineers present, if they so desire, to countersign the endorsement.

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.

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(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 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

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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.

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(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

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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).

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(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) or paragraph 269(1)(b); 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) or paragraph 269(1)(b), 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) or paragraph 269(1)(b).

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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.

283A Publication of Senate election data

Within 7 days after the return of the writ for a Senate election for a State or Territory, the Australian Electoral Officer for the State or Territory must publish on the Electoral Commission's website:

(a) the following identifying information for each formal ballot paper cast in the election:

(i) the Division;

(ii) the vote collection point;

(iii) the batch number and ballot paper number within the batch;

(iv) the full set of marked preferences; and

(b) the distribution of preferences received by each candidate for the State or Territory after each count under section 273 in the election.

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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

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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, certified list of voters or approved 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.

(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:

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(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.

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