



Electoral and Referendum Amendment Act 1998

No. 94, 1998



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

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[Assented to 17 July 1998]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Electoral and Referendum Amendment Act 1998*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day after the day on which it receives the Royal Assent.
- (2) Items 38, 39, 40, 41, 42, 147, 153 and 154 of Schedule 1 commence on the 28th day after the day on which this Act receives the Royal Assent.

3 Schedule(s)

Subject to section 2, each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Commonwealth Electoral Act 1918

1 Subsection 4(1)

Insert:

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

2 Subsection 7A(1)

Repeal the subsection, substitute:

- (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.

Note: The heading to section 7A is replaced by the heading “**Supply of goods and services**”.

3 After subsection 7A(1)

Insert:

- (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.

4 Subsection 7A(2)

Repeal the subsection, substitute:

- (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.

5 Section 7B

Omit “the Commission may charge fair and reasonable fees for the goods and services that it provides”, substitute “reasonable fees may be charged for goods or services supplied under section 7A”.

Note: The heading to section 7B is replaced by the heading “**Fees for goods and services**”.

6 Subsection 16(1)

Repeal the subsection, substitute:

- (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.

7 Subsection 46(1)

Omit “9 months” (wherever occurring), substitute “12 months”.

8 Paragraph 59(5)(a)

Omit “10 months”, substitute “13 months”.

9 Paragraph 59(9A)(a)

Omit “10 months”, substitute “13 months”.

10 After subsection 60(7)

Insert:

- (7A) This section applies to the Australian Capital Territory as if:
 - (a) references in this section to a State included references to the Australian Capital Territory; and

(b) the reference in paragraph (2)(b) to “the Australian Electoral Officer for the State” were a reference to “the senior Divisional Returning Officer for the Australian Capital Territory”.

(7B) For the purposes of the redistribution, the Electoral Commission must determine in writing which of the Divisional Returning Officers for the Divisions in the Australian Capital Territory is to be the senior Divisional Returning Officer for the Territory.

Note: The heading to section 60 is altered by omitting “**for State**”.

11 Section 61

Repeal the section.

12 After section 63

Insert:

63A Projection time for equality of enrolments

- (1) This section defines the *projection time* for the purpose of applying sections 66 and 73 in relation to a redistribution (the *current redistribution*) of a State or Territory.
- (2) The projection time is the end of the period of 3 years and 6 months after the starting time for the projection, unless the Electoral Commission determines an earlier time under subsection (3) of this section.
- (3) If the Electoral Commission is of the opinion that a further redistribution of the State or Territory will or may be required, as a result of a determination under section 48, sooner than 7 years after the starting time for the projection, the Electoral Commission may determine that the projection time will be a time that is half-way between:
 - (a) the starting time for the projection; and
 - (b) the time when, in the opinion of the Electoral Commission, the further redistribution will or may be required.
- (4) A determination under subsection (3) must be published in the *Gazette* not later than the time when a notice is published in the

Gazette under subsection 64(1) in relation to the current redistribution.

(5) In this section:

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

13 Section 64

Repeal the section, substitute:

64 Suggestions and comments relating to redistribution

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

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

14 Subsection 65(2)

Omit “The quota of electors”, substitute “As soon as practicable after the redistribution commences, the quota of electors”.

15 Subsection 65(2)

Omit “at the expiration of the period of 14 days referred to in paragraph 64(1)(b)”, substitute “at the end of the day on which the redistribution commenced”.

16 Paragraph 66(3)(a)

Omit “3 years and 6 months after the State or Territory had been redistributed”, substitute “at the projection time determined under section 63A”.

17 Paragraph 66(3)(a)

Omit “98%”, substitute “96.5%”.

18 Paragraph 66(3)(a)

Omit “102%”, substitute “103.5%”.

19 After subsection 66(3)

Insert:

- (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).

20 Paragraph 68(1)(c)

After “*Gazette*”, insert “on a Friday”.

21 Subsection 68(2)

Repeal the subsection, substitute:

- (2) A notice published under paragraph (1)(c) or (d) must include a statement:

- (a) inviting written objections against the proposed redistribution to be lodged with the Electoral Commission before 6 pm on the 4th Friday after publication of the notice in the *Gazette* under paragraph (1)(c); and
- (b) inviting written comments on objections lodged under subsection 69(1) to be lodged with the Electoral Commission before 6 pm on the 6th Friday after publication of the notice in the *Gazette*.

22 Section 69

Omit “within the period of 28 days after the publication in the *Gazette* of the notice referred to in paragraph 68(1)(c)”, substitute “within the period allowed under paragraph 68(2)(a)”.

23 At the end of section 69

Add:

- (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—the office of the Australian Electoral Officer for the State; and
 - (b) in the case of a redistribution of the Australian Capital Territory—the office of the senior Divisional Returning Officer for the Territory.

24 Paragraph 70(4)(a)

Repeal the paragraph, substitute:

- (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;

25 Subsection 72(1)

Omit “all of the initial objections and any further objections”, substitute “all initial objections, initial comments and further objections”.

26 Subsection 72(2)

Omit “section 69”, substitute “subsection 69(3)”.

27 Subsection 72(6)

Omit all the words after “augmented Electoral Commission”, substitute “by any person or organisation”.

28 Subparagraph 72(12)(d)(i)

Omit “a person who, or an organisation that, was entitled to make submissions under subsection (6)”, substitute “any person or organisation”.

29 Paragraph 72(13)(a)

Omit “a person who, or an organisation that, was entitled to make submissions under subsection (6)”, substitute “any person or organisation”.

30 Subsection 72(14)

Insert:

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

31 Paragraph 73(4)(a)

Omit “3 years and 6 months after the making of the determination”, substitute “at the projection time determined under section 63A”.

32 Paragraph 73(4)(a)

Omit “98%”, substitute “96.5%”.

33 Paragraph 73(4)(a)

Omit “102%”, substitute “103.5%”.

34 After subsection 73(4)

Insert:

- (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).

35 Paragraph 75(1)(e)

Repeal the paragraph, substitute:

- (e) the objections and comments lodged with the Electoral Commission under section 69;

36 Paragraph 76(16A)(c)

Omit “section 61”, substitute “section 60”.

37 Subsection 85(2)

After “94,”, insert “94A,”.

38 After subsection 91(9)

Insert:

- (9A) A tape or disk containing information that discloses particulars of the sex of electors may be provided by the Electoral Commission to:
- (a) a person or organisation that conducts medical research; or
 - (b) a person or organisation that provides a health screening program; or
 - (c) a member of the House of Representatives or a Senator; or
 - (d) a registered political party.

(9B) If an arrangement under section 84 allows information to be provided to an electoral authority of a State or Territory, the Electoral Commission may also provide that electoral authority with information that discloses particulars of the sex or dates of birth of electors who are enrolled in another State or Territory. Information provided under this subsection may be provided:

- (a) on tape or disk; or
- (b) by any other means.

39 Subsection 91A(1)

Omit “or (5A)”, substitute “, (5A), (9A) or (9B)”.

40 After subsection 91A(1)

Insert:

(1AA) If information has been provided under paragraph 91(9B)(b), a person must not use the information except for a purpose that is a permitted purpose in relation to the person or organisation to which the information was provided.

Penalty: 10 penalty units.

41 After subsection 91A(2A)

Insert:

(2B) For information provided under subsection 91(9B), 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.

42 Subsection 91B(1)

Omit “that the information has been obtained by means of a tape or disk provided under section 91.”, substitute:

that:

- (a) the information has been obtained under paragraph 91(9B)(b); or

- (b) the information has been obtained by means of a tape or disk provided under section 91.

43 Paragraph 94(1)(c)

Omit “3”, substitute “6”.

44 Paragraphs 94(5)(b) and (c)

Omit “3”, substitute “6”.

45 Subsection 94(7)

Omit “3”, substitute “6”.

46 Paragraph 94(8)(a)

Omit “3”, substitute “6”.

47 Paragraph 94(13)(e)

Omit “3”, substitute “6”.

48 After section 94

Insert:

94A Enrolment from outside Australia

- (1) A person may apply to the Australian Electoral Officer for a State for enrolment for a Subdivision in that State if, at the time of making the application:
- (a) the person has ceased to reside in Australia for reasons relating to the person’s career or employment or for reasons relating to the career or employment of the person’s spouse; 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 in a Subdivision of a Division, and had done so for at least a month; and
 - (d) the person intends to resume residing in Australia not later than 6 years after he or she ceased to reside in Australia.
- (2) The application:
-

- (a) must be in writing; and
 - (b) must be made within 2 years of the day on which the person ceased to reside in Australia.
- (3) The Australian Electoral Officer must cause the person's name to be added to the Roll:
- (a) for the Subdivision for which the person last had an entitlement to be enrolled; or
 - (b) if the person has never had such an entitlement, for a Subdivision for which any of the person's next of kin is enrolled; or
 - (c) if neither paragraph (a) nor(b) applies, for the Subdivision in which the person was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the person has closest connection.
- (4) If:
- (a) the application was received by an Australian Electoral Officer after 8 pm on the day of the close of the Rolls for an election to be held in a Division; and
 - (b) the application relates to a Subdivision of that Division;
- the person's name must not be added to the Roll for the Subdivision until after the close of the poll for that election.
- (5) The Australian Electoral Officer must notify the person in writing:
- (a) of a decision to grant or refuse the application; or
 - (b) of the Australian Electoral Officer's opinion that the application cannot be proceeded with because of subsection (4).
- (6) If the application is granted, the Australian Electoral Officer must forward the application to the relevant Divisional Returning Officer, who must treat the application as if it were a valid application under subsection 94(1) by the person to be treated as an eligible overseas elector.

49 Paragraph 95(1)(f)

Omit "3", substitute "6".

50 Paragraphs 95(6)(a) and (b)

Omit “3”, substitute “6”.

51 Subsection 95(7)

Omit “3”, substitute “6”.

52 Paragraph 95(8)(a)

Omit “3”, substitute “6”.

53 Paragraph 95(13)(e)

Omit “3”, substitute “6”.

54 Subsection 95AA(1) (paragraph (c) of the definition of *qualified Norfolk Islander*)

After “94”, insert “, 94A”.

55 Subsection 99(3)

After “94,”, insert “94A,”.

56 Subsection 101(1)

After “94,”, insert “94A,”.

57 Subsection 102(3)

Omit “subparagraph (1)(b)(v) or”

58 Subsection 113(1) (definition of *private objection*)

After “114(1)”, insert “or (1A)”.

59 Subsection 114(1)

After “ground”, insert “, other than the ground specified in paragraph 93(8)(a),”.

60 After subsection 114(1)

Insert:

- (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.

61 Subsection 115(2)

Repeal the subsection, substitute:

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

62 Subsection 118(5)

Omit “issue of the writ”, substitute “close of the Rolls”.

63 Subsection 118(8)

After “private objection”, insert “under subsection 114(1)”.

64 Paragraph 121(1)(a)

After “subsection”, insert “94A(1) or”.

65 After section 134

Insert:

134A Objection to continued use of name

- (1) If:
- (a) the Commission is satisfied that the name of a registered political party (the *parent party*) is the same as, or relevantly similar to, the name of another registered political party (the *second party*) that was registered under section 126 later than the parent party; and
 - (b) the registered officer of the parent party objects in writing to the continued use of the name by the second party; and
 - (c) the Commission is satisfied that the parties are not related at the time of the objection;
- the Commission must:
- (d) uphold the objection; and

- (e) notify the registered officer of the second party, at the address specified in the Register, that the second party will be deregistered under section 137 if:
 - (i) it does not make an application under section 134 for a change of name within 1 month of the date of the notice; or
 - (ii) it makes such an application, but the application is refused.
- (2) For the purposes of paragraph (1)(a), the name of a party is *relevantly similar* to the name of another party if, in the opinion of the Commission, the name so nearly resembles the name of the other party that it is likely to be confused with or mistaken for that name.
- (3) In this section:

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

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

66 Subsections 135(1) and (3)

Omit “de-registered” (wherever occurring), substitute “deregistered”.

Note: The heading to section 135 is altered by omitting “**de-registration**” and substituting “**deregistration**”.

67 Subsection 135(3)

Omit “de-registration”, substitute “deregistration”.

68 Subsection 136(2)

Omit “de-registration”, substitute “deregistration”.

69 Subsections 136(2) and (3)

Omit “de-registered” (wherever occurring), substitute “deregistered”.

70 At the end of paragraphs 137(1)(a) and (c)

Add “or”.

71 After paragraph 137(1)(c)

Insert:

- (ca) an objection against the continued use of a name (within the meaning of section 134A) by a political party so registered has been upheld under section 134A, but an application to change the party's name:
 - (i) was not made under section 134 within one month of the upholding of the objection; or
 - (ii) was so made within one month of the upholding of the objection, but was later refused;

72 Paragraphs 137(1)(d) and (e)

Omit "de-registering" (wherever occurring), substitute "deregistering".

Note: The heading to section 137 is altered by omitting "**De-registration**" and substituting "**Deregistration**".

73 Section 137

Omit "de-registered" (wherever occurring), substitute "deregistered".

74 Section 137

Omit "de-register" (wherever occurring), substitute "deregister".

75 Section 137

Omit "de-registration" (wherever occurring), substitute "deregistration".

76 Section 138

Omit "de-registered", substitute "deregistered".

Note: The heading to section 138 is replaced by the heading "**Deregistration**".

77 Paragraph 140(1)(c)

Omit "de-registration", substitute "deregistration".

78 Subsection 141(1) (at the end of paragraphs (a), (b) and (c) of the definition of *reviewable decision*)

Insert "or".

79 Subsection 141(1) (after paragraph (c) of the definition of *reviewable decision*)

Insert:

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

80 Subsection 141(1) (paragraph (e) of the definition of *reviewable decision*)

Omit “de-register”, substitute “deregister”.

81 Paragraph 153(2)(b)

Repeal the paragraph, substitute:

- (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;

82 Paragraph 154(4)(b)

Repeal the paragraph, substitute:

- (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;

83 Subsection 156(1)

Omit “11”, substitute “10”.

84 Subsection 156(1)

Omit “28”, substitute “27”.

85 Section 157

Omit “22”, substitute “23”.

86 Section 157

Omit “30”, substitute “31”.

87 Subparagraph 166(1)(b)(i)

Omit “6”, substitute “50”.

88 Paragraph 167(4)(b)

Omit “deposited; and”, substitute “deposited.”.

89 Paragraph 167(4)(c)

Repeal the paragraph.

90 Paragraph 170(3)(a)

Omit “\$500”, substitute “\$700”.

91 Paragraph 170(3)(b)

Omit “\$250”, substitute “\$350”.

92 At the end of section 175

Add:

- (2) The *declaration time* for an election is 12 noon on the day after the day on which nominations for the election close.

93 Subsection 176(1)

Omit “hour of nomination”, substitute “declaration time”.

94 Subsection 176(1)

After “place of nomination,”, insert “or at the declaration place,”.

95 Subsection 176(2)

Omit “hour of nomination”, substitute “declaration time”.

96 At the end of section 176

Add:

- (4) In this section:

declaration place, for an election, means a place determined by the Australian Electoral Officer for the relevant State or Territory.

97 After section 184A

Insert:

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.

98 Subsection 186(2) (paragraph (a) of the definition of *postal voting papers*)

Repeal the paragraph, substitute:

- (a) a postal vote certificate; and

99 Subsection 186(2) (at the end of the definition of *postal voting papers*)

Add:

- ; and (c) an envelope addressed to the DRO.

100 Subsection 188(1)

After “post”, insert “or arrange to be delivered”.

101 Paragraph 188(1)(a)

Repeal the paragraph, substitute:

- (a) a postal vote certificate; and

102 At the end of subsection 188(1)

Add:

- ; and (c) an envelope addressed:

- (i) if the application is provided to an Assistant Returning Officer outside Australia—to the Assistant Returning Officer or to the DRO for the Division for which the applicant declares that he or she is enrolled; or
- (ii) otherwise—to the DRO for the Division for which the applicant declares that he or she is enrolled.

103 Subsection 189(4)

Repeal the subsection, substitute:

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

104 Paragraphs 193(2)(a), (c), (d) and (e)

Omit “another part of the Queen’s dominions”, substitute “a Commonwealth country”.

105 At the end of section 193

Add:

- (4) In this section:

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

106 Subsection 200D(4)

Omit “close”, substitute “are declared under subsection 176(1)”.

107 Subsection 200D(5)

Omit “close”, substitute “are declared under subsection 176(2)”.

108 Section 208

Repeal the section, substitute:

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.
- (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.

109 Subsection 209(3)

Repeal the subsection, substitute:

- (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.

110 Section 209A

Repeal the section, substitute:

209A Official mark

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

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

111 Subsection 211(1)

Omit "24", substitute "48".

112 Subsection 211A(4)

Omit "24", substitute "48".

113 Paragraph 213(1)(a)

Omit “immediately after the close of nominations for the election”, substitute “at the declaration time for the election”.

114 Paragraph 213(1)(a)

Omit “place of nomination”, substitute “place where nominations for the election were publicly produced”.

115 At the end of section 213

Add:

(6) In this section:

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

116 Subsection 225(1)

Repeal the subsection, substitute:

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

117 Subsection 226(2A)

Repeal the subsection, substitute:

- (2A) A presiding officer or electoral visitor who visits a patient under section 224 or 225 must:
- (a) advise the patient that literature relating to the election supplied by candidates or political parties is available; and
 - (b) give to the patient any such literature that the patient requests.

The literature may include how-to-vote cards.

118 Paragraph 226(4)(a)

Omit “219”, substitute “348”.

119 Subsection 226(5)

Repeal the subsection, substitute:

- (5) Subject to subsection (2A), subsection 340(1) applies in relation to a hospital that is a polling place as if the references in that subsection to a polling booth were references to the hospital.
- (5A) Subject to subsection (2A), subsection 340(1) applies in relation to a special hospital as if:
 - (a) the reference in that subsection to polling day and to all days to which the polling is adjourned were a reference to the period starting 5 days before polling day and ending:
 - (i) at the end of polling day; or
 - (ii) if the poll is adjourned, at the end of the last day to which polling is adjourned; and
 - (b) the references in that subsection to a polling booth were references to the special hospital.

120 Paragraph 228(5)(c)

Omit all the words after “his or her”, substitute “Division that, in accordance with subsection (5A), are received within sufficient time to be taken into account in the scrutiny.”.

121 After subsection 228(5)

Insert:

- (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:
 - (a) if it is received by the DRO within 13 days after the close of the poll; or
 - (b) if:
 - (i) it is received by the DRO from another DRO or from a person referred to in subsection (7) or (9) within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; and
 - (ii) it bears evidence that it was received, prior to the close of the poll, by that other DRO, by a pre-poll voting officer, by an Assistant Returning Officer at a place outside Australia or by a presiding officer.

122 Subsection 229(1)

Omit “him”, substitute “the presiding officer”.

123 Subsection 229(4)

After “certified list” (wherever occurring), insert “of voters”.

124 After section 234

Insert:

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 a polling official; and
 - (b) must fold the ballot-paper so as to conceal the names of the candidates, and hand the ballot-paper to the polling official.
- (4) The polling official must ensure that the folded ballot-paper is immediately returned to the polling place and put in the ballot-box in the presence of any scrutineers who were present when the voter voted.
- (5) If the voter also satisfies the presiding officer that he or she is unable to vote without assistance, the presiding officer may, with the voter’s consent, allow a polling official to mark and fold the voter’s ballot-paper.

- (6) The voter must indicate to the polling official how the voter wishes the polling official to mark the voter's ballot-paper.
- (7) Without limiting the methods by which the voter may indicate, for the purposes of subsection (6), how the voter wishes to vote, the voter may present to the polling official a statement in writing (which may be, or include, a how-to-vote card) specifying how the ballot-paper is to be marked.
- (8) If subsection (5) applies to an absent or provisional voter, the polling official must:
 - (a) fill in the declaration referred to in subsection 222(1) or 235(2) with the required particulars as requested by the voter; and
 - (b) read the declaration to the voter; and
 - (c) complete and attest the declaration; and
 - (d) cause the declaration to be witnessed by a scrutineer, or, if no scrutineer is present, by a polling official.

125 At the end of section 240

Add:

- (2) The numbers referred to in paragraph (1)(b) are to be consecutive numbers, without the repetition of any number.

126 Subsection 245(3)

Repeal the subsection, substitute:

- (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).

127 Subsection 249(4)

Repeal the subsection, substitute:

- (4) Upon the receipt of a request made by an elector under subsection (1), the DRO must annotate the Roll for the Subdivision for which the elector is enrolled so as to indicate that the elector is an Antarctic elector.

128 Subsection 265(2)

Omit “or DRO”, substitute “, DRO or Australian Electoral Officer”.

129 Paragraph 268(1)(c)

Omit “subject to subsection 270(2),”.

130 Subsection 270(2)

Repeal the subsection.

131 Subsection 270(3)

Omit “or (2),”.

132 Subsection 273(1)

Repeal the subsection, substitute:

- (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.

133 After section 273

Insert:

273A Computerised scrutiny of votes in Senate election

Determination that computerised scrutiny applies

- (1) The scrutiny of votes in a Senate election for a particular State or Territory may be conducted by complying with the requirements set out in this section.

Processing of ballot-papers by Assistant Returning Officers

- (2) Each Assistant Returning Officer must deal with ballot-boxes and ballot-papers in the manner required by subsection 273(2).

Processing of ballot-papers by Divisional Returning Officers

- (3) Each Divisional Returning Officer must deal as follows with all ballot-papers received by him or her:
- (a) reject any of the wholly above-the-line ballot-papers that are informal and arrange the unrejected ones into parcels by placing under the name of each candidate all the ballot-papers on which a first preference is indicated for that candidate;
 - (b) reject any informal ballot-papers that have no mark at all on them, and any other ballot-papers that are obviously informal, and place the rejected ballot-papers in one or more parcels;
 - (c) place in a parcel or parcels all the ballot-papers received by the Divisional Returning Officer, other than:
 - (i) the unrejected wholly above-the-line ballot-papers; and
 - (ii) the ballot-papers rejected as informal;
 - (d) seal up all the parcels and endorse on each parcel a description of the contents, and permit any scrutineers present, if they so desire, to countersign the endorsement;
 - (e) as soon as possible, transmit the parcel or parcels referred to in paragraph (c) to the Australian Electoral Officer;
 - (f) transmit the following information to the Australian Electoral Officer:
 - (i) the number of first preference votes given for each candidate on unrejected wholly above-the-line ballot-papers;
 - (ii) the total number of ballot-papers rejected as informal.

Processing of ballot-papers received by Australian Electoral Officer

- (4) The Australian Electoral Officer must scrutinise all the ballot-papers received by him or her, and must reject the informal ones.

Determining election result

- (5) The Australian Electoral Officer must then ascertain the successful candidates, and their order of election, by using a computer to apply the principles set out in subsections 273(8) to (32) (inclusive). A tie at any step in the process is to be resolved in the same way as a tie in the corresponding step is resolved under section 273.

Rights of scrutineers

- (6) For proceedings under subsections (4) and (5) of this section, the requirements of paragraph 265(1)(c) are met if the scrutineers have access to:
- (a) a record of the preferences on the ballot-papers that have been received by the Australian Electoral Officer and whose details have been stored in the computer (including informal ballot-papers, and formal ballot-papers that are not sequentially numbered); and
 - (b) a record of the ballot-papers that are notionally transferred, or exhausted, at each count; and
 - (c) a record of the progress of the count of the votes, at each count.

Modified rules for re-count

- (7) If ballot-papers that are to be re-counted under section 278 are in the possession of the Australian Electoral Officer immediately before the re-count begins, the Australian Electoral Officer must deal with those ballot-papers as follows:
- (a) open the parcels (for those ballot-papers that are in parcels) in the presence of an officer of the Australian Public Service and of any scrutineer who attends;
 - (b) scrutinise all the ballot-papers, and make a decision on each one either to admit it or reject it;
 - (c) after scrutinising all the ballot-papers, restore the ones that were in parcels to their original covers, and place the remaining ballot-papers in a parcel or parcels;
 - (d) seal up all the parcels and write on each cover:

- (i) the number of ballot-papers contained in the cover; and
 - (ii) a statement that all the ballot-papers have been the subject of decisions by the Australian Electoral Officer;
 - (e) sign the cover of each parcel and permit other persons who were present when the ballot-papers were scrutinised to add their signatures.
- (8) If:
- (a) a re-calculation by computer occurs following a re-count; and
 - (b) during the re-calculation, the same tie that occurred on the previous calculation by computer occurs again;
- for the purposes of the re-calculation that tie is to be resolved in favour of the candidate in whose favour it was resolved during the previous calculation.
- (9) If a re-count is required under section 282, the Australian Electoral Officer must conduct the re-count by using a computer to apply the principles set out in subsections 273(8) to (30) (inclusive), modified in the way set out in section 282.

Definitions

- (10) In this section:

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

wholly above-the-line ballot-paper means a ballot-paper that:

- (a) has one or more numbers, ticks, crosses or other marks above the dividing line; and
- (b) has no marks on the ballot-paper below the dividing line.

273B Combination of manual and computer scrutiny permitted

A scrutiny of votes for a Senate election may be conducted partly under section 273 and partly under section 273A, as long as the requirements of at least one of those sections are met in respect of the scrutiny for that election.

134 Subsection 274(2A)

Repeal the subsection, substitute:

- (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.

135 After subsection 274(2B)

Insert:

- (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.

136 Subsection 274(7)

Omit “The;”, substitute “The”.

137 After paragraph 274(7)(c)

Insert:

- (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

138 Paragraph 274(7)(d)

Omit “shall proceed”, substitute “if, after applying subsection (7AA), subparagraph (7AA)(b)(i) applies, shall proceed”.

139 Subparagraph 274(7)(d)(iii)

Omit “the ascertainment of the first preference votes given for each candidate or”.

140 After section 274(7)

Insert:

(7AA) If, after ascertaining the total number of first preference votes for each candidate under paragraph (7)(ca), no candidate has an absolute majority of votes, the Divisional Returning Officer must take the following steps:

- (a) rank the candidates consecutively in order of their standing in the poll as set out in subsection (7AB);
- (b) then:
 - (i) if the total number of first preference votes for all the candidates, other than the first and second ranked candidates, is equal to or more than the number of first preference votes for the second ranked candidate—proceed with the scrutiny as set out in paragraph (7)(d); or
 - (ii) if the total number of first preference votes for all the candidates, other than the first and second ranked candidates, is less than the number of first preference votes for the second ranked candidate—exclude all the candidates other than the first and second ranked candidates;
- (c) if subparagraph (b)(ii) applies—count each ballot-paper of an excluded candidate to whichever of the first or second ranked candidates is earlier in the order of preference expressed on the ballot-paper.

(7AB) The ranking of candidates under paragraph (7AA)(a) is to be done as follows:

- (a) the candidate with the highest number of first preference votes is to be the first ranked candidate, the candidate with the second-highest number of votes is to be the second ranked candidate, and so on;
- (b) if 2 or more candidates have an equal number of first preference votes, the ranking as between those candidates is to be decided, by lot, by the Divisional Returning Officer.

(7AC) If, following the exclusion of candidates under subparagraph (7AA)(b)(ii) and the count of ballot-papers under paragraph (7AA)(c), a candidate has an absolute majority of votes, that candidate is elected.

141 Subsection 274(8)

Repeal the subsection.

142 Subsection 274(9)

Repeal the subsection, substitute:

- (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.

143 Subsection 274(11)

Repeal the subsection.

144 Subsection 274(13)

Repeal the subsection.

145 At the end of section 276

Add:

- (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).

146 Paragraph 283(1)(a)

After “place of nomination”, insert “, or at another place determined by the Australian Electoral Officer for the State or Territory concerned,”.

147 Subsection 287(1) (definition of *financial controller*)

Omit “associated”.

148 Subsection 309(1)

Repeal the subsection, substitute:

- (1) This section does not apply to electoral expenditure incurred by or with the authority of a registered political party or a State branch of a registered political party.

149 Section 314AB

Omit “, in an approved form, setting out”.

150 Paragraphs 314AB(a), (b) and (c)

Repeal the paragraphs, substitute:

- (a) that is in an approved form; or
- (b) that is constituted by the audited annual accounts of the registered political party or the State branch, in a form that is approved by the Electoral Commission.

151 At the end of section 314AB

Add:

- (2) A return under paragraph (1)(a) or (1)(b) must set out the following:

- (a) the total amount received by, or on behalf of, the party during the financial year, together with the details required by section 314AC;
- (b) the total amount paid by, or on behalf of, the party during the financial year;
- (c) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the party, together with the details required by section 314AE.

152 Section 314AD

Repeal the section.

153 After subsection 316(3)

Insert:

(3A) If:

- (a) an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things, or giving evidence, relating to whether an entity is, or was at a particular time, an associated entity; and
- (b) the person is, or has at any time been, the financial controller or an officer of the entity;

the authorised officer may, by notice served personally or by post on the person, require the person:

- (c) to produce, within the period and in the manner specified in the notice, such documents or other things as are specified in the notice; or
- (d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, whether orally or in writing, and to produce the documents or other things specified in the notice.

The notice must not require the person to produce documents, or to appear, until after the end of the period of 14 days beginning on the day on which the notice was received, and must set out the person's right to request a review under subsection (3B).

(3B) A person who is given a notice under subsection (3A) may request that the Electoral Commission review the decision to issue the notice. The request must be:

- (a) in writing; and
 - (b) given to the Electoral Commission during the period of 14 days beginning on the day on which the notice was received.
- (3C) The Electoral Commission must:
- (a) review the decision as soon as practicable after receiving a request under subsection (3B); and
 - (b) affirm, vary or set aside the decision; and
 - (c) notify the person in writing of its decision on the review.
- (3D) If a person requests a review of a decision, the person is not taken to have refused or failed to comply with the notice to which the review relates at any time before the Electoral Commission has notified the person of its decision on the review.

154 Subsections 316(4), (5) and (6)

Omit “or (3)”, substitute “, (3) or (3A)”.

155 Subsection 328(1)

After “pamphlet” (wherever occurring), insert “, poster”.

156 Paragraph 328(3)(a)

Omit “a car sticker,”.

157 Paragraph 328(3)(b)

Repeal the paragraph, substitute:

- (b) business or visiting cards that promote the candidacy of any person in an election for the Parliament; or
- (c) letters and cards:
 - (i) that bear the name and address (not being a post office box) of the sender; and
 - (ii) that do not contain a representation or purported representation of a ballot-paper for use in an election for the Parliament; or
- (d) an article included in a prescribed class of articles.

158 Subsection 328(5)

Repeal the subsection, substitute:

(5) In this section:

electoral advertisement, handbill, pamphlet, poster or notice

means an advertisement, handbill, pamphlet, poster or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

159 Subsection 329(3)

Repeal the subsection.

160 Subsection 329(4)

Omit “or (3)”.

161 Section 329A

Repeal the section.

162 Subsection 331(1)

Repeal the subsection, substitute:

- (1) Subject to subsection (2), where an article or a paragraph in a journal contains electoral matter (whether or not the article was inserted for payment) the proprietor of the journal must cause the word “advertisement” (in letters not smaller than 10 point) to be printed as a headline to the article or paragraph:
- (a) if the article or paragraph takes up one page or part of one page—on that page; or
 - (b) if the article or paragraph takes up the whole or part of each of 2 opposing pages—on each page.

Penalty: 5 penalty units.

163 Subsection 331(2)

Omit “paragraphs (1)(a) and (b)”, substitute “subsection (1)”.

164 Subsection 331(2)

Omit “newspaper” (wherever occurring), substitute “journal”.

165 At the end of section 331

Add:

(3) In this section:

journal means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

166 Subsection 332(1)

Omit “the author’s name and address, or the authors’ names and addresses, as the case may be, are”, substitute “each author’s name and address is”.

167 At the end of subsection 332(2)

Add:

; or (c) a letter to the editor if each author’s name and the suburb or locality where the author lives are set out at the end of the letter.

Example 1: If the author lives in the Adelaide suburb of Maylands—“Maylands” must be set out at the end of a letter.

Example 2: If the author lives in the country town of Kingston in South Australia—“Kingston” must be set out at the end of a letter.

Example 3: If the author lives on a rural property in the Blackford area in South Australia—“Blackford” must be set out at the end of a letter.

168 At the end of paragraphs 339(1)(a), (b), (c), (d), (e), (f), (g) and (h)

Add “or”.

169 Paragraph 339(1)(j)

Repeal the paragraph.

170 After subsection 339(1)

Insert:

(1A) A person is guilty of an offence if the person votes more than once in the same election.

Penalty: 10 penalty units.

(1B) An offence against subsection (1A) is an offence of strict liability.

171 Subsection 344(2)

After “prescribed form”, insert “or approved form”.

172 Subsection 354(1)

After “refer it for trial”, insert “to the Federal Court of Australia or”.

173 Subsection 354(2)

After “referred for trial”, insert “to the Federal Court of Australia or”.

174 Subsection 354(3)

Repeal the subsection, substitute:

- (3) The High Court may refer part of a petition in respect of an election or return, being a part that consists of a question or questions of fact, to either of the following courts:
 - (a) the Federal Court of Australia;
 - (b) the Supreme Court of the State or Territory in which the election was held or the return made.
- (4) Subject to any directions by the High Court, if the High Court refers part of a petition to a court (the *other court*) under subsection (3):
 - (a) the other court has jurisdiction to deal with the part of the petition that has been referred; and
 - (b) the other court has, in respect of the petition, the powers and functions of the Court of Disputed Returns, other than the powers referred to in paragraphs 360(1)(v), (vi), (vii) and (viii) and in section 379; and
 - (c) subject to any directions by the High Court, further proceedings in relation to the part of the petition are as directed by the other court.
- (5) The High Court may have regard to the findings of the other court in dealing with the petition and may in its discretion receive further evidence on questions of fact.

- (6) The jurisdiction conferred by this section may be exercised by a single Justice or Judge.

175 Subsection 362(4)

Omit “*Broadcasting Act 1942*”, substitute “*Broadcasting Services Act 1992*”.

176 After section 363

Insert:

363A Court must make its decision quickly

The Court of Disputed Returns must make its decision on a petition as quickly as is reasonable in the circumstances.

177 Section 393

Repeal the section.

178 Subsection 393A(1)

Omit “has the same meaning as in section 393.”, substitute:
includes:

- (a) ballot-papers; and
- (b) certified lists of voters; and
- (c) certified copies of the Roll; and
- (d) declarations; and
- (e) postal vote certificates; and
- (f) pre-poll vote certificates; and
- (g) lists prepared under section 245.

179 Subparagraph 10(b) of Schedule 3

Before “12”, insert “11A or”.

180 Subparagraph 11(b) of Schedule 3

Before “12”, insert “11A or”.

181 After paragraph 11 of Schedule 3

Insert:

11A. This paragraph applies to an envelope if the DRO is satisfied:

- (a) that the elector who signed the certificate or declaration on the envelope is not enrolled for the Division; and
- (b) after making enquiry:
 - (i) that the elector was, at the time of voting, entitled to be enrolled for a Subdivision of the Division; and
 - (ii) that, if the Division had not been divided into Subdivisions, the omission of the elector's name from the Roll for the Division would have been due to an error made by an officer, or to a mistake of fact.

11B. Subparagraph 11A(b) does not apply if:

- (a) more than one election (excluding the election to which the scrutiny relates) has been held since the omission from the Roll; or
- (b) where there has been a redistribution of the State or Territory that includes the Division since the last election but one before the election to which the scrutiny relates, the omission from the Roll was made before the last such redistribution.

182 Paragraph 14 of Schedule 3

Omit "paragraph 13", substitute "paragraphs 11B and 13".

Schedule 2—Amendment of the Referendum (Machinery Provisions) Act 1984

1 Subsection 3(1) (subparagraphs (b)(ii), (iii) and (iv) of the definition of *authorized witness*)

Omit “another part of the Queen’s dominions”, substitute “a Commonwealth country”.

2 Subsection 3(1) (subparagraph (b)(v) of the definition of *authorized witness*)

Repeal the subparagraph, substitute:

(v) an Australian citizen.

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

3 Subsection 3(1)

Insert:

certified list of voters, in respect of a Division, means a list prepared and certified under subsection 22(1).

4 Paragraph 4(2)(b)

Omit “issue of the writ”, substitute “close of the Rolls”.

5 Section 22

Repeal the section, substitute:

22 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 voting day.
- (3) The Electoral Commissioner must arrange for the delivery to the presiding officer at each polling place, before the start of voting, of a copy of the certified list of voters for the Division for which the polling place is appointed.

6 Paragraph 25(1)(b)

Repeal the paragraph, substitute:

- (b) have a buff background colour.

7 Section 25A

Repeal the section, substitute:

25A Official mark

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

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

8 Subsection 30(1)

Omit “him”, substitute “the presiding officer”.

9 Subsection 30(4)

After “certified list” (wherever occurring), insert “of voters”.

10 After section 36

Insert:

36A 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 a polling official; and
 - (b) must fold the ballot-paper so as to conceal the names of the candidates, and hand the ballot-paper to the polling official.
- (4) The polling official must ensure that the folded ballot-paper is immediately returned to the polling place and put in the ballot-box in the presence of any scrutineers who were present when the voter voted.
- (5) If the voter also satisfies the presiding officer that he or she is unable to vote without assistance, the presiding officer may, with the voter's consent, allow a polling official to mark and fold the voter's ballot-paper.
- (6) The voter must indicate to the polling official how the voter wishes the polling official to mark the voter's ballot-paper.
- (7) Without limiting the methods by which the voter may indicate, for the purposes of subsection (6), how the voter wishes to vote, the voter may present to the polling official a statement in writing (which may be, or include, a how-to-vote card) specifying how the ballot-paper is to be marked.
- (8) If subsection (5) applies to an absent or provisional voter, the polling official must:
 - (a) fill in the declaration referred to in subsection 37(2) or 46(1) with the required particulars as requested by the voter; and
 - (b) read the declaration to the voter; and
 - (c) complete and attest the declaration; and
 - (d) cause the declaration to be witnessed by a scrutineer, or, if no scrutineer is present, by a polling official.

11 Paragraph 40(b)

Omit “is enclosed;”, substitute “is enclosed.”.

12 Subsection 45(3)

Repeal the subsection, substitute:

- (3) Subject to subsection (4), within the period of 3 months after the voting day at a referendum, 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).

13 Paragraph 46A(5)(c)

Omit all the words after “his or her”, substitute “Division that, in accordance with subsection (5A), are received within sufficient time to be taken into account in the scrutiny”.

14 After subsection 46A(5)

Insert:

- (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:
- (a) if it is received by the DRO within 13 days after the close of the poll; or
 - (b) if:
 - (i) it is received by the DRO from another DRO or from a person referred to in subsection (7) or (9) within 13 days after the close of the poll or such longer time as the Electoral Commissioner, before the end of that period, directs in writing; and
 - (ii) it bears evidence that it was received, prior to the close of the poll, by that other DRO, by a pre-poll voting officer, by an Assistant Returning Officer at a place outside Australia or by a presiding officer.

15 Subsection 49(1)

Repeal the subsection, substitute:

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

16 Subsection 49A(1)

Omit “person”, substitute “persons”.

17 Subsection 49A(6)

Omit “arrangments”, substitute “arrangements”.

18 Subsection 50(2A)

Repeal the subsection, substitute:

- (2A) A presiding officer or electoral visitor who visits a patient under section 48 or 49 must:
- (a) advise the patient that literature relating to the referendum supplied by political parties is available; and
 - (b) give to the patient any such literature that the patient requests.

The literature may include how-to-vote cards.

19 After section 55

Insert:

56 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.

20 Subsection 58(2) (paragraph (a) of the definition of *postal voting papers*)

Repeal the paragraph, substitute:

(a) a postal vote certificate; and

21 Subsection 58(2) (at the end of the definition of *postal voting papers*)

Add:

; and (c) an envelope addressed to the DRO.

22 Subsection 61(1)

After “post”, insert “or arrange to be delivered”.

23 Subsection 73B(4)

Omit “close”, substitute “are declared under subsection 176(2) of the *Commonwealth Electoral Act 1918*”.

24 Subsection 73B(5)

Omit “close”, substitute “are declared under subsection 176(1) of the *Commonwealth Electoral Act 1918*”.

25 Subsection 93(3)

Omit “or (2)(b)”.

26 Subsection 98(1)

Omit “to him”.

27 After section 107

Insert:

107AA Court must make decision quickly

The Court must make its decision on a petition as quickly as is reasonable in the circumstances.

28 Section 108A

Omit “*Broadcasting Act 1942*”, substitute “*Broadcasting Services Act 1992*”.

29 Heading to Part IX

Repeal the heading, substitute:

Part IX—Returns by broadcasters and publishers

30 Subsection 112(3)

Omit “him”, substitute “the publisher”.

31 Subsection 124(1)

Repeal the subsection, substitute:

- (1) Subject to subsection (2), where an article or a paragraph in a journal contains matter intended or calculated to affect the result of a referendum (whether or not the article was inserted for payment) the proprietor of the journal must cause the word “advertisement” (in letters not smaller than 10 point) to be printed as a headline to the article or paragraph:
- (a) if the article or paragraph takes up one page or part of one page—on that page; or
 - (b) if the article or paragraph takes up the whole or part of each of 2 opposing pages—on each page.

Penalty: 5 penalty units.

32 Subsection 124(2)

Omit all the words from and including “paragraphs (1)(a) and (b)” to and including “newspaper” (second occurring), substitute “subsection (1) that takes up the whole or part of each of 2 opposing pages of a journal:

- (a) is contained within:
 - (i) a broken or unbroken border; or
 - (ii) broken or unbroken lines extending across, or partly across, the top and bottom of the article or item; or
 - (iii) a broken or unbroken line extending along, or partly along, each side of the article or item; or
- (b) is printed so that to read one or more lines of the text of the article or item it is necessary to read both pages; the proprietor of the journal”.

33 At the end of section 124

Add:

(3) In this section:

journal means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

34 Subsection 125(1)

Omit “the author’s name and address, or the authors’ names and addresses, as the case may be, are”, substitute “each author’s name and address is”.

35 At the end of subsection 125(2)

Add:

; or (c) a letter to the editor if each author’s name and the suburb or locality where the author lives are set out at the end of the letter.

Example 1: If the author lives in the Adelaide suburb of Maylands—
“Maylands” must be set out at the end of a letter.

Example 2: If the author lives in the country town of Kingston in South Australia—“Kingston” must be set out at the end of a letter.

Example 3: If the author lives on a rural property in the Blackford area in South Australia—“Blackford” must be set out at the end of a letter.

36 At the end of paragraphs 130(1)(a), (b), (c), (d), (e), (f) and (g)

Add “or”.

37 Paragraph 130(1)(h)

Repeal the paragraph.

38 After subsection 130(1)

Insert:

(1A) A person is guilty of an offence if the person votes more than once in the same election.

Penalty: 10 penalty units.

(1B) An offence against subsection (1A) is an offence of strict liability.

39 Section 137

Repeal the section.

40 Section 142

Repeal the section.

41 Subsection 142A(1)

Omit “has the same meaning as in section 142.”, substitute:
includes:

- (a) ballot-papers; and
- (b) certified lists of voters; and
- (c) certified copies of the Roll; and
- (d) declarations; and
- (e) postal vote certificates; and
- (f) pre-poll vote certificates; and
- (g) lists prepared under section 45.

42 Clause 8 of Schedule 4

Omit “or a provisional vote ballot-paper”, substitute “, a provisional vote ballot-paper”.

43 Subparagraph 10(b) of Schedule 4

Before “11”, insert “10A or”.

44 After paragraph 10 of Schedule 4

Insert:

10A. This paragraph applies to an envelope if the DRO is satisfied:

- (a) that the elector who signed the certificate or declaration on the envelope is not enrolled for the Division; and
- (b) after making enquiry:
 - (i) that the elector was, at the time of voting, entitled to be enrolled for a Subdivision of the Division; and

- (ii) that, if the Division had not been divided into Subdivisions, the omission of the elector's name from the Roll for the Division would have been due to an error made by an officer, or to a mistake of fact.

10B. Subparagraph 10A(b) does not apply if:

- (a) more than one election (excluding the election to which the scrutiny relates) has been held since the omission from the Roll; or
- (b) where there has been a redistribution of the State or Territory that includes the Division since the last election but one before the election to which the scrutiny relates, the omission from the Roll was made before the last such redistribution.

45 Paragraph 13 of Schedule 4

Omit "paragraph 12", substitute "paragraphs 10B and 12".

*[Minister's second reading speech made in—
House of Representatives on 3 December 1998
Senate on 30 March 1998]*

(234/97)

