



Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Act 2010

No. 108, 2010

**An Act to amend the law relating to elections and
referendums, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to amend the law relating to elections and
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[Assented to 14 July 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Electoral and Referendum
Amendment (How-to-Vote Cards and Other Measures) Act 2010*.

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2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 July 2010
2. Schedule 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	23 July 2010 (see F2010L02127)
3. Schedule 2	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	23 July 2010 (see F2010L02127)

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—How-to-vote cards

Part 1—Amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1)

Insert:

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
 - (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.

2 Paragraph 308(1)(e)

Omit “or 332”, substitute “or 328B”.

3 Subparagraph 314AEB(1)(a)(iii)

Omit “or 328A”, substitute “, 328A or 328B”.

4 Before paragraph 328(3)(a)

Insert:

- (aa) a how-to-vote card; or

5 Subsection 328(4)

Omit “paragraph (3)(a)”, substitute “paragraph (3)(aa), (a)”.

6 After section 328A

Insert:

328B Requirements relating to how-to-vote cards

Authorisation details must be included on how-to-vote card

- (1) The following information (the ***authorisation details***) must be included at the top or bottom of each printed face of a how-to-vote card:
 - (a) the name and address of the person who authorised the how-to-vote card;
 - (b) the following information (to the extent that it is not already required by paragraph (a)):
 - (i) if the card is authorised by or on behalf of a registered political party, or by or on behalf of a candidate who is endorsed by a registered political party—the name of the registered political party;
 - (ii) if the card is authorised by or on behalf of a candidate who is not endorsed by a registered political party—the candidate’s name, and the word “candidate”.
- (2) The font size of the authorisation details must be at least:
 - (a) 10 point, if the size of the how-to-vote card is A6 or smaller; or
 - (b) 14 point, if the size of the how-to-vote card is larger than A6 but smaller than A3; or
 - (c) 20 point, if the size of the how-to-vote card is A3 or larger.
- (3) For the purpose of subsection (2), the comparison between the size of a how-to-vote card and a standard paper size mentioned in that subsection is to be done by comparing the area of the how-to-vote card with the area of the standard paper size (regardless of the shape of the how-to-vote card).

Offence of publishing etc. how-to-vote card that does not contain required authorisation details

- (4) A person (the **first person**) commits an offence if:
- (a) the first person:
 - (i) publishes or distributes a document; or
 - (ii) causes, permits or authorises another person to publish or distribute a document; and
 - (b) that conduct of the first person occurs during the relevant period for an election; and
 - (c) the document is a how-to-vote card; and
 - (d) the how-to-vote card does not comply with the requirements of subsections (1) and (2) relating to authorisation details; and
 - (e) if regulations made for the purpose of this paragraph provide that this subsection does not apply to prescribed kinds of articles—the how-to-vote card is not an article of any of those kinds.

Penalty: 50 penalty units.

Offence of publishing etc. how-to-vote card that contains false authorisation details

- (5) A person (the **first person**) commits an offence if:
- (a) the first person:
 - (i) publishes or distributes a document; or
 - (ii) causes, permits or authorises another person to publish or distribute a document; and
 - (b) that conduct of the first person occurs during the relevant period for an election; and
 - (c) the document is a how-to-vote card; and
 - (d) some or all of the authorisation details on the how-to-vote card are false; and
 - (e) if regulations made for the purpose of this paragraph provide that this subsection does not apply to prescribed kinds of article—the how-to-vote card is not an article of any of those kinds.

Penalty: 50 penalty units.

Definition

(6) In this section:

address of a person means an address, including a full street address and suburb or locality, at which the person can usually be contacted during the day. It does not include a post office box.

7 Subsection 351(5)

Before “end”, insert “top, bottom or”.

8 Subsection 351(5)

Omit “or 328A”, substitute “, 328A or 328B”.

Part 2—Application of amendments

9 Application of amendments

The amendments made by this Schedule apply in relation to elections the writs for which are issued on or after the commencement of this Schedule.

Schedule 2—Misleading or deceptive publication

Part 1—Amendments

Commonwealth Electoral Act 1918

1 After subsection 329(5)

Insert:

- (5A) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (4).

2 Subsection 329(6)

Omit “radio or television”, substitute “radio, television, internet or telephone”.

Referendum (Machinery Provisions) Act 1984

3 After subsection 122(5)

Insert:

- (6) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (4).

4 Subsection 122(7)

Omit “radio or television”, substitute “radio, television, internet or telephone”.

Part 2—Application of amendments

5 Application of amendments

The amendments made by this Schedule apply in relation to elections and referendums the writs for which are issued on or after the commencement of this Schedule.

*[Minister's second reading speech made in—
House of Representatives on 2 June 2010
Senate on 16 June 2010]*

(119/10)

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