

# **Electoral and Referendum Amendment Regulations 2004 (No. 1)**

## **2004 No. 299**

### **EXPLANATORY STATEMENT**

#### **STATUTORY RULES 2004 No. 299**

Issued by the authority of the Special Minister of State

Subject - *Commonwealth Electoral Act 1918*

*Electoral and Referendum Amendment Regulations 2004 (No. 1)*

Section 395 of the *Commonwealth Electoral Act 1918* (the Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to the Act. Section 90B of the Act defines the entities that can be provided information on the electoral roll. Section 91A of the Act specifies the permitted purposes for which electoral roll information may be used. Section 91B of the Act prohibits the inappropriate use of electoral roll information.

Subsection 91A(2A) of the Act specifies the permitted purposes for use of electoral roll information by persons and organisations other than Senators and Members of the House of Representatives, political parties or prescribed authorities. These include any purpose in connection with an election or referendum, monitoring the accuracy of information contained in a roll, and for a prescribed purpose.

The *Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004* (the Access Act) amended the Electoral Act to remove the electoral roll from sale in any format, clarify access provisions to the roll and extend end-use restrictions to all forms of the roll. In addition, prohibition of the commercial use of the roll was extended to all forms of the roll. The Access Act came into effect on 21 July 2004. Before the Access Act amended the Act, organisations were able to purchase the roll and use the information on the electoral roll to satisfy the identity verification requirements under the *Financial Transaction Reports Act 1988* (Financial Transaction Reports Act).

The purpose of the Regulations is to amend the *Electoral and Referendum Regulations 1940* to prescribe permitted purposes for organisations under the Financial Transaction Reports Act to use the information on the electoral roll for identity verification under the Financial Transaction Reports Act.

The Financial Transaction Reports Act requires cash dealers, including financial institutions, to verify the identity of signatories to accounts and thereby minimise the risk of accounts being used for criminal purposes. The standard verification procedure, known as the '100 point test', provides that signatories to accounts may have their identity verified using a range of identifying documentation such as an Australian passport or a driver's licence, each of which is assigned a value. One of the sources for identity verification is the electoral roll (worth 25 points). Given that the Access Act removed the electoral roll from sale, this has the potential to create difficulties for financial institutions to satisfy their obligations under the Financial Transaction Reports Act.

The Regulations provide that the use of the roll by persons or organisations for identity verification purposes under the Financial Transaction Reports Act is a permitted purpose for the use of roll information under the Act. Access to the roll will be at the discretion of the Electoral Commission under subsection 90B(4) of the Act. Subsection 90B(4) of the Act grants the

Electoral Commission the discretion to provide certain persons and organisations with information in relation to the electoral roll.

The Regulations commenced on the date of their notification in the *Gazette*.

Details of the Regulations are set out as follows:

### **Regulation 1**

This is a formal provision specifying the name of the Regulations.

### **Regulation 2**

Regulation 2 provides that the Regulations commence on the date of their notification in the *Gazette*.

### **Regulation 3**

Regulation 3 provides that Schedule 1 amends the *Electoral and Referendum Regulations 1940*.

### **Schedule 1 - Amendment**

**Item 1** inserts a new regulation 11 which provides that, for paragraph 91A(2A)(c) of the *Commonwealth Electoral Act 1918*, identity verification for the *Financial Transaction Reports Act 1988* is a permitted purpose for the use of electoral roll information by persons or organisations.