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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Commonwealth Electoral Amendment
(Stop the Lies) Bill 2021**

No. , 2021

(Ms Steggall)

**A Bill for an Act to amend the *Commonwealth
Electoral Act 1918*, and for related purposes**

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A Bill for an Act to amend the *Commonwealth Electoral Act 1918*, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Commonwealth Electoral Amendment (Stop the Lies) Act 2021*.

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
Provisions	Commencement	Date/Details
1. The whole of this Act	The 28th day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Commonwealth Electoral Act 1918

1 After Part XXA

Insert:

Part XXB—Misleading and deceptive political advertising

321J Definitions

In this Part:

election participant: see subsection 321K(3).

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

publish means communicate by any means, including by print, radio, television, internet or telephone.

321K Electoral matter that is misleading or deceptive etc.

Electoral matter that is misleading or deceptive etc.

- (1) A person must not print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, electoral matter if the electoral matter contains a statement in relation to a matter of fact (including an implied statement) that is:
 - (a) misleading or deceptive to a material extent; or
 - (b) likely to mislead or deceive to a material extent.

Example: Electoral matter that states that a candidate in an election made a statement that the candidate did not make.

Note: See also section 329 (Misleading or deceptive publications etc. in relation to the casting of a vote).

Impersonating or passing-off

- (2) Without limiting subsection (1), a person must not engage in conduct if:
- (a) the conduct is likely to cause another person to believe any of the following in relation to electoral matter that is printed, published or distributed:
 - (i) the electoral matter is printed, published or distributed by a particular election participant;
 - (ii) a particular election participant caused, permitted or authorised the electoral matter to be printed, published or distributed;
 - (iii) the electoral matter is authorised by a particular election participant; and
 - (b) that belief would be incorrect.

Example 1: Electoral matter that purports to have been published by the campaign of a candidate in an election but is actually published by someone opposed to the candidate.

Example 2: A pre-recorded telephone message that consists of a voice recording of someone impersonating a candidate in an election.

- (3) Each of the following is an *election participant*:
- (a) a political entity;
 - (b) a political campaigner (within the meaning of section 287);
 - (c) a member or official of the Electoral Commission (see section 6).

321L Complaints

Any person may make a written complaint to the Electoral Commissioner that another person has breached section 321K.

321M Powers of Electoral Commissioner

Electoral Commissioner may investigate possible breaches

- (1) The Electoral Commissioner may investigate (whether in response to a complaint made under section 321L or on the Electoral Commissioner's own initiative) a possible breach of section 321K

if the Commissioner is satisfied on reasonable grounds that the investigation would be in the public interest.

Electoral Commissioner may request person to end breaches

- (2) If the Electoral Commissioner is satisfied on reasonable grounds (whether or not following an investigation under subsection (1) of this section) that a person has breached section 321K, the Electoral Commissioner may:
- (a) ask the person not to print, publish or distribute the relevant electoral matter, or not to cause, permit or authorize the relevant electoral matter to be printed, published or distributed; or
 - (b) ask the person to publish, or cause to be published, a retraction or correction in specified terms and in a specified way; or
 - (c) publish a correction.

321N Powers of courts

- (1) On application by:
- (a) the Electoral Commissioner; or
 - (b) a person who has made a complaint under section 321L;
- a court of competent jurisdiction that is satisfied on reasonable grounds that a person has contravened section 321K may order the person:
- (c) not to print, publish or distribute the relevant electoral matter, or not to cause, permit or authorize the relevant electoral matter to be printed, published or distributed; or
 - (d) to publish, or cause to be published, a retraction or correction in specified terms and in a specified way.
- (2) The Electoral Commissioner must not make an application under paragraph (1)(a) in relation to a contravention of section 321K unless he or she has made a request under subsection 321M(2) in relation to the contravention.
- (3) Without limiting the powers of a court in dealing with an application made under paragraph (1)(b), the court may dismiss such an application if the application:

- (i) is frivolous, vexatious, misconceived or lacking in substance;
or
- (ii) has no reasonable prospects of success; or
- (iii) is otherwise an abuse of the process of the court.

321P Offence

- (1) A person commits an offence if:
 - (a) the person is subject to a requirement under section 321K;
and
 - (b) the person engages in conduct; and
 - (c) the person's conduct breaches the requirement.

Penalty: 50 penalty units.

- (2) If a person is found guilty of an offence against subsection (1) of this section, the court must take the person's response to any relevant request under subsection 321M(2) into account in deciding the penalty for the offence.
- (3) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (1) of this section.

2 Section 329 (at the end of the heading)

Add, "in relation to the casting of a vote".

3 After subsection 383(10)

Insert:

This section does not apply in relation to contraventions of Part XXB

- (10A) This section does not apply in relation to a contravention of, or an offence against, Part XXB (Misleading and deceptive political advertising).