Commonwealth Electoral Act 1918

No. 27, 1918

This future law compilation was prepared on 20 September 2018 taking into account proposed amendments in the draft **Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017 (as amended by proposed parliamentary amendments**).

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About this compilation

This compilation

This is a future compilation of the *Commonwealth Electoral Act 1918* that shows the expected text of the law as amended by the draft **Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill 2017 (as amended by proposed parliamentary amendments)**.

Contents

Part I—Preliminary 1

1 Short title ... 1
2 Commencement ... 1
3 Repeal ... 1
4 Interpretation ... 2
4A Extraterritorial operation of Act ... 13
4B Act to bind Crown ... 15
4C Registered officer of political party ... 15
4D Application of the *Criminal Code* ... 16

Part II—Administration 17

Division 1—Preliminary 17

5 Interpretation ... 17
5A Application of Part in relation to Northern Territory ... 18

Division 2—The Australian Electoral Commission 19

6 Establishment of Commission ... 19
7 Functions and Powers of Commission ... 20
7A Supply of goods and services ... 21
7B Fees for goods and services ... 23
8 Tenure and terms of office ... 23
9 Leave of absence ... 24
10 Resignation ... 24
11 Disclosure of interests ... 24
12 Termination of appointment ... 24
13 Acting Chairperson ... 25
14 Acting non-judicial appointee ... 25
14A Remuneration ... 25
15 Meetings of Commission ... 26
16 Delegation by Commission ... 27
17 Reports by the Commission ... 27
17A Certain particulars not to be included in reports ... 29

Division 3—Electoral Commissioner, Deputy Electoral Commissioner and Australian Electoral Officers for States 30

18 Electoral Commissioner ... 30

19 Deputy Electoral Commissioner....30
20 Australian Electoral Officers for States....31
21 Terms and conditions of appointment etc....31
22 Remuneration....31
23 Leave of absence....32
24 Resignation....32
25 Termination of appointment....32
26 Acting Electoral Commissioner....33
27 Acting Deputy Electoral Commissioner....33
28 Delegation by Electoral Commissioner....34

Division 4—Staff of the Commission 35

29 Staff....35
30 Australian Electoral Officer for the Australian Capital Territory....35
31 Assistant Australian Electoral Officers for States....36
32 Divisional Returning Officers....36
33 Assistant Returning Officers....37
34 Assistant Divisional Returning Officers....37
35 Employment of additional staff, consultants etc....37

Division 5—Miscellaneous 39

36 Candidates not to be officers....39
38 Offices of Divisional Returning Officers....39

Part III—Representation in the Parliament 40

Division 1AA—Interpretation 40

38A Interpretation....40

Division 1—Choosing of senators for Queensland 41

39 Senators to be directly chosen by people of State etc....41

Division 2—Representation of the Territories in the Senate 42

40 Representation of the Territories in the Senate....42
41 Powers, privileges and immunities of senator for Territory....43
42 Term of service of senator for Territory....43
43 Time of elections of senators for Territories....43
44 Casual vacancies in places of senators for Territories....44

Division 3—Representation of the States and Territories in the House of Representatives 47

45 Interpretation 47
46 Ascertainment of numbers of people of Commonwealth, States and Territories 47
47 Supply of statistical information by Australian Statistician 48
48 Determination of number of members of House of Representatives to be chosen in States and Territories 49
48A Northern Territory to elect 2 members of the House of Representatives in the next election 54
49 Notification of determination 55
50 Number of members of House of Representatives to be chosen in States and Territories 56
51 Choice of member for Territory 56
53 Powers, privileges and immunities of member for Territory 56
54 Time of elections of members for Territories 57

Part IV—Electoral Divisions 58

55 Interpretation 58
55A Application to Northern Territory 58
56 States and Australian Capital Territory to be distributed into Electoral Divisions 59
56AA Inclusion of Territories in Australian Capital Territory Divisions 59
56A Inclusion of Territories in Northern Territory Divisions 59
57 One member to be chosen for each Electoral Division 60
58 Monthly ascertainment of enrolment etc. 60
59 Times at which redistributions are to commence 60
60 Redistribution Committee 64
62 Proceedings at meetings of Redistribution Committee etc. 67
63 Sub-committees 68
63A Projection time for equality of enrolments 69
64 Suggestions and comments relating to redistribution 69
65 Quota 70

66 Redistribution Committee to make proposed redistribution 71
67 Reasons for proposed redistribution 72
67A Outline of proposed redistribution 72
68 Notice of proposed redistribution 72
69 Objections against proposed redistribution 74
70 Augmented Electoral Commission 75
71 Proceedings at meetings of augmented Electoral Commission etc. 76
72 Consideration of objections 77
73 Redistribution of State or Australian Capital Territory 80
74 Reasons for determination made by augmented Electoral Commission 82
75 Copies of certain documents to be forwarded to Minister 82
76 Mini-redistribution 83
76A Application of section 76 to Northern Territory 89
77 Decisions under Part final etc. 90
78 Improper influence 91

Part V—Subdivisions and polling places 92

79 Subdivisions 92
80 Polling places 92

Part VI—Electoral Rolls 94

81 Electoral Rolls 94
82 Subdivision Rolls, Division Rolls and State and Territory Rolls 94
83 Form of Rolls 94
84 Arrangement with States 94
85 New Rolls to be prepared upon Proclamation 95
86 New Rolls on creation of new Divisions etc. 96
87 Additions etc. to new Rolls 97
88 Objections and notices to have effect in relation to new Rolls 97
90 Commission to determine manner and form of access to Rolls etc. 97
90A Inspection etc. of Rolls 98
90B Information on Rolls and certified lists of voters to be provided to particular people and organisations 99

91A Use of information from Roll and habitation index 112
91B Prohibition of disclosure or commercial use of Roll or habitation index 114
92 Roll reviews 115

Part VII—Qualifications and disqualifications for enrolment and for voting 116

93 Persons entitled to enrolment and to vote 116
93A Power to refuse to include in the Roll inappropriate names 118
94 Enrolled voters leaving Australia 118
94A Enrolment from outside Australia 123
95 Eligibility of spouse, de facto partner or child of eligible overseas elector 124
96 Itinerant electors 129
96A Enrolment of prisoners 133
97 Application of Part to Australian Capital Territory and Northern Territory 134

Part VIII—Enrolment 135

98AA Evidence of identity requirements 135
98 Addition of names to Rolls 135
98A Refusal to include in the Roll inappropriate names 136
99 Claims for enrolment or transfer of enrolment 137
99A Provisional claim for enrolment by applicant for citizenship 138
99B Provisional enrolment by applicant for citizenship 139
100 Claims for age 16 enrolment 142
101 Compulsory enrolment and transfer 142
102 Action on receipt of claim 144
103 Penalty on officer neglecting to enrol claimants 146
103A Updating or transferring a person's enrolment without claim or notice from the person 146
103B Enrolling unenrolled person without claim or notice from the person 148
104 Request for address not to be shown on Roll 150
105 Alteration of Rolls 153
106 Incorrect enrolment 154
107 Alterations to be initialled 155
108 Lists of deaths to be forwarded 155

109 Lists of persons serving, or ceasing to serve, sentences of imprisonment to be forwarded 155
110 Electoral Commissioner to act on receipt of information 156
111 Computer records relating to Roll 157
112 Application of Part to Australian Capital Territory and Northern Territory 157

Part IX—Objections 160

113 Interpretation 160
114 Objection to enrolment 160
115 Form and manner of objection 162
116 Notice of objection 162
118 Determination of objection 163

Part X—Review of decisions 166

120 Internal review 166
121 Review by Administrative Appeals Tribunal 168
122 Application of Part to Australian Capital Territory and Northern Territory 169

Part XI—Registration of political parties 170

123 Interpretation 170
124 Registration of political parties 171
125 Register of Political Parties 171
126 Application for registration 171
127 Party not to be registered during election 174
129 Parties with certain names not to be registered 174
129A Certain party logos not to be entered in the Register 176
130 Different levels of party may be registered 176
131 Variation of application 176
132 Procedure for dealing with application 177
132A Electoral Commission to give reasons for decisions under this Part 179
133 Registration 180
134 Changes to Register 181
134A Objection to continued use of name or logo 184
135 Voluntary deregistration 186
136 Deregistration of party failing to endorse candidates or ceasing to be a Parliamentary party 187

137 Deregistration of political party on other grounds 188
138 Deregistration 190
138A Review of eligibility of parties to remain in the Register 190
139 Inspection of Register 191
140 Service of documents 191
141 Review of certain decisions 192

Part XIII—Writs for elections 195

151 Issue of writs for election of Senators for Territories 195
152 Forms of writs 195
153 Writs for election of Senators 195
154 Writs for election of members of House of Representatives 196
155 Date for close of Rolls 198
156 Date of nomination 198
157 Date of polling 198
158 Polling to be on a Saturday 198
159 Date of return of writ 198
160 General election to be held on same day 198
161 Application of Part 199

Part XIV—The nominations 200

162 Candidates must be nominated 200
163 Qualifications for nomination 200
164 State and Territory members not entitled to be nominated 200
165 Multiple nominations prohibited 201
166 Mode of nomination 201
167 To whom nominations made 205
168 Grouping of candidates 206
169 Notification of party endorsement 206
169A Notification of independent candidacy 207
169B Verification of party endorsement 207
169C Combination of requests and nominations 208
170 Requisites for nomination 209
171 Form of consent to act 210
172 Rejection of nominations and requests 210
173 Deposit to be forfeited in certain cases 211
174 Place of nomination 212

175 Hour of nomination 212
176 Declaration of nominations 212
177 Withdrawal of consent to a nomination 214
178 Return of deposit in case of candidate's death 215
179 Proceedings on nomination day 215
180 Death of candidate after nomination 216
181 Failure of election 216

Part XV—Postal voting 218

182 Interpretation 218
183 Grounds of application for postal vote 218
184 Application for postal vote 218
184A Application for registration as general postal voter 219
184AA Application forms for postal votes 221
184B Register of General Postal Voters 221
185 Registration as general postal voter 221
185B Review of Registers 223
185C Cancellation of registration 224
186 Dispatch of postal voting papers to registered general postal voters 224
188 Issue of certificate and ballot papers 224
188A Dealing with application after issue of certificate and ballot paper 226
189 Inspection of applications 227
189A Access to electronic list of postal vote applicants 227
189B Restriction on use or disclosure of information 228
192 Form of postal vote certificate 230
193 Authorised witnesses 230
194 Postal voting 231
195 Duty of authorised witnesses etc. 233
195A Procedure for dealing with postal vote certificates etc. 234
196 Opening of postal ballot paper 236
197 Failure to post or deliver postal vote application etc. 237
198 Inducing person to hand over marked ballot paper 237
199 Correction of formal errors 237
200 Mistakes 237

Part XVA—Pre-poll voting 238

Division 1—Introduction 238

200AA Guide to this Part 238

Division 2—General matters 239

200A Grounds of application for pre-poll vote 239
200B Pre-poll voting officers 239
200BA Pre-poll voting offices 239
200C Application for pre-poll vote 241
200D Place and time of application 242
200DA Scrutineers at the pre-poll voting office 243
200DB Provisions relating to scrutineers at pre-poll voting office 243

Division 3—Voting by pre-poll ordinary vote 245

Subdivision A—Preliminary 245

200DC Definitions 245
200DD Where is pre-poll ordinary voting available? 245
200DE Separate voting compartments 246
200DF Ballot-boxes 246

Subdivision B—Voting by pre-poll ordinary vote 246

200DG When is a person entitled to vote by pre-poll ordinary vote? 246
200DI Questions to be put to voter 247
200DJ Right of voter to receive ballot paper 248
200DK Voter to mark vote on ballot paper 248
200DL Assistance to certain voters 249
200DM Voter not entitled to vote again etc. 249

Subdivision C—Requirements relating to ballot-boxes 249

200DN Subdivision sets out requirements to be complied with 249
200DO Requirements to be complied with before first use of ballot-box 249
200DP Requirements to be complied with at end of each day of use of ballot-box 250
200DQ Requirements to be complied with before ballot-box used again on later day 250
200DR Forwarding of ballot-boxes for purposes of scrutiny 250

Division 4—Voting by pre-poll declaration vote 251
200DS Persons to whom this Division applies 251
200E Pre-poll declaration voting 251
200F Form of pre-poll vote certificate for declaration voting 252
200G Record of issue of pre-poll voting papers 252
200J Opening of pre-poll voting envelope 253
200K Obligations of persons present when pre-poll vote cast 254
201 Correction of formal errors 254
202 Mistakes 254

Part XVB—Electronically assisted voting for sight-impaired people 255
202AA Definitions 255
202AB Regulations may provide for voting by an electronically assisted voting method 255
202AC There must be a record of who has voted using the electronically assisted voting method 257
202AD There must be a record of the vote 257
202AE How this Act applies in relation to voting using the electronically assisted voting method 257
202AF Electoral Commissioner may decide that electronically assisted voting method is not to be used 258

Part XVI—The polling 259
202A Undertaking by officers and scrutineers 259
203 Arrangements for polling 260
204 Substitute 261
205 Use of licensed premises as polling booth 261
206 Separate voting compartments 261
207 Ballot-boxes 262
208 Certified lists of voters 262
208A Approved list of voters 262
209 Ballot papers 263
209A Official mark 264
210 Printing of Senate ballot papers 264
210A Form of party name on ballot papers 265
212 Ballot papers for House of Representatives elections 266

213	Determination of order of names	267
214	Printing of political party names etc. on ballot papers	269
214A	Printing of party logos on ballot papers	270
215	Ballot papers to be initialled	270
217	Scrutineers at the polling	271
218	Provisions relating to scrutineers	271
219	Participation by candidates in conduct of election	272
220	The polling	272
221	Elections at which electors entitled to vote	273
222	Where electors may vote	273
223	Interpretation	274
224	Hospitals that are polling places	274
226	Provisions related to section 224	275
227	Mobile booths	277
228	Forwarding of declaration votes	280
229	Questions to be put to voter	283
230	Errors not to forfeit vote	284
231	Right of elector to receive ballot paper	284
232	Voters to be recorded	285
233	Vote to be marked in private	285
234	Assistance to certain voters	286
234A	Certain voters may vote outside polling place	287
235	Provisional votes	288
238	Spoilt ballot papers	290
238A	Discarded ballot papers	290
238B	Ballot-boxes opened before close of poll	291
239	Marking of votes in Senate election	294
240	Marking of votes in House of Representatives election	295
240A	Temporary suspension of polling	296
241	Adjournment of polling	296
242	Adjournment in other cases	297
243	Voting at adjourned polling	297
244	Arrangement where elections held in some Divisions only	297
245	Compulsory voting	297

Part XVII—Special provisions relating to the polling in Antarctica 303

246 Interpretation 303
247 Antarctic Returning Officers and Assistant Antarctic Returning Officers 304
248 Application of Part XVI to polling in Antarctica 305
249 Antarctic electors 305
250 Arrangements for the polling in Antarctica 306
251 Ballot papers to be initialled 307
252 Candidates not to take part in polling 307
253 The polling in Antarctica 307
254 Entitlement of Antarctic electors to vote 308
255 Questions to be put to voter at Antarctic station 308
256 Right of Antarctic elector to receive ballot paper 308
257 List of Antarctic electors to be marked 308
258 Application of sections 233 and 234 309
259 Proceedings by Antarctic Returning Officer on close of poll 309
260 Result of the polling in Antarctica 309
261 Preservation of ballot papers etc. 310
262 Application of Part 311

Part XVIII—The scrutiny 312

263 Scrutiny 312
264 Scrutineers at scrutiny 312
265 Scrutiny, how conducted 312
266 Preliminary scrutiny of declaration votes 313
267 Action on objections to ballot papers 314
268 Informal ballot papers 314
268A Formal votes below the line 315
269 Formal votes above the line 316
271 Officers not to mark ballot papers so that voter can be identified 318
272 Treatment of Senate ballot papers of voters who have voted above the line 318
273 Scrutiny of votes in Senate elections 319
273A Computerised scrutiny of votes in Senate election 330
273B Combination of manual and computer scrutiny permitted 332

274 Scrutiny of votes in House of Representatives elections 332
275 Scrutiny prior to receipt of declaration ballot papers 337
276 Provisional scrutiny 338
277 Scrutiny for information 338
278 Re-count at Senate elections 339
279 Re-count at House of Representatives elections 339
279A Notice of re-count 339
279B Conduct of re-count 340
280 Powers of officer conducting re-count 341
281 Reservation of disputed ballot papers 341
282 Re-count of Senate votes to determine order of election in other circumstances 342

Part XIX—The return of the writs 344
283 Return of writ for election of Senators 344
284 Declaration of poll and return of writs for House of Representatives 344
285 Correction of errors 346
286 Extension of time 346

Part XX—Election funding and financial disclosure 347

Division 1—Preliminary 347
287 Interpretation 347
287A Campaign committee to be treated as part of State branch of party 355
287B Designated federal party 359

Division 2—Agents 359
288 Agents of political parties 371
288A Principal agents 372
289 Appointment of agents by candidates and groups 373
290 Requisites for appointment 374
291 Register of Party Agents 375
292 Effect of registration etc. 375
292A Evidence of appointment 376
292B Responsibility for action when agent of party or branch dead or appointment vacant 376
292C Revocation of appointment of agent of candidate or group 376

292D Notice of death or resignation of agent of candidate or group 377

Division 3—Election funding 377

294 General entitlement to funds 380
297 Payment not to be made in certain circumstances 391
299 Making of payments 391
299A Method of making payments 399
300 Death of candidate 402
301 Death of member of group 403
302 Appropriation 404

Division 4—Disclosure of donations 405

303 Interpretation 421
304 Disclosure of gifts 422
305A Gifts to candidates etc. 425
305B Gifts to political parties 428
306 Certain gifts not to be received 431
306A Certain loans not to be received 433
306B Repayment of gifts where corporations wound up etc. 437
307 Nil returns 439

Division 5—Disclosure of electoral expenditure 440

308 Interpretation 440
309 Returns of electoral expenditure 441
311A Annual returns of income and expenditure of Commonwealth Departments 442
313 Nil returns 444
314 Two or more elections on the same day 444

Division 5A—Annual returns by registered political parties and other persons 446

314AA Interpretation 446
314AB Annual returns by registered political parties 446
314AC Amounts received 449
314AE Outstanding amounts 450
314AEA Annual returns by associated entities 450
314AEB Annual returns relating to political expenditure 452
314AEC Annual returns relating to gifts received for political expenditure 454
314AF Returns not to include lists of party membership 457

314AG Regulations 457
Division 6—Miscellaneous 459
314A Interpretation 459
315 Offences 461
315A Recovery of payments 464
316 Investigation etc. 465
317 Records to be kept 471
318 Inability to complete returns 473
319 Non-compliance with Part does not affect election 474
319A Amendment of claims and returns 475
320 Inspection and supply of copies of claims and returns 477
321 Indexation 479
321A Indexation of amounts 480
Part XXA—Authorisation of electoral matter 483
Division 1—Preliminary 483
321B Definitions 483
321C Objects of this Part 486
Division 2—Authorisation of certain electoral matter 488
321D Authorisation of certain electoral matter 488
321E Extended geographical application of section 321D 493
Division 3—Information-gathering powers 495
321F Electoral Commissioner may obtain information and documents from persons 495
321G Copies of documents 496
321H Retention of documents 496
Part XXI—Electoral offences 497
322 Interpretation 497
323 Officers and scrutineers to observe secrecy 497
324 Officers not to contravene Act etc. 497
325 Officers not to influence vote 497
325A Influencing votes of hospital patients etc. 498
326 Bribery 498
327 Interference with political liberty etc. 499
329 Misleading or deceptive publications etc. 500
330 False statements in relation to Rolls 501

335 Cards in polling booth 501
336 Signature to electoral paper 502
337 Witnessing electoral papers 502
338 Unlawfully marking ballot papers 503
339 Other offences relating to ballot papers etc. 503
339A Officers not to interfere with etc. ballot-boxes or ballot papers 505
340 Prohibition of canvassing near polling booths 505
341 Badges or emblems in polling booths 506
342 Duty of witness to claim 507
343 Failure to transmit claim 507
345 Employers to allow employees leave of absence to vote 507
346 Protection of the official mark 508
347 Disorderly behaviour at meeting 509
348 Control of behaviour at polling booths etc. 510
351 Publication of matter regarding candidates 511

Part XXII—Court of Disputed Returns 514

Division 1—Disputed Elections and Returns 514

352 Interpretation 514
353 Method of disputing elections 514
354 The Court of Disputed Returns 515
355 Requisites of petition 516
356 Deposit as security for costs 517
357 Petition by Electoral Commission 517
358 No proceedings unless requirements complied with 517
359 Right of Electoral Commissioner to be represented 518
360 Powers of Court 518
361 Inquiries by Court 519
362 Voiding election for illegal practices etc. 519
363 Court to report cases of illegal practices 520
363A Court must make its decision quickly 520
364 Real justice to be observed 520
364A Provision for Court to have regard to certain rejected ballot papers 521
365 Immaterial errors not to vitiate election 521
365A Election not affected by failure of delivery arrangement 521

366 Errors relating to printing of party affiliations....522
367 Evidence that person not permitted to vote....522
367A Disposal of petition where election cannot be decided....523
368 Decisions to be final....523
369 Copies of petition and order of Court to be sent to House affected, Governor-General and Speaker....523
370 Representation of parties before Court....524
371 Costs....524
372 Deposit applicable for costs....524
373 Other costs....524
374 Effect of decision....524
375 Power to make Rules of Court....525
375A Right of Electoral Commission to have access to documents....525

Division 2—Qualifications and vacancies 526

376 Reference of question as to qualification or vacancy....526
377 President or Speaker to state case....526
378 Parties to the reference....526
379 Powers of Court....526
380 Order to be sent to House affected....527
381 Application of certain sections....527

Part XXIII—Miscellaneous 528

381A Extension of time for acts by officers....528
382 General provisions about enrolment-related claims etc.....528
383 Injunctions....530
384 Prosecution of offences....534
384A Application of Regulatory Powers Act....535
385 Certificate evidence....535
385A Evidence of authorship or authorisation of material....536
386 Disqualification for bribery and undue influence....536
386A Immunity from suit....537
387 Electoral matters to be sent free by post....537
387A Service of process by mail....537
388 Averments deemed to be proved....538
389 Defendant may be called upon to give evidence....538
390 Production of claims for enrolment etc.....538

390A Claims for enrolment etc. not to be subject to warrants 539
391 Record of claims for enrolment etc. 539
392 Forms 540
393A Preservation of documents 541
394 No State or Territory vote to be held on polling day 542
395 Regulations 543

Schedule 1—Forms 544

Schedule 2—Grounds of application for postal or pre-poll vote 561

Schedule 3—Rules for the conduct of a preliminary scrutiny of declaration votes 563

Endnotes 570

Endnote 1—About the endnotes 570

Endnote 2—Abbreviation key 572

Endnote 3—Legislation history 573

Endnote 4—Amendment history 592

Endnote 5—Miscellaneous 633

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.

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.

Antarctic elector means an elector who is entitled under Part XVII to be treated as an Antarctic elector.

approved form means a form that:

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

(b) has been published by the Electoral Commissioner.

Example: An approved form might have been published by the Electoral Commissioner on the Electoral Commission's website.

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 Norfolk Island and the Jervis Bay Territory.

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).

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

(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 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.

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.

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 (except in sections 302CA and 314B) has the meaning given by section 4AA.

~~***electoral matter*** means matter which is intended or likely to affect voting in an election.~~

~~Note: See also subsection (9).~~

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

facsimile, in relation to a nomination paper, means:

(a) a copy of a nomination paper that has been reproduced by facsimile telegraphy or any other means; or

(b) a copy of a copy referred to in paragraph (a).

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

(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*.

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.

Northern Territory includes the Territory of Cocos (Keeling) Islands and the Territory of Christmas Island.

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, an Antarctic Returning Officer, an Assistant Antarctic 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;

(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.

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

provisional vote means a vote cast under section 235.

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.

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 the Australian Capital Territory or the Northern Territory.

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.

(5) In this Act, unless the contrary intention appears:

(a) a reference to a Division shall be read as including a reference to the Northern Territory; 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).

(5A) If Part IV commences to apply to the Northern Territory in accordance with section 55A, subsection (5) shall, on and from the day of the first determination in relation to the Northern Territory under section 73 or 76 after that commencement, have effect as if:

(a) paragraph (a) were omitted; and

(b) the words “of that Territory” were omitted from paragraph (b).

(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.

~~(9) Without limiting the definition of ***electoral matter*** in subsection (1), matter is taken to be intended or likely to affect voting in an election if:~~

~~(a) it contains an express or implicit comment on:~~

~~(i) the election; or~~

~~(ii) a political party, a branch or division of a political party or a candidate or group of candidates in the election; or~~

~~(iii) an issue submitted to, or otherwise before, the electors in connection with the election; and~~

~~(b) except in Part XXA—it contains an express or implicit reference to:~~

~~(i) the election; or~~

~~(ii) a political party, a branch or division of a political party or a candidate or group of candidates in the election; or~~

~~(iii) an issue submitted to, or otherwise before, the electors in connection with the election.~~

~~Note: An example of electoral matter is matter that contains a comment on the current or a previous Government or Opposition in relation to an issue in an election.~~

(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.

(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.

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.

(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.

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;

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 political campaigner (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.

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.

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.

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 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.~~

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.

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.

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.

(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 matterselectoral matters referred to it by the Minister and such other election and ballot matterselectoral matters as it thinks fit; and

(c) to promote public awareness of election and ballot matters, and Parliamentary matters,electoral 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 matterselectoral matters to the Parliament, the Government, Departments and authorities of the Commonwealth; and

(e) to conduct and promote research into election and ballot matterselectoral 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

(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 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.

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.

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.

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 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.

(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

(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.

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~~an offence that has, or may have been, committed against section 315~~.

(2) In this section:

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

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*.

(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.

(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.

(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

(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, 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.

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*.

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.

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

(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.

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.

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

(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.

Part III—Representation in the Parliament

Division 1AA—Interpretation

38A Interpretation

In this Part, unless the contrary intention appears:

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

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

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

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.

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.

(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.

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

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.

(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.

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.

(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

(1) 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

(b) the following information in relation to each of the Australian Capital Territory and the Northern Territory:

(i) the Australian Statistician's estimate of the net undercount for that Territory at the last Census;

(ii) the standard error of the measure of that estimate of the net undercount;

(iii) the upper and lower limits of the 95% confidence interval for the measure of that estimate of the net undercount; and

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

(2) For the purposes of this section:

(a) the ***standard error*** of the measure of the estimate of the net undercount for a Territory at the last Census is the standard error estimate of the sampling error of the estimate of the net undercount as determined by the Australian Statistician; and

(b) the ***upper limit of the 95% confidence interval*** for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount increased by a number equal to twice the standard error of the measure of that estimate of the net undercount; and

(c) the ***lower limit of the 95% confidence interval*** for the measure of the estimate of the net undercount for a Territory at the last Census is the Australian Statistician's estimate of the net undercount less a number equal to twice the standard error of the measure of that estimate of the net undercount; and

(d) the Australian Statistician is to determine the following as population numbers (rather than as percentages or factors):

(i) the Australian Statistician's estimate of the net undercount for a Territory at the last Census;

(ii) the standard error of the measure of that estimate of the net undercount.

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

(b) determine, in accordance with subsections (2A), (2B), (2BA), (2C) and (2F), the number of members (if any) of the House

of Representatives to be chosen in the several Territories at a general election.

(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.

(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 (2B), (2BA), (2C) and (2F), 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 or equal to 1.5—that one member of the House of Representatives be chosen in the Territory at a general election; or

(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.

(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.

(2BA) Subject to subsection (2F), 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 subsection (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).

(2C) Subject to subsection (2F), 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 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 subsection (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).

(2E) This subsection applies if:

(a) apart from this subsection and subsection (2F), the result of dividing the number of the people of the Australian Capital Territory or the Northern Territory, as ascertained in accordance with section 46, by the quota ascertained under paragraph (2)(a) is:

(i) a whole number (the ***relevant whole number***); and

(ii) a remainder that is less than or equal to one-half of that quota; and

(b) the difference between:

(i) the number obtained by multiplying that quota by the sum of the relevant whole number and one-half; and

(ii) the number of the people of the Territory, as ascertained in accordance with section 46;

is less than or equal to twice the standard error of the measure of the Australian Statistician's estimate of the net undercount for that Territory at the last Census.

(2F) If subsection (2E) applies to the Australian Capital Territory or the Northern Territory:

(a) the determination made under subsection (1) in accordance with:

(i) subsection (2A); or

(ia) subparagraph (2BA)(c)(ii); or

(ii) subparagraph (2C)(e)(ii);

in respect of that Territory is taken never to have been made; and

(b) the number of the people of that Territory, as ascertained in accordance with section 46, is taken to be increased by a number equal to twice the standard error referred to in paragraph (2E)(b); and

(c) subject to subsection (2G), the Electoral Commissioner must, as soon as possible, determine under this section the number of members of the House of Representatives to be chosen in that Territory at a general election.

Note: In certain circumstances, the number of the people of the Australian Capital Territory or the Northern Territory will have been re-ascertained in accordance with section 46 because of the operation of subsection (2BA) or (2C).

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

(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

(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.

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

(5) In this section:

standard error of the measure of the Australian Statistician's estimate of the net undercount for a Territory in the last Census means the standard error estimate of the sampling error for that estimate of the net undercount that the Australian Statistician supplies to the Electoral Commissioner under paragraph 47(1)(b).

48A Northern Territory to elect 2 members of the House of Representatives in the next election

(1) The determination made by the Electoral Commissioner under subsection 48(1) on 19 February 2003 (the ***2003 determination***) is set aside, on and from the day on which this section 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 section 50, 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 2003 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 2003 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 2003 determination was the determination made on 9 December 1999. 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), (2C) or (2F).

(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 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.

Part IV—Electoral Divisions

55 Interpretation

(1) In this Part:

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

Territory means the Australian Capital Territory.

(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 Northern Territory

If, under subsection 48(2A), the Electoral Commissioner determines that the number of members of the House of Representatives to be chosen in the Northern Territory at a general election is 2 or a greater number, this Part shall, on and from the making of the determination, apply to the Northern Territory as if:

(a) a reference to a State included a reference to the Northern Territory; and

(b) a reference to a determination under subsection 48(1) were a reference to a determination under subsection 48(2A).

56 States and Australian Capital Territory to be distributed into Electoral Divisions

Each State and the Australian Capital Territory 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.

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

(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;

(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 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.

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

(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 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 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 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);

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

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

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,

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).

(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) 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.

(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 or the Australian Capital Territory.

(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, 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 senior Divisional Returning Officer for the Territory shall 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 or the Australian Capital Territory 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 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).

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).

65 Quota

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

(2) As soon as practicable after the redistribution commences, the quota of electors for a State or the Australian Capital Territory 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 or Territory 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 or Territory 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

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

66 Redistribution Committee to make proposed redistribution

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

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

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

and subject thereto the quota of electors for the State or Territory 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 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 or the Australian Capital Territory 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 or the Australian Capital Territory 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 or Territory.

68 Notice of proposed redistribution

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

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

(b) cause copies of:

(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 or Territory;

(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 or Territory; 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 or Territory; 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:

(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—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.

70 Augmented Electoral Commission

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

(2) The members of an augmented Electoral Commission for a State or the Australian Capital Territory 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 or Territory.

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

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 or the Australian Capital Territory.

(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.

(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 or the Australian Capital Territory 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 or Territory 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.

(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 or Territory; 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

(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).

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.

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

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

73 Redistribution of State or Australian Capital Territory

(1) An augmented Electoral Commission for a State or the Australian Capital Territory 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 or Territory 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 or Territory.

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 or Territory into Electoral Divisions equal in number to the number of members of the House of Representatives to be chosen in the State or Territory 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 or Territory 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 or Territory at that time; and

(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 or Territory;

and subject thereto the quota of electors for the State or Territory 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 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.

(9) In this section:

initial objection has the same meaning as in section 72.

further 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 or the Australian Capital Territory 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 or the Australian Capital Territory has determined under subsection 73(1) the names

and boundaries of the Electoral Divisions into which the State or Territory is to be distributed, forward to the Minister a copy of:

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

(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;

(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 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 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;

(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.

(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:

(a) a reference to a State were a reference to the Australian Capital Territory;

(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 subsections substituted:

"(2) For the purposes of the redistribution, the Electoral Commissioner and the senior Divisional Returning Officer for the Territory shall be the Redistribution Commissioners for the Territory.

"(2A) In this section, ***senior Divisional Returning Officer for the Territory*** has the same meaning as in section 60.".

(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.

76A Application of section 76 to Northern Territory

If:

(a) this Part applies to the Northern Territory because of section 55A;

(b) the Northern Territory constitutes a single Division; and

(c) a redistribution of the Territory is required by subsection 76(1);

section 76 has effect, in its application to the Northern Territory, as if:

(d) subsections (3), (4) and (5) were omitted;

(e) subsections (6) to (12) (inclusive) were omitted and the following subsections substituted:

"(6) The Redistribution Commissioners shall, by instrument in writing, determine the names and boundaries of the Electoral Divisions into 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 and, in any event, within 7 days after the relevant day.

"(8) In making a redistribution under subsection (6), the Redistribution Commissioners shall observe the following requirements:

(a) the Population Census Collection Districts in the State, or the parts of such districts that are within the State, shall be the basis for the distribution;

(b) each Electoral Division shall, as far as practicable, contain the same number of electors enrolled;

(c) except where 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.

"(9) The name to be given to each Electoral Division is within the discretion of the Redistribution Commissioners."; and

(f) subsections (15) and (16) were omitted.

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

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

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

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 the Northern Territory into such Districts as are specified and set out the boundaries of each District so specified.

(2) The Territory of Cocos (Keeling) Islands shall be one District of the Division of the Northern Territory and the Territory of Christmas Island shall be one District of the Division of that Territory.

(3) If the Northern Territory is distributed into Electoral Divisions under section 73 or under section 76, as it has effect by virtue of section 76A, this section shall have effect, after the distribution, as if:

(a) a reference in paragraph (1)(a) to a Division were a reference to a Division other than a Division in the Northern Territory;

(b) the words "the Northern Territory" were omitted from paragraph (1)(b) and the words "each Division in the Northern Territory" were substituted; and

(c) subsection (2) were omitted and the following subsection substituted:

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

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).

(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.

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

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.

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:

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

(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.

(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

(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.

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).

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.

Section 15T90B15T

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.

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).

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

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.

Section 15T90B15T

Provision of information on Rolls			
Item	**Person or organisation**	**Information that may be given**	**Circumstances in which information may be given**
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 See also subsection (5).	(a) on request by the person or organisation; and (b) on payment of the fee (if any) payable under subsection (9).
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).

Provision of information on Rolls			
Item	**Person or organisation**	**Information that may be given**	**Circumstances in which information may be given**
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).

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).

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.

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:

(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;

(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:

(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~~electoral 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~~electoral matters~~; and

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

(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*.

(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.

(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.

(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.

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.

(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

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;

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;

(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:

(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);

(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.

(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:

(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 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***);

(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.

(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.

(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

(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;

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:

(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, 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:

(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

(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.

(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.

(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.

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.

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).

(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.

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 and 96A and Part XVII, 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.

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

(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

(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:

(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.

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*).

(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.

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

(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.

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

(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.

(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

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).

(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.

(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.

(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.

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;

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

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:

(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.

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.

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

(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.

Part IX—Objections

113 Interpretation

In this Part:

Antarctic elector means an elector whose name has been retained on the relevant Roll under Part XVII.

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

(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 an Antarctic elector.

(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 an Antarctic elector.

(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.

(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 with the Electoral Commissioner together, in the case of an objection under subsection 114(1) or (1B), with an amount of $2.

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:

(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.

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

(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 an Antarctic elector;

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:

(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).

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.

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.

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(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.

(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

(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.

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 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.

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~~The Electoral Commission shall~~ 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

(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) include a list of the names of the 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

(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 member of more than one registered political party

(2A) Two or more parties cannot rely on the same member for the purpose of qualifying or continuing to qualify as an eligible political party. The following provisions apply accordingly:

(a) a member who is relied on by 2 or more parties may nominate the party entitled to rely on the member, but if a party is not nominated after the Electoral Commission has given the member at least 30 days to do so, the member is not entitled to be relied on by any of those parties;

(b) the members on whom a registered party relies may be changed at any time by an amendment of the Register of Political Parties;

(c) the registration of a 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)(a), (b) or (c).

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:

(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

(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;

(c) is the name, or is 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;

(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.

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

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.

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 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

(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:

(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

(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.

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 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:

(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.

(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; and

(aa) the second party was registered after the commencement of this section; 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

(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.

(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:

(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 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 or ceasing to be a Parliamentary party

(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; or

(b) in the case of a party that was a Parliamentary party when it was registered:

(i) the party has ceased to be a Parliamentary party; and

(ii) the party has fewer than 500 members.

(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.

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, has ceased to have at least 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).

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

(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 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.

(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

(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

(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:

(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.

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.

(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

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

(2A) If, under subsection 48(2A), the Electoral Commissioner makes a determination that the number of members of the House of Representatives to be chosen in the Northern Territory at a general election is 2 or a greater number, subsection (2) of this section shall have effect, after the making of that determination, as if the word "member" were omitted from paragraph (2)(h) and the word "members" substituted.

(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.

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.

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.

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;

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

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 form 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

(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 Commission approves.

(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 his or her address on a nomination paper.

(7) A candidate who does not set out his or her address on a nomination form must provide the Divisional Returning Officer or Australian Electoral Officer, as the case may be, with an address for correspondence.

167 To whom nominations made

(1) Nominations of candidates for election to the Senate must be made to the Australian Electoral Officer.

(2) Subject to subsection (3), nominations of candidates for election to the House of Representatives must be made to the DRO.

(3) A nomination of all of the candidates endorsed by a registered political party for election to the House of Representatives in respect of the Divisions situated in a particular State or Territory may be made by the registered officer of the party to the Australian Electoral Officer for that State or Territory.

(4) If a nomination for a House of Representatives election is made to the Australian Electoral Officer, the Australian Electoral Officer:

(a) must deliver to the DRO for each Division for which a candidate has been so nominated, as soon as practicable before the hour of nomination, a facsimile of the nomination paper; and

(b) must advise the DRO for each Division for which a candidate has been so nominated, forthwith after a sum is deposited with the Australian Electoral Officer under section 170, being a sum that is, or includes an amount, in respect of that candidate, that it was so deposited.

168 Grouping of candidates

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

(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) shall be in writing, signed by the candidates, and shall be given to the Australian Electoral Officer 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) shall be in writing, signed by the person making the request, and shall:

(a) in the case of a Senate election, be given to the Australian Electoral Officer before the close of nominations; and

(b) in the case of an election for a Member of the House of Representatives for a Division, be given to the Divisional Returning Officer with the nomination of the candidate or to the Australian Electoral Officer for the State or Territory in which the Division is situated before the close of nominations.

(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.

(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) shall be in writing, signed by the candidate, and shall be given to the Australian Electoral Officer or the Divisional Returning Officer, as the case requires, 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;

(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:

(i) in the case of a Senate election, with the Australian Electoral Officer; and

(ii) in the case of an election of a member of the House of Representatives for a Division, with the Australian Electoral Officer for the State or Territory in which that Division is situated;

before the close of nominations for the election; or

(c) the Electoral Commission is satisfied, after making such inquiries as it 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 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 specifies one, and only one, of the parties, in a written notice given to the Australian Electoral Officer or Divisional Returning Officer, as the case requires—by that party; or

(d) if none of paragraph (a), (b) or (c) applies—by the party that the Electoral Commission decides, after making such enquiries as it 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 Australian Electoral Officer or a Divisional Returning Officer may:

(a) be written on the same paper as 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

(1) A nomination is not valid unless, in the nomination paper, 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 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.

(2) A nomination is not valid unless:

(a) the nomination paper or a facsimile of it:

(i) if it is a nomination for a Senate election—is received by the Australian Electoral Officer after the issue of the writ and before the hour of nomination; or

(ii) if it is a nomination for a House of Representatives election made to the Australian Electoral Officer—is received by the Australian Electoral Officer after the issue of the writ and not less than 48 hours before the hour of nomination; or

(iii) if it is a nomination for a House of Representatives election made to the DRO—is received by the DRO after the issue of the writ and before the hour of nomination; and

(b) if, for the purpose of the nomination, a nomination paper is delivered to the Australian Electoral Officer or the DRO—the person nominated, or some person on his or her behalf,

deposits with that officer, at the time of delivery of the nomination paper, a sum determined under subsection (3); and

(c) if, for the purpose of the nomination, a facsimile of a nomination paper is received by the Australian Electoral Officer or the DRO—the person nominated, or some person on his or her behalf deposits with that officer, before the latest time at which such a facsimile could have been received so that the nomination is valid, a sum determined under subsection (3).

(3) For the purposes of paragraphs (2)(b) and (c), the sum to be deposited by or on behalf of a person nominated is:

(a) if a person is nominated as a Senator—$2,000; or

(b) if a person is nominated as a member of the House of Representatives—$1,000;

in legal tender or in a cheque drawn by a bank or other financial institution on itself.

171 Form of consent to act

The consent of the person nominated to act if elected and the declaration referred to in paragraph 170(1)(b) shall be sufficient if the person signs the form of consent and declaration at the foot of the nomination paper, but the Australian Electoral Officer or Divisional Returning Officer receiving the nomination may accept any other form of consent and declaration whether accompanying the nomination paper or not that the officer deems satisfactory, and such acceptance shall be final.

172 Rejection of nominations and requests

(1) Subject to subsections (1A) and (2), a nomination shall be rejected by the officer to whom it is made if, and only if, the provisions of section 166, 167, 170 or 171 have not been complied with in relation to the nomination.

(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 under subsection 167(3) 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 shall be rejected by reason of any formal defect or error in the nomination if the officer to whom the nomination is made is satisfied that the provisions of sections 166, 167, 170 and 171 have been substantially complied with.

(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 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 shall 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 shall be the place of nomination.

175 Hour of nomination

(1) The hour of nomination shall be 12 o'clock noon on the day of nomination.

(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 must, at the declaration time, attend at the place of nomination, or at the declaration place for the relevant State or Territory, publicly produce all nomination papers received by him or her, and, in respect of each candidate, declare:

(a) the name of the candidate; and

(b) either:

(i) if an address has been specified by the candidate under subsection 166(1A)—that address; or

(ii) in any other case—the place of residence of the candidate.

(2) Subject to subsection (3), in the case of a House of Representatives election, the DRO must, at the declaration time, attend at the place of nomination for the Division, or at the declaration place for the Division, publicly produce all nomination papers received by him or her, and, in respect of each candidate, declare:

(a) the name of the candidate; and

(b) either:

(i) if an address has been specified by the candidate under subsection 166(1B)—that address; or

(ii) in any other case—the place of residence of the candidate.

(3) The Australian Electoral Officer or the DRO, as the case requires, must not declare:

(a) the address specified by a candidate under subsection 166(1A) or (1B); or

(b) the place of residence of a candidate;

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; 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.

177 Withdrawal of consent to a nomination

Withdrawal by candidate in Senate election

(1) A candidate for a Senate election for a State or Territory may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Australian Electoral Officer for the State or Territory. The withdrawal must be made before the hour of nomination.

Withdrawal by candidate in House of Representatives election (general rule)

(2) Subject to subsection (3), a candidate for a House of Representatives election for a Division may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Divisional Returning Officer for the Division. The withdrawal must be made before the hour of nomination.

Withdrawal by candidate in House of Representatives election (bulk nomination)

(3) If a candidate for a House of Representatives election for a Division is nominated by the registered officer of a party under subsection 167(3) together with a number of other candidates (the ***other bulk nomination candidates***), the candidate may withdraw his or her consent to a nomination by lodging a notice of withdrawal with the Australian Electoral Officer for the State or Territory in which the Division is located. The withdrawal must be made before the hour of nomination.

(4) If a candidate withdraws his or her consent to a nomination under subsection (3):

(a) the Australian Electoral Officer must deliver a fax of the withdrawal notice to the Divisional Returning Officer for the Division for which a candidate has been nominated, as soon as practicable before the hour of nomination; and

(b) the withdrawal does not affect the nomination of the other bulk nomination candidates; and

(c) 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 (4)(c) must:

(a) be made by notice in writing to the Australian Electoral Officer; 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 under subsection (1), (2) or (3), 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 under this section, the nomination ceases to have effect.

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 shall 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 shall 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 shall, 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.

(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 under subsection 167(3):

(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.

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

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

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.

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:

(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 Commission determines.

(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.

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.

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 in accordance with whichever of subsections (2), (3) and (4) of this section applies:

(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.

How material is to be sent

(2) Subject to subsection (3), if the Electoral Commissioner or Assistant Returning Officer receives the application for a postal vote at or before 6 pm on the Friday that is 8 days before polling day in the election, the material required by subsection (1) must be sent to the applicant by post or by another means (not being an electronic means, such as fax or email).

(3) If:

(a) the Electoral Commissioner or Assistant Returning Officer receives the application for a postal vote at or before 6 pm on the Friday that is 8 days before polling day in the election; and

(b) in accordance with the approved form referred to in subsection 184(1), the applicant has requested a particular means of delivery (not being an electronic means such as fax or email); and

(c) the Electoral Commissioner or Assistant Returning Officer considers that that means is reasonable and practicable in the circumstances;

the material required by subsection (1) must be sent to the applicant by that means.

(4) If the Electoral Commissioner or Assistant Returning Officer receives the application for a postal vote after 6 pm on the Friday that is 8 days before polling day in the election and 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 the means (not being an electronic means such as fax or email) that the Electoral Commissioner or Assistant Returning Officer considers is 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.

188A Dealing with application after issue of certificate and ballot paper

(1) This section applies if a postal vote certificate and postal ballot paper are sent to an applicant for a postal vote under subsection 188(1).

(2) If the application for the postal vote is made to the Electoral Commissioner, the Electoral Commissioner must send, or arrange

for the sending of, the application to the DRO for the Division for which the applicant is enrolled.

(3) If the application for the postal vote is made to an Assistant Returning Officer, the application must be dealt with in accordance with subsection 228(8).

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.

(3) The list may be kept in electronic or other form.

(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.

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.

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~~electoral 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 matterselectoral 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.

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 political entity, or part of a political entity, 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;

(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) the postal vote is accompanied by a signed and dated statement by the person setting out why the person was unable to comply with those requirements; and

(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) 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:

(i) the country and date of issue and the number of the passport; and

(ii) the person's name, date of birth and signature; and

(iii) a photograph of the person.

(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

(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:

(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:

(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 as required by subsection 227(10); and

(c) when so forwarding the ballot-box to the designated Divisional 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 for the Division in which the capital city office is located; and

(b) the ballot-box containing the envelope must be forwarded to the DRO, or made available to be collected by the DRO, in accordance with instructions of the DRO; and

(c) until the ballot-box is so forwarded or collected, the envelope must be kept in the ballot-box; and

(d) the record made by the officer under paragraph (2)(e) must be forwarded to the DRO, or made available to be collected by the DRO, in accordance with instructions of the DRO.

(7) Instructions referred to in paragraphs (6)(b) and (d) 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.

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.

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.

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: 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.

(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 or in the office of the DRO for 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.

(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.

200C Application for pre-poll vote

(1) An application for a pre-poll vote may be made to:

(a) any Divisional Returning Officer;

(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

(1) An application to a DRO shall be made at the office of the DRO during ordinary office hours or during the hours of polling on polling day.

(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).

(4) An application that relates to:
(a) a Senate election; or
(b) a Senate election and a House of Representatives election to be held on the same day;
cannot be made earlier than the fourth day after the day on which nominations for the Senate election are declared under subsection 176(1).

(5) An application that relates to a House of Representatives election that is not to be held on the same day as a Senate election cannot be made earlier than the fourth day after the day on which nominations for the election are declared under subsection 176(2).

(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.

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.

(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.

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 DRO, or 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;

(c) the office of the DRO 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 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. There must be a pencil in each compartment for use by voters.

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.

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 specified in paragraph 200DI(1)(c) in the affirmative; 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

(f) the voter is provisionally enrolled.

200DI Questions to be put to voter

(1) A voting officer must ask the voter the following questions:

(a) What is your full name?

(b) Where do you live?

(c) Have you voted before in this election? or Have you voted before in these elections? (as the case requires).

(2) If the answers the voter gives to the questions in paragraphs (1)(a) and (b) 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) Immediately after giving the ballot paper to the voter, the 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 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

(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.

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.

(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.

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.

(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;

(b) carry a distinguishing number that is the same as the number allocated to the record of the application for the certificate; and

(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

(1) Where, under subsection 200E(1), the DRO for a Division issues a pre-poll vote certificate for declaration voting and ballot paper to a person enrolled for the Division, the DRO shall make a record of

the date of issue of the certificate and ballot paper and the name of the person and shall allocate a number to the record.

(2) Where, under subsection 200E(1):

(a) any other DRO;

(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 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 made by a DRO under subsection (1) and 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

(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.

Part XVB—Electronically assisted voting for sight-impaired people

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 Regulations may provide for voting by an electronically assisted voting method

(1) The regulations may provide for sight-impaired people to vote by an electronically assisted voting method at general elections, Senate elections and by-elections.

(2) Without limiting the generality of subsection (1), 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;

(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.

(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.

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.

(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

(1) The Electoral Commissioner may, in writing, determine that the electronically assisted voting method is not to be used 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.

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;

(h) an Antarctic Returning Officer;

(j) an Assistant Antarctic Returning 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.

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

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 shall have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot papers, and each voting compartment shall be furnished with a pencil for the use of voters.

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.

(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.

(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.

(5) The ballot papers to be used for postal voting shall have the words "Postal Ballot paper" as a heading and shall contain the following directions:

"Fold the ballot paper, place it in the envelope on which the postal vote certificate is printed and fasten the envelope.".

(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.

(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.

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 opposite 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 opposite those names.

(3) The names of candidates not included in a group shall be printed on the ballot papers according to the following rules:

(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 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 where nominations for the election were publicly produced 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;

(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 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.

(6) In this section:

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

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

(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 time of the declaration of the nominations, entered in the Register in relation to a registered political party; and

(b) the party has requested that the logo be used.

(2) A ballot paper for a Senate 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:

(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) A ballot paper for a House of Representatives 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.

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.

(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 the presiding officer, may be removed from the polling booth 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.

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).

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 prescribed by 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.

(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:

(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

(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.

(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

(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) 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.

(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.

(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.

(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

(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:

(i) the reference in subsection 340(1) to polling day and to all days to which the polling is adjourned were a reference to the time of the visit; and

(ii) the reference in subsection 340(2) to the hours of polling were a reference to that time.

(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 appropriate Divisional Returning Officer designated for the purposes of this subsection by the Australian Electoral Officer for the State or Territory in which that last visit occurred.

(11) Where an elector has voted under this section in an election, any postal ballot paper received by a 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.

(12) A determination under paragraph (4)(a) is not a legislative instrument.

228 Forwarding of declaration votes

(1) A presiding officer at a polling place shall forward to the Divisional Returning Officer designated for the purposes of this subsection by the Australian Electoral Officer for the relevant State or Territory 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 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);

shall forward the envelope, together with 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) shall be so forwarded according to the instructions of the Divisional Returning Officer.

(3) Each Divisional Returning Officer for a Division, to whom a ballot-box is forwarded under subsection (1) or subsection 227(10) must:

(a) compare the particulars on the envelopes with the particulars appearing in the relevant records forwarded to the Divisional Returning Officer under this Act, note the number of envelopes and report any discrepancy to the Australian Electoral Officer for the State or Territory that includes the Division; and

(b) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from each presiding officer and pre-poll voting officer; and

(c) until they are dealt with under other provisions of this Act, keep the envelopes received from presiding officers and pre-poll voting officers in one or more securely fastened ballot-boxes; and

(d) compare the record referred to in paragraph (b) with the envelopes received and note any discrepancy.

(3A) Each DRO to whom ballot-boxes are forwarded, or by whom ballot-boxes are collected, as mentioned in paragraph 195A(6)(b):

(a) must compare the records forwarded to or collected by the DRO as mentioned in paragraph 195A(6)(d) with the envelopes in the ballot-boxes and note any discrepancy; and

(b) except as necessary for the purposes of paragraph (a), keep the envelopes in one or more securely fastened ballot-boxes until the envelopes are dealt with under other provisions of this Act.

(4) A Divisional Returning Officer shall:

(a) place in a parcel all the envelopes bearing certificates or declarations and relating to a particular Division and records relating to that Division, endorse on the parcel the number of

the envelopes, seal up the parcel and forthwith deliver it, or cause it to be delivered, to the Divisional Returning Officer for that Division or, with the approval of the Australian Electoral Officer for the State or Territory that includes that Division, to another person to be dealt with in accordance with subsection (5); and

(b) forward to the last-mentioned Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the parcel delivered or to be delivered to that Divisional Returning Officer.

(5) Each Divisional Returning Officer shall:

(a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from other Divisional Returning Officers or from persons referred to in subsection (7) or (9);

(b) maintain a locked and sealed ballot-box labelled so as to identify it as a declaration vote ballot-box; and

(c) keep in that ballot-box, until the scrutiny, all envelopes bearing a certificate or declaration and purporting to contain a ballot paper recording a declaration vote in relation to his or her 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 (7) or (9)).

(6) Before placing in the ballot-box 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 shall endorse on the envelope the date of its receipt and shall initial the endorsement.

(7) Where envelopes bearing certificates or declarations, or records, relating to a particular Division are, with the approval of the Australian Electoral Officer for the State or Territory that includes that Division, delivered to a person other than the Divisional Returning Officer for that Division, that person shall, as soon as practicable, deliver them, or cause them to be delivered, to that Divisional Returning Officer.

(8) An Assistant Returning Officer at a place outside Australia shall, in accordance with the written instructions of the Electoral Commissioner, forward envelopes bearing certificates or declarations, together with 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 and 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 shall, 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 shall put the following questions to each person attending before the presiding officer and claiming to vote in an election or elections:

(a) What is your full name?

(b) Where do you live?

(c) Have you voted before in this election? or Have you voted before in these elections? (as the case requires).

(2) In addition to the questions put under subsection (1), the presiding officer shall 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 in paragraphs (1)(a) and (b) do not satisfy the presiding officer 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 may ask the claimant one or more other questions about matters shown on the list for the particular person, to establish whether the claimant is that particular person.

(5) Subject to section 235, if a person claiming to vote to whom questions are put under this section:

(a) refuses to answer fully any question so put; or

(c) answers a question specified in paragraph (1)(c) in the affirmative;

the person's claim to vote shall be rejected.

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, 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 presiding officer:

(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 the prescribed questions show that he or she is entitled to vote; or

(b) if the person claims to vote under the provisions relating to absent voting and complies with those provisions.

(2) The presiding officer, 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) Immediately after handing a ballot paper 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 handed a ballot paper.

(2) The presiding officer at a polling place shall 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 shall, 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; and

(c) quit the booth.

(2) A presiding officer shall enclose each ballot paper of an absent voter returned to the presiding officer 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, in the presence of such scrutineers as are present, or, if there be no scrutineers present, then in the presence of:

(a) a polling official; or

(b) if the voter so desires, in the presence of a person appointed by such voter, instead of 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 the manner in which the voter wishes the presiding officer to mark his or her ballot paper by presenting to the presiding officer 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.

(4) Where subsection (1) applies in relation to an absent or provisional voter, the presiding officer 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 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 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 (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 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 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 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 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 a polling official.

(4) The polling official shall then sign the declaration as witness, adding the date.

(5) Before issuing a ballot paper to the person, 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 polling official who issued it.

(7) The 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 Divisional 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, or a voting officer within the meaning of Division 3 of Part XVA, 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 presiding officer or voting officer, 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 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, receive a new ballot paper from the officer, who shall there and then cancel the spoilt ballot paper.

(3) An officer 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 sealed up in a parcel which shall be given to the Divisional Returning Officer for the Division after the close of the poll.

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:

(a) sealed up in a parcel; and

(b) 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.

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.

(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.

(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:

(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 opposite that name; or

(c) of the omission to place any number opposite 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 presiding officer may temporarily suspend the polling for a period if the presiding officer 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.

241 Adjournment of polling

The presiding officer 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 presiding officer 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.

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:

(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

(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.

(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*).

(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.

Part XVII—Special provisions relating to the polling in Antarctica

246 Interpretation

(1) In this Part:

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:

(a) is, in the course of his or her employment, in Antarctica on the polling day for an election; and

(b) has made a request under section 249 that the elector be treated, while he or she is in Antarctica, as an Antarctic elector.

research personnel means personnel who are to be, or have been, engaged in the work of a research station in Antarctica operated, whether continuously or otherwise, by the Commonwealth.

station means:

(a) a research station in Antarctica that is operated by the Commonwealth and has been declared by the Electoral Commissioner, by written instrument, to be a permanent research station; or

(b) in relation to a particular election, a ship that has been declared by the Electoral Commissioner, by written instrument, to be a station for the purposes of this Part in relation to that election.

transmit includes transmit by radio-telephone or telex.

(2) The Electoral Commissioner shall not make a declaration under paragraph (b) of the definition of ***station*** in subsection (1) in

relation to a ship unless the Electoral Commissioner is satisfied that, on polling day in the election, the ship is likely to be at sea transporting research personnel to or from Antarctica.

247 Antarctic Returning Officers and Assistant Antarctic Returning Officers

(1) There shall be an Antarctic Returning Officer, and an Assistant Antarctic Returning Officer, for each station.

(2) Antarctic Returning Officers and Assistant Antarctic Returning Officers shall be appointed by the Electoral Commission by instrument in writing.

(3) The person in charge of a station shall not be appointed to be the Antarctic Returning Officer, or Assistant Antarctic Returning Officer, for that station.

(4) The person in charge of a station may, by instrument in writing, appoint a person (including the Assistant Antarctic Returning Officer) to act as the Antarctic Returning Officer for the station during any period, or during all periods, when the Antarctic Returning Officer for the station is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of the office.

(5) The person in charge of a station may, by instrument in writing, appoint a person to act as the Assistant Antarctic Returning Officer for the station during any period, or during all periods, when the Assistant Antarctic Returning Officer for the station is acting as Antarctic Returning Officer for the station, is absent from duty at the station, is absent from Antarctica, or is for any other reason unable to perform the functions of the office.

(6) A person acting as Antarctic Returning Officer or Assistant Antarctic Returning Officer for a station has and may exercise all the powers, and shall perform all the functions, of the Antarctic Returning Officer, or the Assistant Antarctic Returning Officer, for the station, as the case requires.

248 Application of Part XVI to polling in Antarctica

(1) Except as provided by this Part, the provisions of Part XVI (other than subsections 221(1) and (2) and 222(4), and sections 234, 238, 238A, 239 and 240) do not apply to the taking of a poll in Antarctica.

(2) In the application, by virtue of this Part, of a provision of Part XVI to the taking of a poll in Antarctica:

(a) a reference in that provision to the presiding officer in relation to a polling place shall be read as a reference to the Antarctic Returning Officer in relation to a station; and

(b) a reference in that provision to a polling official in relation to a polling place shall be read as a reference to the Assistant Antarctic Returning Officer in relation to a station; and

(c) for section 238A—a reference in paragraph 238A(3)(b) to the Divisional Returning Officer for the Division is taken to be a reference to the Electoral Commission.

249 Antarctic electors

(1) An elector who is, or expects to be, in the course of employment, in Antarctica may, by notice given to the Electoral Commissioner, request that he or she be treated, while in Antarctica, as an Antarctic elector in relation to any election the polling day of which occurs while the elector is in Antarctica.

(3) A notice under subsection (1) is not effective, in relation to an election, unless it is received by the Electoral Commissioner before the hour of nomination for the election.

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

(5) Notwithstanding anything in subsection 99(1) or (2), while a person is entitled to be treated as an Antarctic elector by virtue of

an annotation under subsection (4) 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.

(6) The Electoral Commissioner shall delete an annotation made under subsection (4) in relation to an elector immediately after he or she becomes aware that the elector has ceased to be in Antarctica.

250 Arrangements for the polling in Antarctica

(1) If, in the case of a Senate election, the proceedings stand adjourned to polling day, an Australian Electoral Officer for a State on the Roll for which there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based:

(a) directions for the preparation by the Antarctic Returning Officer of ballot papers for use in relation to the election to be held in the State; and

(b) the name of the elector and the particulars relating to the elector that are entered on the Roll for the State.

(2) If, in the case of a House of Representatives election, the proceedings on the day of nomination stand adjourned to polling day, a Divisional Returning Officer on the Roll for whose Division there is an Antarctic elector in relation to the election shall immediately cause to be transmitted to the Antarctic Returning Officer at whose station the elector is based:

(a) directions for the preparation by the Antarctic Returning Officer of ballot papers for use in relation to the election to be held in the Division; and

(b) the name of the elector and the particulars relating to the elector that are entered on the Roll for the Division.

(3) Where information is transmitted by an Australian Electoral Officer or a Divisional Returning Officer to an Antarctic Returning Officer in pursuance of this section, both the Australian Electoral

Officer or the Divisional Returning Officer, as the case may be, and the Antarctic Returning Officer shall, immediately after the transmission, cause a statement in writing of the information transmitted to be prepared.

(4) Sections 209, 210, 212, 213 and 214 apply in relation to ballot papers prepared under this section as if a reference in sections 210, 212 and 214 to the printing of ballot papers were a reference to such preparation.

251 Ballot papers to be initialled

Section 215 applies to the polling at a station in Antarctica as if the reference in that section to the proper officer were a reference to the Antarctic Returning Officer for that station.

252 Candidates not to take part in polling

A candidate shall not take part in any way in the conduct of the polling in Antarctica.

253 The polling in Antarctica

(1) The polling at a station in Antarctica shall be conducted as follows:

(a) before any vote is taken, the Antarctic Returning Officer for the station shall exhibit the ballot-box empty, and shall then securely fasten its cover;

(b) the poll shall be open during such hours on such days as the Antarctic Returning Officer, subject to subsection (2), directs; and

(c) the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall, at all times at which the poll is open, be present in that part of the station at which the polling is taking place.

(2) The polling at a station in relation to an election shall not continue beyond 6 pm in the Australian Capital Territory on the day of polling in the election.

254 Entitlement of Antarctic electors to vote

An Antarctic elector whose name has been transmitted to the Antarctic Returning Officer for a station in pursuance of paragraph 250(1)(b) or (2)(b), as the case may be, is entitled to vote at the station during the period when the poll is open at that station.

255 Questions to be put to voter at Antarctic station

(1) The Antarctic Returning Officer for a station shall put to each person claiming to vote at the station such questions as the officer thinks necessary to enable the person's identity and place of living to be established.

(2) If a person claiming to vote refuses to answer fully a question put to him or her under this section, the person's claim to vote at the station shall be rejected.

256 Right of Antarctic elector to receive ballot paper

The Antarctic Returning Officer or the Assistant Antarctic Returning Officer for a station shall, at the polling, give to each person claiming to vote at the station a ballot paper for the Division or State, as the case requires, for which the person is enrolled, duly initialled by the Antarctic Returning Officer, if the name under which the person claims to vote has been transmitted to the Antarctic Returning Officer in pursuance of paragraph 250(1)(b) or (2)(b), as the case may be, and the person's claim to vote is not rejected.

257 List of Antarctic electors to be marked

Immediately upon giving a ballot paper to the person claiming to vote, the Antarctic Returning Officer or the Assistant Antarctic Returning Officer shall record on the statement prepared by the officer under subsection 250(3) the fact that the ballot paper has been given to that person.

258 Application of sections 233 and 234

Sections 233 and 234 apply to the polling at a station as if:

(a) each reference in those sections to an unoccupied compartment of the booth were a reference to an unoccupied part of the station; and

(b) paragraph 233(c) were omitted.

259 Proceedings by Antarctic Returning Officer on close of poll

At the close of the poll, the Antarctic Returning Officer shall, in the presence of the Assistant Antarctic Returning Officer:

(a) open the ballot-box; and

(b) transmit to the Australian Electoral Officer designated by the Electoral Commissioner for the purpose of this paragraph:

(i) particulars of each elector enrolled for a State who has voted in elections held in the State in the poll taken at the station;

(ii) unless subparagraph (iii) applies—particulars of the marking of each ballot paper; and

(iii) if the Antarctic Returning Officer is unable clearly to read or understand the particulars referred to in subparagraph (ii)—a statement to that effect together with such information relating to those particulars as the Antarctic Returning Officer thinks sufficient to explain that inability; and

(c) cause a statement in writing of the information transmitted to be prepared.

260 Result of the polling in Antarctica

(1) Upon receipt of the particulars referred to in subparagraph 259(b)(ii), an Australian Electoral Officer shall forthwith:

(a) initial the top of the front of a ballot paper appropriate for the State or Division for which the vote was cast; and

(b) cause those particulars to be transcribed onto the ballot paper;
(c) seal the ballot paper in an envelope;
(d) sign the envelope; and
(e) cause to be sent to the Divisional Returning Officer for the Division to which the ballot paper relates the envelope containing the ballot paper.

(2) An officer shall not mark a ballot paper under this section in a manner that is likely to enable the ballot paper to be identified as representing the vote of an Antarctic elector.

(3) Upon receipt of information under subsection (1), an Australian Electoral Officer shall forthwith:
(a) cause a statement in writing of that information to be prepared; and
(b) cause to be sent to each Divisional Returning Officer for a Division to which a ballot paper referred to in paragraph (1)(b) relates particulars of the Antarctic electors who have voted in the election in relation to the Division.

(4) A reference in Part XVIII to scrutiny:
(a) includes a reference to scrutiny of any act or thing done in pursuance of paragraphs (1)(a) to (d) (inclusive); and
(b) does not include a reference to scrutiny of:
(i) any act or thing done in Antarctica; or
(ii) the transmission of any information to or from Antarctica.

(5) For the purposes of subsection 274(4), a ballot paper marked in accordance with paragraph (1)(b) shall be deemed to have been used for voting in pursuance of Part XVA (Pre-poll voting).

261 Preservation of ballot papers etc.

(1) As soon as practicable after the close of the poll for an election, the Antarctic Returning Officer for each station shall forward to the Electoral Commission a copy of the statements prepared by the

officer under subsection 250(3) and paragraph 259(c) and the ballot papers used for voting at the station.

(2) The documents to which this subsection applies that are used at or in connection with an election shall be preserved in accordance with directions of the Commission for the purposes of this subsection until:

(a) the election can no longer be questioned; or

(b) the expiration of the period of 6 months commencing on the date of the declaration of the poll;

whichever last occurs.

(3) Subsection (2) applies to the following documents:

(a) the statements referred to in subsection 250(3), paragraph 259(c) and paragraph 260(3)(a);

(b) the ballot papers referred to in paragraph 260(1)(b); and

(c) the ballot papers prepared by an Antarctic Returning Officer and used for voting in Antarctica.

262 Application of Part

This Part applies in relation to a Territory as if a reference in this Part to a State were a reference to a Territory.

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.

(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.

(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) It shall commence as soon as practicable after the closing of the poll;

(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.

266 Preliminary scrutiny of declaration votes

(1) At any time on or after the last Monday before the close of the poll for a Division, the DRO shall conduct such preliminary scrutinies as he or she considers necessary until:

(a) all written applications for postal votes have been produced;

(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

(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 or a voting officer (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 opposite 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 opposite 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).

(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 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 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

(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:

(i) remove the ballot papers from the box; and

(ii) count the ballot papers without inspecting them; and

(iii) record the number of ballot papers removed 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;

(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 containers of ballot papers for the Division received under paragraph (2)(f), do the following:

(i) open the containers of ballot papers;

(ii) check the accuracy of the statement made under paragraph (2)(d) by carrying out the steps in paragraphs (2)(c) and (ca);

(iii) repeat the steps in paragraphs (2)(d) 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

(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 subparagraph (a)(iii) and paragraph (b) of this subsection); and

(d) transmit the containers sealed under paragraph (2)(e) (as a result of subparagraph (a)(iii) and 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

(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 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

(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:

(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.

(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

(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 shall have a casting vote but shall not otherwise vote at the election.

(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 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 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 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.

(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 opposite 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.

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.

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.

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 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.

(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 paragraph (b), 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 or more continuing candidates have the same number of votes, those candidates shall stand in the poll in the order of the relative number of votes of each of those candidates at the last count at which each of them had a different number of votes, with the continuing candidate with the greater or greatest number of votes at that count standing higher in the poll and the continuing candidate with the fewer or fewest number of votes at that count standing lower in the poll, but if there has been no such count the Australian Electoral Officer for the State shall determine the order of standing of those candidates 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 (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 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.

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.

(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.

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:

(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) check the accuracy of the statement of the presiding officer, mobile polling team leader or voting officer by:

(i) removing the ballot papers from the box;

(ii) counting, but not inspecting, them; and

(iii) recording the number of ballot papers removed from the box;

(b) reject all informal ballot papers, and arrange the unrejected ballot papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate;

(c) count the first preference votes given for each candidate on all unrejected ballot papers;

(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;

(e) place in a separate parcel all the ballot papers which have been rejected as informal;

(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) seal up the parcels and indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement; and

(h) transmit the parcels to the Divisional Returning Officer with the least possible delay, together with the statement specified in paragraph (d).

(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.

(7) The Divisional Returning Officer:

(a) shall open the sealed parcels of ballot papers received from the Assistant Returning Officers in or for the Division;

(b) shall make a fresh scrutiny of the ballot papers contained in the parcels, 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

(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.

(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.

(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 indorse on each parcel a description of the contents thereof, and permit any scrutineers present, if they so desire, to countersign the indorsement.

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.

(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 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.

(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 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).

(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).

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.

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 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:

(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.

Part XX—Election funding and financial disclosure

Division 1—Preliminary

286A Simplified outline of this Part

This Part deals with the funding of registered political parties, candidates and groups. It also deals with gifts and other financial matters relating to parties, candidates, groups, political campaigners, third parties and associated entities.

Registered political parties, candidates and groups must have agents. Political campaigners and associated entities must nominate financial controllers. Many of the obligations in this Part are imposed on those agents and financial controllers.

Registered political parties, candidates and groups may be entitled to election funding. The election funding is payable in relation to any candidate who received more than 4% of the total first preference votes cast in the election.

Generally, gifts of at least $1,000 to political entities (who are registered political parties, candidates and Senate groups) and political campaigners must not be made by foreign donors (that is, persons who, broadly, do not have a connection to Australia).

Broadly, gifts to political entities, political campaigners or third parties must not be made by foreign donors for the purpose of incurring electoral expenditure or creating or communicating electoral matter.

There are obligations to disclose certain gifts made to:

(a) candidates and members of groups; and

(b) registered political parties, State branches and political campaigners.

Certain expenditure incurred by or with the authority of candidates and groups during an election period must also be disclosed.

Each financial year, registered political parties, political campaigners, third parties and associated entities are required to disclose details relating to amounts received or paid or incurred by the parties, campaigners or entities during the year.

287 Interpretation

(1) In this Part, unless the contrary intention appears:

associated entity means an entity that is registered as an associated entity under section 287L.

Note: See section 287H for when an entity is required to be registered as an associated entity.

~~***associated entity*** means:~~

~~(a) an entity that is controlled by one or more registered political parties; or~~

~~(b) an entity that operates wholly, or to a significant extent, for the benefit of one or more registered political parties; or~~

~~(c) an entity that is a financial member of a registered political party; or~~

~~(d) an entity on whose behalf another person is a financial member of a registered political party; or~~

~~(e) an entity that has voting rights in a registered political party; or~~

~~(f) an entity on whose behalf another person has voting rights in a registered political party.~~

Australian resident means a person who holds a permanent visa under the *Migration Act 1958*.

broadcast includes televise.

candidate has a meaning affected by subsection (9).

credit card means:

(a) any article of a kind commonly known as a credit card; or

(b) any similar article intended for use in obtaining cash, goods or services on credit;

~~***designated federal party*** has the meaning given by subsection 287B(1).~~

~~***disclosure period***, in relation to an election, means the period that commenced:~~

~~(b) in the case of a candidate in the election (including a member of a group) who had been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the election or in a Senate election the polling day in which was within 7 years before polling day in the election—at the end of 30 days after polling day in the last such general election, by-election or Senate election in which the person was a candidate;~~

~~(c) in the case of a candidate in the election (including a member of a group) who had not been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the relevant election or in a Senate election the polling day in which was within 7 years before polling day in the relevant election—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person nominated as a candidate, whichever was the earlier;~~

~~(d) in the case of a person who, when he or she became a candidate in the relevant election, was a Senator holding office under section 15 of the Constitution but was not a person who had been a candidate in a general election or by-election the polling day in which was within 4 years before polling day in the relevant election or in a Senate election the polling day in which was within 7 years before polling day in the relevant election—on the day on which the person was chosen or appointed under section 15;~~

~~(e) in the case of a group—on the day on which the members made a request under section 168; and~~

~~(f) in the case of a person or organisation to which subsection 305A(1) or (1A) applies—at the end of 30 days after the polling day in the last general election or election of Senators for a State or Territory;~~

~~and ended 30 days after polling day in the election.~~

disclosure threshold means $13,800.

Note: This amount is indexed under section 321A.

disposition of property means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes:

(a) the allotment of shares in a company;

(b) the creation of a trust in property;

(c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property;

(d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property;

(e) the exercise by a person of a general power of appointment of property in favour of any other person; and

(f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.

division, in relation to a State branch of a political party, includes a branch of the State branch of the political party.

election means an election of a member of the House of Representatives or an election of senators for a State or Territory.

election period, in relation to an election, means the period commencing on the day of issue of the writ for the election and ending at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election.

electoral expenditure has the meaning given by section 287AB.

~~***eligible vote*** means a vote in respect of which, by virtue of section 294, a payment under Division 3 may be made.~~

~~***entitlement*** means an entitlement under section 294 in respect of an election.~~

entity means:

(a) an incorporated or unincorporated body;

(b) the trustee of a trust.

federal party means a registered political party that has:

(a) a federal branch; and

(b) 2 or more State branches that are registered political parties.

financial controller, in relation to a person or entity, means (subject to section 292F)~~an entity, means~~:

(a) if the person or entity~~the entity~~ is a company—the secretary of the company;

(b) if the person or entity~~the entity~~ is the trustee of a trust—the trustee;

(c) in other cases—the person responsible for maintaining the financial records of the person or entity~~the entity~~.

financial member, in relation to a registered political party, means a person or entity that pays an annual subscription to the party.

foreign donor has the meaning given by section 287AA.

foreign public enterprise has the meaning given by section 70.1 of the *Criminal Code*.

gift means any disposition of property made by a person to another person, ~~otherwise than by will,~~ being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include:

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(a) a payment under Division 3; or

(b) an annual subscription paid to a political party, to a State branch of a political party or to a division of a State branch of a political party by a person in respect of the person's membership of the party, branch or division; or

(c) any visit, experience or activity provided for the purposes of a political exchange program.

group means a group of 2 or more candidates nominated for election to the Senate who have their names grouped in the ballot papers in accordance with section 168.

Note: The meaning of ***group*** is affected by subsection (9).

head office of an entity means the place of business where central management and control of the entity are exercised.

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

~~***Liberal Party*** means the political party that, at the commencement of this definition, was registered under Part XI as the ***Liberal Party of Australia***.~~

loan means any of the following:

(a) an advance of money;

(b) a provision of credit or any other form of financial accommodation;

(c) a payment of an amount for, on account of, on behalf of or at the request of, a person or entity, if there is an express or implied obligation to repay the amount;

(d) a transaction (whatever its terms or form) which in substance effects a loan of money.

Note: For loans on credit cards, see subsection (10).

political campaigner means a person or entity that is registered as a political campaigner under section 287L.

Note 1: See also subsection (8) and section 287C (entities that have branches or are not incorporated).

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Note 2: See section 287F for when a person or entity is required to be registered as a political campaigner.

polling day, in relation to an election, means the day fixed for polling in the election.

property includes money.

registered, in relation to an election, means registered, before the day of issue of the writ for the election, under Part XI.

registered industrial organisation means:

(a) an organisation registered under the *Fair Work (Registered Organisations) Act 2009*; or

(b) an association registered or recognised under that Act or under a law of a State or Territory concerning the registration of industrial associations.

scheme (except in section 287E) means:

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

senior staff of a person or entity means:

(a) for a person or entity with directors—the directors of the person or entity; or

(b) otherwise—any person who makes or participates in making decisions that affect the whole or a substantial part of the operations of the person or entity.

State branch, in relation to a political party, means a branch or division of the party that is organized on the basis of a particular State or Territory.

third party: a person or entity (except a political entity or a member of the House of Representatives or the Senate) is a ***third party*** during a financial year if:

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(a) the amount of electoral expenditure incurred by or with the authority of the person or entity during the financial year is more than the disclosure threshold; and

(b) the person or entity is not required to be, and is not, registered as a political campaigner under section 287F for the year.

Note: See also subsection (8) and section 287C (entities that have branches or are not incorporated).

Transparency Register means the Register of that name established and maintained under section 287N.

(2) Where, under this Part, a claim is to be lodged, a notice is to be given or a return is to be furnished to the Electoral Commission, the claim, notice or return shall be taken to be so lodged, given or furnished if it is lodged at the principal office of the Electoral Commission in Canberra.

(3) A reference in this Part to things done by or with the authority of a political party, a State branch of a political party or a division of a State branch of a political party shall, if the party, branch or division is not a body corporate, be read as a reference to things done by or with the authority of members or officers of the party, branch or division on behalf of the party, branch or division.

(4) A reference in this Part to a political party, other than a reference to the endorsement of a candidate or group in an election, shall be read as not including a reference to a part of the political party.

(4A) In relation to a political party that does not have State branches or that only carries on activities in one State or Territory:

(a) a reference in another Division of this Part (other than Division 2) to a State branch of a political party is a reference to the party; and

(b) a reference to the agent of a State branch of a political party is:

(i) a reference to the agent of the party in respect of the relevant State or Territory; or

(ii) if the party does not have an agent in respect of that State or Territory—a reference to the agent of the party.

(5) For the purposes of this Part, the amount or value of a gift consisting of or including a disposition of property other than money shall, if the regulations so provide, be determined in accordance with principles set out or referred to in the regulations.

(6) For the purposes of this Part:

(a) a body corporate and any other body corporate that is related to the first-mentioned body corporate shall be deemed to be the same person; and

(b) the question whether a body corporate is related to another body corporate shall be determined in the same manner as the question whether a corporation is related to another corporation is determined under the *Corporations Act 2001*.

~~(7) For the purposes of this Part, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.~~

Branches of political campaigners and third parties

(8) A political campaigner or third party that has branches is, for the purposes of this Part, to be treated as a single political campaigner or third party.

Note: See also section 287C (entities that are not incorporated).

When a person is a candidate or part of a group

(9) For the purposes of this Part:

(a) a person who is a candidate in an election is taken to begin to be a candidate on the earlier of the following days:

(i) the day the person announced that the person would be a candidate in the election;

(ii) the day the person nominated as a candidate in the election; and

(b) a group is taken to begin to be a group in an election on the day the members of the group make a request under section 168 for their names to be grouped in the ballot papers for the election;

and the candidate or group ceases to be a candidate or group at the end of 30 days after the polling day in the election.

Loans on credit cards

(10) For the purposes of this Part, if credit is provided on a credit card in respect of card transactions, the credit is to be treated as a separate loan for each transaction.

287AA Meaning of *foreign donor*

Each of the following is a ***foreign donor***:

(a) a body politic of a foreign country;

(b) a body politic of a part of a foreign country;

(c) a part of a body politic mentioned in paragraph (a) or (b);

(d) a foreign public enterprise;

(e) an entity (whether or not incorporated) that does not meet any of the following conditions:

(i) the entity is incorporated in Australia;

(ii) the entity's head office is in Australia;

(iii) the entity's principal place of activity is, or is in, Australia;

(f) an individual who is none of the following:

(i) an elector;

(ii) an Australian citizen;

(iii) an Australian resident.

287AB Meaning of *electoral expenditure*

Dominant purpose of creating or communicating electoral matter

(1) ***Electoral expenditure*** means expenditure incurred for the dominant purpose of creating or communicating electoral matter, except to the extent that:

(a) the expenditure is, or is to be, paid or reimbursed by the Commonwealth (except under Division 3 (election funding)) to or in relation to a person who is or was a member of the House of Representatives, a Senator or a Minister, because that person is or was such a member, Senator or Minister; or

(b) the expenditure is incurred by a person or entity (the ***service provider***):

(i) in providing a communication service or communication platform that is used to create or communicate electoral matter; or

(ii) in providing a service for another person or entity that engaged the service provider, on a commercial basis, to create or communicate electoral matter.

Note 1: For example, expenditure incurred in relation to the communication of electoral matter for which particulars are required to be notified under section 321D is electoral expenditure.

Note 2: Expenditure by a person who creates matter that is covered by an exception under subsection 4AA(5) is not electoral expenditure. However, as each creation or communication of matter is treated as separate matter under subsection 4AA(2), expenditure incurred by another person who communicates the same matter for the dominant purpose referred to in subsection 4AA(1) may be electoral expenditure.

Note 3: For deemed electoral expenditure for political campaigners, see section 287J.

(2) Expenditure may be electoral expenditure whether the expenditure is incurred for the dominant purpose of creating or communicating particular electoral matter or electoral matter generally.

Expenditure in relation to an election

(3) In addition, any expenditure incurred by or with the authority of a political entity, a member of the House of Representatives or a Senator in relation to an election is ***electoral expenditure***, except to the extent that the expenditure is, or is to be, paid or reimbursed by the Commonwealth (except under Division 3 (election funding)) to or in relation to a person who is or was a member of the House of Representatives, a Senator or a Minister, because that person is or was such a member, Senator or Minister.

287AC Implied freedom of political communication

This Part does not apply to a person or entity to the extent that any constitutional doctrine of implied freedom of political communication would be infringed if this Part were to apply to the person or entity.

287A Campaign committee to be treated as part of State branch of party

(1) Divisions 4, 5 and 5A apply as if a campaign committee of an endorsed candidate or endorsed group were a division of the relevant State branch of the political party that endorsed the candidate or the members of the group.

(2) In subsection (1):

campaign committee, in relation to a candidate or group, means a body of persons appointed or engaged to form a committee to assist the campaign of the candidate or group in an election.

endorsed candidate means a candidate who is endorsed by a registered political party.

endorsed group means a group all of the members of which are endorsed by the same registered political party.

relevant State branch, in relation to a political party, means:

(a) if the party has 2 or more State branches—the State branch of the party for the State or Territory in which the election is held; and

(b) in any other case—the party.

~~**287B Designated federal party**~~

~~(1) For the purposes of this Part, a ***designated federal party*** is a registered political party (other than the Liberal Party), where:~~

~~(a) there are 2 or more State branches of the party; and~~

~~(b) there is in force a choice under subsection (2) that the party be treated as a designated federal party for the purposes of this Part.~~

~~(2) The registered officer of a registered political party may, on behalf of the party, give the Electoral Commission a written notice stating that the party chooses to be treated as a designated federal party for the purposes of this Part.~~

~~(3) A choice under subsection (2) may be revoked at any time by the registered officer by written notice given to the Electoral Commission.~~

~~(4) Despite subsection (3), a choice under subsection (2) must not be revoked during the period:~~

~~(a) beginning at the start of the polling day for an election; and~~

~~(b) ending on the 14th day after the day on which the writ for that election is returned.~~

287C Entities that are not incorporated

For the purposes of this Act and the Regulatory Powers Act:

(a) expenditure is taken to be incurred by or with the authority of an entity that is not a legal person if the expenditure is incurred by or with the authority of any member, agent or officer (however described) of the entity who, acting in his or her actual or apparent authority, incurred the expenditure; and

(b) a contravention of:

(i) section 287F (requirement to register as a political campaigner) that would otherwise have been committed by an entity that is not a legal person; or

(ii) any other provision of this Part that would otherwise have been committed by a political campaigner that is not a legal person;

is taken to have been committed by the financial controller of the entity or campaigner; and

(c) a contravention of a provision of this Part that would otherwise have been committed by an entity (except a political entity or a political campaigner) that is not a legal person is taken to have been committed by each member, agent or officer (however described) of the entity who, acting in that person's actual or apparent authority, engaged in any conduct or made any omission contributing to the contravention.

Note: See also subsection 287(8) (political campaigners and third parties that have branches).

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Division 1A—Registration of political campaigners and associated entities and the Transparency Register

Subdivision A—Simplified outline of this Division

287D Simplified outline of this Division

A political campaigner or associated entity must be registered as such under this Division. A person or entity may be liable to a civil penalty if the person or entity incurs electoral expenditure without being appropriately registered.

Generally, whether a person or entity is a political campaigner depends on the amount of electoral expenditure that the person or entity incurs.

Associated entities are entities that have some kind of connection with registered political parties (such as being controlled by or operating for the benefit of a registered political party).

The Electoral Commissioner maintains the Transparency Register under this Division.

The Transparency Register contains details reported to the Electoral Commission under this Part, and other public information.

287E Object of this Division

The object of this Division is to provide for the registration of certain persons or entities that are not registered political parties or candidates in elections, and to provide for the Transparency Register, in order to support the transparency of:

(a) the scheme established by Division 3A relating to donations; and

(b) the schemes established by Divisions 4, 5 and 5A relating to the disclosure of donations or electoral expenditure, and annual returns; and

(c) the scheme established by Part XXA in relation to the authorisation of electoral matter.

Subdivision B—Requirement to register as a political campaigner or associated entity

287F Requirement to register as a political campaigner

(1) A person or entity (except a political entity, a member of the House of Representatives or a Senator) must be registered for a financial year as a political campaigner, in accordance with subsection (2), if:

(a) the amount of electoral expenditure incurred by or with the authority of the person or entity during that or any one of the previous 3 financial years is $500,000 or more; or

(b) the amount of electoral expenditure incurred by or with the authority of the person or entity:

(i) during that financial year is $100,000 or more; and

(ii) during the previous financial year was at least two-thirds of the revenue of the person or entity for that year.

Note: A person or entity might be taken to have incurred electoral expenditure in a financial year if the person or entity was required to be registered as a political campaigner for a previous financial year but was not so registered (see section 287J).

(2) The person or entity must be registered before the end of 90 days after becoming required to be registered.

(3) A person or entity that is required to be registered under subsection (1) for a financial year must not incur further electoral expenditure in that financial year if the person or entity is not registered as a political campaigner.

Note: The financial controller of an entity may contravene this subsection if the entity is not a legal person (see section 287C).

Civil penalty:

The higher of the following amounts:

(a) 200 penalty units;

(b) if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of electoral expenditure incurred in contravention of this subsection—3 times that amount.

287H Requirement to register as an associated entity

(1) An entity (except a political entity) must be registered for a financial year as an associated entity, in accordance with subsection (2), if any of the following apply in that year:

(a) the entity is controlled by one or more registered political parties;

(b) the entity operates wholly, or to a significant extent, for the benefit of one or more registered political parties;

(c) the entity is a financial member of a registered political party;

(d) another person is a financial member of a registered political party on behalf of the entity;

(e) the entity has voting rights in a registered political party;

(f) another person has voting rights in a registered political party on behalf of the entity.

(2) The entity must be registered before the end of 90 days after becoming required to be registered.

(3) An entity that is required to be registered under subsection (1) for a financial year must not incur any electoral expenditure in that financial year, after becoming required to be so registered, if the entity is not registered as an associated entity.

Note: A member, agent or officer of the entity may contravene this subsection if the entity is not a legal person (see section 287C).

Civil penalty:

The higher of the following amounts:

(a) 200 penalty units;

(b) if the court can determine the amount, or an estimate of the amount, of electoral expenditure incurred in contravention of this subsection—3 times that amount.

287J Expenditure incurred by persons and entities that are not registered when required to be so

(1) For the purposes of this Act, a person or entity is taken to have incurred an amount of electoral expenditure in a financial year (the ***current financial year***) if:

(a) the person or entity incurred that amount of electoral expenditure in a previous financial year; and

(b) as a result of incurring that electoral expenditure, the person or entity was required to be registered as a political campaigner in the previous financial year; and

(c) the person or entity was not so registered:

(i) in the previous financial year; or

(ii) if the person or entity was required to be registered under section 287F and the 90-day period in which the person was required to be registered ended after the end of the previous financial year—by the end of that period.

(2) This section ceases to apply, at the end of the current financial year, in relation to the amount of electoral expenditure if the person or entity is registered as required as a political campaigner in the current financial year.

287K Application for registration

(1) A person or entity may apply to the Electoral Commissioner to be registered as:

(a) a political campaigner; or

(c) an associated entity.

(2) The application must:

(a) be in an approved form; and

(b) without limiting paragraph (a):

(i) state the financial controller nominated for the person or entity; and

(ii) for an application to be registered as an associated entity—identify any registered political party with which the entity is associated.

287L Determining an application for registration

(1) The Electoral Commissioner must, subject to subsection (4), register a person or entity in accordance with the person or entity's application under section 287K if the application complies with subsection 287K(2). The Electoral Commissioner must register the person or entity as soon as practicable after receiving the application.

(2) To avoid doubt, the Electoral Commissioner may register a person or entity in accordance with the person or entity's application whether or not the person or entity is required to be registered under section 287F or 287H.

Refusing registration

(4) The Electoral Commissioner must refuse to register a person or entity in accordance with the person or entity's application under section 287K if the Electoral Commissioner would be required to refuse registration under subsection 129(1) (except under paragraph 129(1)(a)) because of the name of the political campaigner or the associated entity assuming that:

(a) the person or entity were applying to be registered as a political party; and

(b) references in that subsection to a "recognised political party", "political party" or "the party" included references to a "political campaigner" or "associated entity"; and

(c) references in that subsection to a "registered party" included references to a "political campaigner" or "associated entity".

(5) Section 131 (variation of application) applies as if references to an application for the registration of a political party included references to an application for registration under this section.

Review of decisions

(6) Section 141 (review of certain decisions) applies as if:

(a) a decision under this section to refuse to register a person or entity in accordance with the person or entity's application under section 287K were a reviewable decision; and

(b) references to a person included references to a political campaigner or associated entity.

287M Applications for deregistration

(1) A person or entity that is registered as a political campaigner or an associated entity may apply to the Electoral Commissioner to be deregistered.

(2) The application must be in an approved form.

(3) On receiving the application, the Electoral Commissioner must deregister the person or entity as a political campaigner or an associated entity (as the case requires).

Subdivision C—Transparency Register

287N Transparency Register

(1) The Electoral Commissioner must establish and maintain a Transparency Register.

Content of Transparency Register

(2) The Transparency Register must include the following information:

(a) the name of:

(i) each person or entity registered as a political campaigner under section 287L; and

(ii) each entity registered as an associated entity under section 287L; and

(iii) each person or entity that has provided a return under section 314AEB (annual returns by third parties) for that or any of the previous 3 financial years; and

(iv) each political entity;

(b) for political campaigners and associated entities—the name of the financial controller of the person or entity;

(c) for associated entities—the name of any registered political parties with which the person or entity is associated;

(d) any determination, notice or return published under section 320;

(e) any enforceable undertaking published under subsection 384A(2A).

Note: The Transparency Register may include the Register of Political Parties (see section 125).

(3) The Electoral Commissioner must keep the Transparency Register up-to-date.

(4) Subsection (3) does not prevent historical data from being included in the Transparency Register.

Determination of additional information

(5) The Transparency Register may include any other information determined by the Electoral Commissioner under subsection (6).

(6) The Electoral Commissioner may, by legislative instrument, determine information that may or must be included in the Transparency Register.

(7) Before making a determination under subsection (6), the Electoral Commissioner must consult the Information Commissioner in relation to matters that relate to the privacy functions (within the

meaning of the *Australian Information Commissioner Act 2010*) and have regard to any submissions made by the Information Commissioner because of that consultation.

287P Obligation to notify Electoral Commissioner of changes to information on Transparency Register

(1) A person or entity (except a political entity) whose name is on the Transparency Register must notify the Electoral Commissioner, in an approved form, if information on the Transparency Register relating to the person or entity ceases to be correct or complete.

Note: For who is responsible for notifying the Electoral Commissioner in relation to certain entities that are not legal persons, see section 287C.

(2) The person or entity must notify the Electoral Commissioner under subsection (1) within 90 days of the information ceasing to be correct or complete.

Civil penalty: 60 penalty units.

(3) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) of this section.

287Q Transparency Register to be made public etc.

(1) The Transparency Register may be maintained by electronic means.

(2) The Transparency Register is to be made available to the public.

287R Entry in Transparency Register prima facie evidence of information

An entry in the Transparency Register is prima face evidence of the information contained in the entry.

Subdivision D—Anti-avoidance

287S Anti-avoidance

(1) The Electoral Commissioner may give a person or entity (the ***relevant person***) a written notice if:

(a) one or more persons or entities (whether or not including the relevant person) enter into, begin to carry out or carry out a scheme; and

(b) there are reasonable grounds to conclude that the person or entity, or any of the persons or entities, who entered into, began to carry out or carried out the scheme or any part of the scheme did so for the sole or dominant purpose of avoiding the requirement to register the relevant person under section 287F or 287H (requirement to register as a political campaigner or associated entity) for a financial year; and

(c) as a result of the scheme or part of the scheme:

(i) the amount of electoral expenditure incurred by or with the authority of the relevant person during the financial year is reduced below the amount specified in paragraph 287F(1)(a) or subparagraph 287F(1)(b)(i); or

(ii) the amount of revenue of the relevant person during the previous financial year is increased; or

(iii) the amount of electoral expenditure incurred by or with the authority of the relevant person during the previous financial year is reduced; or

(iv) the relevant person is controlled by another person or entity that is not a registered political party but the other person or entity is controlled by, or controls, a registered political party; or

(v) the relevant person operates wholly, or to a significant extent, for the benefit of another person or entity that is not a registered political party but the other person or entity is controlled by, or controls, a registered political party; and

(d) as a result of the scheme or part, the relevant person is not required to be registered under section 287F or 287H for the financial year.

Note 1: A decision to give a notice is a reviewable decision (see section 120).

Note 2: For the definition of ***scheme***, see subsection 287(1).

(2) The notice must specify that, for the purposes of this Act, the relevant person is taken, from the day specified in the notice, to be required to be registered for the financial year as a political campaigner or associated entity (as the case requires), and the notice has effect accordingly.

(3) The day specified in the notice must not be earlier than the day the notice is given to the relevant person.

(4) This section applies whether or not the scheme is entered into, begun to be carried out or carried out:

(a) in Australia; or

(b) outside Australia; or

(c) partly in Australia and partly outside Australia.

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Division 2—Agents and financial controllers

~~**Division 2—Agents**~~

Subdivision A—Simplified outline of this Division

287V Simplified outline of this Division

Registered political parties, candidates and groups must have an agent. Political campaigners and associated entities must nominate a financial controller.

The Electoral Commissioner keeps a Register of Party Agents. Information about financial controllers for political campaigners and associated entities is kept in the Transparency Register under Division 1A.

The agents are responsible for making claims for election funding under Division 3. The agents and financial controllers are responsible for complying with Divisions 1A and 3A, and providing returns under Divisions 4 to 5A.

Subdivision B—Appointment of agents

288 Agents of political parties

(1) A political party shall have an agent for the purposes of this Part.

(2) A political party that carries on activities in 2 or more States or Territories shall also have an agent for the purposes of this Part in respect of each of those States or Territories.

(3) The agent of a political party in respect of a State or Territory in which the party has a State branch shall be appointed by the State branch.

Section 15T28915T

289 Appointment of agents by candidates and groups

Agents of candidates

(1) A candidate in an election (including a member of a group of candidates) may appoint a person to be the agent of the candidate in relation to the election.

Note: A group of candidates has an agent who is separate from the candidates' agents (see subsections (3) and (4)).

(2) If the candidate does not appoint an agent, the candidate is taken to be his or her own agent in relation to the election.

Agents of members of groups

(3) The members of a group of candidates in an election may appoint a person to be the agent of the group in relation to the election.

(4) If the members of a group of candidates do not appoint an agent:

(a) if all the members have been endorsed by the same registered political party—the agent of the State branch of the party organised on the basis of the State or Territory in which the election is to be held is taken to be the agent of the group in relation to the election; and

(b) otherwise—the candidate whose name appears first in the group in the ballot papers (or if that candidate dies, the candidate whose name appears next highest in the ballot papers) is taken to be the agent of the group in relation to the election.

~~**288A Principal agents**~~

~~(1) For the purposes of Division 3, the political party registered as ***Australian Democrats*** may appoint a principal agent.~~

~~(2) A principal agent is to be appointed by the registered officer of the registered political party. Written notification of this appointment is to be given to the Electoral Commission.~~

(3) Where a principal agent is appointed under this section, he or she is:

(a) to receive any amount payable under section 299; and

(b) to report expenditure of funds received under section 299 as if the expenditure were electoral expenditure under section 309.

(4) Subject to subsection (5), a principal agent is not to be taken to be an agent for the purposes of this Act.

(5) A principal agent is to be taken to be an agent for the purposes of Division 2 other than sections 288, 289 and 292B.

289 Appointment of agents by candidates and groups

(1) A candidate in an election (including a member of a group of candidates) may appoint a person to be the agent of the candidate, for the purposes of this Part, in relation to the election.

(2) Subject to subsection (2A), the members of a group of candidates in an election may appoint a person to be the agent of the group, for the purposes of this Part, in relation to the election.

(2A) Where all the members of a group of candidates in a Senate election have been endorsed by the same registered political party, the agent of the State branch of the party organised on the basis of the State or Territory in which the election is to be held is the agent of the group, for the purposes of this Part, in relation to the election.

(3) During any period during which there is no appointment in force under subsection (1) of an agent of a candidate, the candidate shall be taken to be his or her own agent for the purposes of this Part.

(4) During any period during which there is no appointment in force under subsection (2) of an agent of a group, the candidate whose name is to appear first in the group in the ballot papers shall be taken to be the agent of the group for the purposes of this Part.

Section 15T29015T

~~290 Requisites for appointment~~

~~(1) An appointment of an agent under section 288 or 289 has no effect unless:~~

~~(a) the person appointed is a natural person who has attained the age of 18 years;~~

~~(b) written notice of the appointment is given to the Electoral Commission:~~

~~(i) where the appointment is made by a political party or a State branch of a political party—by the party or branch, as the case may be; and~~

~~(ii) in any other case—by the candidate, or each member of the group, making the appointment;~~

~~(c) the name and address of the person appointed are set out in the notice; and~~

~~(d) the person appointed:~~

~~(i) has signed a form of consent to the appointment; and~~

~~(ii) has signed a declaration that he or she is eligible for appointment.~~

~~(1A) A consent or declaration under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.~~

~~(2) Where a person who is the agent of a political party, of a candidate or of a group is convicted of an offence against this Part in relation to a particular election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this Part for the purposes of any subsequent election.~~

~~(3) An appointment (other than an appointment by a political party or a State branch of a political party) is not effective in relation to anything required by this Part to be done:~~

~~(a) in respect of a return under this Part in relation to an election; or~~

~~(b) during a specified period after polling day in an election;~~

~~if notice of the appointment was given to the Commission after the close of nominations for the election.~~

291 Register of Party Agents

(1) The Electoral Commission shall keep a register called the Register of Party Agents.

(2) There shall be entered in the Register the name and address of every person appointed to be an agent of a political party for the purposes of this Part.

292 Effect of registration etc.

(1) The appointment of an agent by a political party:
  (a) takes effect on the entry of the name and address of the agent in the Register of Party Agents; and
  (b) ceases to have effect if the name and address of the agent are removed from the Register.

(2) The name and address of a person shall not be removed from the Register unless:
  (a) the person gives to the Electoral Commission written notice that he or she has resigned the appointment as agent;
  (b) the political party or State branch that appointed the person gives to the Electoral Commission written notice that the person has ceased to be an agent of the party and also gives notice under subsection 292F(1)~~subsection 290(1)~~ of the appointment of another person as agent of the party; or
  (c) the person is convicted of an offence against this Part.

(3) If a person who is an agent of a political party dies, the party or the State branch by which the person was appointed shall, within 28 days after the death of the person, give to the Electoral Commission:
  (a) written notice of the death; and
  (b) notice under subsection 292F(1)~~subsection 290(1)~~ of the appointment of a person as agent in place of the first-mentioned person.

(4) Where a person who is an agent of a political party is convicted of an offence against this Part, the party or State branch that appointed the person shall give notice under subsection 292F(1)~~subsection 290(1)~~ of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is determined.

292A Evidence of appointment

An entry in the Register of Party Agents is, for all purposes, conclusive evidence that the person described in the entry is the agent, for the purposes of this Part, of the political party named in the entry.

292B Responsibility for action when agent of party or branch dead or appointment vacant

Where:

(a) Division 3A, 4, 5 or 5A imposes an obligation on the agent of a political party or of a State branch of the party; and

(b) there is no agent of the party or branch, as the case may be;

the obligation rests upon each member of the executive committee of the party or branch, and this Act applies to each such member as if the obligation rested upon that member alone.

292C Revocation of appointment of agent of candidate or group

(1) A candidate or the members of a group may, by giving written notice to the Electoral Commission, revoke the appointment of a person as the agent of the candidate or group, as the case may be.

(2) A notice under subsection (1) has no effect unless it is signed by the candidate or by each member of the group, as the case requires.

292D Notice of death or resignation of agent of candidate or group

Death

(1) If the agent of a candidate or group dies, the candidate or a member of the group must, without delay, give to the Electoral Commission notice in writing of the death.

Resignation

(2) If the agent of a candidate or group resigns, the agent must, without delay, give to the Electoral Commission notice in writing of the resignation.

~~**292D Notice of death or resignation of agent of candidate or group**~~

~~If the agent of a candidate or group dies or resigns, the candidate or a member of the group shall, without delay, give to the Electoral Commission notice in writing of the death or resignation.~~

Subdivision C—Nomination of financial controllers

292E Financial controllers of political campaigners and associated entities

(1) Each political campaigner and associated entity must nominate a financial controller.

Note: See the definition of ***financial controller*** in subsection 287(1).

(2) If the political campaigner or associated entity is an individual, he or she may nominate himself or herself as the financial controller.

(3) If the political campaigner or associated entity (the ***campaigner or entity***) is not a legal person, an individual acting on behalf of the campaigner or entity must nominate the financial controller.

Subdivision D—Requirements for appointment or nomination

292F Requirements for appointment or nomination

(1) An appointment of an agent under section 288 or 289, or a nomination of a financial controller under section 292E, must meet the following conditions (subject to subsection (2)):

(a) the person appointed or nominated is an individual who is at least 18 years old;

(b) written notice of the appointment or nomination is given to the Electoral Commission:

(i) for an appointment made by a political party or a State branch of a political party—by the party or branch; and

(ii) for any other appointment—by the candidate, or each member of the group, making the appointment; and

(iii) for a nomination of a financial controller of a political campaigner or associated entity—by the campaigner or entity nominating the financial controller;

(c) the name and full street address and suburb or locality of the person appointed or nominated are set out in the notice;

(d) the person appointed or nominated:

(i) has signed a form of consent to the appointment or nomination; and

(ii) has signed a declaration that he or she is eligible for appointment or nomination;

(e) for a nomination under section 292E—the person nominated meets the definition of ***financial controller*** in subsection 287(1).

(2) Subsection (1) does not apply in relation to a person who is taken to be an agent under subsection 289(2) or (4).

(3) A consent or declaration under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.

(4) A person is not eligible to be:

(a) appointed as an agent of a political party, candidate or group; or

(b) nominated as a financial controller of a political campaigner or associated entity;

if the person is convicted of an offence against this Part.

Division 3—Election funding

Subdivision A—Simplified outline of this Division

292G Simplified outline of this Division

Election funding may be payable in relation to registered political parties, candidates and groups under this Division. The election funding is payable in relation to any candidate who received more than 4% of the total first preference votes cast in the election. Election funding of $10,000 (as indexed) is paid as soon as practicable after 20 days after the polling day for the election or elections. However, a claim must be made for election funding of more than that amount to be paid.

The amount of the election funding is worked out by reference to the number of formal first preference votes received by the candidate. However, for an amount of election funding that is more than $10,000 (as indexed), the amount is capped at the amount of actual expenditure incurred by the candidate or the registered political party endorsing the candidate.

Subdivision B—Election funding

293 Election funding for registered political parties

(1) Election funding is payable in relation to a registered political party under this section for an election if either of the following applies:

(a) in respect of a candidate whom the party endorses in a House of Representatives election, or in a Senate election and who is not a member of a group—the total number of formal first preference votes given for the candidate is at least 4% of the total number of formal first preference votes cast in the election;

(b) in respect of candidates whom the party endorses in a Senate election and who are members of a group—the total number of formal first preference group votes given for the candidates is at least 4% of the total number of formal first preference votes cast in the election.

Note: A claim must be made for election funding of more than $10,000 to be paid (see section 297).

(2) The amount of election funding that is payable in relation to the party is:

(a) the total of the following:

(i) $2.73454 for each formal first preference vote given for a candidate in relation to whom paragraph (1)(a) is satisfied;

(ii) $2.73454 for each formal first preference group vote in respect of a group in relation to which paragraph (1)(b) is satisfied;

based on formal first preference votes and formal first preference group votes counted as at the day mentioned in subsection (3); or

(b) if the amount worked out under paragraph (a) is more than $10,000—the lesser of:

(i) the amount worked out under that paragraph; and

(ii) the amount of electoral expenditure that is claimed in respect of the registered political party for all elections held that day, and accepted by the Electoral Commission under section 298C.

Note: The amounts in subparagraphs (2)(a)(i) and (ii) and paragraph (b) are indexed under section 321.

(3) The amount worked out under paragraph (2)(a) is based on formal first preference votes and formal first preference group votes counted as at the day:

(a) if the amount is to be paid under Subdivision BA—that is 20 days after the polling day for the election or elections; or

(b) if the amount is to be paid under Subdivision C—a determination on the party's interim claim or final claim (as

the case requires) for election funding is made by the Electoral Commission.

294 Election funding for unendorsed candidates

(1) Election funding is payable in relation to a candidate under this section if:

(a) the candidate is neither:

(i) endorsed by a registered political party; nor

(ii) in the case of a Senate election—a member of a group; and

(b) the total number of formal first preference votes given for the candidate in the election is at least 4% of the total number of formal first preference votes cast in the election.

Note: A claim must be made for election funding of more than $10,000 to be paid (see section 297).

(2) The amount of election funding that is payable in relation to the candidate is:

(a) $2.73454 for each formal first preference vote given for the candidate in the election, based on formal first preference votes counted as at the day mentioned in subsection (3); or

(b) if the amount worked out under paragraph (a) is more than $10,000—the lesser of:

(i) the amount worked out under paragraph (a); and

(ii) the amount of electoral expenditure that is claimed in respect of the candidate for the election, and accepted by the Electoral Commission under section 298C.

Note: The amounts in paragraphs (2)(a) and (b) are indexed under section 321.

(3) The amount worked out under paragraph (2)(a) is based on formal first preference votes counted as at the day:

(a) if the amount is to be paid under Subdivision BA—that is 20 days after the polling day for the election; or

(b) if the amount is to be paid under Subdivision C—a determination on the candidate's interim claim or final claim

(as the case requires) for election funding is made by the Electoral Commission.

295 Election funding for unendorsed groups

(1) Election funding is payable in relation to a group in a Senate election under this section if:

(a) none of the group's members is a candidate endorsed by a registered political party; and

(b) the total number of formal first preference group votes is at least 4% of the total number of formal first preference votes cast in the Senate election.

Note: A claim must be made for election funding of more than $10,000 to be paid (see section 297).

(2) The amount of election funding that is payable in relation to the group is:

(a) $2.73454 for each formal first preference group vote in the Senate election, based on formal first preference votes and formal first preference group votes counted as at the day mentioned in subsection (3); or

(b) if the amount worked out under paragraph (a) is more than $10,000—the lesser of:

(i) the amount worked out under paragraph (a); and

(ii) the amount of electoral expenditure that is claimed in respect of the group for the Senate election, and accepted by the Electoral Commission under section 298C.

Note: The amounts in paragraphs (2)(a) and (b) are indexed under section 321.

(3) The amount worked out under paragraph (2)(a) is based on formal first preference votes and formal first preference group votes counted as at the day:

(a) if the amount is to be paid under Subdivision BA—that is 20 days after the polling day for the Senate election; or

(b) if the amount is to be paid under Subdivision C—a determination on the group's interim claim or final claim (as the case requires) for election funding is made by the Electoral Commission.

Subdivision BA—Automatic payment of election funding of $10,000

296 Automatic payment of election funding of $10,000

(1) As soon as practicable after 20 days after the polling day for an election or elections, the Electoral Commission must pay $10,000 in relation to each registered political party, candidate, or group in a Senate election, that is entitled to claim, and wishes to receive, an amount under subsection 293(2), 294(2) or 295(2).

Note 1: The amount of $10,000 is indexed under section 321.

Note 2: A registered political party may state under paragraph 126(2)(d) that it does not wish to receive election funding.

(2) The amount must be paid to:

(a) for a registered political party:

(i) that is a State branch of a federal party; and

(ii) that the agent of the federal party has agreed may receive the amount;

the agent of the State branch; or

(b) for a registered political party:

(i) that is a State branch of a federal party; and

(ii) that the agent of the federal party has not agreed may receive the amount;

the agent of the federal branch; or

(c) for any other registered political party—the agent of the registered political party; or

(d) for a candidate or group—the agent of the candidate or group.

Subdivision C—Claims for election funding of more than $10,000

297 Need for a claim for election funding of more than $10,000

(1) For election funding of more than $10,000 to be paid, a claim must be made by:

(a) for a registered political party:

(i) that is a State branch of a federal party; and

(ii) that the agent of the federal party has agreed may receive the election funding;

the agent of the State branch; or

(aa) for a registered political party:

(i) that is a State branch of a federal party; and

(ii) that the agent of the federal party has not agreed may receive the election funding;

the agent of the federal branch; or

(ab) for any other registered political party—the agent of the registered political party; or

(b) the agent of a candidate or group.

Note: The amount of $10,000 is indexed under section 321.

(2) The agent may make:

(a) an interim claim; or

(b) both an interim claim and a final claim; or

(c) a final claim.

Note: If an interim claim only is made, see subsections 298C(3) and (4).

(3) A final claim must specify all electoral expenditure for which election funding is sought, even if:

(a) some of the election funding sought has already been paid under Subdivision BA; or

(b) some or all of the electoral expenditure has been specified in an interim claim.

(4) A final claim may specify electoral expenditure already specified in an interim claim by making reference to the interim claim.

(5) Only one interim claim and one final claim may be made.

298 Electoral expenditure incurred

(1) A claim made by the agent of a registered political party must specify electoral expenditure:

(a) incurred by the party, or by candidates endorsed by the party, in relation to all elections held on the same day; and

(b) for which election funding is sought.

(2) A claim made by the agent of a candidate in an election who is not endorsed by a registered political party must specify electoral expenditure:

(a) incurred by the candidate in relation to the election; and

(b) for which election funding is sought.

(3) A claim made by the agent of a group in a Senate election must specify electoral expenditure:

(a) incurred by the group, or by candidates who are members of the group, in relation to the election; and

(b) for which election funding is sought.

298A Form of claim

A claim must:

(a) specify whether the claim is an interim claim or final claim; and

(b) be in an approved form; and

(c) specify the person or persons to whom the election funding is payable; and

(d) if the election funding is payable to more than one person—specify the percentages in which the election funding is payable to each person; and

(e) provide all the information, and be accompanied by any documents, required by the form.

298B Lodging of claim

(1) A claim must be lodged with the Electoral Commission during the period:

(a) beginning 20 days after the polling day for the election or elections; and

(b) ending 6 months after that polling day.

(2) A claim is taken not to have been made if it is not lodged within that period.

298C Determination of claim

(1) The Electoral Commission must, within 20 days of the Electoral Commission receiving a claim:

(a) decide whether to accept or refuse the claim, in whole or in part; and

(b) to the extent that the Electoral Commission accepts the claim—pay the amount required by section 298D or 298E.

(2) In deciding whether to accept or refuse a claim, in whole or in part, the Electoral Commission must only consider:

(a) whether expenditure claimed is electoral expenditure; and

(b) if expenditure claimed is electoral expenditure—both:

(i) whether the electoral expenditure was incurred; and

(ii) whether the electoral expenditure has been specified in a claim made by another agent.

(3) If an interim claim is accepted, in whole or in part, and a final claim is not lodged:

(a) no further election funding is payable; and

(b) the interim claim is taken to be a final claim accepted, in whole or in part, by the Electoral Commission for the purposes of subsection 301(1); and

(c) if the interim claim is accepted only in part—the interim claim is taken to be a final claim refused in part by the Electoral Commission for the purposes of sections 298F, 298G and 298H.

(4) If:

(a) an interim claim is refused; and

(b) a final claim is not lodged;

the interim claim is taken to be a final claim refused by the Electoral Commission for the purposes of sections 298F, 298G and 298H.

(5) To avoid doubt, subsection (3) does not require the Electoral Commission to determine the amount of election funding that is payable based on formal first preference votes and formal first preference group votes counted as at the day the interim claim is taken to be a final claim.

298D Payment to be made following acceptance of an interim claim

(1) This section applies if the Electoral Commission accepts, in whole or in part, an interim claim made by the agent of a registered political party, candidate or group in relation to an election or elections.

(2) Within 20 days of the Electoral Commission receiving the claim, the Electoral Commission must pay 95% of the amount:

(a) payable in relation to the party, candidate or group under subsection 293(2), 294(2) or 295(2); and

(b) reduced by any amount that has been paid in relation to the party, candidate or group in accordance with section 296.

The amount must be paid in accordance with paragraphs 298A(c) and (d).

Note 1: Under paragraphs 298A(c) and (d), a claim may specify the person or persons to whom, and percentages in which, election funding is payable.

Note 2: See also section 299A if the amount is payable to the agent of a registered political party.

298E Payment to be made following acceptance of a final claim

(1) This section applies if the Electoral Commission accepts, in whole or in part, a final claim made by the agent of a registered political party, candidate or group in relation to an election or elections.

(2) Within 20 days of the Electoral Commission receiving the claim, the Electoral Commission must pay the amount:

(a) payable in relation to the party, candidate or group under subsection 293(2), 294(2) or 295(2); and

(b) reduced by any amount that has been paid in relation to the party, candidate or group in accordance with section 296 or 298D.

The amount must be paid in accordance with paragraphs 298A(c) and (d).

Note 1: Under paragraphs 298A(c) and (d), a claim may specify the person or persons to whom, and percentages in which, election funding is payable.

Note 2: See also section 299A if the amount is payable to the agent of a registered political party.

298F Refusing a final claim

If a final claim is refused, in whole or in part, the Electoral Commission must cause to be given to the agent of the registered political party, candidate or group to which the claim relates, a notice that states that the claim has been refused, in whole or in part, and sets out the reasons for the refusal.

Note: A notice may be required under this section if an interim claim that is refused, in whole or in part, is taken to be a final claim under paragraph 298C(3)(c) or subsection 298C(4).

298G Application for reconsideration of decision to refuse a final claim

(1) If a final claim is refused, in whole or in part, the agent of the registered political party, candidate or group to which the claim

relates may apply to the Electoral Commission for the Electoral Commission to reconsider the decision.

(2) The application must:

(a) be in writing; and

(b) set out the reasons for the application.

(3) The application must be made within:

(a) 28 days after the day on which the agent is notified of the refusal; or

(b) if, either before or after the end of that period of 28 days, the Electoral Commission extends the period within which the application may be made—the extended period for making the application.

298H Reconsideration by Electoral Commission

(1) Upon receiving such an application, the Electoral Commission must:

(a) reconsider the decision; and

(b) decide to:

(i) affirm the decision; or

(ii) vary the decision; or

(iii) set aside the decision and make another decision.

(2) The Electoral Commission must give to the relevant agent a notice stating the decision on the reconsideration together with a statement of the reasons for the decision.

(3) If the Electoral Commission's decision on the reconsideration would require an amount, or an additional amount, of election funding to be paid, the Electoral Commission must pay the amount within 20 days of the day of its decision.

(4) The Electoral Commission may not delegate its power under subsection (1).

(5) Subsections 141(5) to (6A) apply in relation to a decision under this section in the same way as those subsections apply to a reviewable decision made by the Electoral Commission under subsection 141(2) or (4).

Subdivision D—Payments of election funding

~~294 General entitlement to funds~~

~~(1) Subject to this Division, $1.50 is payable for each first preference vote given for a candidate in a House of Representatives election.~~

~~(2) Subject to this Division, $1.50 is payable for each first preference vote given for a candidate or group in a Senate election.~~

~~(4) A reference in this section to a first preference vote shall be read as not including a reference to a vote that has been rejected as informal in the poll concerned.~~

~~297 Payment not to be made in certain circumstances~~

~~(1) A payment under this Division shall not be made in respect of votes given in an election for a candidate unless the total number of eligible votes polled in the candidate's favour is at least 4% of the total number of eligible votes polled in favour of all of the candidates in the election.~~

~~(2) A payment under this Division shall not be made in respect of votes given in an election for a group unless the total number of eligible votes polled in favour of the group is at least 4% of the total number of formal first preference votes cast in the election.~~

299 Recovery of amounts that are not payable

If:

(a) a payment is made under this Division; and

(b) the recipient is not entitled to receive the whole or a part of the amount paid;

that amount or part may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person in a court of competent jurisdiction.

299 Making of payments

(1) If an amount is payable under this Division in respect of votes given in an election or elections for a candidate or candidates endorsed by a registered political party, the Electoral Commission must:

(a) if:

(i) the party is the Liberal Party or a State branch of the Liberal Party; and

(ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;

pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or

(b) if paragraph (a) does not apply and the party is the Liberal Party or a State branch of the Liberal Party—pay the amount to the agent of the Liberal Party; or

(ba) if:

(i) the party is a designated federal party or a State branch of a designated federal party; and

(ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of

~~the designated federal party mentioned in subparagraph (ii); or~~

~~(bb) if:~~

~~(i) paragraph (ba) does not apply; and~~

~~(ii) the party is a designated federal party or a State branch of a designated federal party;~~

~~pay the amount to the agent of the designated federal party; or~~

~~(c) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or~~

~~(d) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election.~~

~~(2) Where an amount is payable under this Division in respect of votes given in an election for a candidate, the Electoral Commission shall make the payment to the agent of the candidate.~~

~~(3) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall make the payment to the agent of the group.~~

~~(4) Where an amount is payable under this Division in respect of votes given in a Senate election for a group, the Electoral Commission shall:~~

~~(a) if:~~

~~(i) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party; and~~

~~(ii) a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election;~~

pay the applicable federal percentage of the amount to the agent of the Liberal Party and the applicable State percentage of the amount to the agent of the State branch of the Liberal Party mentioned in subparagraph (ii); or

(aa) if:

(i) paragraph (a) does not apply; and

(ii) the members of the group were endorsed by one registered political party and that party is the Liberal Party or a State branch of the Liberal Party;

pay the amount to the agent of the Liberal Party; or

(aaa) if:

(i) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party; and

(ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or

(aab) if:

(i) paragraph (aaa) does not apply; and

(ii) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party;

pay the amount to the agent of the designated federal party; or

(ab) if paragraphs (a), (aa), (aaa) and (aab) do not apply and the members of the group were endorsed by one registered political party:

~~(i) if the party is the Australian Democrats and there is a principal agent appointed under section 288A—pay the amount to the principal agent; or~~

~~(ii) in any other case—pay the amount to the agent of the State branch of the party that is organised on the basis of the State or Territory in which the members of the group stood for election; or~~

~~(ac) if the members of the group were endorsed by 2 registered political parties, one of those parties is the Liberal Party or a State branch of the Liberal Party, and a notice for the election is in force under subsection (5E) in relation to the State branch of the Liberal Party that is organised on the basis of the State or Territory in which the members of the group stood for election:~~

~~(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and~~

~~(ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the Liberal Party and the applicable State percentage of the share to the agent of the State branch of the Liberal Party; and~~

~~(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or~~

~~(ad) if paragraph (ac) does not apply, the members of the group were endorsed by 2 registered political parties, and one of those parties is the Liberal Party or a State branch of the Liberal Party:~~

~~(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties~~

that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and

(ii) in the case of the share applicable to a State branch of the Liberal Party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the Liberal Party; and

(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

(ae) if the members of the group were endorsed by 2 registered political parties, only one of those parties is a designated federal party or a State branch of a designated federal party, and a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election:

(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and

(ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the designated federal party and the applicable State percentage of the share to the agent of the State branch of the designated federal party; and

(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

~~(af) if paragraph (ae) does not apply, the members of the group were endorsed by 2 registered political parties, and only one of those parties is a designated federal party or a State branch of a designated federal party:~~

~~(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and~~

~~(ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the designated federal party; and~~

~~(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or~~

~~(b) if paragraphs (ac), (ad), (ae) and (af) do not apply and the members of the group were endorsed by 2 registered political parties:~~

~~(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organized on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and~~

~~(ii) pay to each of those agents the share applicable to the agent in accordance with that agreement or that determination, as the case may be.~~

~~(5) An agreement referred to in subparagraph (4)(ac)(i), (ad)(i), (ae)(i), (af)(i) or (b)(i) does not have effect unless a copy of the agreement signed by the agents referred to in that subparagraph is lodged with the Electoral Commission before the 20th day after the polling day in the election.~~

Section 15T29915T

(5A) A notice may be lodged with the Electoral Commission for the purposes of this section requesting that payments that would otherwise be made to the agent of a party specified in the notice are to be paid instead to the agent of another party specified in the notice. In this subsection, ***party*** means a registered political party or a State branch of a registered political party.

(5B) A notice under subsection (5A):

(a) must be signed by the agent of each of the parties specified in the notice; and

(b) can only be withdrawn by a notice lodged with the Electoral Commission and signed by the agent of each of those parties.

(5C) If a notice is lodged under subsection (5A), payments under this section must be made in accordance with the notice for any election for which the polling day is:

(a) after the day on which the notice was lodged; and

(b) before the day (if any) on which the notice is withdrawn.

(5D) Where the Electoral Commission is required to make a payment under this section in respect of an entitlement:

(a) at least 95% of the entitlement (calculated on the basis of the votes counted as at the 20th day after the polling day in the election) must be paid as soon as possible after that 20th day; and

(b) any balance must be paid as soon as possible after the amount of the full entitlement is known.

(5E) The agent of the Liberal Party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:

(a) a specified percentage is the federal percentage applicable to a specified State branch of the Liberal Party; and

(b) a specified percentage is the State percentage applicable to a specified State branch of the Liberal Party.

(5F) For the purposes of subsection (5E), the sum of:

~~(a) the federal percentage applicable to a particular State branch of the Liberal Party; and~~

~~(b) the State percentage applicable to the State branch of the Liberal Party;~~

~~must be 100%.~~

~~(5G) A notice under subsection (5E) has effect accordingly.~~

~~(5H) The registered officer of a designated federal party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:~~

~~(a) a specified percentage is the federal percentage applicable to a specified State branch of the party; and~~

~~(b) a specified percentage is the State percentage applicable to a specified State branch of the party.~~

~~(5J) For the purposes of subsection (5H), the sum of:~~

~~(a) the federal percentage applicable to a particular State branch of a designated federal party; and~~

~~(b) the State percentage applicable to the State branch of the party;~~

~~must be 100%.~~

~~(5K) A notice under subsection (5H) has effect accordingly.~~

~~(6) Where a payment is made under this Division and the recipient is not entitled to receive the whole or a part of the amount paid, that amount or that part of that amount may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person in a court of competent jurisdiction.~~

299A Method of making payments

Payment by direct credit or by cheque

(1) If the Electoral Commission is required to pay an amount under section 298D or 298E to the agent~~under section 299 to the agent or~~

~~principal agent~~ of a party, the Electoral Commission must pay the amount:

(a) if the party has nominated a bank account for the purposes of this section—to the credit of that account; or

(b) otherwise—by cheque payable to the party.

Note: An interim claim or final claim must specify the person to whom election funding is payable which may be the agent (see paragraph 298A(c)).

Nominated bank account

(2) A bank account nominated by a party for the purposes of this section must satisfy the following conditions:

(a) the account must be maintained by the party;

(b) the account must be with a bank;

(c) the account must be kept in Australia;

(d) the account name must consist of, or include:

(i) if the account is maintained by a registered political party—the name of the party as it appears in the Register of Political Parties; or

(ii) if the account is held by a State branch of a political party, and the branch is not a registered political party—the name of the State branch.

Name on cheque

(3) For the purposes of this section, a cheque is taken not to be payable to a party unless:

(a) if the party is a registered political party—the cheque is made out:

(i) if a determination under subsection (4) is in force in relation to the name of the party—in the special abbreviation of the name of the party; or

(ii) otherwise—in the name of the party, being the name as it appears in the Register of Political Parties; or

(b) if the party is a State branch of a political party, and the branch is not a registered political party—the cheque is made out:

(i) if a determination under subsection (4) is in force in relation to the name of the State branch—in the special abbreviation of the name of the State branch; or

(ii) otherwise—in the name of the State branch.

Abbreviation of party names

(4) The Electoral Commission may, by notice published in the *Gazette*, determine that a specified abbreviation of the name of a party is a ***special abbreviation*** of the name of the party for the purposes of this section.

(5) The Electoral Commission must publish a copy of a notice under subsection (4) on the internet.

(6) Before making a determination under subsection (4) in relation to a party, the Electoral Commission must consult the party.

(7) To avoid doubt, if a cheque under this section is made out in the special abbreviation of the name of a party, the cheque is as valid as it would have been if it had been made out in the name of the party.

Dispatch of cheques

(8) To avoid doubt, if a cheque under this section is payable to a party, this section does not prevent the Electoral Commission from dispatching the cheque to the agent ~~or principal agent~~ of the party.

Definitions

(9) In this section:

bank means a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

party means a registered political party or a State branch of a registered political party.

Subdivision E—Miscellaneous

300 Death of candidates or group members

Death of candidate

(1) If formal first preference votes were given for a candidate in an election, a payment may be made in respect of the candidate even if the candidate dies.

(2) If the candidate was neither:

(a) endorsed by a registered political party; nor

(b) a member of a group;

and was his or her own agent for the purposes of this Part, the payment may be made to the candidate's legal personal representative.

Death of member of group

(3) If group votes were given in a Senate election in relation to a group of candidates, a payment may be made for the group even if a candidate who was a member of the group dies.

301 Varying decisions accepting claims

(1) If:

(a) the Electoral Commission has made a decision (the ***claim decision***) under section 298C to accept an amount of electoral expenditure specified in a final claim; and

(b) the Electoral Commission becomes satisfied that:

(i) the amount of electoral expenditure should not have been accepted; or

(ii) only a lesser amount of electoral expenditure should have been accepted;

the Electoral Commission may vary the claim decision accordingly.

(2) If the Electoral Commission makes a decision (the ***variation decision***) to vary the claim decision, sections 298F, 298G and 298H apply in relation to the variation decision as if it were, to the extent of the variation, a decision of the Commission to refuse the claim.

(3) If:

(a) the Electoral Commission varies the claim decision; and

(b) the total amount of election funding that has been paid to a person in respect of the final claim, and any interim claim, exceeds the amount that, under the claim decision as varied, should have been paid to the person in respect of the final claim;

the amount of the excess is an overpayment, and may be recovered by the Commonwealth as a debt due to the Commonwealth by action against the person.

~~**300 Death of candidate**~~

~~Where a candidate for whom eligible votes were given in an election dies, a payment under this Division in respect of the eligible votes given for the candidate may be made notwithstanding the death of the candidate and, if the candidate was not endorsed in the election by a registered political party and was his or her own agent for the purposes of this Part, the payment may be made to the legal personal representative of the candidate.~~

~~**301 Death of member of group**~~

~~Where a member of a group for whom eligible votes were given in a Senate election dies, a payment under this Division in respect of the eligible votes given for the group may be made notwithstanding the death of the member and, if:~~

~~(a) the group was not a group the members of which were endorsed by a registered political party or by registered political parties; and~~

~~(b) the candidate was the agent of the group for the purposes of this Part;~~

~~the payment may be made to another member of the group as if the other member were the agent of the group for the purposes of this Part.~~

302 Appropriation

Amounts payable under this Division are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

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Division 3A—Requirements relating to donations

Subdivision A—Interpretation

302A Simplified outline of this Division

This Division regulates gifts that are made to registered political parties, candidates, groups, political campaigners and third parties.

Gifts of over $1,000 to political entities (broadly, registered political parties, candidates and Senate groups) or political campaigners must not be made by foreign donors. A foreign donor is a person who does not have a connection to Australia, such as a person who is not an Australian citizen or an entity that does not have a significant business presence in Australia.

Broadly, gifts must not be made to a political entity, political campaigner or third party by a foreign donor for the purpose of incurring electoral expenditure or creating or communicating electoral matter.

Anti-avoidance provisions apply to strengthen these requirements.

A person or entity may commit an offence or be liable for a civil penalty if the person or entity contravenes the requirements. There are some exceptions, such as when a gift is made in a personal capacity.

302B Definitions

In this Division:

acceptable action is taken in relation to a gift if any of the following action is taken:

(a) an amount equal to the amount or value of the gift is transferred to the Commonwealth for the purposes of this Division;

(b) the gift is returned to the donor or the person who made the gift;

(c) an amount equal to the amount or value of the gift is transferred to the donor or the person who made the gift.

appropriate donor information has the meaning given by section 302P.

302C Object of this Division

(1) The object of the Division is to secure and promote the actual and perceived integrity of the Australian electoral process by reducing the risk of foreign persons and entities exerting (or being perceived to exert) undue or improper influence in the outcomes of elections.

(2) This Division aims to achieve this object by restricting the receipt and use of political donations made by foreign persons or entities that do not have a legitimate connection to Australia.

302CA Relationship with State and Territory laws

Despite any law of a State or Territory dealing with electoral matters (within the ordinary meaning of the expression), a person or entity may:

(a) give a gift to, or for the benefit of, a political entity, a political campaigner or a third party; or

(b) if the person or entity is a political entity, a political campaigner or a third party—receive, retain or use a gift; or

(c) receive, retain or use a gift on behalf of a political entity, a political campaigner or a third party;

if:

(d) this Division does not prohibit the receiving or retaining of the gift, or the using of the gift; and

(e) the gift is required to be, or may be, used for the purposes of incurring electoral expenditure or creating or communicating electoral matter.

Subdivision B—Offences and civil penalty provisions relating to donations

302D Donations to registered political parties, candidates, Senate groups and political campaigners by foreign donors

(1) A person contravenes this subsection if:

(a) the person is:

(i) an agent of a political entity (the ***gift recipient***); or

(ii) a financial controller of a political campaigner (the ***gift recipient***); and

(b) a gift is made to, or for the benefit of, the gift recipient during a financial year; and

(c) the gift is made by, or on behalf of, a person (the ***donor***); and

(d) the donor is a foreign donor; and

(e) at the time the gift is made, the amount or value of the gift is at least $1,000; and

(f) acceptable action has not been taken in relation to the gift before the end of 6 weeks after the gift is made.

Note 2: The amount or value of the gift might be a debt due to the Commonwealth under section 302Q.

Note 3: The physical elements of an offence against subsection (2) are set out in this subsection (see section 302R).

Exception—obtaining information about foreign donor status

(1A) Subsection (1) does not apply in relation to a gift made by a person (the ***donor***) if:

(a) before the end of 6 weeks after the gift was made, the donor affirmed in writing to the agent or financial controller, or to the political entity or political campaigner, that the donor was not a foreign donor; and

(b) for a gift whose amount or value was, at the time the gift was made, at least equal to the disclosure threshold—before the end of 6 weeks after the gift was made:

(i) the agent or financial controller obtained appropriate donor information in accordance with section 302P establishing that the donor was not a foreign donor; or

(ii) the agent or financial controller took reasonable steps to verify that the donor was not a foreign donor; and

(c) in any case—the agent or financial controller did not, at any time during that 6-week period, know, or have reasonable grounds to believe, that the donor was a foreign donor.

Note 1: 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*).

Note 2: A person who makes a false affirmation or provides false donor information for the purposes of paragraph (a) or subparagraph (b)(i) of this subsection may be liable to a penalty (see section 302G).

Exception—private capacity

(1B) Subsection (1) does not apply if the gift was made in a private capacity to the gift recipient for the gift recipient's personal use.

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*).

Exception—donations given on terms inconsistent with incurring electoral expenditure etc.

(1C) Subsection (1) does not apply if using the gift for the purposes of incurring electoral expenditure, or creating or communicating electoral matter, would be inconsistent with the terms of the gift.

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).

Offence

(2) A person commits an offence if the person contravenes subsection (1).

Penalty: 200 penalty units.

Civil penalty

(3) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following amounts:

(a) 200 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of the gift at the time the gift is made—3 times that amount or value.

Provision not continuing offence or civil penalty

(4) Section 4K of the *Crimes Act 1914* does not apply in relation to an offence against subsection (2). Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (3).

302E Donations to third parties by foreign donors

(1) A person or entity (the ***gift recipient***) contravenes this subsection if:

(a) the gift recipient is a third party; and

(b) a gift is made to, or for the benefit of, the gift recipient during a financial year; and

(c) the gift is made by, or on behalf of, a person or entity (the ***donor***); and

(d) the donor is a foreign donor; and

(e) at the time the gift is made, the amount or value of the gift is at least equal to the disclosure threshold; and

(f) the gift recipient uses the gift:

(i) for the purposes of incurring electoral expenditure; or

(ii) for the dominant purpose of creating or communicating electoral matter; and

(g) acceptable action has not been taken in relation to the gift before the end of 6 weeks after the gift is made.

Note 1: The amount or value of the gift might be a debt due to the Commonwealth under section 302Q.

Note 2: The physical elements of an offence against subsection (3) are set out in this subsection (see section 302R).

Exception—obtaining information about foreign donor status

(2) Subsection (1) does not apply if:

(a) before the end of 6 weeks after the gift was made, the donor affirmed in writing to the gift recipient that the donor was not a foreign donor; and

(b) before the end of 6 weeks after the gift was made:

(i) the gift recipient obtained appropriate donor information in accordance with section 302P establishing that the donor was not a foreign donor; or

(ii) the gift recipient took reasonable steps to verify that the donor was not a foreign donor; and

(c) in any case—the gift recipient did not, at any time during that 6-week period, know, or have reasonable grounds to believe, that the donor was a foreign donor.

Note 1: A person or entity that 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*).

Note 2: A person who makes a false affirmation or provides false donor information for the purposes of paragraph (a) or subparagraph (b)(i) of this subsection may be liable to a penalty (see section 302G).

Offence

(3) A person or entity commits an offence if the person or entity contravenes subsection (1).

Penalty: 50 penalty units.

Civil penalty

(4) A person or entity is liable to a civil penalty if the person or entity contravenes subsection (1).

Civil penalty:

The higher of the following amounts:

(a) 100 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of the gift at the time the gift is made—3 times that amount or value.

Provision not continuing offence or civil penalty

(5) Section 4K of the *Crimes Act 1914* does not apply in relation to an offence against subsection (3). Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (4).

302F Gifts provided for the purposes of incurring electoral expenditure etc.

Offence by gift recipient etc.

(1) A person or entity (the ***relevant person***) contravenes this subsection if:

(a) the relevant person is:

(i) the agent of a political entity; or

(ii) the financial controller of a political campaigner; or

(iii) a third party; and

(b) a gift is made to, or for the benefit of, the political entity, political campaigner or third party; and

(c) the gift is made by a foreign donor; and

(d) either of the following applies:

(i) the relevant person knows that the foreign donor intends the gift to be used for the purposes of incurring electoral expenditure, or for the dominant purpose of creating or communicating electoral matter;

(ii) the relevant person accepted the gift intending to use the gift for the purposes of incurring electoral expenditure, or for the dominant purpose of creating or communicating electoral matter; and

(e) acceptable action has not been taken in relation to the gift before the end of 6 weeks after the gift is made.

Note: The physical elements of an offence against subsection (3) are set out in this subsection (see section 302R).

Offence by foreign donor

(2) A person or entity (the ***donor***) contravenes this subsection if:

(a) the donor is a foreign donor; and

(b) the donor makes a gift to, or for the benefit of, another person or entity; and

(c) the other person or entity is:

(i) a political entity; or

(ii) a political campaigner; or

(iii) a third party; and

(d) if the other person or entity is a third party:

(i) the donor intends the gift to be used for the purposes of incurring electoral expenditure, or for the dominant purpose of creating or communicating electoral matter; or

(ii) the donor knows that the other person or entity accepts the gift intending to use the gift for the purposes of incurring electoral expenditure, or for the dominant

purpose of creating or communicating electoral matter; and

(e) in any case—acceptable action has not been taken in relation to the gift before the end of 6 weeks after the gift is made.

Note: The physical elements of an offence against subsection (3) are set out in this subsection (see section 302R).

Offence

(3) A person or entity commits an offence if the person or entity contravenes subsection (1) or (2).

Penalty:

(a) for a contravention of subsection (1) by a third party—50 penalty units; or

(b) otherwise—100 penalty units.

(4) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (3).

Civil penalty

(5) A person or entity is liable to a civil penalty if the person or entity contravenes subsection (1) or (2).

Civil penalty:

The higher of the following amounts:

(a) either:

(i) for a contravention of subsection (1) by a third party—100 penalty units; or

(ii) otherwise—200 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of the gift at the time the gift is made—3 times that amount or value.

(6) Subsection (5) applies:

(a) whether or not the conduct constituting the contravention of subsection (1) or (2) occurs in Australia; and

(b) whether or not a result of the conduct constituting the alleged contravention of subsection (1) or (2) occurs in Australia.

302G False affirmation or information that donor is not a foreign donor

(1) A person contravenes this subsection if:

(a) the person makes an affirmation or provides appropriate donor information in relation to a gift; and

(b) the affirmation or information is for the purposes of paragraph 302D(1A)(a) or 302E(2)(a) or subparagraph 302D(1A)(b)(i) or 302E(2)(b)(i); and

(c) the person knows that the affirmation or information is false.

Note: The physical elements of an offence against subsection (2) are set out in this subsection (see section 302R).

Offence

(2) A person commits an offence if the person contravenes subsection (1).

Penalty: 100 penalty units.

(3) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (2).

Civil penalty

(4) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

The higher of the following amounts:

(a) 200 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of the gift—3 times that amount or value.

(5) Subsection (4) applies:

(a) whether or not the conduct constituting the contravention of subsection (1) occurs in Australia; and

(b) whether or not a result of the conduct constituting the alleged contravention of subsection (1) occurs in Australia.

302H Anti-avoidance

(1) The Electoral Commissioner may give a person or entity (the ***relevant person***) a written notice if:

(a) the relevant person, whether alone or together with one or more other persons or entities, enters into, begins to carry out or carries out a scheme; and

(b) there are reasonable grounds to conclude that the relevant person did so for the sole or dominant purpose of avoiding a provision of this Division prohibiting a gift being made to a political entity, political campaigner or third party (whether or not the relevant person) by a foreign donor in particular circumstances; and

(c) as a result of the scheme or part of the scheme:

(i) the foreign donor engages in a course of conduct of giving the gift, and one or more other gifts, to the political entity, political campaigner or third party in those circumstances, where the amount or value of each of those gifts is below the amount specified in the provision but the total amount or value of the gifts is more than that amount; or

(ii) the foreign donor forms, or participates in the formation of, a body corporate in Australia; or

(iii) the making of the gift to the political entity, political campaigner or third party by the foreign donor in those circumstances is otherwise facilitated; and

(d) as a result of the scheme or part, the provision does not prohibit the making of the gift in those circumstances.

Note 1: A decision to give a notice is a reviewable decision (see section 120).

Note 2: For the definition of ***scheme***, see subsection 287(1).

Note 3: An example of circumstances in which a gift may be made is the making of a gift knowing that the person accepting the gift intends to use the gift for the purposes of incurring electoral expenditure.

(2) The notice must:

(a) specify the conduct constituting the scheme; and

(b) require the relevant person:

(i) not to enter into the scheme; or

(ii) not to begin to carry out the scheme; or

(iii) not to continue to carry out the scheme.

Offence

(3) A person or entity commits an offence if:

(a) the person or entity is given a notice under subsection (1); and

(b) the person or entity engages in conduct; and

(c) the conduct contravenes the notice.

Penalty: 200 penalty units.

(4) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (3).

Civil penalty

(5) A person or entity is liable to a civil penalty if:

(a) the person or entity is given a notice under subsection (1); and

(b) the person or entity engages in conduct; and

(c) the conduct contravenes the notice.

Civil penalty:

The higher of the following amounts:

(a) 200 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of the gift—3 times that amount or value.

(6) Subsection (5) applies:

(a) whether or not the conduct constituting the contravention of subsection (1) occurs in Australia; and

(b) whether or not a result of the conduct constituting the alleged contravention of subsection (1) occurs in Australia.

Subdivision D—Other provisions relating to offences and civil penalty provisions

302P Information relating to foreign donor status

(1) A person or entity (the ***first person***) obtains ***appropriate donor information*** in relation to a person or entity (the ***donor***) making a gift, or on whose behalf a gift is made, establishing that the donor is not a foreign donor if the first person obtains information or a document specified in column 2 of the applicable item in the following table:

Appropriate donor information

Item	Column 1 If the donor is:	Column 2 then the appropriate donor information is:
1	an individual	(a) the particulars relating to the individual set out in a Roll; or (b) a copy of a passport, of a certificate evidencing the individual's naturalisation, or of any other document evidencing the individual's Australian citizenship; or (c) a copy of a visa evidencing the individual's permanent residency in Australia; or (d) any information or a copy of any document prescribed by the regulations for the purposes of this

Section 15T302P15T

Appropriate donor information

Item	Column 1 If the donor is:	Column 2 then the appropriate donor information is:
		table item.
2	an incorporated entity	(a) a copy of the certificate of the entity's incorporation in Australia; or (b) particulars of the entity's registration with the Australian Securities Investment Commission evidencing the entity's incorporation in Australia; or (c) any information or a copy of any document prescribed by the regulations for the purposes of this table item.
3	an entity (whether or not incorporated)	(a) copies of at least 3 recent minutes or other official documents of the entity, in accordance with subsection (2), evidencing that high-level decisions of the entity are made in Australia, such as: (i) decisions setting the operational policies of the entity; or (ii) decisions appointing officers of the entity, or granting powers to such officers to carry on the entity's activities; or (iii) directions to persons appointed to carry out the entity's activities as to how to perform functions; or (iv) decisions on matters of finance, such as how profits are to be used; or (b) copies of at least 3 official documents of the entity establishing that the entity's activities are principally carried out in Australia, such as: (i) documents recording separately the number of staff or members of the entity in Australia, and overseas, carrying on activities for the entity; or (ii) documents recording separately the scale or volume of the activities carried out in Australia, and overseas, (for example by reference to revenue derived in Australia and overseas); or

Appropriate donor information		
Item	**Column 1** **If the donor is:**	**Column 2** **then the appropriate donor information is:**
		(c) any information or a copy of any document prescribed by the regulations for the purposes of this table item.

Note: A person or entity who obtains appropriate donor information may not commit an offence or contravene a civil penalty provision in this Division (see subsections 302D(1A) and 302E(2)).

(2) For the purposes of paragraph (a) of item 3 of the table, each of the minutes or other official documents must evidence a different kind of decision.

(3) For the purposes of item 3 of the table, information may be omitted, redacted or deleted from the minutes, documents or information.

302Q Debts due to the Commonwealth

(1) This section applies if:

(a) a gift is made to, or for the benefit of, a person (the ***gift recipient***); and

(b) a court has determined that the gift recipient or any other person has contravened any of sections 302D to 302F in relation to the gift.

(2) The amount or value of the gift (determined at the time the gift is made) is payable by the gift recipient to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action in a court of competent jurisdiction.

302R Physical elements of offences

(1) This section applies if a provision of this Division provides that a person contravening another provision of this Act (the ***conduct rule provision***) commits an offence.

(2) For the purposes of applying Chapter 2 of the *Criminal Code* to the offence, the physical elements of the offence are set out in the conduct rule provision.

Note: Chapter 2 of the *Criminal Code* sets out general principles of criminal responsibility.

Division 4—Disclosure of donations

302V Simplified outline of this Division

Candidates and members of groups in an election who receive gifts must disclose the gifts by providing a return to the Electoral Commission. In addition, persons who make such gifts, where the value or amount of the gifts is more than the disclosure threshold, must also disclose the gifts.

Gifts totalling more than the disclosure threshold that are made by a single person to the same registered political party, State branch or political campaigner during a financial year must also be disclosed in a return provided to the Electoral Commission.

Returns provided under this Division are published by the Electoral Commissioner, on the Transparency Register, under section 320.

There are limitations on loans made to political parties, State branches, political campaigners, candidates or groups that are more than the disclosure threshold.

Gifts of more than the disclosure threshold to a political party, State branch, political campaigner, candidate or group by a corporation that is wound up within a year of making the gift may be recovered from the recipient of the gift.

303 Interpretation

(1) In this Division, unless the contrary intention appears:

by-election means an election of a member of the House of Representatives that is not part of a general election.

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

(2) A reference in this Division to a gift made to or received by a group shall be read as a reference to a gift made to or received by a member of the group for the benefit of all of the members of the group.

(3) A reference in this Division to a gift made to or received by a candidate shall be read as not including a reference to a gift made to or received by the candidate for the benefit of a group of which the candidate is a member.

Note: Particulars provided under subsection 318(2) may be taken to be a return provided under this Division (see subsection 318(2A)).

304 Disclosure of gifts

(2) The agent of each person (including a member of a group) who was a candidate in an election or by-election shall, within 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form and in accordance with this section, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the person while the person was a candidate in the election or by-election~~during the disclosure period for the election~~.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of gifts not disclosed—3 times that amount or value.

(3) Subject to subsection (3A), the agent of each group shall, within 15 weeks after the polling day in the election in relation to which the members of the group had their names grouped in the ballot papers, furnish to the Electoral Commission a return, in an approved form and in accordance with this section, setting out the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the group while the group

was a group in the election~~during the disclosure period for the election~~.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of gifts not disclosed—3 times that amount or value.

(3A) In the case of a group all of whose members were endorsed by the same registered political party, a gift received by the group shall be taken to have been received:

(a) if the party has 2 or more State branches—by the relevant State branch of the party; and

(b) in any other case—by the party.

(4) For the purposes of this section, a reference to the relevant details, in relation to a gift, shall be read as a reference to the amount or value of the gift, the date on which the gift was made and:

(a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association;

(b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(c) in any other case—the name and address of the person who made the gift.

(5) Notwithstanding subsections (2) and (3), the agent of a candidate or group is not required, in a return under subsection (2) or (3), as the case may be, to set out the relevant details of a gift if:

(b) in the case of a gift made to a candidate (including a member of a group):

(i) the gift was made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election or a by-election; or

(ii) the amount or value of the gift is less than or equal to the disclosure threshold~~$10,000 or less~~; or

(c) in the case of a gift made to a group—the amount or value of the gift is less than or equal to the disclosure threshold~~$10,000 or less~~.

~~Note: The dollar amounts mentioned in this subsection are indexed under section 321A.~~

(6) Subparagraph (5)(b)(ii) or paragraph (5)(c) does not apply in relation to a return under subsection (2) or (3), as the case may be, in relation to a gift made by a person if:

(b) in the case of a gift made to a candidate (including a member of a group)—the sum of the amount or value of that gift and of all other gifts (not being gifts of the kind referred to in subparagraph (5)(b)(i)) made by that person to that candidate during the period to which the return relates is more than the disclosure threshold~~exceeds $10,000~~; or

(c) in the case of a gift made to a group—the sum of the amount or value of that gift and of all other gifts made by that person to that group during the period to which the return relates is more than the disclosure threshold~~exceeds $10,000~~.

~~Note: The dollar amounts mentioned in this subsection are indexed under section 321A.~~

(8) Notwithstanding subsection (2), the agent of a person is not required, in a return under subsection (2), to set out the total amount or value of, or the number of persons who made, gifts of the kind referred to in subparagraph (5)(b)(i).

(9) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) or (3) of this section.

305A Gifts to candidates etc.

(1) A person or entity must provide a return in accordance with this section if:

(a) the person or entity makes a gift or gifts to any candidate or member of a group in an election or by-election; and

~~(a) the person makes a gift or gifts, during the disclosure period in relation to an election, to any candidate in the election or a member of a group; and~~

(b) the total amount or value of the gift or gifts was:

(i) equal to or more than the amount prescribed for the purposes of this paragraph; or

(ii) if no amount is prescribed—more than the disclosure threshold~~$10,000~~; and

(c) at the time the person or entity makes the gift or gifts, the person or entity is not a political entity or an associated entity.

~~(c) at the time the person makes the gift or gifts the person is not:~~

~~(i) a registered political party; or~~

~~(ii) a State branch of a registered political party; or~~

~~(iii) an associated entity; or~~

~~(iv) a candidate in an election; or~~

~~(v) a member of a group.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(1A) A person or entity must provide a return in accordance with this section if:

(a) the person or entity makes a gift or gifts:

(i) during the period, relating to an election or by-election, specified by legislative instrument by the Electoral Commissioner; and

(ii) to any person or entity (whether incorporated or not) specified by the instrument; and

~~(a) the person makes a gift or gifts, during the disclosure period in relation to an election, to any person or body (whether incorporated or not) specified, by legislative instrument, by the Electoral Commission; and~~

(b) the total amount or value of the gift or gifts was:

(i) equal to or more than the amount prescribed for the purposes of this paragraph; or

(ii) if no amount is prescribed—more than the disclosure threshold~~$10,000~~; and

(c) at the time the person or entity makes the gift or gifts, the person or entity is not a political entity or associated entity.

~~(c) at the time the person makes the gift or gifts the person is not:~~

~~(i) a registered political party; or~~

~~(ii) a State branch of a registered political party; or~~

~~(iii) an associated entity; or~~

~~(iv) a candidate in an election; or~~

~~(v) a member of a group.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(2) The person or entity must, in accordance with this section,~~The person must~~ provide to the Electoral Commission a return setting out the required details of:

(a) all gifts covered by subsections (1) and (1A)~~ made during the disclosure period~~; and

(b) all gifts of more than the disclosure threshold, received by the person or entity at any time, that the person or entity used (either wholly or partly):

(i) to enable the person or entity to make the gifts mentioned in paragraph (a) of this subsection; or

(ii) to reimburse the person or entity for making such gifts.

~~(b) all gifts of more than $10,000, received by the person at any time, that the person used during the period (either wholly or partly):~~

~~(i) to enable the person to make the gifts mentioned in paragraph (a); or~~

~~(ii) to reimburse the person for making such gifts.~~

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of gifts not disclosed—3 times that amount or value.

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(2A) For the purposes of subsection (2), 2 or more gifts made by a person or entity are taken to be one gift if:

(a) the gifts are made to the same candidate or group in an election or by-election; or

(b) the gifts are made to the same person or entity during the period specified by legislative instrument under paragraph (1A)(a).

~~(2A) For the purposes of subsection (2), 2 or more gifts made, during the disclosure period in relation to an election, by the same person to another person are taken to be one gift.~~

(3) The return must:

(a) be provided to the Electoral Commission before the end of 15 weeks after the polling day for the election or by-election; and

(b) be in the approved form.

(4) For the purposes of this section, the required details of a gift are its amount or value, the date on which it was made and:

(a) if the gift was made to an unincorporated association, other than a registered industrial organisation:
(i) the name of the association; and
(ii) the names and addresses of the members of the executive committee (however described) of the association; or
(b) if the gift was purportedly made to a trust fund or paid into the funds of a foundation:
(i) the names and addresses of the trustees of the fund or of the foundation; and
(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
(c) in any other case—the name and address of the person or entity~~organisation~~.

(5) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) of this section.

~~(5) This section does not apply to a gift made before 1 July 1992.~~

305B Gifts to political parties and political campaigners

~~**305B Gifts to political parties**~~

(1) If, in a financial year, a person or entity makes gifts totalling more than the disclosure threshold to:
(a) the same registered political party; or
(b) the same State branch of a registered political party; or
(c) the same political campaigner;
the person or entity must, in accordance with this section, provide a return to the Electoral Commission within 20 weeks after the end of the financial year, covering all the gifts that the person or entity made to that political party, branch or campaigner during the financial year.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount or value, or an estimate of the amount or value, of gifts not disclosed—3 times that amount or value.

(2) For the purposes of subsection (1), a person or entity who makes a gift to any other person or entity with the intention of benefiting a particular registered political party, State branch of a registered political party, or political campaigner, is taken to have made that gift directly to that party, branch or campaigner.

~~(1) If, in a financial year, a person makes gifts totalling more than $10,000 to:~~

~~(a) the same registered political party; or~~

~~(b) the same State branch of a registered political party;~~

~~the person must furnish a return to the Electoral Commission within 20 weeks after the end of the financial year, covering all the gifts that the person made to that political party or branch during the financial year.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

~~(2) If a person makes a gift to any person or body with the intention of benefiting a particular registered political party or State branch of a registered political party, the person is taken for the purposes of subsection (1) to have made that gift directly to that registered political party or branch.~~

(3) For each gift, the return must set out the following:

(a) the amount of the gift;

(b) the date on which it was made;

(c) the name and address of the registered political party~~.~~, branch or campaigner~~or branch~~.

(3A) The return must also set out the relevant details of any gift received by the person or entity at any time if:

(a) the gift was used wholly or partly to make another gift (the ***later gift***) in a financial year to:

(i) the same registered political party; or

(ii) the same State branch of a registered political party; or

(iii) the same political campaigner; and

(b) the amount or value of the later gift is more than the disclosure threshold.

~~(3A) The return must also set out the relevant details of all gifts received by the person at any time, being gifts used to make gifts the whole or part of which were used to make gifts totalling more than $10,000 in a financial year to the same registered political party or the same State branch of a registered political party and the amount or value of each of which exceeds $10,000.~~

~~Note: The dollar amounts mentioned in this subsection are indexed under section 321A.~~

(3B) Relevant details for the purpose of subsection (3A), in relation to a gift, are:

(a) the amount or value of the gift; and

(b) the date on which the gift was made; and

(c) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation:

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(d) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation:

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires; and

(e) in any other case—the name and address of the person or entity who made the gift.

(4) The return must be in the approved form.

(5) This section does not apply to gifts made by a political entity or associated entity.

(6) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

~~(5) This section does not apply to gifts made by any of the following:~~
~~(a) a registered political party;~~
~~(b) a State branch of a registered political party;~~
~~(c) an associated entity;~~
~~(d) a candidate in an election;~~
~~(e) a member of a group.~~

~~306 Certain gifts not to be received~~

~~(1) It is unlawful for:~~
~~(a) a political party; or~~
~~(b) a State branch of a political party; or~~
~~(c) a person acting on behalf of a political party or a State branch of a political party;~~
~~to receive a gift made to or for the benefit of the party or branch by another person, being a gift the amount or value of which exceeds $10,000, unless:~~
~~(d) the name and address of the person making the gift are known to the person receiving the gift; or~~
~~(e) at the time when the gift is made:~~
~~(i) the person making the gift gives to the person receiving the gift his or her name and address; and~~
~~(ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

~~(2) It is unlawful for:~~

Section 15T30615T

(a) a candidate; or

(b) a member of a group; or

(c) a person acting on behalf of a candidate or group;

to receive a gift made to or for the benefit of the candidate or the group, as the case may be, being a gift the amount or value of which exceeds $10,000, unless:

(d) the name and address of the person making the gift are known to the person receiving the gift; or

(e) at the time when the gift is made:

(i) the person making the gift gives to the person receiving the gift his or her name and address; and

(ii) the person receiving the gift has no grounds to believe that the name and address so given are not the true name and address of the person making the gift.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

(2A) The references in subsections (1) and (2) to a gift made by a person includes a reference to a gift made on behalf of the members of an unincorporated association.

(2B) A reference in subsection (1) or (2) to the name and address of a person making a gift is:

(a) in the case of a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—a reference to:

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; and

(b) in the case of a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to:

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation, as the case requires.

~~(2C) For the purpose of subsection (2), a person who is a candidate in an election shall be taken to remain a candidate for 30 days after the polling day in the election.~~

~~(2D) For the purpose of subsection (2), persons who constituted a group in an election shall be taken to continue to constitute the same group for 30 days after the polling day in the election.~~

~~(3) For the purposes of this section, 2 or more gifts made by the same person to or for the benefit of a political party, a State branch of a political party, a candidate or a group shall be deemed to be one gift.~~

~~(5) Where a person receives a gift that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by that person to the Commonwealth and may be recovered by the Commonwealth as a debt due to the Commonwealth by action, in a court of competent jurisdiction, against:~~

~~(a) in the case of a gift to or for the benefit of a political party or a State branch of a political party:~~

~~(i) if the party or branch, as the case may be is a body corporate—the party or branch, as the case may be; or~~

~~(ii) in any other case—the agent of the party or branch, as the case may be; or~~

~~(b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.~~

306A Certain loans not to be received

(1) It is unlawful for any of the following:

(a) a political party or a State branch of a political party;

(b) a person acting on behalf of a political party or a State branch of a political party;

(c) a political campaigner, or a person acting on behalf of a political campaigner;

to receive a loan of more than the disclosure threshold from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).

~~(1) It is unlawful for a political party or a State branch of a political party or a person acting on behalf of a political party or a State branch of a political party to receive a loan of more than $10,000 from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(2) It is unlawful for a candidate or a member of a group or a person acting on behalf of a candidate or group to receive a loan of more than the disclosure threshold~~$10,000~~ from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3).

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(3) The receiver of the loan must keep a record of the following:

(a) the terms and conditions of the loan;

(b) the following information in relation to the loan (as the case requires):

(i) for a loan from a registered industrial organisation other than a financial institution—the name of the organisation, and the names and addresses of the members of the executive committee (however described) of the organisation;

(ii) for a loan from an unincorporated association—the name of the association, and the names and addresses of the members of the executive committee (however described) of the association;

(iii) for a loan paid out of a trust fund or out of the funds of a foundation—the names and addresses of the trustees of the fund or foundation, and the title, name or other description of the trust fund or foundation;

(iv) for any other loan—the name and address of the person or organisation that made the loan.

~~(3) The receiver of the loan must keep a record of the following:~~

~~(a) the terms and conditions of the loan;~~

~~(b) if the loan was received from a registered industrial organisation other than a financial institution:~~

~~(i) the name of the organisation; and~~

~~(ii) the names and addresses of the members of the executive committee (however described) of the organisation;~~

~~(c) if the loan was received from an unincorporated association:~~

~~(i) the name of the organisation or association; and~~

~~(ii) the names and addresses of the members of the executive committee (however described) of the association or organisation;~~

~~(d) if the loan was paid out of a trust fund or out of the funds of a foundation:~~

~~(i) the names and addresses of the trustees of the fund or of the foundation; and~~

~~(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or~~

~~(e) in any other case—the name and address of the person or organisation.~~

~~(4) For the purpose of subsection (2), a person who is a candidate in an election is taken to remain a candidate for 30 days after the polling day in the election.~~

~~(5) For the purpose of subsection (2), persons who constituted a group in an election are taken to continue to constitute the same group for 30 days after the polling day in the election.~~

(6) Where a person receives a loan that, by virtue of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the loan is payable by that person to the Commonwealth and may be recovered by the Commonwealth as a

debt due to the Commonwealth by action, in a court of competent jurisdiction, against:

(a) in the case of a loan to or for the benefit of a political party, a State branch of a political party, or a political campaigner, (the ***loan recipient***):

(i) if the loan recipient is a body corporate—the loan recipient; or

(ii) otherwise—the agent or financial controller of the loan recipient; or

~~(a) in the case of a loan to or for the benefit of a political party or a State branch of a political party:~~

~~(i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or~~

~~(ii) in any other case—the agent of the party or branch, as the case may be; or~~

(b) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

(7) For the purposes of this section, if credit is provided on a credit card in respect of card transactions, the credit is to be treated as a separate loan for each transaction.

(8) In this section:

~~***credit card*** means:~~

~~(a) any article of a kind commonly known as a credit card; or~~

~~(b) any similar article intended for use in obtaining cash, goods or services on credit;~~

~~and includes any article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit.~~

financial institution means an entity which carries on a business that consists of, or includes, the provision of financial services or financial products and which is:

(a) a bank; or

(b) a credit union; or

(c) a building society; or

(d) any other entity registered under the Australian Financial Institutions Commission Codes as a special service provider; or

Note: See section 111AZB of the *Corporations Act 2001* for the Australian Financial Institutions Commission Codes.

(e) an entity prescribed by the regulations for the purposes of this paragraph.

~~***loan*** means any of the following:~~

~~(a) an advance of money;~~

~~(b) a provision of credit or any other form of financial accommodation;~~

~~(c) a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount;~~

~~(d) a transaction (whatever its terms or form) which in substance effects a loan of money.~~

306B Repayment of gifts where corporations wound up etc.

(1) This section applies if:

(a) a registered political party, a political campaigner, a candidate or a member of a group receives from a corporation a gift whose amount or value is more than the disclosure threshold; and

(b) the corporation is wound up in insolvency, or by the court on other grounds, within a year of making the gift.

(2) The amount or value of the gift is payable, and may be recovered by the liquidator as a debt due to the liquidator in a court of competent jurisdiction, by:

(a) for a gift to or for the benefit of a registered political party or a political campaigner (the ***gift recipient***):

(i) if the gift recipient is a body corporate—the gift recipient; or

(ii) if the gift recipient is a registered political party that is not a body corporate—the agent of the gift recipient; or

(iii) if the gift recipient is a political campaigner that is not a body corporate—the financial controller of the gift recipient; or

(b) for a gift to or for the benefit of a candidate or member of the group—the candidate or member, or the agent of the candidate or the group.

Note: The gift received by the liquidator is an asset of the corporation to be distributed under the provisions of the *Corporations Act 2001*.

~~**306B Repayment of gifts where corporations wound up etc.**~~

~~Where:~~

~~(a) a political party, a candidate or a member of a group receives a gift from a corporation being a gift the amount of which exceeds $10,000; and~~

~~(b) the corporation within a period concluding one year after making the gift has been wound up in insolvency or wound up by the court on other grounds;~~

~~an amount equal to the amount of the gift is payable by the political party to the liquidator and may be recovered by the liquidator as a debt due to the liquidator by action, in a court of competent jurisdiction against:~~

~~(c) in the case of a gift to or for the benefit of a political party or a State branch of a political party:~~

~~(i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or~~

~~(ii) in any other case—the agent of the party or branch, as the case may be; or~~

~~(d) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.~~

~~Note 1: The gift received by the liquidator is an asset of the corporation to be distributed under the provisions of the *Corporations Act 2001*.~~

~~Note 2: This section applies to gifts made after the commencement of this provision.~~

~~Note 3: The dollar amount mentioned in this section is indexed under section 321A.~~

307 Nil returns

(1) Where no details are required to be included in a return under this Division in respect of a candidate, the return shall nevertheless be lodged and shall include a statement to the effect that no gifts of a kind required to be disclosed were received.

(2) Where no details are required to be included in a return under this Division in respect of a group, the return shall nevertheless be lodged and shall include a statement to the effect that no gifts were received.

Division 5—Disclosure of electoral expenditure

307A Simplified outline of this Division

Expenditure incurred by or with the authority of a candidate or group in an election during the election period must be disclosed by providing a return to the Electoral Commission. The agent for the candidate or group is responsible for providing the return. (Expenditure incurred by registered political parties is provided each financial year under Division 5A.)

Secretaries of Commonwealth Departments and Agency Heads of Commonwealth Agencies must attach statements to annual reports setting out of amounts of more than the disclosure threshold paid to advertising agencies, and market research, polling or other organisations.

Returns provided under this Division are published by the Electoral Commissioner, on the Transparency Register, under section 320.

~~308 Interpretation~~

~~(1) In this Division, ***electoral expenditure***, in relation to an election, means expenditure incurred (whether or not incurred during the election period) on:~~

~~(a) the broadcasting, during the election period, of an advertisement relating to the election; or~~

~~(b) the publishing in a journal, during the election period, of an advertisement relating to the election; or~~

~~(c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election; or~~

~~(d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or~~

~~(e) the communicating of any electoral matter (not being matter referred to in paragraph (a), (b) or (c)):~~

~~(i) for which particulars are required to be notified under section 321D; and~~

~~(ii) that is communicated during the election period; or~~

~~(f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period; or~~

~~(g) the carrying out, during the election period, of an opinion poll, or other research, relating to the election.~~

~~(2) For the purposes of this Division, electoral expenditure incurred by or with the authority of a division of a State branch of a political party shall be deemed to have been incurred by that State branch.~~

~~(3) A reference in this Division to a participant in an election shall be read as a reference to:~~

~~(a) a political party, a State branch of a political party, a division of a State branch of a political party or a candidate; or~~

~~(b) a person (not being a political party, a State branch of a political party, a division of a State branch of a political party or a candidate) by whom or with the authority of whom electoral expenditure in relation to an election was incurred.~~

309 Returns of electoral expenditure

(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.

(1A) Where electoral expenditure in relation to an election is incurred by or with the authority of members of a group all the members of which are endorsed by the same registered political party, this section applies as if the expenditure had been incurred by or with the authority of:

(a) if the party has 2 or more State branches—the relevant State branch of the party; and

(b) in any other case—the party.

(2) The agent of each person who was a candidate in an election (not being a member of a group) shall, before the expiration of 15 weeks after the polling day in the election, furnish to the Electoral Commission a return, in an approved form and in accordance with this section, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of the candidate.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of electoral expenditure not disclosed—3 times that amount.

(3) The agent of each group shall, before the expiration of 15 weeks after the polling day in an election in relation to which the members of the group have their names grouped in the ballot papers, furnish to the Electoral Commission a return, in an approved form and in accordance with this section, setting out details of all electoral expenditure in relation to the election incurred by or with the authority of members of the group.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, of electoral expenditure not disclosed—3 times that amount.

(4) A return provided under subsection (2) or (3) must also include details of:

(a) any senior staff employed or engaged by or on behalf of the person or group, in the person or group's capacity as a candidate or group in the election, and any membership of any registered political party that any of those members of staff have; and

(b) any discretionary benefits (however described) received by, or on behalf of, the person or any of the members of the group from the Commonwealth, a State or a Territory during the period of 12 months before polling day in the election.

Note: For the definition of ***senior staff***, see subsection 287(1).

(5) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (2) or (3) of this section.

311A Annual returns of income and expenditure of Commonwealth Departments

(1) Subject to this section, the principal officer of each Commonwealth Department must attach a statement to its annual report setting out particulars of all amounts paid by, or on behalf of, the Commonwealth Department during the financial year to:

(a) advertising agencies;

(b) market research organisations;

(c) polling organisations;

(d) direct mail organisations; and

(e) media advertising organisations;

and the persons or organisations to whom those amounts were paid.

(2) Nothing in subsection (1) requires particulars of a payment made by a Commonwealth Department in a financial year to be included in a return if the value of the payment is less than or equal to the disclosure threshold~~$10,000 or less~~.

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(3) The first return under this section need only contain particulars in relation to the period starting on the commencement of this section and ending on the next 30 June.

(4) In this section:

Commonwealth Department means:

(a) a Department of State of the Commonwealth; or

(b) a Department of the Parliament established under the *Parliamentary Service Act 1999*; or

(c) an Agency (within the meaning of the *Public Service Act 1999*).

principal officer means:

(a) in relation to a Department—the person holding, or performing the duties of, the office of Secretary of the Department; and

(b) in relation to an Agency—the Agency Head (within the meaning of the *Public Service Act 1999*) of the Agency.

313 Nil returns

(1) Where no electoral expenditure in relation to an election was incurred by or with the authority of a particular candidate or the members of a particular group, a return under this Division in respect of the candidate or group shall nevertheless be lodged and shall include a statement to the effect that no expenditure of that kind was incurred by or with the authority of the candidate or the members of the group.

(2) If no electoral expenditure in relation to an election was incurred by or with the authority of a particular registered political party or State branch of a registered political party that endorsed a candidate in the election, a return under this Division in respect of the party or branch must nevertheless be lodged and must include a statement to the effect that no electoral expenditure was incurred in relation to the election by or with the authority of the party or branch.

314 Two or more elections on the same day

(1) Where:

(a) the polling at 2 or more elections took place on the same day; and

(b) a person would, but for this subsection, be required to furnish 2 or more returns under this Division relating to those elections;

the person may, in lieu of furnishing those returns, furnish one return, in an approved form, setting out the particulars that the person would have been required to set out in those returns.

(2) Where:

(a) a return is furnished by a person pursuant to subsection (1); and

(b) particular electoral expenditure details of which are required to be set out in the return relates to more than one election;

it is sufficient compliance with this Division if the return sets out details of the expenditure without showing the extent to which it relates to any particular election.

Division 5A—Annual returns by registered political parties and other persons

314AAA Simplified outline of this Division

Registered political parties, political campaigners and associated entities provide returns each financial year to the Electoral Commission setting out details relating to amounts received or paid or incurred by, and the senior staff of, the parties, campaigners or entities during the year. Third parties also provide annual returns setting out details relating to electoral expenditure incurred by the third parties during the year.

Returns provided under this Division are published by the Electoral Commissioner, on the Transparency Register, under section 320.

314AA Interpretation

(1) In this Division:

amount includes the value of a gift or loan~~, loan or bequest~~.

(2) To avoid doubt, a person that becomes, or ceases to be, a registered political party, political campaigner or third party during a financial year is required to provide a return under this Division in relation to the whole financial year.

Note: Particulars provided under subsection 318(2) may be taken to be a return provided under this Division (see subsection 318(2A)).

314AB Annual returns by registered political parties and political campaigners

(1) The agent or financial controller of each registered political party, each State branch of each registered political party and each political campaigner must, subject to this Division, provide the

Electoral Commission a return within 16 weeks after the end of a financial year that:

(a) complies with subsection (2); and

(b) is in an approved form.

Civil penalty:

The higher of the following:

(a) 120 penalty units;

(b) if an amount is not disclosed under paragraph (2)(a) or subparagraph (2)(b)(ii) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed—3 times that amount.

(2) The return must:

(a) set out the following:

(i) the total amount received by, or on behalf of, the party or campaigner during the financial year, together with the details required by section 314AC;

(ii) the total amount paid by, or on behalf of, the party or campaigner during the financial year;

(iii) the total outstanding amount, as at the end of the financial year, of all debts incurred by, or on behalf of, the party or campaigner, together with the details required by section 314AE;

(iv) for political campaigners—the total amount of electoral expenditure incurred by or with the authority of the campaigner; and

(b) include details of:

(i) any senior staff employed or engaged by or on behalf of the party or branch, or by or on behalf of the campaigner in its capacity as a political campaigner, and any membership of any registered political party that any of those members of staff have; and

(ii) any discretionary benefits (however described) received by, or on behalf of, the party, branch or campaigner

from the Commonwealth, a State or a Territory during the financial year; and

(e) be complete.

Note: For the definition of ***senior staff***, see subsection 287(1).

(3) The financial controller of a political campaigner that is taken to have incurred an amount of electoral expenditure in a financial year (the ***later financial year***) under section 287J must provide:

(a) a return for the financial year in which the expenditure was actually incurred that includes that expenditure; and

(b) a separate return for the later financial year that does not include the expenditure that was taken under section 287J to have been incurred in that later financial year.

(4) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

~~**314AB Annual returns by registered political parties**~~

~~(1) Subject to this Division, the agent of each registered political party and of each State branch of each registered political party must, within 16 weeks after the end of each financial year beginning on or after 1 July 1992, furnish to the Electoral Commission a return:~~

~~(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.~~

~~(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.~~

314AC Amounts received

(1) If the sum of all amounts received by, or on behalf of, a registered political party or a political campaigner~~the party~~ from a person or organisation during a financial year is more than the disclosure threshold~~$10,000~~, the return must include the particulars of that sum.

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(2) In calculating the sum, an amount that is less than or equal to the disclosure threshold~~of $10,000 or less~~ need not be counted.

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

(3) The particulars of the sum required to be furnished under subsection (1) are the amount of the sum and:

(a) if the sum was received from an unincorporated association, other than a registered industrial organisation:

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; or

(b) if the sum was purportedly paid out of a trust fund or out of the funds of a foundation:

(i) the names and addresses of the trustees of the fund or of the foundation; and

(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or

(ba) if the sum was received as a result of a loan—the information required to be kept under subsection 306A(3), or the name of the financial institution, as the case requires; or

(c) in any other case—the name and address of the person or organisation.

314AE Outstanding amounts

(1) If the sum of all outstanding debts incurred by, or on behalf of, a registered political party or a political campaignerthe party to a person or an organisation during a financial year is more than the disclosure threshold$10,000, the return must include the particulars of that sum.

Note: The dollar amount mentioned in this subsection is indexed under section 321A.

(2) The particulars of a sum required to be furnished under subsection (1) are the amount of the sum and:

(a) if the sum was owed to an unincorporated association, other than a registered industrial organisation:

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association; or

(b) if the sum was purportedly incurred as a debt to a trust fund or to a foundation:

(i) the names and addresses of the trustees of the fund or of the foundation; and

(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or

(c) in any other case—the name and address of the person or organisation.

314AEA Annual returns by associated entities

(1) If an entity is an associated entity at any time during a financial year, the entity's financial controller must, subject to subsection (6), providefinancial controller must furnish a return to the Electoral Commission, in the approved form, within 16 weeks after the end of the financial year, setting out:

(a) the total amount received by, or on behalf of, the entity during the financial year, together with the details required by section 314AC; and

(b) the total amount paid by, or on behalf of, the entity during the financial year; and

(c) if the entity is an associated entity at the end of the financial year—the total outstanding amount, as at the end of the financial year, of all debts incurred by or on behalf of the entity, together with the details required by section 314AE; and

(d) in any case—details of:

(i) any senior staff employed or engaged by or on behalf of the entity, in the entity's capacity as an associated entity, and any membership of any registered political party that any of those members of staff have; and

(ii) any discretionary benefits (however described) received by, or on behalf of, the entity from the Commonwealth, a State or a Territory during the financial year.

Note: For the definition of ***senior staff***, see subsection 287(1).

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed in accordance with subsection (1)—3 times that amount.

(2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of paragraphs (1)(a) and (b).

(3) If any amount required to be set out under paragraph (1)(b):

(a) was paid to or for the benefit of one or more registered political parties; and

(b) was paid out of funds generated from capital of the associated entity;

the return must also set out the following details about each person who contributed to that capital after the commencement of this section:

(c) the name and address of the person;

(d) the total amount of the person's contributions to that capital, up to the end of the financial year.

(4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.

(5) Sections 314AC and 314AE apply for the purposes of paragraphs (1)(a), (b) and (c) of this section to a return for an associated entity in the same way as they apply for the purposes of subparagraphs 314AB(2)(a)(i), (ii) and (iii) to a return for a registered political party or a political campaignerparagraphs 314AB(2)(a), (b) and (c) to a return for a registered political party.

(6) A return is not required to be provided under subsection (1) for an associated entity for a financial year if:

(a) the entity was also a political campaigner during that year; and

(b) a return was provided for the entity under section 314AB for that year.

(7) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

314AEB Annual returns by third parties

314AEB Annual returns relating to political expenditure

(1) A person or entity must provide a return for a financial year in accordance with this section if the person or entity is a third party during the year.

Civil penalty:

The higher of the following:

(a) 60 penalty units;

(b) if an amount is not disclosed under paragraph (2)(a) and there is sufficient evidence for the court to determine the amount, or an estimate of the amount, not disclosed under that paragraph—3 times that amount.

(2) The third party must provide to the Electoral Commission a return for the financial year:

(a) setting out details of the electoral expenditure incurred by or with the authority of the third party during the financial year; and

(b) including a statement that the third party complied with section 302E (donations to third parties by foreign donors) during the financial year, signed by the members, agents or officers (however described) of the third party who have responsibility for ensuring that the third party complies with this Division.

~~(1) A person must provide a return for a financial year in accordance with this section if:~~

~~(a) the person incurred expenditure for any of the following purposes during the year, by or with his or her own authority:~~

~~(i) the public expression of views on a political party, a candidate in an election or a member of the House of Representatives or the Senate by any means;~~

~~(ii) the public expression of views on an issue that is, or is likely to be, before electors in an election (whether or not a writ has been issued for the election) by any means;~~

~~(iii) the communicating of any electoral matter (not being matter referred to in subparagraph (i) or (ii)) for which particulars are required to be notified under section 321D;~~

~~(iv) the broadcast of political matter (not being matter referred to in subparagraph (iii)) in relation to which particulars are required to be announced under~~

Section 15T314AEB15T

~~subclause 4(2) of Schedule 2 to the *Broadcasting Services Act 1992*;~~

~~(v) the carrying out of an opinion poll, or other research, relating to an election (whether or not a writ has been issued for the election) or the voting intentions of electors; and~~

~~(b) the amount of the expenditure incurred was more than $10,000; and~~

~~(c) at the time the person gave the authority the person was not:~~

~~(i) a registered political party; or~~

~~(ii) a State branch of a registered political party; or~~

~~(iii) the Commonwealth (including a Department of the Commonwealth, an Executive Agency or a Statutory Agency (within the meaning of the *Public Service Act 1999*)); or~~

~~(iiia) a member of the House of Representatives or the Senate; or~~

~~(iv) a candidate in an election; or~~

~~(v) a member of a group.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

~~(2) The person must provide to the Electoral Commission a return for the financial year setting out details of the expenditure incurred.~~

(3) The return must:

(a) be provided before the end of 20 weeks after the end of the financial year; and

(b) be in the approved form~~.~~; and

(c) if the third party is also required to provide a return under section 314AEC—include that return.

(4) Subsection 93(2) of the Regulatory Powers Act does not apply in relation to a contravention of subsection (1) of this section.

314AEC Annual returns relating to gifts received by third parties for electoral expenditure

(1) A person or entity must provide a return for a financial year in accordance with this section if:

(a) the person or entity is required to provide a return for the year under section 314AEB (annual returns by third parties); and

(b) the person or entity received a gift or gifts, at any time, that the person or entity used during the year (either wholly or partly):

(i) to enable the person or entity to incur electoral expenditure; or

(ii) to reimburse the person or entity for incurring electoral expenditure; and

(c) either:

(i) the amount of at least one such gift was more than the disclosure threshold; or

(ii) the total amount of all gifts received by the person from at least one single person during the financial year was more than the disclosure threshold.

Note: The return required under this section must be included in the return provided under section 314AEB (see paragraph 314AEB(3)(c)).

(2) The person must provide to the Electoral Commission a return for the financial year setting out the following details:

(a) for subparagraph (1)(c)(i):

(i) the amount of each gift covered by that subparagraph; and

(ii) the date on which the gift was made;

(b) for subparagraph (1)(c)(ii):

(i) the total amount of gifts made by each single person who is covered by that subparagraph; and

(ii) the date on which each of those gifts were made; and

(c) in any case:

(i) for a gift or gifts on behalf of the members of an unincorporated association (other than a registered industrial organisation)—the name of the association, and the names and addresses of the members of the executive committee (however described) of the association; or

(ii) for a gift or gifts purportedly made out of a trust fund, or out of the funds of a foundation—the names and addresses of the trustees of the fund or foundation, and the title, name or other description of the trust fund or foundation; or

(iii) for any other gift or gifts—the name and address of the person who made the gift or gifts.

~~**314AEC Annual returns relating to gifts received for political expenditure**~~

~~(1) A person must provide a return for a financial year in accordance with this section if:~~

~~(a) the person is required to provide a return for the year under section 314AEB; and~~

~~(b) the person received a gift or gifts, at any time, that the person used during the year (either wholly or partly):~~

~~(i) to enable the person to incur expenditure for a purpose mentioned in paragraph 314AEB(1)(a); or~~

~~(ii) to reimburse the person for incurring expenditure for such a purpose; and~~

~~(c) the amount of at least one such gift was more than $10,000.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

~~(2) The person must provide to the Electoral Commission a return for the financial year setting out the following details in respect of each gift of more than $10,000 that is mentioned in paragraph (1)(b):~~

~~(a) the amount of the gift;~~

~~(b) the date on which the gift was made;~~

~~(c) in the case of a gift made on behalf of the members of an unincorporated association (other than a registered industrial organisation):~~

~~(i) the name of the association; and~~

~~(ii) the names and addresses of the members of the executive committee (however described) of the association;~~

~~(d) in the case of a gift purportedly made out of a trust fund, or out of the funds of a foundation:~~

~~(i) the names and addresses of the trustees of the fund, or of the funds of the foundation; and~~

~~(ii) the title or other description of the trust fund, or the name of the foundation, as the case requires;~~

~~(e) in any other case—the name and address of the person who made the gift.~~

~~Note: The dollar amount mentioned in this subsection is indexed under section 321A.~~

~~(3) The return must:~~

~~(a) be provided before the end of 20 weeks after the end of the financial year; and~~

~~(b) be in the approved form.~~

~~(4) For the purposes of subsection (2), 2 or more gifts made, during the financial year, by the same person to another person are taken to be one gift.~~

314AF Returns not to include lists of party membership

Returns provided in accordance with this Division are not to include lists of party membership.

314AG Regulations

(1) The regulations may require greater detail to be provided in returns than is required by this Division.

(2) Without limiting subsection (1), the regulations may require that the total amounts referred to in paragraph 314AB(2)(a)~~section 314AB~~ be broken down in the way specified in the regulations.

(3) The regulations may reduce the amount of information to be provided in returns under section 314AEA.

Division 6—Miscellaneous

314A Simplified outline of this Division

This Division deals with:

(a) the recovery of payments made by the Commonwealth; and

(b) the powers of the Electoral Commission in relation to investigating compliance with this Part; and

(c) general provisions relating to claims and returns (such as amending claims and returns, and record-keeping and publishing requirements).

314B Relationship with State and Territory laws

(1) This section applies in relation to a law of a State or Territory that deals with electoral matters (within the ordinary meaning of the expression).

Limit on State and Territory power—information on amounts provided

(2) A person or entity (the ***provider***) is not required by the law to disclose an amount, or information relating to an amount, (including a gift or loan) if:

(a) the provider provides the amount to or for the benefit of a political entity, political campaigner, third party or associated entity (the ***recipient***); and

(b) the amount is required to be, or may be, used by or with the authority of the recipient for the purposes of incurring electoral expenditure, or for the purposes of creating or communicating electoral matter, in accordance with subsection (5).

Limit on State and Territory power—information on amounts received

(3) A person or entity (the ***recipient***) is not required by the law to disclose an amount, or information relating to an amount, (including a gift or loan) if:

(a) the amount is provided to or for the benefit of the recipient; and

(b) the recipient is a political entity, political campaigner, third party or associated entity; and

(c) the amount is required to be, or may be, used by or with the authority of the recipient for the purposes of incurring electoral expenditure, or for the purposes of creating or communicating electoral matter, in accordance with subsection (5).

Limit on State and Territory power—information on expenditure and debts

(4) A person or entity (the ***debtor***) is not required by the law to disclose an amount, or information relating to an amount, of expenditure or a debt (except a debt incurred as a result of a loan) if:

(a) the debtor is a political entity, political campaigner, third party or associated entity; and

(b) either of the following apply:

(i) the expenditure is electoral expenditure;

(ii) the debt was incurred for the purposes of incurring electoral expenditure, or creating or communicating electoral matter.

Interpretation

(5) An amount is required to be, or may be, used for a purpose if:

(a) any terms set by the person or entity providing the amount explicitly require or allow the amount to be used for that purpose; or

(b) the person or entity providing the amount does not set terms relating to the purpose for which the amount can be used.

(6) A reference in this section to a law not requiring an amount, or information relating to an amount, to be disclosed applies if:

(a) the amount or information is required to be included in a return provided under this Part; or

(b) the amount or information is not required to be included in a return provided under this Part.

(7) A reference in this section to a law not requiring an amount, or information relating to an amount, (the ***specific amount***) to be disclosed includes a reference to the law not requiring the following to be disclosed:

(a) a total amount that includes the specific amount;

(b) information relating to the specific amount as it is included in a total amount.

(8) A reference in this section to a person or entity (the ***first person***) being required by a law to disclose an amount or information includes a reference to another person being required to disclose the amount or information on behalf of the first person.

~~**314A Interpretation**~~

~~Except in section 318, a reference in this Division to a return under Division 4, 5 or 5A or to a return under this Part includes a reference to particulars under subsection 318(2).~~

315 Requirement to refund payments

If:

(a) a person is convicted of an offence under section 137.1 of the *Criminal Code* in relation to the giving of a return or the making of a claim under this Part; or

(b) a civil penalty order is made against a person in relation to a contravention of a civil penalty provision in this Part;

a court of competent jurisdiction may, in addition to imposing a penalty under section 137.1 or making the civil penalty order, order the person to refund to the Commonwealth the amount of any payment wrongfully obtained by the person under Division 3 of this Part, or the amount or value of any gift made in contravention of this Part.

~~**315 Offences**~~

~~(1) Where a person fails to furnish a return that the person is required to furnish under Division 4, 5 or 5A within the time required by this Part, the person commits an offence punishable, upon conviction, by a fine not exceeding:~~

~~(a) in the case of a return required to be furnished by the agent of a political party or of a State branch of a political party—50 penalty units; or~~

~~(b) in any other case—10 penalty units.~~

~~(1A) Strict liability applies to an offence against subsection (1).~~

~~Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.~~

~~(2) Where a person:~~

~~(a) furnishes a return that is incomplete, being a return that the person is required to furnish under Division 4, 5 or 5A; or~~

~~(b) fails to retain records in accordance with section 317;~~

~~the person commits an offence punishable, upon conviction, by a fine not exceeding 10 penalty units.~~

~~(2A) Strict liability applies to an offence against subsection (2).~~

~~Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.~~

~~(3) Where the agent of a political party or of a State branch of a political party lodges a claim under Division 3, or furnishes a return that the agent is required to furnish under Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular, the agent commits an offence punishable, upon conviction, by a fine not exceeding 100 penalty units.~~

~~(4) Where a person (not being the agent of a political party or of a State branch of a political party) lodges a claim under Division 3, or furnishes a return that the person is required to furnish under Division 4 or 5, that contains particulars that are, to the knowledge of the person, false or misleading in a material particular, the person commits an offence punishable, upon conviction, by a fine not exceeding 50 penalty units.~~

~~(5) Where a person is convicted of an offence against subsection (3) or (4), the court may, in addition to imposing a penalty under that subsection, order the person to refund to the Commonwealth the amount of any payment wrongfully obtained by the person under Division 3.~~

~~(6) Where a court has made an order under subsection (5), a certificate signed by the appropriate officer of the court specifying the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of that court.~~

~~(6A) A person shall not give to another person, for the purpose of the making by that other person of a claim under Division 3, information that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.~~

~~Penalty: 10 penalty units.~~

~~(7) A person shall not furnish to another person who is required to furnish a return under Division 4, 5 or 5A information that relates to the return and that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.~~

~~Penalty: 10 penalty units.~~

~~(8) Where:~~

~~(a) a person is required to furnish a return under Division 4, 5 or 5A within a particular period; and~~

~~(b) the person fails to furnish the return within that period;~~

~~the following provisions of this subsection have effect:~~

~~(c) the obligation to furnish the return continues notwithstanding that that period has expired;~~

~~(d) where the person is convicted of an offence that is constituted by failure to furnish the return within that period, that person commits a separate and further offence in respect of each day after the day of the conviction during which the failure to furnish the return continues; and~~

~~(e) the penalty applicable to each separate and further offence is a fine not exceeding 1 penalty unit.~~

~~(9) Charges against the same person for any number of offences under paragraph (8)(d) may be joined in the same information or complaint.~~

~~(10) If a person is convicted of more than one offence under paragraph (8)(d), the court may impose one penalty in respect of all offences of which the person is so convicted but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed in respect of each offence separately.~~

~~(11) A prosecution in respect of an offence against a provision of this section (being an offence committed on or after the commencement of this subsection) may be started at any time within 3 years after the offence was committed.~~

315A Recovery of payments

(1) An action in a court to recover an amount due to the Commonwealth under section 299 or 302Q or subsection 301(3), or under a civil penalty order made in relation to a contravention of a civil penalty provision in this Part,~~subsection 299(6) or 306(5)~~ may be brought in the name of the Commonwealth by the Electoral Commissioner.

(2) Any process in the action required to be served on the Commonwealth may be served on the Electoral Commissioner.

(3) Nothing in this section is intended to limit the operation of section 61 or 63 of the *Judiciary Act 1903*.

316 Investigation etc.

(1) In this section:

authorised officer means a person authorised by the Electoral Commission under subsection (2).

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

(2) The Electoral Commission may, by instrument in writing signed by the Electoral Commissioner on behalf of the Electoral Commission, authorize a person or a person included in a class of persons to perform duties under this section.

(2A) An authorised officer may, ~~for the purpose of finding out whether a prescribed person, the financial controller of an associated entity or the agent of a registered political party has complied with this Part, by notice served personally or by post on:~~

for the purpose of:

(aaa) finding out whether a prescribed person, the agent of a registered political party, candidate or group, the financial controller of a political campaigner or associated entity, or a third party, has complied with:

(i) this Part; or

(ii) the *Criminal Code* to the extent that it relates to this Part; or

(aab) determining whether to give a notice under section 287S or 302H (anti-avoidance);

by noticed served personally or by post on:

(a) the agent or any officer of the political party, or the agent of the candidate or group; or

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(aa) the financial controller of the political campaigner, third party or associated entity or any officer of the political campaigner, third party or associated entity; or

~~(a) the agent or any officer of the political party; or~~

~~(aa) the financial controller of the associated entity or any officer of the associated entity; or~~

(b) the prescribed person or, if the prescribed person is a body corporate, any of its officers;

as the case may be, require the agent, financial controller, person or officer:

(c) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or

(d) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.

(2B) If a notice under paragraph (2A)(a) or (aa) requires an officer of a political party, political campaigner, third party or associated entity (other than the agent of the party, or the financial controller of the political campaigner, third party or associated entity, as the case requires) to appear before an authorised officer under paragraph (2A)(d), then the agent of the party, or the financial controller of the political campaigner, third party or associated entity, is entitled:

(a) to attend at the proceeding under paragraph (2A)(d); or

(b) to nominate another person in writing to attend on behalf of the agent or financial controller.

~~(2B) If a notice under paragraph (2A)(a) requires an officer of a political party (other than the agent) to appear before an authorised officer under paragraph (2A)(d), then the agent of the political party is entitled:~~

~~(a) to attend at the proceeding under paragraph (2A)(d); or~~

~~(b) to nominate another person in writing to attend on behalf of the agent.~~

(2C) Failure of the agent or nominee to attend under subsection (2B) does not affect the powers of the authorised officer to conduct the proceeding under paragraph (2A)(d).

(2D) Where a body corporate, unincorporated body or individual has made a gift or disposition of property of $25,000 or more to a registered political party or candidate, an authorised officer must conduct an investigation of that gift or disposition of property in accordance with this section.

(3) Where an authorized officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention, or possible contravention, of a civil penalty provision in this Part~~section 315~~, or relating to matters that are set out in, or are required to be set out in, a claim or return under this Part, the authorized officer may, by notice served personally or by post on that person, require that person:

(a) to produce, within the period and in the manner specified in the notice, such documents or other things as are referred to in the notice; or

(b) to appear, at a time and place specified in the notice, before the authorized officer to give evidence, either orally or in writing, and to produce such documents or other things as are referred to in the notice.

(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 another person or an entity is, or was at a particular time, a political campaigner, third party or associated entity; and

~~(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 political campaigner, third party or associated 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.

(4) An authorized officer may require any evidence that is to be given to him or her in compliance with a notice under subsection (2A),

(3) or (3A) to be given on oath or affirmation and for that purpose the authorized officer may administer an oath or affirmation.

(5) A person commits an offence if the person refuses to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.

Penalty: 10 penalty units.

(5A) A person commits an offence if the person fails to comply with a notice under subsection (2A), (3) or (3A) to the extent that the person is capable of complying with the notice.

Penalty: 10 penalty units.

(5B) Strict liability applies to an offence against subsection (5A).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(5C) Subsection (5) or (5A) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5C) (see subsection 13.3(3) of the *Criminal Code*).

(6) A person shall not, in purported compliance with a notice under subsection (2A), (3) or (3A), give evidence that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(7) Where:

(a) an authorized officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of a civil penalty provision in, or an offence against, this Part~~section 315~~; and

(b) the authorized officer has reasonable grounds to believe that, if a notice under this section were issued for the production

of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed;

the authorized officer may make an application to a magistrate for the issue of a warrant under subsection (8).

(8) Subject to subsection (9), where an application under subsection (7) is made by an authorized officer to a magistrate, the magistrate may issue a warrant authorizing the authorized officer or any other person named in the warrant, with such assistance as the officer or person thinks necessary and if necessary by force:

(a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;

(b) to search the land, premises, vessel, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of the civil penalty provision or offence~~section 315~~, being documents or other things of a kind described in the warrant; and

(c) to seize any documents or other things of the kind referred to in paragraph (b).

(9) A magistrate shall not issue a warrant under subsection (8) unless:

(a) an affidavit has been furnished to the magistrate setting out the grounds on which the issue of the warrant is being sought;

(b) the authorized officer applying for the warrant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and

(c) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.

(10) Where a magistrate issues a warrant under subsection (8), the magistrate shall state on the affidavit furnished in accordance with subsection (9) which of the grounds specified in that affidavit he or she has relied on to justify the issue of the warrant and particulars of any other grounds so relied on.

(11) A warrant issued under subsection (8) shall:

(a) include a statement of the purpose for which the warrant is issued, which shall include a reference to the contravention of the civil penalty provision or offence~~section 315~~ in relation to which the warrant is issued;

(b) state whether entry is authorized to be made at any time of the day or night or during specified hours of the day or night;

(c) include a description of the kind of documents or other things authorized to be seized; and

(d) specify a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.

(12) Where a document or other thing is seized by a person pursuant to a warrant issued under subsection (8):

(a) the person may retain the document or other thing so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and

(b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person shall cause the document or other thing to be delivered to the person who appears to the first-mentioned person to be entitled to possession of the document or other thing.

317 Keeping records

(1) A person who is subject to a civil penalty provision in this Part must keep the following records in accordance with subsections (2) and (3):

(a) records allowing the person to provide an accurate return or claim under this Part;

(b) records required for the purposes of complying with Division 3A (requirements relating to donations);

(c) any other records required for the purposes of allowing the Electoral Commissioner to determine whether the person is complying, or has complied, with this Part;

(d) any other records required by the regulations or a determination under subsection (4).

Civil penalty: 200 penalty units.

(2) A record must be kept for:

(a) if the record relates to a return in relation to a financial year—5 years after the end of the financial year; and

(b) if the record relates to a return in relation to a gift—5 years after the day the gift is made; and

(c) if the record relates to a claim—5 years after the polling day in the election to which the claim relates; and

(d) if the records relates to compliance with Division 3A—5 years after the day the relevant gift is made.

(3) A record must be kept in accordance with any other requirements determined under subsection (4).

(4) The Electoral Commissioner may, by legislative instrument, determine:

(a) records for the purposes paragraph (1)(d); or

(b) requirements for records for the purposes of subsection (3).

~~317 Records to be kept~~

~~Where, on or after the commencement of Part 3 of the *Political Broadcasts and Political Disclosures Act 1991*, a person makes or obtains a document or other thing that is or includes a record relating to a matter particulars of which are, or could be, required to be set out in a claim or return under this Part relating to an election, not being a record that, in the normal course of business or administration, would be transferred to another person, the first-mentioned person must retain that record for a period of at least 3 years commencing on the polling day in that election.~~

318 Inability to complete returns

(1) Where a person who is required to furnish a return under Division 4, 5 or 5A considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may:

(a) prepare the return to the extent that it is possible to do so without those particulars;

(b) furnish the return so prepared; and

(c) give to the Electoral Commission notice in writing:

(i) identifying the return;

(ii) stating that the return is incomplete by reason that he or she is unable to obtain certain particulars;

(iii) identifying those particulars;

(iv) setting out the reasons why he or she is unable to obtain those particulars; and

(v) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person;

and a person who complies with this subsection shall not, by reason of the omission of those particulars, be taken, for the purposes of this Part~~subsection 315(2)~~, to have furnished a return that is incomplete.

(2) Where the Electoral Commission has been informed under paragraph (1)(c) or subsection (3) that a person can supply particulars that have not been included in a return, the Electoral Commission may, by notice in writing served on that person, require the person to furnish to the Electoral Commission, within the period specified in the notice and in writing, those particulars and, subject to subsection (3), the person shall comply with that requirement.

(2A) Particulars that were not provided in a return under Division 4, 5 or 5A that are provided under subsection (2) are, for the purposes of this Part, taken to be a return provided under that Division.

(3) If a person who is required to furnish particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person shall give to the Electoral Commission a written notice:

(a) setting out the particulars (if any) that the person is able to give;

(b) stating that the person is unable to obtain some or all of the particulars;

(c) identifying the particulars the person is unable to obtain;

(d) setting out the reasons why the person considers he or she is unable to obtain those particulars; and

(e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—setting out the name and address of that other person and the reasons why he or she believes that that other person is able to give those particulars.

(3A) A person who complies with subsection (3) shall not, because of the omission of particulars required under subsection (2), be taken, for the purpose of this Part~~subsection 315(2)~~, to have furnished a return that is incomplete.

319 Non-compliance with Part does not affect election

(1) A failure of a person to comply with a provision of this Part in relation to an election does not invalidate that election.

(2) Without limiting the generality of subsection (1), where:

(a) a political party endorsed a candidate in an election; and

(b) the candidate was elected at the election;

any failure by the agent of the political party or by the agent of any State branch of the political party to comply with a provision of this Part in relation to the election does not invalidate the election of the candidate.

(3) Without limiting the generality of subsection (1), if the agent of a candidate who is elected at an election fails to comply with a provision of this Part in relation to the election, that failure does not invalidate the election of the candidate.

(4) Without limiting the generality of subsection (1), if the agent of a group, being a group one or more of the members of which is or are elected at an election, fails to comply with a provision of this Part in relation to the election, that failure does not invalidate the election of the member or members.

319A Amendment of claims and returns

(1) Where the Electoral Commissioner is satisfied that a claim or return under this Part contains a formal error or is subject to a formal defect, the Commissioner may amend the claim or return to the extent necessary to correct the error or remove the defect.

(2) A person who has ~~lodged a claim or~~ furnished a return under this Part may request the permission of the Electoral Commission to make a specified amendment of the~~the claim or~~ return for the purpose of correcting an error or omission.

(2A) If the return was furnished by:

(a) the agent of a registered political party; or

(b) the financial controller of a political campaigner or associated entity; or

(c) a third party;

the request under subsection (2) may be made by:

(d) the person who furnished the return; or

(e) the person who is currently registered as the agent or nominated as a financial controller; or

(f) for a third party—any person who is a member, agent or officer (however described) of the third party who, acting in the person's actual or apparent authority, has authority to furnish a return.

~~(2A) If the claim was lodged, or the return was furnished, by a person as the agent of a registered political party, the request under subsection (2) may be made either by:~~

~~(a) the person who lodged the claim or return; or~~

~~(b) the person who is currently registered as the agent of the political party.~~

(3) A request under subsection (2) shall:

(a) be by notice in writing signed by the person making the request; and

(b) be lodged with the Electoral Commission.

(4) Where:

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

(b) the Electoral Commission is satisfied that there is an error in, or omission from, the ~~claim or~~ return to which the request relates;

the Commission shall permit the person making the request to amend the ~~claim or~~ return in accordance with the request.

(5) Where the Electoral Commission decides to refuse a request under subsection (2), the Commission shall give to the person making the request written notice of the reasons for the decision.

(6) An officer authorised for the purpose by the Electoral Commission may exercise the power of the Commission under subsection (4).

(7) Where an officer acting under subsection (6) decides to refuse a request under subsection (2):

(a) subsection (5) applies as if the officer were the Electoral Commission; and

(b) the person who made the request may, by notice in writing lodged with the Commission within 28 days after notice of the refusal was given, request the Commission to review the decision.

(8) Where a request is made under subsection (7), the Electoral Commission shall review the decision to which the request relates and make a fresh decision.

(9) The amendment of a return under this section does not affect whether a civil penalty order may be made against a person because of a contravention of a civil penalty provision in this Part arising out of the furnishing of the return.

~~(9) The amendment of a claim or return under this section does not affect the liability of a person to be convicted of an offence against subsection 315(2), (3) or (4) arising out of the lodging of the claim or the furnishing of the return.~~

320 Requirement to publish determinations, notices and returns

(1) The Electoral Commissioner must publish the following on the Transparency Register in accordance with the following table.

Requirement to publish determinations, notices and returns

Item	The Electoral Commissioner must publish …	at this time …
1	each determination made under section 298C or subsection 301(1) (determination and variation of determination of claims for election funding)	as soon as reasonably practicable after making the determination.
2	each notice of a refusal of a final claim given under section 298F	as soon as reasonably practicable after giving the notice.
3	each notice given under section 298H reconsidering the refusal of a final claim	as soon as reasonably practicable after giving the notice.
4	each election return provided under Division 4 or 5	before the end of 24 weeks after the polling day in the election to which the return relates.
5	each annual return provided under Division 5A	before the end of the first business day in February in the calendar year

Requirement to publish determinations, notices and returns		
Item	**The Electoral Commissioner must publish …**	**at this time …**
		after the return is provided.

(2) A person is not entitled to inspect a determination, notice or return referred to in subsection (1) before the determination, notice or return is published under that subsection.

~~**320 Inspection and supply of copies of claims and returns**~~

~~(1) The Electoral Commission shall keep, at its principal office in Canberra, a copy of:~~

~~(a) each claim under Division 3; and~~

~~(b) each return under Division 4 or 5; and~~

~~(c) each return under Division 5A.~~

~~(2) Any person is entitled to peruse, at the principal office of the Electoral Commission in Canberra, a copy of a claim or return referred to in subsection (1).~~

~~(2A) The Electoral Commission shall, on request, make a copy of a claim or return referred to in subsection (1) available for inspection by a person at the principal office of the Commission in the capital city of a State or in Darwin.~~

~~(3) A person is entitled, on payment of a fee determined by the Electoral Commission to cover the cost of copying, to obtain a copy of a claim or return referred to in subsection (1).~~

~~(4) A person is not entitled under this section to peruse, or obtain a copy of, a return under Division 4 or 5 (other than section 305B) until after the end of 24 weeks after the polling day in the election to which the return relates.~~

~~(5) A person is not entitled under this section to peruse, or obtain a copy of:~~

~~(a) a return under section 305B; or~~

~~(b) a return under Division 5A;~~
~~until February in the calendar year after the return is furnished.~~

321 Indexation

(1) In this section:

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

relevant amount means an amount specified in the following provisions:

(a) subparagraphs 293(2)(a)(i) and (ii);

(b) paragraphs 293(2)(b), 294(2)(a) and (b) and 295(2)(a) and (b).

~~***relevant amount*** means the amount specified in subsection 294(1) or (2).~~

relevant period means each period of 6 months beginning on 1 January or 1 July~~the period of 6 months commencing on 1 July 1995 and each subsequent period of 6 months~~.

(2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.

(3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the index reference period for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard shall be had only to index numbers published in terms of the new index reference period.

(4) Where the factor ascertained under subsection (5) in relation to a relevant period is greater than 1, this Part has effect in relation to any election the polling day in which occurs during that relevant period as if for each relevant amount there were substituted an amount, calculated to 3 decimal places, ascertained by multiplying by that factor:

(a) in a case to which paragraph (b) does not apply—the relevant amount; or

(b) if, by virtue of another application or other applications of this section, this Part has had effect as if another amount was substituted, or other amounts were substituted, for the relevant amount—the substituted amount or the last substituted amount, as the case may be.

(5) The factor to be ascertained for the purposes of subsection (4) in relation to a relevant period is the number, calculated to 3 decimal places, ascertained:

(a) if the relevant period commences on 1 July—by dividing the index number for the last preceding March quarter by the index number for the last preceding September quarter; or

(b) if the relevant period commences on 1 January—by dividing the index number for the last preceding September quarter by the index number for the last preceding March quarter.

(6) Where an amount or factor, if calculated to 4 decimal places, would end with a number greater than 4, the amount or factor shall be taken to be the amount or factor calculated to 3 decimal places and increased by 0.001.

321A Indexation of disclosure threshold

~~**321A Indexation of amounts**~~

(1) This section applies to the dollar amount mentioned in the definition of ***disclosure threshold*** in subsection 287(1).

~~(1) This section applies to the dollar amounts mentioned in the following provisions:~~

~~(a) subparagraph 304(5)(b)(ii);~~
~~(b) paragraph 304(5)(c);~~
~~(c) paragraphs 304(6)(b) and (c);~~
~~(d) section 305A;~~
~~(e) subsections 305B(1) and (3A);~~
~~(f) subsections 306(1) and (2);~~
~~(g) subsections 306A(1) and (2);~~
~~(h) paragraph 306B(a);~~
~~(i) subsection 311A(2);~~
~~(j) subsections 314AC(1) and (2);~~
~~(k) subsection 314AE(1);~~
~~(m) paragraph 314AEB(1)(b);~~
~~(n) paragraph 314AEC(1)(c);~~
~~(o) subsection 314AEC(2).~~

(2) The dollar amount mentioned in the definition~~mentioned in the provision~~, for an indexation year whose indexation factor is greater than 1, is replaced by the amount worked out using the following formula (rounded to the nearest $100):

$$\text{Dollar amount for the provision for the previous financial year} \times \text{Indexation factor for the indexation year}$$

(3) For the purposes of sections 304 and 305A, the dollar amount mentioned in the definition for an indexation year is not replaced if the indexation period begins:

(a) while a person is a candidate or member of a group in an election or by-election; or

(b) during the period specified by legislative instrument under paragraph 305A(1A)(a).

~~(3) The dollar amount mentioned in the provision for an indexation year is not replaced in respect of a disclosure period in relation to an election if the indexation year begins between the issue of the writ for the election and the polling day for the election.~~

(4) The ***indexation factor*** for an indexation year is the number worked out using the following formula:

$$\frac{\text{March index number for the previous financial year}}{\text{March index number for the year before the previous financial year}}$$

(5) The indexation factor is to be calculated to 3 decimal places, but increased by .001 if the fourth decimal place is more than 4.

(6) Calculations under subsection (4):

(a) are to be made using only the March index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and

(b) are to be made disregarding March index numbers that are published in substitution for previously published March index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

(7) In this section:

indexation year means each financial year beginning on 1 July~~the financial year commencing on 1 July 2006, and each subsequent financial year~~.

March index number means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of the 3 months ending on 31 March.

Part XXA—Authorisation of electoral matter

Division 1—Preliminary

321B Definitions

In this Part:

address of a natural person or entity means:

(a) for a natural person—a full street address and suburb or locality at which the person can be contacted; or

(b) for an entity:

(i) if the entity has a principal office—a full street address and suburb or locality of the office; or

(ii) if the entity does not have a principal office, but does have premises—a full street address and suburb or locality of the premises; or

(iii) in the case of any other entity that authorised the communication of electoral matter—a full street address and suburb or locality at which the natural person who was responsible for giving effect to the authorisation can be contacted.

ancillary contravention of section 321D means a contravention of that section as a result of section 92 of the Regulatory Powers Act (ancillary contravention of civil penalty provisions).

authorises: a person authorises the communication of electoral matter if:

(a) if the content of the matter is approved before the matter is communicated—the person approves the content of the matter; or

(b) otherwise—the person communicates the matter.

Examples: In the case of a call centre, the person who was originally responsible for approving the content of the phone calls from the call centre is the person who authorises the communication. In the case of an email

whose content has not previously been approved, the person who sends the email authorises the communication.

by-election means an election of a member of the House of Representatives that is not part of a general election.

communicate: a carriage service provider does not ***communicate*** electoral matter merely because the carriage service provider supplies the listed carriage service used to communicate the matter.

conduct means an act or an omission to perform an act.

disclosure entity: a person or entity is a ***disclosure entity*** at a particular time if the person or entity is any of the following at that time:

(a) a registered political party;

(aa) a political campaigner (within the meaning of Part XX);

(ab) a third party (within the meaning of Part XX);

(b) an associated entity (within the meaning of Part XX);

(c) a senator or a member of the House of Representatives;

(d) a candidate in an election or by-election;

(e) a person who was a candidate in:

(i) an election or by-election of a member of the House of Representatives in the previous 4 years; or

(ii) an election of Senators for a State or Territory in the previous 7 years;

(f) a group of 2 or more candidates nominated for election to the Senate who have their names grouped in the ballot papers in accordance with section 168;

(g) a person or entity who:

(i) is or will be required to provide a return under section 305A or 305B for the financial year in which the time occurs; or

(ii) based on conduct in previous financial years, may be required to provide a return under section 305A or 305B for the financial year in which the time occurs;

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except if the return is provided because of electoral expenditure incurred solely for the purposes of carrying out an opinion poll, or other research, relating to an election or the voting intentions of electors.

~~(g) a person who is or will be required to provide a return under section 305A, 305B or 314AEB (except a return provided solely under subparagraph 314AEB(1)(a)(v)) for the financial year in which the time occurs;~~

~~(h) a person who, based on conduct in previous financial years, may be required to provide a return under section 305A, 305B or 314AEB (except a return provided solely under subparagraph 314AEB(1)(a)(v)) for the financial year in which the time occurs.~~

Note: Sections 305A and 305B require returns relating to gifts to candidates, political parties and political campaigners.

~~Note: Sections 305A, 305B and 314AEB require returns relating to gifts to candidates and political parties, and political expenditure.~~

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

primary contravention of section 321D means a contravention of that section that is not an ancillary contravention of that section.

relevant town or city of an entity or natural person (the ***authoriser***) that authorised the communication of electoral matter means:

(a) if the authoriser has a principal office—the town or city in which the office is located; or

(b) if the authoriser does not have a principal office, but does have premises from which the authoriser operates—the town or city in which the premises are located; or

(c) otherwise—the town or city in which:

(i) the authoriser lives; or

(ii) if the authoriser is an entity—the natural person who was responsible for giving effect to the authorisation lives.

~~***relevant town or city*** of an entity that authorised the communication of electoral matter means:~~

~~(a) if the entity has a principal office—the town or city in which the office is located; or~~

~~(b) if the entity does not have a principal office, but does have premises—the town or city in which the premises are located; or~~

~~(c) otherwise—the town or city in which the natural person who was responsible for giving effect to the authorisation lives.~~

321C Objects of this Part

(1) The objects of this Part are to promote free and informed voting at elections by enhancing the following:

(a) the transparency of the electoral system, by allowing voters to know who is communicating electoral matter;

(b) the accountability of those persons participating in public debate relating to electoral matter, by making those persons responsible for their communications;

(c) the traceability of communications of electoral matter, by ensuring that obligations imposed by this Part in relation to those communications can be enforced.

(2) This Part aims to achieve these objects by doing the following:

(a) requiring the particulars of the person who authorised the communication of electoral matter to be notified if:

(i) the matter is an electoral advertisement, all or part of whose distribution or production is paid for; or

(ii) the matter forms part of a specified printed communication; or

(iii) the matter is communicated by, or on behalf of, a disclosure entity;

(b) ensuring that the particulars are clearly identifiable, irrespective of how the matter is communicated.

(3) This Part is not intended to detract from:

(a) the ability of electoral matters to be communicated to voters; and
(b) voters' ability to communicate with each other on electoral matters.

Division 2—Authorisation of certain electoral matter

321D Authorisation of certain electoral matter

(1) This section applies in relation to electoral matter that is communicated to a person if:

(a) all of the following apply:

(i) the matter is an electoral advertisement;

(ii) all or part of the distribution or production of the advertisement was paid for;

(iii) the content of the advertisement was approved by a person (the ***notifying entity***) (whether or not that person is a person who paid for the distribution or production of the advertisement); or

(b) both of the following apply:

(i) the matter forms part of a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card;

(ii) the content of the matter was approved by a person (the ***notifying entity***); or

(c) the matter is communicated by, or on behalf of, a disclosure entity (the ***notifying entity***) (and the matter is not an advertisement covered by paragraph (a), nor does the matter form part of a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card).

Note 1: For paragraph (1)(c), matter may be communicated on behalf of an entity whether or not the entity pays for the communication of the matter.

Note 2: Examples of matters that may be covered by this section include internet advertisements, bulk text messages and bulk voice calls containing electoral matter.

Note 3: For the geographical application of this section, see section 321E.

Note 4: For the meaning of ***communicate*** for carriage service providers, see the definition of that term in section 321B.

(2) For the purposes of subsection (1), if:

(a) electoral matter is communicated by an individual who is a disclosure entity; and

(b) the matter is communicated on behalf of another disclosure entity; and

(c) the content of the matter is approved by the other disclosure entity before the matter is communicated;

the other disclosure entity (and not the individual) is the ***notifying entity***. However, if the content of the matter is not approved by the other disclosure entity before the matter is communicated, the individual (and not the other disclosure entity) is the ***notifying entity***.

Exceptions

(3) However, this section does not apply in relation to electoral matter:

(a) if the matter forms part of clothing or any other item that it is intended to be worn on the body; or

(aa) if the matter forms part of any other promotional item (such as a balloon, pen, mug, tote bag or marquee, but not a sticker or fridge magnet) and contains only the name, logo or other identifying feature of the notifying entity; or

(b) if the matter forms part of a communication, or in any other circumstances, determined under subsection (7) for the purposes of this paragraph.

(4) This section also does not apply in relation to electoral matter referred to in paragraphs (1)(b) and (c) if the matter forms part of:

~~(a) the reporting of news, the presenting of current affairs or any editorial content in news media; or~~

~~(b) a communication communicated solely for genuine satirical, academic or artistic purposes; or~~

(c) an opinion poll or research relating to voting intentions at an election or by-election; or

(d) a communication communicated for personal purposes; or

(e) an internal communication of a notifying entity; or

(f) a communication at a meeting of 2 or more persons if the identity of the person (the ***speaker***) communicating at the

meeting, and any disclosure entity on whose behalf the speaker is communicating, can reasonably be identified by the person or persons to whom the speaker is speaking; or

(g) a live communication of a meeting covered by paragraph (f), but not any later communication of that meeting; or

(h) a communication communicated solely for the purpose of announcing a meeting~~.~~; or

(i) a letter or card that contains the name and address of the notifying entity.

Notifying particulars

(5) The notifying entity must ensure that the particulars set out in the following table, and any other particulars determined under subsection (7) for the purposes of this subsection, are notified in accordance with any requirements determined under that subsection.

Required particulars

Item	If …	the following particulars are required …
1	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a disclosure entity that is not a natural person	(a) the name of the entity (as included in the most recent return given in relation to the entity under Part XX, if a return has been given in relation to the entity under that Part); (b) the address of the entity; (c) the name of the natural person responsible for giving effect to the authorisation; (d) the name of the printer who printed the communication; (e) the address of the printer
2	the communication is any other communication authorised by a disclosure entity that is not a natural	(a) the name of the entity (as included in the most recent return given in relation to the

Required particulars

Item	If …	the following particulars are required …
	person	entity under Part XX, if a return has been given in relation to the entity under that Part); (b) the relevant town or city of the entity; (c) the name of the natural person responsible for giving effect to the authorisation
3	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a disclosure entity who is a natural person	(a) the name of the person; (b) the address of the person; (c) the name of the printer who printed the communication; (d) the address of the printer
4	the communication is any other communication authorised by a disclosure entity who is a natural person	(a) the name of the person; (b) the relevant town or city of the person~~the town or city in which the person lives~~
5	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by an entity that is not a disclosure entity or a natural person	(a) the name of the entity; (b) the address of the entity; (c) the name of the printer who printed the communication; (d) the address of the printer
6	the communication is any other communication authorised by an entity that is not a disclosure entity or a natural person	(a) the name of the entity; (b) the relevant town or city of the entity
7	the communication is a sticker, fridge magnet, leaflet, flyer, pamphlet, notice, poster or how-to-vote card authorised by a natural person who is not a disclosure entity	(a) the name of the person; (b) the address of the person; (c) the name of the printer who printed the communication; (d) the address of the printer

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Required particulars		
Item	**If …**	**the following particulars are required …**
8	the communication is any other communication authorised by a natural person who is not a disclosure entity	(a) the name of the person; (b) the relevant town or city of the person~~the town or city in which the person lives~~

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Note 1: This provision is a civil penalty provision which is enforceable under the Regulatory Powers Act (see section 384A of this Act).

Note 2: A person may contravene this subsection if the person fails to ensure that particulars are notified or if the particulars notified are incorrect.

Note 3: For the application of this provision to a notifying entity that is not a legal person, see subsection (6).

Civil penalty: 120 penalty units.

Application of civil penalty to entities that are not legal persons

(6) For the purposes of this Act and the Regulatory Powers Act, a contravention of subsection (5) that would otherwise have been committed by a notifying entity that is not a legal person is taken to have been committed by each member, agent or officer (however described) of the entity who, acting in his or her actual or apparent authority, engaged in the conduct or made the omission constituting the contravention.

Legislative instrument

(7) The Electoral Commissioner may, by legislative instrument, determine:

(a) communications or circumstances for the purposes of either or both of the following:

(i) paragraph (3)(b) of this section;

(ii) paragraph 110C(3)(c) of the *Referendum (Machinery Provisions) Act 1984*; and

(b) requirements or particulars for the purposes of any one or more of the following:

(i) subsection (5) of this section;
(ii) subsection 110C(5) of the *Referendum (Machinery Provisions) Act 1984*;
(iii) subsection 79A(2) and paragraph 79A(6)(b) of the *Australian Broadcasting Corporation Act 1983*;
(iv) paragraph 1(2)(b) and subclause 4(2) of Schedule 2 to the *Broadcasting Services Act 1992*;
(v) subsection 70A(2) and paragraph 70A(6)(b) of the *Special Broadcasting Service Act 1991*.

Note: Requirements or particulars may be determined by reference to classes of communications, and different requirements or particulars may be determined for different classes of communications (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

321E Extended geographical application of section 321D

(1) A person does not contravene section 321D unless:
(a) the conduct constituting the alleged contravention occurs:
(i) wholly or partly in Australia; or
(ii) wholly or partly on board an Australian aircraft or an Australian ship; or
(b) the conduct constituting the alleged contravention occurs wholly outside Australia and a result of the conduct occurs:
(i) wholly or partly in Australia; or
(ii) wholly or partly on board an Australian aircraft or an Australian ship; or
(c) the conduct constituting the alleged contravention occurs wholly outside Australia and at the time of the alleged contravention, the person is:
(i) an Australian citizen; or
(ii) a resident of Australia; or
(iii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; or
(d) all of the following conditions are satisfied:
(i) the alleged contravention is an ancillary contravention of section 321D;

(ii) the conduct constituting the alleged contravention occurs wholly outside Australia;

(iii) the conduct constituting the primary contravention of section 321D, or a result of that conduct, occurs, or is intended by the person to occur, wholly or partly in Australia or wholly or partly on board an Australian aircraft or an Australian ship.

Exception—foreign entities engaging in legal conduct wholly in foreign countries

(2) A person does not contravene section 321D if:

(a) the conduct constituting the alleged contravention occurs wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and

(b) for an ancillary contravention of section 321D—the conduct constituting the primary contravention of that section, or a result of that conduct, occurs, or is intended by the person to occur, wholly in a foreign country, but not on board an Australian aircraft or an Australian ship; and

(c) the person is neither:

(i) an Australian citizen; nor

(ii) a body corporate incorporated by or under a law of the Commonwealth or of a State or Territory; and

(d) there is not a law creating an offence or contravention that corresponds to section 321D in force in the foreign country, or the part of the foreign country, where:

(i) the conduct constituting the primary contravention occurs; or

(ii) for an ancillary contravention of section 321D—a result of the conduct constituting the primary contravention occurs.

Division 3—Information-gathering powers

321F Electoral Commissioner may obtain information and documents from persons

(1) This section applies to a person if the Electoral Commissioner has reason to believe that the person has information or a document that is relevant to assessing compliance with section 321D.

(2) The Electoral Commissioner may, by written notice given to the person, require the person:

(a) to give to the Commissioner, within the period and in the manner and form specified in the notice, any such information; or

(b) to produce to the Commissioner, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to the Commissioner, within the period and in the manner specified in the notice, those copies.

Matters to which regard must be had before giving notice

(3) Before giving a person a notice under subsection (2), the Electoral Commissioner must have regard to the costs, in complying with any requirement in the notice, that would be likely to be incurred by the person.

(4) Subsection (3) does not limit the matters to which regard may be had.

Content of notice

(5) A notice given to a person under this section must set out the effect of sections 137.1 and 137.2 of the *Criminal Code* (false or misleading information or documents).

Copying documents—reasonable compensation

(6) A person is entitled to be paid by the Commonwealth reasonable compensation for complying with a requirement covered by paragraph (2)(c).

321G Copies of documents

(1) The Electoral Commissioner may inspect a document or copy produced under section 321F and may make and retain copies of such a document.

(2) The Electoral Commissioner may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 321F(2)(c).

321H Retention of documents

(1) The Electoral Commissioner may take, and retain for as long as is necessary, possession of a document produced under section 321F.

(2) The person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the Electoral Commissioner to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.

(4) Until a certified copy is supplied, the Electoral Commissioner must, at such times and places as he or she thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of the document.

Part XXI—Electoral offences

322 Interpretation

In this Part, ***relevant period***, in relation to an election under this Act, means the period commencing on the issue of the writ for the election and expiring at the latest time on polling day at which an elector in Australia could enter a polling booth for the purpose of casting a vote in the election.

323 Officers and scrutineers to observe secrecy

A person who is, or has been, an officer or a scrutineer shall not, except for the purposes of Part XVII, either directly or indirectly, divulge or communicate any information with respect to the vote of an elector acquired by him or her in the performance of functions, or in the exercise of powers, under this Act or the regulations in a manner that is likely to enable the identification of the elector.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

324 Officers not to contravene Act etc.

A person who, being an officer, contravenes:

(a) a provision of this Act for which no other penalty is provided; or

(b) a direction given to him or her under this Act;

commits an offence punishable on conviction by a fine not exceeding 10 penalty units.

325 Officers not to influence vote

(1) A person who, being an officer other than an Antarctic officer, does any act or thing with the intention of influencing the vote of another person, commits an offence punishable on conviction by

imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

(2) A person who, being an Antarctic officer, during the relevant period in relation to an election under this Act, does any act or thing with the intention of influencing the vote of another person, commits an offence punishable on conviction by imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

(3) In this section, ***Antarctic officer*** means:

(a) an Antarctic Returning Officer;

(b) an Assistant Antarctic Returning Officer; or

(c) a person appointed to act as an Antarctic Returning Officer or as an Assistant Antarctic Returning Officer.

325A Influencing votes of hospital patients etc.

(1) A person who is the proprietor of, or an employee of the proprietor of, a hospital or nursing home shall not do anything with the intention of influencing the vote of a patient in, or resident at, the hospital or nursing home.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(2) The reference in subsection (1) to the proprietor of a hospital or nursing home includes a reference to a person who is a member or officer of a body corporate that is the proprietor of a hospital or nursing home.

326 Bribery

(1) A person shall not ask for, receive or obtain, or offer or agree to ask for, or receive or obtain, any property or benefit of any kind, whether for the same or any other person, on an understanding that:

(a) any vote of the first-mentioned person;

(b) any candidature of the first-mentioned person;

(c) any support of, or opposition to, a candidate, a group of candidates or a political party by the first-mentioned person;

(d) the doing of any act or thing by the first-mentioned person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or

(e) the order in which the names of candidates nominated for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper;

will, in any manner, be influenced or affected.

Penalty: Imprisonment for 2 years or 50 penalty units, or both.

(2) A person shall not, with the intention of influencing or affecting:

(a) any vote of another person;

(b) any candidature of another person; or

(c) any support of, or opposition to, a candidate, a group of candidates or a political party by another person;

(d) the doing of any act or thing by another person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of an elector; or

(e) the order in which the names of candidates for election to the Senate whose names are included in a group in accordance with section 168 appear on a ballot paper;

give or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

Penalty: Imprisonment for 2 years or 50 penalty units, or both.

(3) This section does not apply in relation to a declaration of public policy or a promise of public action.

327 Interference with political liberty etc.

(1) A person shall not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to an election under this Act.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(2) A person must not discriminate against another person on the ground of the making by the other person of a donation to a political party, to a State branch or a division of a State branch of a political party, to a candidate in an election or by-election or to a group:

(a) by denying him or her access to membership of any trade union, club or other body;

(b) by not allowing him or her to work or to continue to work;

(c) by subjecting him or her to any form of intimidation or coercion;

(d) by subjecting him or her to any other detriment.

Penalty:

(a) if the offender is a natural person—imprisonment for 2 years or 50 penalty units, or both; or

(b) if the offender is a body corporate—200 penalty units.

(3) A law of a State or Territory has no effect to the extent to which the law discriminates against a member of a local government body on the ground that:

(a) the member has been, is, or is to be, nominated; or

(b) the member has been, is, or is to be, declared;

as a candidate in an election for the House of Representatives or the Senate.

(4) In subsection (3):

member of a local government body means a member of a local governing body established by or under a law of a State or Territory.

329 Misleading or deceptive publications etc.

(1) A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorize to be printed, published or distributed, any matter or

thing that is likely to mislead or deceive an elector in relation to the casting of a vote.

(4) A person who contravenes subsection (1) commits an offence punishable on conviction:

(a) if the offender is a natural person—by imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both; or

(b) if the offender is a body corporate—by a fine not exceeding 50 penalty units.

(5) In a prosecution of a person for an offence against subsection (4) by virtue of a contravention of subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the matter or thing was likely to mislead an elector in relation to the casting of a vote.

Note: A defendant bears a legal burden in relation to the defence in subsection (5) (see section 13.4 of the *Criminal Code*).

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

(6) In this section, ***publish*** includes publish by radio, television, internet or telephone.

330 False statements in relation to Rolls

A person who, on polling day, makes a statement to an elector, either orally or in writing, with respect to the enrolment of the elector that, to the knowledge of the first-mentioned person, is false or misleading in a material respect, commits an offence punishable on conviction by imprisonment for a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

335 Cards in polling booth

(1) A person shall not, except for the purposes of section 234, exhibit or leave in any polling booth any card or paper having thereon any

direction or instruction as to how an elector should vote or as to the method of voting.

Penalty: 5 penalty units.

(2) This section shall not apply to any official instructions exhibited by proper authority at any polling booth.

336 Signature to electoral paper

(1) Every electoral paper which by this Act or the regulations has to be signed by any person shall be signed by that person with his or her personal signature.

(2) Where a person who is unable to sign his or her name in writing makes a mark as his or her signature to an electoral paper, the mark shall be deemed to be his or her personal signature, if it is identifiable as such, and is made in the presence of a witness who signs the electoral paper as such witness:

Provided that nothing in this section shall authorize any person to sign any electoral paper by a mark or otherwise than in his or her own handwriting in cases where the Act or the regulations require that the electoral paper be signed in the persons' own handwriting.

(3) A person shall not make the signature of any other person on an electoral paper.

Penalty: 10 penalty units.

(4) Subsection (3) shall not affect the liability of any person to be proceeded against for forgery, but so that a person shall not be liable to be punished twice in respect of the same offence.

(5) In this section, ***electoral paper*** includes a prescribed form and an approved form.

337 Witnessing electoral papers

(1) A person shall not:

(a) sign as witness any blank electoral paper; or

(b) sign as witness any electoral paper which has been wholly or partly filled up unless it has been signed by the person intended to sign it; or

(c) sign as witness any electoral paper unless he or she has seen the person, whose signature he or she purports to witness, sign it; or

(d) write on any electoral paper as his or her own name:

(i) the name of another person; or

(ii) any name not being his or her own name.

Penalty: Imprisonment for 12 months.

(2) In this section, ***electoral paper*** includes a document in a prescribed or approved form or in a form in Schedule 1.

Note: The *Criminal Code Act 1995* contains defences for offences involving mistake or ignorance.

338 Unlawfully marking ballot papers

Except where expressly authorized by this Act, a person (other than the elector to whom the ballot paper has been lawfully issued) shall not mark a vote or make any mark or writing on the ballot paper of any elector.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

339 Other offences relating to ballot papers etc.

(1) A person shall not:

(a) impersonate any person with the intention of securing a ballot paper to which the impersonator is not entitled; or

(b) impersonate any person with the intention of voting in that other person's name; or

(c) fraudulently do an act that results in the destruction or defacement of any nomination paper or ballot paper; or

(d) fraudulently put any ballot paper or other paper into the ballot-box; or

(e) fraudulently take any ballot paper out of any polling booth or counting centre; or

(g) supply ballot papers without authority; or

(h) do an act that results in the unlawful destruction of, taking of, opening of, or interference with, ballot-boxes or ballot papers.

Penalty: Imprisonment for 6 months.

(1A) A person commits 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.

(1C) A person commits an offence if the person intentionally votes more than once in the same election.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

(1D) If a person votes more than once in the same election, the number of offences the person commits under subsection (1A) or (1C) because of that voting is the number of times the person voted in that election less one.

Note: This subsection means that each act of voting (other than the one act of voting that would be legitimate) gives rise to a separate offence but it is not necessary to know which act of voting was the first one and therefore legitimate.

(2) A person commits an offence if the person:

(a) does an act; and

(b) the act results in the defacement, mutilation, destruction or removal of any notice, list or other document affixed by, or by the authority of, any Divisional Returning Officer.

Penalty: 5 penalty units.

(5) In this section, a reference to a nomination paper includes a reference to a facsimile of a nomination paper.

339A Officers not to interfere with etc. ballot-boxes or ballot papers

An officer commits an offence if:

(a) the officer does an act; and

(b) the act results in the unlawful destruction of, taking of, opening of, or interference with, a ballot-box or a ballot paper.

Penalty: Imprisonment for 6 months.

340 Prohibition of canvassing near polling booths

(1) The following acts are, on polling day, and on all days to which the polling is adjourned, prohibited at an entrance of or within a polling booth, or in any public or private place within 6 metres of an entrance of a polling booth, namely:

(a) canvassing for votes; or

(b) soliciting the vote of any elector; or

(c) inducing any elector not to vote for any particular candidate; or

(d) inducing any elector not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

Penalty: 5 penalty units.

(1A) A person commits an offence against this subsection if:

(a) on polling day, or on a day to which the polling is adjourned, the person engages in any of the following activities:

(i) canvassing for votes;

(ii) soliciting the vote of an elector;

(iii) inducing an elector not to vote for a particular candidate;

(iv) inducing an elector not to vote at the election; and

(b) the person engages in that activity 6 metres or more from an entrance of a polling booth; and

(c) the person uses any of the following to engage in that activity:
  (i) a loud speaker;
  (ii) a public address system;
  (iii) an amplifier (whether fixed or mobile);
  (iv) a broadcasting van;
  (v) a sound system;
  (vi) radio equipment;
  (vii) any other equipment or device for broadcasting; and
(d) that activity is audible:
  (i) within the polling booth; or
  (ii) at an entrance of the polling booth; or
  (iii) within 6 metres of an entrance of the polling booth.

Penalty: 5 penalty units.

(1B) Subsection (1A) applies whether the person engages in the activity in a public place or a private place.

(2) Where:
(a) a building used as a polling booth is situated in grounds within an enclosure; and
(b) the appropriate Divisional Returning Officer causes to be displayed throughout the hours of polling at each entrance to those grounds a notice signed by the Divisional Returning Officer stating that those grounds are, for the purposes of this section, part of the polling booth;

those grounds shall, for the purposes of this section, be deemed to be part of the polling booth.

341 Badges or emblems in polling booths

(1) Any officer or scrutineer who wears or displays in a polling booth on polling day any badge or emblem of a candidate or political party commits an offence.

Penalty: 10 penalty units.

(2) Strict liability applies to an offence against subsection (1).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

342 Duty of witness to claim

The person witnessing any claim for age 16 enrolment or any claim for enrolment or transfer of enrolment shall, before signing the claim as witness, satisfy himself or herself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true unless he or she knows that the statements contained in the claim are true.

Penalty: 10 penalty units.

343 Failure to transmit claim

(1) Any person who accepts, for transmission to the Electoral Commissioner, the custody of, a claim for age 16 enrolment or a claim for enrolment or transfer of enrolment shall forthwith transmit the claim to the Electoral Commissioner.

Penalty: 10 penalty units.

(2) Strict liability applies to an offence against subsection (1).

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

345 Employers to allow employees leave of absence to vote

(1) If an employee who is an elector notifies his or her employer before the polling day that the employee desires leave of absence for the purpose of voting at any election, the employer shall, if the absence desired is necessary to enable the employee to vote at the election, allow the employee leave of absence without any penalty or disproportionate deduction of pay for such reasonable period not exceeding 2 hours as is necessary to enable the employee to vote at the election.

(2) No employee shall under pretence that he or she intends to vote at the election, but without the bona fide intention of doing so, obtain leave of absence under this section.

(3) This section shall not apply to any elector whose absence may cause danger or substantial loss in respect of the employment in which he or she is engaged.

Penalty:

(a) if the offender is a natural person—5 penalty units; or

(b) if the offender is a body corporate—25 penalty units.

346 Protection of the official mark

(1) A person shall not, without lawful authority, proof whereof shall lie upon the person:

(a) make any official mark on or in any paper;

(b) be in possession of any paper bearing any official mark; or

(c) make use of or be in possession of any instrument capable of making on or in any paper an official mark.

Penalty: 10 penalty units.

(2) A person who, without lawful authority, proof whereof shall lie upon the person, makes on or in any ballot paper, or on or in any paper purporting to be a ballot paper, an official mark, shall be deemed to have a forged ballot paper, and shall be punishable accordingly.

(3) All paper bearing an official mark, and all instruments capable of making on or in paper an official mark, made, used, or in the possession of any person without lawful authority (proof whereof shall lie upon the person) shall be forfeited to the Commonwealth, and may without warrant be seized by a member of the Australian Federal Police or a member of the police force of a State or Territory and destroyed or dealt with as prescribed.

(4) In this section the words ***official mark*** mean any prescribed mark to be placed or made on or in any electoral paper, and include any mark so nearly resembling an official mark as to be likely to deceive.

347 Disorderly behaviour at meeting

(1) Any person who, at any public meeting to which this section applies, acts in a disorderly manner with the intention of preventing the transaction of the business for which the meeting is held commits an offence against this Act.

Penalty: 5 penalty units.

(2) This section applies to any lawful public political meeting held in relation to any election of members of the Parliament between the date of the issue of the writ for the election and the date of the return of the writ.

(3) The chairperson of any meeting to which this section applies may direct a member of the Australian Federal Police or of the police force of a State or Territory to remove from the room or building in which the meeting is being held any person who, in the opinion of the chairperson, is preventing the transaction of the business for which the meeting is held, and thereupon the member may take such steps as are necessary for the removal of the person from the room or building.

(4) Any person:

(a) who has been removed from a room or building in accordance with a direction given under subsection (3); or

(b) whose removal from a room or building has been directed under subsection (3) and who has left that room or building;

and who returns to that room or building while the meeting is in progress, commits an offence.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(5) Subsection (4) does not apply if the person proves that he or she is authorised by the chairperson to return.

Note: A defendant bears a legal burden in relation to the matter in subsection (5) (see section 13.4 of the *Criminal Code*).

348 Control of behaviour at polling booths etc.

(1) A person shall not:

(a) commit misconduct in premises to which this section applies;

(b) while in such premises, disobey a lawful direction given by the person in charge of the premises; or

(c) enter or remain in such premises without the permission of the person in charge of the premises.

Penalty: 5 penalty units.

(2) This section applies to the following premises:

(a) a polling booth;

(b) a counting centre;

(c) premises in Australia at which an application may be made for a pre-poll vote.

(3) Paragraph (1)(c) does not apply to:

(a) a polling official;

(b) a scrutineer who is entitled to be on the premises; or

(c) in the case of a polling booth—a voter who enters the booth for the purpose of voting and remains no longer than is reasonably necessary for that purpose.

(4) The person in charge of premises is:

(a) in the case of a polling booth—the presiding officer or substitute presiding officer;

(b) in the case of a counting centre—the Australian Electoral Officer, DRO or Assistant Returning Officer conducting the scrutiny at the centre; and

(c) in the case of premises at which an application may be made for a pre-poll vote:

(i) if the premises are the office of a DRO—the DRO;

(ii) if the premises are a pre-poll voting office—any pre-poll voting officer at those premises.

(5) A person who contravenes subsection (1) may be removed from the premises by a police officer or by an authorised person.

(6) In this section:

authorised person means a person acting at the request of the person in charge of premises.

counting centre means premises being used for the purpose of the preliminary scrutiny of declaration votes or the scrutiny of ballot papers.

351 Publication of matter regarding candidates

(1) If, in any matter announced or published by any person, or caused by any person to be announced or published, on behalf of any association, league, organization or other body of persons, it is:

(a) claimed or suggested that a candidate in an election is associated with, or supports the policy or activities of, that association, league, organization or other body of persons; or

(b) expressly or impliedly advocated or suggested:

(i) in the case of an election of Senators for any State—that a voter should place in the square opposite the name of a candidate on a ballot paper a number not greater than the number of Senators to be elected; or

(ii) in the case of an election of a Member of the House of Representatives—that that candidate is the candidate for whom the first preference vote should be given;

that person commits an offence.

Penalty:

(a) if the offender is a natural person—10 penalty units; or

(b) if the offender is a body corporate—50 penalty units.

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(1A) Subsection (1) does not apply if the person proves that he or she is authorised in writing by the candidate to announce or publish the thing claimed, suggested or advocated.

Note: A defendant bears a legal burden in relation to the matter in subsection (1A) (see section 13.4 of the *Criminal Code*).

(2) Where any matter, the announcement or publication of which by any person without the written authority of a candidate would be an offence against subsection (1) on the part of that person, is announced or published by or on behalf of, or with the support of, any association, league, organization or other body of persons, every person who was an officer thereof at the time of that announcement or publication is taken to have committed an offence against subsection (1).

(3) For the purposes of this section, where any matter purports expressly or impliedly to be announced or published by or on behalf of, or in the interests or with the support of, any association, league, organization or other body of persons, the matter shall, in the absence of proof to the contrary, be deemed to be announced or published by or on behalf, or with the support, of the association, league, organization or other body of persons.

Note: A defendant bears a legal burden in relation to proof to the contrary under subsection (3) (see section 13.4 of the *Criminal Code*).

(4) Nothing in the foregoing provisions of this section shall apply to or in relation to any announcement or publication made or authorized by any bona fide political party or by any bona fide branch thereof respecting a candidate who, by public announcement, has declared his or her candidature to be a candidature on behalf of or in the interests of that party.

(5) The person whose name is notified under section 321D in relation to electoral matter as the person who authorised the communication of the matter, in the absence of evidence to the contrary, is taken to have announced or published the matter, or caused it to be announced or published, for the purpose of this section.

Note: A defendant bears an evidential burden in relation to evidence to the contrary under subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

Part XXII—Court of Disputed Returns

Division 1—Disputed Elections and Returns

352 Interpretation

(1) In this Part:

bribery or ***corruption*** means a contravention of section 326.

illegal practice means a contravention of this Act or the regulations.

undue influence means a contravention of section 327 of this Act or section 83.4 of the *Criminal Code*.

(2) For the purposes of this Part, a person who aids, abets, counsels or procures, or by act or omission is in any way directly or indirectly knowingly concerned in, or party to, the contravention of a provision of this Act, the *Crimes Act 1914* or the regulations under this Act shall be deemed to have contravened that provision.

353 Method of disputing elections

(1) The validity of any election or return may be disputed by petition addressed to the Court of Disputed Returns and not otherwise.

(2) The choice of a person to hold the place of a Senator by the Houses of Parliament of a State or the appointment of a person to hold the place of a Senator by the Governor of a State under section 15 of the Constitution shall be deemed to be an election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.

(3) The choice of a person to hold the place of a Senator for the Australian Capital Territory by the Legislative Assembly for the Australian Capital Territory or the appointment of a person to hold

the place of such a Senator by the Chief Minister for the Australian Capital Territory under subsection 44(1) shall be deemed to be an election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.

(4) The choice of a person to hold the place of a Senator for the Northern Territory by the Legislative Assembly of the Northern Territory or the appointment of a person to hold the place of a Senator by the Administrator of the Northern Territory under subsection 44(2) shall be deemed to be an election within the meaning of this section, and the provisions of this Division shall, so far as applicable, have effect as if that choice or appointment were an election within the meaning of this Division.

354 The Court of Disputed Returns

(1) The High Court shall be the Court of Disputed Returns, and shall have jurisdiction either to try the petition or to refer it for trial to the Federal Court of Australia (the ***Federal Court***).

(2) When a petition has been so referred for trial, the Federal Court shall have jurisdiction to try the petition, and shall in respect of the petition be and have all the powers and functions of the Court of Disputed Returns.

(3) The High Court may refer to the Federal Court part of a petition in respect of an election or return, being a part that consists of a question or questions of fact.

(4) Subject to any directions by the High Court, if the High Court refers part of a petition to the Federal Court under subsection (3):

(a) the Federal Court has jurisdiction to deal with the part of the petition that has been referred; and

(b) the Federal 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 Federal Court.

(5) The High Court may have regard to the findings of the Federal 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.

355 Requisites of petition

Subject to section 357, every petition disputing an election or return in this Part called the petition shall:

(a) set out the facts relied on to invalidate the election or return;

(aa) subject to subsection 358(2), set out those facts with sufficient particularity to identify the specific matter or matters on which the petitioner relies as justifying the grant of relief;

(b) contain a prayer asking for the relief the petitioner claims to be entitled to;

(c) be signed by a candidate at the election in dispute or by a person who was qualified to vote thereat, or, in the case of the choice or the appointment of a person to hold the place of a Senator under section 15 of the Constitution or section 44 of this Act, by a person qualified to vote at Senate elections in the relevant State or Territory at the date of the choice or appointment;

(d) be attested by 2 witnesses whose occupations and addresses are stated;

(e) be filed in the Registry of the High Court within 40 days after:

(i) if the polling day for the election in dispute is not the polling day for any other election—the return of the writ for the election; or

(ii) if the polling day for the election in dispute is also the polling day for another election or other elections—the return of whichever of the writs for the election in dispute and that other election or those other elections is returned last; or

(iii) if the choice or the appointment of a person to hold the place of a Senator under section 15 of the Constitution is in dispute—the notification of that choice or appointment.

356 Deposit as security for costs

When filing the petition, the petitioner must deposit with the Chief Executive and Principal Registrar, the Senior Registrar, or a Deputy Registrar, of the High Court $500 as security for costs.

357 Petition by Electoral Commission

(1) The Electoral Commission is entitled to file a petition disputing an election.

(1A) The Electoral Commission shall file a petition disputing an election in relation to which a DRO has given notice under subsection 274(9C).

(2) Paragraphs 355(c) and (d) do not apply in relation to a petition filed by the Electoral Commission disputing an election but such a petition shall be signed by the Electoral Commissioner for and on behalf of the Commission.

358 No proceedings unless requirements complied with

(1) Subject to subsection (2), no proceedings shall be had on the petition unless the requirements of sections 355, 356 and 357 are complied with.

(2) The Court may, at any time after the filing of a petition and on such terms (if any) as it thinks fit, relieve the petitioner wholly or in part from compliance with paragraph 355(aa).

(3) The Court shall not grant relief under subsection (2) unless it is satisfied that:

(a) in spite of the failure of the petition to comply with paragraph 355(aa), the petition sufficiently identifies the specific matters on which the petitioner relies; and

(b) the grant of relief would not unreasonably prejudice the interests of another party to the petition.

359 Right of Electoral Commissioner to be represented

The Electoral Commission shall be entitled by leave of the Court of Disputed Returns to enter an appearance in any proceedings in which the validity of any election or return is disputed, and to be represented and heard thereon, and in such case shall be deemed to be a party respondent to the petition.

360 Powers of Court

(1) The Court of Disputed Returns shall sit as an open Court and its powers shall include the following:

(i) To adjourn;

(ii) To compel the attendance of witnesses and the production of documents;

(iii) To grant to any party to a petition leave to inspect in the presence of a prescribed officer the rolls and other documents (except ballot papers) used at or in connexion with any election and to take, in the presence of the prescribed officer, extracts from those rolls and documents;

(iv) To examine witnesses on oath;

(v) To declare that any person who was returned as elected was not duly elected;

(vi) To declare any candidate duly elected who was not returned as elected;

(vii) To declare any election absolutely void;

(viii) To dismiss or uphold the petition in whole or in part;

(ix) To award costs;

(x) To punish any contempt of its authority by fine or imprisonment.

(2) The Court may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

(3) Without limiting the powers conferred by this section, it is hereby declared that the power of the Court to declare that any person who was returned as elected was not duly elected, or to declare an election absolutely void, may be exercised on the ground that illegal practices were committed in connexion with the election.

(4) The power of the Court of Disputed Returns under paragraph (1)(ix) to award costs includes the power to order costs to be paid by the Commonwealth where the Court considers it appropriate to do so.

361 Inquiries by Court

(1) The Court shall inquire whether or not the petition is duly signed, and so far as Rolls and voting are concerned may inquire into the identity of persons, and whether their votes were improperly admitted or rejected, assuming the Roll to be correct, but the Court shall not inquire into the correctness of any Roll.

(2) Where the Court makes inquiries in relation to ballot papers marked in Antarctica pursuant to the provisions of Part XVII, a statement of the particulars of the marking of the ballot papers prepared by an Australian Electoral Officer under subsection 260(3) is, unless the Court otherwise orders, conclusive evidence of the particulars stated.

362 Voiding election for illegal practices etc.

(1) If the Court of Disputed Returns finds that a successful candidate has committed or has attempted to commit bribery or undue influence, the election of the candidate shall be declared void.

(2) No finding by the Court of Disputed Returns shall bar or prejudice any prosecution for any illegal practice.

(3) The Court of Disputed Returns shall not declare that any person returned as elected was not duly elected, or declare any election void:

(a) on the ground of any illegal practice committed by any person other than the candidate and without the knowledge or authority of the candidate; or

(b) on the ground of any illegal practice other than bribery or corruption or attempted bribery or corruption;

unless the Court is satisfied that the result of the election was likely to be affected, and that it is just that the candidate should be declared not to be duly elected or that the election should be declared void.

(4) The Court of Disputed Returns must not declare that any person returned as elected was not duly elected, or declare any election void, on the ground that someone has contravened the *Broadcasting Services Act 1992* or the *Radiocommunications Act 1992*.

363 Court to report cases of illegal practices

When the Court of Disputed Returns finds that any person has committed an illegal practice, the Chief Executive and Principal Registrar of the High Court shall forthwith report the finding to the Minister.

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.

364 Real justice to be observed

The Court shall be guided by the substantial merits and good conscience of each case without regard to legal forms or

technicalities, or whether the evidence before it is in accordance with the law of evidence or not.

364A Provision for Court to have regard to certain rejected ballot papers

In making its decision on a petition, the Court may:

(a) have regard to postal ballot papers rejected at the preliminary scrutiny because of paragraph 7 of Schedule 3 if the Court is satisfied that the votes marked on the ballot papers were recorded prior to the close of the poll; and

(b) have regard to any declaration vote ballot papers (including postal ballot papers) rejected at the preliminary scrutiny if the Court is of the opinion that the ballot papers should not have been rejected.

365 Immaterial errors not to vitiate election

No election shall be avoided on account of any delay in the declaration of nominations, the provision of certified lists of voters to candidates, the polling, or the return of the writ, or on account of the absence or error of or omission by any officer which did not affect the result of the election:

Provided that where any elector was, on account of the absence or error of, or omission by, any officer, prevented from voting in any election, the Court shall not, for the purpose of determining whether the absence or error of, or omission by, the officer did or did not affect the result of the election, admit any evidence of the way in which the elector intended to vote in the election.

365A Election not affected by failure of delivery arrangement

(1) This section applies if a DRO or Assistant Returning Officer, under section 188, arranges for delivery of a certificate and ballot paper instead of posting them.

(2) The Court of Disputed Returns must not:

(a) declare that a person returned as elected was not duly elected; or

(b) declare an election void;

on the ground of a failure of the arrangement for delivery.

(3) This section is not intended to imply anything about the effect of a failed delivery by post.

366 Errors relating to printing of party affiliations

The Court of Disputed Returns is not to declare that a person returned as elected was not duly elected, or declare an election void, by reason only that:

(a) there was or was not printed on one or more ballot papers used in the election:

(i) the name; or

(ii) an abbreviation of the name; or

(iii) a logo of a political party;

adjacent to the name of a candidate or group of candidates; or

(b) the name or an abbreviation of the name of a political party printed on one or more ballot papers used in the election was misspelt; or

(c) the name, an abbreviation of the name or a logo of a political party printed on one or more ballot papers used in the election was inaccurate or incorrect; or

(d) an officer failed to comply with section 210A, 214 or 214A in relation to the election.

367 Evidence that person not permitted to vote

On the trial of any petition the Court shall not admit the evidence of any witness that the witness was not permitted to vote in any election during the hours of polling on polling day unless the witness satisfies the Court:

(a) that the witness claimed to vote, in the election, pursuant to that provision of this Act under which he or she was entitled or might be permitted to vote; and

(b) that the witness complied with the requirements of this Act and the regulations made thereunder relative to voting by electors in so far as he or she was permitted so to do.

367A Disposal of petition where election cannot be decided

(1) The Court shall give its decision on a petition filed by the Electoral Commission under subsection 357(1A), and shall make an order on the petition, within 3 months after the day on which the petition was filed.

(2) In the case of a petition under subsection 357(1A), subsection 360(1) applies as if for subparagraphs (v), (vi), (vii) and (viii) the following subparagraphs were substituted:

"(v) to declare a candidate elected;

(vi) to declare the election absolutely void;".

368 Decisions to be final

All decisions of the Court shall be final and conclusive and without appeal, and shall not be questioned in any way.

369 Copies of petition and order of Court to be sent to House affected, Governor-General and Speaker

The Chief Executive and Principal Registrar of the High Court must, forthwith after the filing of the petition, give to the Clerk of the House of Parliament affected by the petition a copy of the petition, and, forthwith after the trial of the petition, give to:

(a) that Clerk; and

(b) in the case of a general election or a House of Representatives election the writ for which was issued by the Governor-General—the Governor-General; and

(c) in the case of a House of Representatives election the writ for which was not issued by the Governor-General—the Speaker;

a copy of the order of the Court.

370 Representation of parties before Court

A party to the petition may appear in person or be represented by counsel or solicitor.

371 Costs

The Court may award costs against an unsuccessful party to the petition.

372 Deposit applicable for costs

If costs are awarded to any party against the petitioner, the deposit shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

373 Other costs

All other costs awarded by the Court, including any balance above the deposit payable by the petitioner, shall be recoverable as if the order of the Court were a judgment of the High Court of Australia, and such order, certified by the Court, may be entered as a judgment of the High Court of Australia, and enforced accordingly.

374 Effect of decision

Effect shall be given to any decision of the Court as follows:

(i) If any person returned is declared not to have been duly elected, the person shall cease to be a Senator or Member of the House of Representatives;

(ii) If any person not returned is declared to have been duly elected, the person may take his or her seat accordingly;

(iii) If any election is declared absolutely void a new election shall be held.

375 Power to make Rules of Court

The Justices of the High Court or a majority of them may make Rules of Court not inconsistent with this Act for carrying this Part of this Act into effect and in particular for regulating the practice and procedure of the Court the forms to be used and the fees to be paid by parties.

Note: Section 86 of the *Judiciary Act 1903* provides that certain provisions of the *Legislation Act 2003* apply, with modifications, to rules of court made by the Court. Section 88 of the *Judiciary Act 1903* provides that regulations may be made modifying and adapting certain provisions of the *Legislation Act 2003* in their application to the Court.

375A Right of Electoral Commission to have access to documents

Unless the Court orders otherwise, the filing of a petition does not deprive the Electoral Commission of any right to have access to a document for the purposes of the performance of its functions.

Division 2—Qualifications and vacancies

376 Reference of question as to qualification or vacancy

Any question respecting the qualifications of a Senator or of a Member of the House of Representatives or respecting a vacancy in either House of the Parliament may be referred by resolution to the Court of Disputed Returns by the House in which the question arises and the Court of Disputed Returns shall thereupon have jurisdiction to hear and determine the question.

377 President or Speaker to state case

When any question is referred to the Court of Disputed Returns under this Part, the President if the question arises in the Senate, or the Speaker if the question arises in the House of Representatives, shall transmit to the Court of Disputed Returns a statement of the question upon which the determination of the Court is desired, together with any proceedings, papers, reports, or documents relating to the question in the possession of the House in which the question arises.

378 Parties to the reference

The Court of Disputed Returns may allow any person who in the opinion of the Court is interested in the determination of any question referred to it under this Part to be heard on the hearing of the reference, or may direct notice of the reference to be served on any person, and any person so allowed to be heard or so directed to be served shall be deemed to be a party to the reference.

379 Powers of Court

On the hearing of any reference under this Part the Court of Disputed Returns shall sit as an open Court and shall have the powers conferred by section 360 so far as they are applicable, and in addition thereto shall have power:

(a) to declare that any person was not qualified to be a Senator or a Member of the House of Representatives;

(b) to declare that any person was not capable of being chosen or of sitting as a Senator or a Member of the House of Representatives; and

(c) to declare that there is a vacancy in the Senate or in the House of Representatives.

380 Order to be sent to House affected

After the hearing and determination of any reference under this Part the Chief Executive and Principal Registrar of the High Court shall forthwith forward to the Clerk of the House by which the question has been referred a copy of the order or declaration of the Court of Disputed Returns.

381 Application of certain sections

The provisions of sections 364, 368, 370, 371, 373, 374 and 375 shall apply so far as applicable to proceedings on a reference to the Court of Disputed Returns under this Part.

Part XXIII—Miscellaneous

381A Extension of time for acts by officers

Where:

(a) an officer is required by a provision of this Act or the regulations to do an act;

(b) the officer refuses or fails to do the act at the time, or within the period, required by that provision;

the Commission may determine that the act may be done within such further time, not exceeding 48 hours, as the Commission fixes.

382 General provisions about enrolment-related claims etc.

Definitions

(1) In this section:

enrolment-related claim or notice means a claim, application, notice, objection, request or other communication that is required or permitted to be sent to the Electoral Commissioner by any of the following:

(a) a provision of Part VII, VIII, IX or X;

(b) section 184A;

(c) section 249.

sent to includes given, made or delivered to, or lodged with.

Addresses to which enrolment-related claims or notices may be sent

(2) The Electoral Commissioner may, in writing, determine one or more addresses to which enrolment-related claims or notices may be sent.

(3) A determination under subsection (2) may specify different addresses for the purposes of different provisions or for use in different circumstances.

(4) To avoid doubt, an address determined under subsection (2) may be an electronic address.

(5) If a person sends an enrolment-related claim or notice to an address in accordance with a determination under subsection (2), the person is taken to have sent the enrolment-related claim or notice to the Electoral Commissioner.

Note: Requirements relating to the form, content etc. of the enrolment-related claim or notice must still be complied with (subject to subsections (7) and (8)).

(6) A determination under subsection (2) is not a legislative instrument.

Enrolment-related claims or notices do not have to be signed in certain circumstances

(7) Subject to subsection (8), if:

(a) an enrolment-related claim or notice is required to be signed by a person; and

(b) the person is already enrolled; and

(c) the person's name is still the same as the name under which he or she is enrolled;

the requirement that the claim or application be signed is (despite section 336) taken to be satisfied if the person instead satisfies the requirements prescribed by the regulations for the purpose of this subsection.

(8) Subsection (7) does not apply to:

(a) an enrolment-related claim or notice that is required or permitted to be sent to the Electoral Commissioner by a provision of Part IX or X; or

(b) any of the following requirements for a signature:

(ia) the requirement in subparagraph 98AA(2)(c)(ii);

(i) the requirement in subsection 98(3);
(ii) the requirement in subsection 99A(5);
(iii) the requirement in subsection 99B(3);
(iv) the requirement that a statutory declaration referred to in subsection 104(3) be signed;
(v) any other requirement for a signature that is prescribed by the regulations for the purpose of this subparagraph.

383 Injunctions

Restraining injunctions

(1) Where a person has engaged, is engaging or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of, or an offence against, this Act or any other law of the Commonwealth in its application to elections, the Federal Court of Australia (the ***Federal Court***) may, on the application of:

(a) in a case where the conduct relates to an election—a candidate in the election; or
(b) in any case—the Electoral Commission;

grant an injunction restraining the first-mentioned person from engaging in the conduct and, if in the opinion of the Federal Court it is desirable to do so, requiring that person to do any act or thing.

Performance injunctions

(2) Where:

(a) a person has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing; and
(b) the refusal or failure was, is, or would be, a failure to comply with, or an offence against, this Act or any other law of the Commonwealth in its application to elections;

the Federal Court may, on the application of:

(c) in a case where the refusal or failure relates to an election—a candidate in the election; or

(d) in any case—the Electoral Commission;

grant an injunction requiring the first-mentioned person to do that act or thing.

Injunctions relating to section 321D—carriage service providers

(2A) Without limiting subsection (1), if:

(a) an injunction could be granted under subsection (1) or (2) in relation to a contravention or proposed contravention by a person (the ***notifying entity***) of section 321D in relation to an electoral matter; and

(b) a carriage service provider supplies, or is to supply, a listed carriage service to the notifying entity; and

(c) the listed carriage service is to be used solely for making bulk voice calls or sending bulk text messages;

the Federal Court may, on the application of:

(d) if the conduct relates to an election—a candidate in the election; or

(e) in any case—the Electoral Commission;

grant an injunction restraining the carriage service provider from supplying the listed carriage service to the notifying entity.

Note: Section 321D requires the name of the person who authorised the communication of certain electoral matter to be notified.

Injunctions relating to section 321D—broadcasters

(2B) Without limiting subsection (1), if an injunction could be granted under subsection (1) or (2) in relation to a contravention or proposed contravention by a person (the ***notifying entity***) of section 321D in relation to an electoral matter, the Federal Court may, on the application of:

(a) if the conduct relates to an election—a candidate in the election; or

(b) in any case—the Electoral Commission;

grant an injunction restraining a broadcaster from broadcasting the matter.

Interim injunctions

(3) Where an application is made to the Federal Court for an injunction under subsection (1), (2A) or (2B), the Federal Court may, if in the opinion of the Federal Court it is desirable to do so, before considering the application, grant an interim injunction restraining a person from engaging in conduct of the kind referred to in subsection (1), or restraining the carriage service provider or broadcaster as referred to in subsection (2A) or (2B), pending the determination of the application.

Discharging and varying injunctions

(4) The Federal Court may discharge or vary an injunction granted under this section.

Court not required to consider past and future conduct

(5) Where an application is made to the Federal Court for the grant of an injunction under subsection (1) restraining a person from engaging in conduct of a particular kind, the power of the Federal Court to grant the injunction may be exercised:

(a) if the Federal Court is satisfied that the person has engaged in conduct of that kind—whether or not it appears to the Federal Court that the person intends to engage again, or to continue to engage, in conduct of that kind; or

(b) if it appears to the Federal Court that, in the event that an injunction is not granted, it is likely that the person will engage in conduct of that kind—whether or not the person has previously engaged in conduct of that kind and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person engages in conduct of that kind.

(6) Where an application is made to the Federal Court for the grant of an injunction under subsection (1) or (2) requiring a person to do a particular act or thing, the power of the Federal Court to grant the injunction may be exercised:

(a) if the Federal Court is satisfied that the person has refused or failed to do that act or thing—whether or not it appears to the Federal Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; or

(b) if it appears to the Federal Court that, in the event that an injunction is not granted, it is likely that the person will refuse or fail to do that act or thing—whether or not the person has previously refused or failed to do that act or thing and whether or not there is an imminent danger of substantial damage to any person if the first-mentioned person refuses or fails to do that act or thing.

(6A) If an application is made to the Federal Court for the grant of an injunction under subsection (2A) or (2B) restraining a carriage service provider or broadcaster as referred to in that subsection, the power of the Federal Court to grant the injunction may be exercised:

(a) if the Federal Court is satisfied that the notifying entity has contravened section 321D—whether or not it appears to the Federal Court that the notifying entity intends to contravene or continue to contravene that section; or

(b) if it appears to the Federal Court that, in the event that an injunction is not granted, it is likely that the notifying entity will contravene section 321D—whether or not the notifying entity has previously contravened that section.

No undertakings as to damages

(7) Where the Electoral Commission makes an application to the Federal Court for the grant of an injunction under this section, the Federal Court shall not require the Electoral Commission or any other person, as a condition of the granting of an interim injunction, to give any undertakings as to damages.

This section does not limit other powers of the Federal Court

(10) The powers conferred on the Federal Court under this section are in addition to, and not in derogation of, any other powers of the Federal Court, whether conferred by this Act or otherwise.

Definitions

(11) In this section:

broadcaster means:

(a) a broadcaster within the meaning of subclause 4(1) of Schedule 2 to the *Broadcasting Services Act 1992*; or

(b) the Australian Broadcasting Corporation; or

(c) the Special Broadcasting Service Corporation.

bulk text message means an electronic message (within the meaning of section 5 of the *Spam Act 2003*) that is sent, in bulk, to electronic addresses in connection with telephone accounts.

bulk voice call means a call or calls that send in bulk a pre-recorded message to standard telephone services.

384 Prosecution of offences

(1) Subject to subsection (2), an offence against ~~subsection 315(3) or~~ section 326 is an indictable offence.

(2) A court of summary jurisdiction may hear and determine proceedings in respect of the offence~~an offence referred to in subsection (1)~~ if the court is satisfied that it is proper to do so and the defendant and the prosecutor consent.

(3) If, under subsection (2), a court of summary jurisdiction convicts a person of the offence, the court may impose a penalty of imprisonment for a period not exceeding 12 months or a fine not exceeding 20 penalty units, or both.

~~(3) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against subsection 315(3) or section 326, the penalty that the court may impose is:~~

~~(a) in the case of an offence against subsection 315(3)—a fine not exceeding 50 penalty units; or~~

~~(b) in the case of an offence against section 326—imprisonment for a period not exceeding 12 months or a fine not exceeding 20 penalty units, or both.~~

384A Application of Regulatory Powers Act

Application of Parts 4 and 6

(1) Each civil penalty provision of this Act~~Section 321D~~ is enforceable under Parts 4 and 6 of the Regulatory Powers Act.

Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to be enforced by obtaining an order for a person to pay a pecuniary penalty for the contravention of the provision. Part 6 of that Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

Authorised applicant and relevant court

(2) For the purposes of Parts 4 and 6 of the Regulatory Powers Act:

(a) for Part 4—the Electoral Commissioner is an authorised applicant; and

(b) for Part 6—the Electoral Commissioner is an authorised person; and

(c) for Parts 4 and 6—the Federal Court of Australia is a relevant court;

in relation to each civil penalty provision of this Act~~section 321D of this Act~~.

Commissioner may publish enforceable undertakings

(2A) The Electoral Commissioner may publish on the Transparency Register an undertaking given in relation to a civil penalty provision of this Act.

Delegation

(3) The Electoral Commissioner may, in writing, delegate his or her powers and functions under the Regulatory Powers Act to an SES employee, or acting SES employee, of the Commission.

Note: The expressions ***SES employee*** and ***acting SES employee*** are defined in section 2B of the *Acts Interpretation Act 1901*.

(4) A person exercising powers or performing functions under a delegation under subsection (3) must comply with any directions of the Electoral Commissioner.

385 Certificate evidence

On any prosecution under this Act the certificate of the Electoral Commissioner, Australian Electoral Officer, or Divisional Returning Officer that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be evidence of the matter stated.

385A Evidence of authorship or authorisation of material

In proceedings for an offence against, or a contravention of a civil penalty provision in, this Act:

(a) a communication of electoral matter that includes a name purporting to be the author's name is admissible as evidence that the person named is the author of the communication; and

(b) a communication of electoral matter that includes a statement that it was authorised by a specified person is admissible as evidence of that fact; and

(c) a communication of electoral matter that includes a statement that a specified person was the printer of the communication is admissible as evidence of that fact.

386 Disqualification for bribery and undue influence

Any person who:

(a) is convicted of an offence against:

(i) section 326 or 327 of this Act or section 83.4 of the *Criminal Code*; or

(ii) an offence against section 11.1 of the *Criminal Code* that relates to an offence referred to in subparagraph (i); or

(b) is found by the Court of Disputed Returns to have committed or attempted to commit bribery or undue influence, within the meaning of Part XXII, when a candidate;

shall, during a period of 2 years from the date of the conviction or finding, be incapable of being chosen or of sitting as a Member of either House of the Parliament.

386A Immunity from suit

No action, suit or proceeding (except proceedings under this Act) lies against the Commonwealth, or a person who has been an officer or employee of the Commonwealth, in relation to anything done in good faith by the Electoral Commission, or an officer or an employee of the Electoral Commission, under this Act in relation to a logo of a party.

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387 Electoral papers~~Electoral matters~~ to be sent free by post

All electoral papers provided for by this Act may be transmitted through the post free of charge to any elector or person claiming to be an elector, subject to the regulations in force under the *Postal Services Act 1975*, and all papers so transmitted to an elector, if duly addressed, shall, on proof of posting, unless the contrary be shown, be deemed to have been duly served on and received by the elector to whom they were addressed on the day when in the ordinary course of post they should have been received at the elector's address.

387A Service of process by mail

For the purposes of proceedings for an offence under section 245, process is taken to be served on a person if it is delivered by mail to the person's latest known address.

388 Averments deemed to be proved

In any prosecution in a court of summary jurisdiction in respect of a contravention of the provisions of this Act or the regulations relating to compulsory enrolment or compulsory voting, instituted by an officer or by any person acting under the direction of an officer, the averments of the prosecutor contained in the information or complaint shall be deemed to be proved in the absence of evidence to the contrary.

389 Defendant may be called upon to give evidence

Where any person has secured enrolment in pursuance of an electoral claim, or has made a claim for enrolment or transfer of enrolment and any proceedings arise in any court of competent jurisdiction in respect of such claim for enrolment or transfer of enrolment the person may be called upon to give evidence upon oath to the court as to the truth of the statements contained in the claim for enrolment or transfer of enrolment.

390 Production of claims for enrolment etc.

(1) A person who is, or has been, an officer shall not, except for the purposes of this Act, be required:

(a) to produce in court a claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act, a copy of a notice given under section 103A or 103B or anything received in response to a notice given under subsection 103A(2) or 103B(2); or

(b) to disclose or communicate to a court any matter or thing that has come under the person's notice in the performance of duties or functions under this Act in relation to:

(i) a claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act; or

(ii) anything done under subsection 103A(2), (3), (4) or (6), or subsection 103B(2), (3), (4) or (6).

Note: Section 103A deals with updating or transferring a person's enrolment, and section 103B deals with enrolling an unenrolled person, without a claim or notice from the person.

(2) In this section, ***officer*** includes any person performing duties, or exercising powers or functions, under or in relation to this Act.

390A Claims for enrolment etc. not to be subject to warrants

(1) A warrant issued under section 3E of the *Crimes Act 1914* does not authorise the seizure of a claim for enrolment or transfer of enrolment, a copy of a notice given under section 103A or 103B, or anything received in response to a notice given under subsection 103A(2) or 103B(2), in the possession of the Electoral Commission or of an officer.

Note: Section 103A deals with updating or transferring a person's enrolment, and section 103B deals with enrolling an unenrolled person, without a claim or notice from the person.

(2) In this section:

claim for enrolment includes a provisional claim for enrolment.

officer includes any person performing duties, or exercising powers or functions, under or in relation to this Act.

391 Record of claims for enrolment etc.

(1) A claim for enrolment (including a provisional claim for enrolment) or transfer of enrolment under this Act may, with the approval of the Australian Electoral Officer or, in the case of a claim relating to the Australian Capital Territory, the Electoral Commissioner, be destroyed if a record of the particulars contained in the claim is made and kept by microfilm or microfiche or in any other permanent form approved by the Australian Electoral Officer or Electoral Commissioner, as the case may be.

(2) A record made and kept under subsection (1) of particulars contained in a claim for enrolment (including a provisional claim

for enrolment) or transfer of enrolment is admissible in evidence in any proceeding and is prima facie evidence of any such particular.

392 Forms

(1) Strict compliance with the forms in Schedule 1 shall not be required, and substantial compliance therewith shall suffice for the purposes of this Act.

(2) The regulations may provide:

(a) that a form in Schedule 1 be altered as specified in the regulations; or

(b) that a form be used in place of a form in Schedule 1.

(2A) Where regulations have been made in relation to a form in Schedule 1, a provision of this Act that refers to the form shall be taken to refer:

(a) if the regulations provide that the form be altered, to the form so altered; and

(b) if the regulations provide that another form be used in place of the form, to that other form.

(3) The regulations may prescribe combined forms containing the substance of any 2 or more forms to the intent that the combined form may be used in lieu of any of those forms.

(4) The regulations may permit the use of any repealed form for any prescribed period, notwithstanding that a new form has been prescribed in lieu of it, and without any attestation or witnessing further than is provided for in the repealed form.

(5) In subsection (4) ***repealed form*** includes:

(a) a form prescribed under any Act repealed by this Act and in force at the commencement of this Act; and

(b) a form prescribed by any regulations made under this Act and subsequently repealed.

393A Preservation of documents

(1) In this section, ***electoral documents*** includes:

(a) ballot papers; and

(b) certified lists of voters; and

(ba) approved lists of voters; and

(c) certified copies of the Roll; and

(d) declarations; and

(e) postal vote certificates; and

(f) pre-poll vote certificates for declaration voting; and

(g) lists prepared under section 245.

(2) An Australian Electoral Officer is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of ballot papers transmitted to him or her in accordance with paragraph 273(3)(d) until the ballot papers are destroyed.

(3) The DRO for a Division is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of electoral documents used in the Division in connection with an election until the documents are destroyed.

(4) An officer who conducts a scrutiny shall, after the completion of the scrutiny, parcel up and seal all electoral documents (except approved lists of voters) dealt with or used in the scrutiny.

(5) Each Assistant Returning Officer shall send to the DRO, in parcels fastened and sealed, all electoral documents (except approved lists of voters) used in an election in that portion of the Division for which he or she was appointed.

(6) A DRO may open a parcel sent to the DRO by an Assistant Returning Officer.

(7) Material removed from a parcel shall:

(a) be retained by the DRO; or

(b) be dealt with according to the directions of the Electoral Commissioner.

(8) When the purpose for which material was removed from a parcel has been satisfied, the DRO shall:

(a) as soon as practicable, replace the material in the parcel and refasten and reseal the parcel; and

(b) write on the covering of the parcel a notation indicating that the parcel has been opened by the DRO and specifying the purpose for which it was opened.

(9) A DRO who opens a parcel shall not mark or alter, or permit any other person to mark or alter, a document removed from the parcel.

(10) Subject to Part XXII, the Electoral Commissioner may direct that electoral documents be destroyed if:

(a) not less than 6 months have elapsed since the declaration of the poll in the election in which the documents were used; and

(b) the documents are no longer required by the Electoral Commission for the performance of its functions.

394 No State or Territory vote to be held on polling day

(1) On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election, referendum or vote of the electors of a State or Territory or part of a State or Territory may, without the authority of the Governor-General, be held or taken under a law of the State or Territory.

(2) On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election, referendum or vote of the electors of Norfolk Island may, without the authority of the Governor-General, be held or taken under a law in force in Norfolk Island.

(3) In subsection (1):

Territory means:

(a) the Australian Capital Territory, not including Norfolk Island; or

(b) the Northern Territory.

395 Regulations

The Governor-General may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act, and in particular:

(a) prescribing penalties not exceeding 5 penalty units for any contravention of any regulation made in pursuance of this Act; and

(b) prescribing the procedure in relation to the imposition and recovery of penalties for offences against the compulsory enrolment or compulsory voting provisions of this Act; and

(c) the grounds upon which postal ballot papers are to be rejected as informal; and

(d) requiring electors who are registered in accordance with section 185 as general postal voters for a Division to notify the Divisional Returning Officer for the Division of any change in address or of any other circumstances relevant to the elector's registration under that section as a general postal voter for the Division; and

(e) providing for how the Commission is to supply goods or services under an arrangement under section 7A.

Schedule 1—Forms

Section 152

FORM A

COMMONWEALTH OF AUSTRALIA

To the Australian Electoral Officer for the State of [*here insert name of State*].

GREETING.

We command you to cause election to be made according to law of [*here insert number*] Senators for our State of [*here insert name of State*] to serve in the Senate of the Parliament of the Commonwealth of Australia. And we appoint the day of 20 as the day for the close of the Rolls. And we appoint the day of 20 , at twelve o'clock noon to be the day and time before which nominations of Senators at and for the said election are to be made. And we appoint the day of 20 , to be the day on which the poll is to be taken in the event of the said election being contested. And we command you to certify the names of the Senators elected and to return this our writ with the certificate attached to our Governor in and over our said State on or before the day of 20 .

Witness [*here insert the title of the Governor of the State issuing the writ*] at [*here insert place*] in our said State the day of in the year of our Lord Two thousand and

Section 152

FORM AA

COMMONWEALTH OF AUSTRALIA

To the Australian Electoral Officer for the Territory of [*here insert name of Territory*].

GREETING.

We command you to cause election to be made according to law of 2 Senators for our Territory of [*here insert name of Territory*] to serve in the Senate of the Parliament of the Commonwealth of Australia from and after the date of their election. And we appoint the day of 20 as the day for the close of the Rolls. And we appoint the day of 20 , at twelve o'clock noon to be the day and time before which nominations of Senators at and for the said election are to be made. And we appoint the day of 20 , to be the day on which the poll is to be taken in the event of the said election being contested. And we command you to certify the names of the Senators elected and to return this our writ with the certificate attached to our Governor-General in and over our said Commonwealth of Australia on or before the day of 20 .

Witness [*here insert the Governor-General's title*] at [*here insert place*] the day of in the year of our Lord Two thousand and

Section 152

FORM B

Writ for the Election of [*here insert members or a member, as the case requires,*] *of the House of Representatives.*

COMMONWEALTH OF AUSTRALIA

To, Electoral Commissioner.

GREETING.

We command you that you cause [*here insert elections or election, as the case requires*], to be made according to law of [*here insert Members of the House of Representatives or one Member of the House of Representatives for the Electoral Division of* [*here insert name of Division*], *as the case requires*], to serve in the Parliament of our Commonwealth of Australia and we appoint the following dates for the purposes of the said, [*elections or election as the case requires*]

1. For the close of the Rolls the day of 20 .
2. For nomination the day of 20 .
3. For taking the poll at the different polling places in the event of the election being contested the day of 20 .
4. For the return of the writ on or before the day of 20 .

Witness [*here insert the Governor-General's title or Speaker's title, as the case requires*] at [*here insert place*] the day of in the year of our Lord Two thousand and

Section 166

FORM C

Nomination of a Senator

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

We, electors on the electoral roll for the above [State/Territory] and entitled to vote at the election of Senators for that [State/Territory], hereby nominate the person named below as a Senator for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

Dated 20 .

Nominators

Surname or family name	Christian or given names	Residential address for which enrolled	Date of Birth	Signature

Candidate

Name of candidate as enrolled		Form of Christian or given names to appear on ballot paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

	Please tick [√]	
• I am an Australian citizen	Yes [ ]	No [ ]
• I am at least 18 years of age	Yes [ ]	No [ ]
• I am an elector or qualified to be an elector	Yes [ ]	No [ ]
• I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator	Yes [ ]	No [ ]

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

I wish my Christian or given names to appear on the ballot paper in the form shown above.

[*Signature of candidate*]

Section 166

FORM CA

Nomination of a Senator

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

I, [*name*], the registered officer [*or* deputy registered officer] of the [*name of registered political party*] hereby nominate the person named below as a Senator for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

Dated 20 .

[*Signature*]

Candidate

Name of candidate as enrolled		Form of Christian or given names to appear on ballot paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

	Please tick [√]	
• I am an Australian citizen	Yes [ ]	No [ ]
• I am at least 18 years of age	Yes [ ]	No [ ]
• I am an elector or qualified to be an elector	Yes [ ]	No [ ]
• I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator	Yes [ ]	No [ ]

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

I wish my Christian or given names to appear on the ballot paper in the form shown above.

[*Signature of candidate*]

Section 166

FORM CC

Nomination of Senators

To the Australian Electoral Officer for the [State/Territory] of [*name of State or Territory*].

I, [*name*], the registered officer [*or* deputy registered officer] of the [*name of registered political party*] hereby nominate the persons named below as Senators for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

Dated 20 .

[*Signature*]

Each of the candidates named below, states that:

	Please tick [√]	
• I am an Australian citizen	Yes [ ]	No [ ]
• I am at least 18 years of age	Yes [ ]	No [ ]
• I am an elector or qualified to be an elector	Yes [ ]	No [ ]
• I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a Senator	Yes [ ]	No [ ]

and declares as follows:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Senator for the above [State/Territory] if elected.

Each of the candidates named below requests that the Christian or given names of the candidate appear on the ballot paper in the form shown below.

Name of candidate as enrolled		Form of Christian or given names to appear on ballot paper	Residential address	Occupation	Signature
Surname or family name	Christian or given names				

Section 166

FORM D

Nomination of a Member of the House of Representatives

To the Divisional Returning Officer for the Division of [*name of Division*]

We, electors on the electoral roll for the above Division and entitled to vote at the election of a Member of the House of Representatives for that Division, hereby nominate the person named below as a Member of that House for the above Division.

Dated 20 .

Nominators

Surname or family name	Christian or given names	Residential address for which enrolled	Date of Birth	Signature

Candidate

Name of candidate as enrolled		Form in which Christian or given names to appear on ballot paper
Surname or family name	Christian or given names	
Residential address		Occupation

I, the candidate named above, state that:

	Please tick [√]	
• I am an Australian citizen	Yes [ ]	No [ ]
• I am at least 18 years of age	Yes [ ]	No [ ]
• I am an elector or qualified to be an elector	Yes [ ]	No [ ]

- I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a member of the House of Representatives — Yes [ ] No [ ]

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Member of the House of Representatives;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Member of the House of Representatives for the above Division if elected.

I wish my Christian or given names to appear on the ballot paper in the form shown above.

[*Signature of candidate*]

Section 166

FORM DA

Nomination of a Member of the House of Representatives

To the Divisional Returning Officer for the Division of [*name of Division*]

I, [*name*], the registered officer [*or* deputy registered officer] of the [*name of registered political party*] hereby nominate the person named below as a Member of the House of Representatives for the above Division.

I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

Dated 20 .

[*Signature*]

Name of candidate as enrolled		
Surname or family name	Christian or given names	Form in which Christian or given names to appear on ballot paper
Residential address		Occupation

I, the candidate named above, state that:

	Please tick [√]	
• I am an Australian citizen	Yes [ ]	No [ ]
• I am at least 18 years of age	Yes [ ]	No [ ]
• I am an elector or qualified to be an elector	Yes [ ]	No [ ]
• I am not, by virtue of section 44 of the Constitution, incapable of being chosen or of sitting as a member of the House of Representatives	Yes [ ]	No [ ]

and I declare that:

- I am qualified under the Constitution and the laws of the Commonwealth to be elected as a Member of the House of Representatives;
- I am not, and do not intend to be, a candidate in any other election to be held on the same day as the election to which the above nomination relates;
- I consent to act as a Member of the House of Representatives for the above Division if elected.

I wish my Christian or given names to appear on the ballot paper in the form shown above.

[*Signature of candidate*]

Section 209

FORM E

SENATE BALLOT PAPER
(5)
ELECTION OF (6)
SENATORS

You may vote in one of two ways

either

By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice)*

(8) A ☐ (2)	(8) B ☐ (2)	(8) C ☐ (2)	(8) D ☐ (4)	E ☐ (4)	(8) F ☐ (2)	G ☐ (4)	H ☐ (4)

[redacted]

	A (2)	B (2)	C (2)	D (2)	E (2)	F (2)	G (2)	H (2)	Ungrouped
or By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice)**	☐ (1) (3) ☐ (1) (3)	☐ (1) (3) ☐ (1) (3) ☐ (1) (3) ☐ (1) (3)	☐ (1) (3) ☐ (1) (3) ☐ (1) (3) ☐ (1) (3)	☐ (1) (4)	☐ (1) (4) ☐ (1) (4)	☐ (1) (3) ☐ (1) (3) ☐ (1) (3)	☐ (1) (4) ☐ (1) (4)	☐ (1) (4) ☐ (1) (4)	

(1) Here insert name of a candidate.
(2) Here insert name of a registered political party or composite name of registered political parties if to be printed.
(3) Here insert the name of a registered political party if to be printed.
(4) Here insert name of a registered political party or word 'Independent' if to be printed.
(5) Here insert name of State or Territory and year of election.
(6) Here insert number of vacancies.

(8) Here insert the logo of a registered political party if to be printed.

* If the ballot paper has 6 or fewer squares above the line, replace the instruction with "By numbering these boxes in the order of your choice (with number 1 as your first choice)".

** If the ballot paper has 12 or fewer squares below the line, replace the instruction with "By numbering these boxes in the order of your choice (with number 1 as your first choice)".

Section 209

FORM F

BALLOT PAPER
HOUSE OF REPRESENTATIVES
[*here insert name of State or Territory as appropriate*]

Electoral Division of [*here insert name of Division*].

Number the boxes from 1 to [*here insert number of candidates*] in the order of your choice

3 ☐ 1
2

3 ☐ 1
2

☐ 1
2

3 ☐ 1
2

[1 *Here insert name of a candidate.*

2 *Here insert name of a registered political party, composite name of registered political parties or "Independent" if to be printed.*

3 *Here insert logo of a registered party if to be printed.*]

Remember. . . . number *every* box to make your vote count.

Schedule 2—Grounds of application for postal or pre-poll vote

Sections 183 and 200A

1. Throughout the hours of polling on polling day, the person will be absent from the State or Territory for which the person is enrolled.

2. The person will not, at any time during the hours of polling on polling day, be within 8 kilometres by the nearest practicable route of any polling booth in the State or Territory for which the person is enrolled.

3. Throughout the hours of polling on polling day, the person will be travelling under conditions that will prevent the person attending a polling booth in the State or Territory for which the person is enrolled.

3A. Throughout the hours of polling on polling day, the person will be absent from the Division for which the person is enrolled.

4. The person will be unable to attend a polling booth on polling day because of:
   (a) serious illness;
   (b) infirmity; or
   (c) approaching childbirth.

   (In the case of a person who will be a patient at a hospital on polling day, this paragraph applies regardless of the operation of sections 224 and 227.)

5. On polling day, the person will be unable to attend a polling booth because the person will be at a place (other than a hospital) caring for a person who is seriously ill or infirm or who is expected shortly to give birth.

6. Throughout the hours of polling on polling day, the person will be a patient at a hospital and unable to vote at the hospital.

7A. The person will be unable to attend a polling booth on polling day because of a reasonable fear for, or a reasonable apprehension about, his or her personal wellbeing or safety.

8. Because of the person's religious beliefs or membership of a religious order, the person:
   (a) is precluded from attending a polling booth; or
   (b) for the greater part of the hours of polling on polling day, is precluded from attending a polling booth.

9. On polling day, the person will be serving a sentence of imprisonment or otherwise under detention.

10. The person's address has been excluded from the Roll under section 104.

11. Throughout the hours of polling on polling day, the person will be engaged in his or her employment or occupation and:
   (a) if the person is an employee, the person is not entitled to leave of absence under section 345; and
   (b) in any other case, the absence of the person for the purpose of attending at a polling booth to vote would be likely to cause loss to the person in his or her occupation.

Schedule 3—Rules for the conduct of a preliminary scrutiny of declaration votes

Subsection 266(3)

1. The DRO shall produce unopened all envelopes containing declaration votes of the kind to which the preliminary scrutiny relates received by the DRO:
   (a) in the case of the first preliminary scrutiny—before the commencement of that scrutiny; and
   (b) in the case of a subsequent preliminary scrutiny—after the commencement of the last preceding preliminary scrutiny and before the commencement of the subsequent preliminary scrutiny.

2. All written applications for postal votes not already dealt with at a preliminary scrutiny shall be produced at each preliminary scrutiny of postal votes.

3. If the DRO has reason to doubt that the signature on the postal vote certificate that purports to be the elector's signature is the elector's signature, the DRO must check the signature against the most recent record (if any) of the elector's signature that is available to the DRO.

3A. For each envelope in relation to which the following paragraphs are satisfied:
   (a) the envelope purports to contain a provisional vote ballot paper;
   (b) the DRO has reason to doubt that the signature on the envelope that purports to be the elector's signature is the elector's signature;

   the DRO must check the signature against the most recent record (if any) of the elector's signature that is available to the DRO. If, after so checking the signature, the DRO is not satisfied that the signature on the envelope is the signature of the elector, the DRO must make all reasonable attempts to contact the elector within 3

days after the election, to require the elector to provide evidence of his or her identity by the first Friday following the polling day for that election.

4. The DRO shall divide the envelopes being dealt with into groups, as follows:
   (a) in one group, the envelopes that meet the requirements of paragraph 6;
   (b) in another group, the envelopes that do not meet those requirements.

5. The DRO shall, without opening the envelopes, subject to the operation of paragraphs 23 and 24, exclude from further scrutiny the ballot papers contained in envelopes that do not meet the requirements of paragraph 6.

6. An envelope meets the requirements of this paragraph if the DRO is satisfied:
   (a) in the case of an envelope purporting to contain a postal ballot paper, other than an envelope sent under section 186 to a registered general postal voter who was registered on the ground specified in paragraph 184A(2)(e) or (f), that the signature on the certificate is that of the elector and that:
      (i) the signature purports to be witnessed by an authorised witness; or
      (ii) the signature is taken to be witnessed by an authorised witness because of subsection 194(1A); and
   (b) in the case of an envelope purporting to contain a pre-poll vote ballot paper, that the certificate has been signed in accordance with section 200E and that the signature purports to be witnessed by the officer who issued the certificate; and
   (c) in the case of an envelope purporting to contain an absent vote ballot paper or a provisional vote ballot paper, that the certificate has been signed in accordance with section 222 or 235 or subsection 234(4), as the case requires, and that the signature purports to be witnessed in accordance with that section or subsection, as the case may be; and
   (ca) in the case of an envelope purporting to contain a provisional vote ballot paper and in relation to which paragraph 3A

applies—that the signature on the envelope is that of the elector; and

(cb) in the case of an envelope purporting to contain a postal ballot paper, a pre-poll vote ballot paper, an absent vote ballot paper or a provisional vote ballot paper, cast by an elector who is provisionally enrolled—that, by the first Friday following the polling day for that election, the elector has provided an officer with evidence that the elector has become an Australian citizen under the *Australian Citizenship Act 2007*; and

(d) in the case of an envelope purporting to contain a ballot paper recording a vote cast at a station in Antarctica, the envelope is signed in accordance with subsection 260(1); and

(e) in the case of an envelope purporting to contain a postal ballot paper, that the vote marked on the ballot paper was recorded prior to the close of the poll.

6A. If the DRO is satisfied that more than one envelope that meets the requirements of paragraph 6 purports to contain a declaration vote by the same elector, the DRO must:

(a) treat only one of the envelopes, as selected by the DRO, as meeting the requirements of paragraph 6; and

(b) exclude from further scrutiny the ballot papers contained in the other envelope or envelopes, without opening the envelope or envelopes; and

(c) seal up in a parcel the envelope or envelopes excluded from further scrutiny by subparagraph (b); and

(d) write on the parcel a description of its contents, the name of the Division and the date of the commencement of the preliminary scrutiny.

In applying subparagraph (a), the DRO should, to the extent that it is possible, select the envelope that was received first.

6B. Paragraphs 23 and 24 do not apply to envelopes excluded from further scrutiny because of subparagraph 6A(b).

7. A vote marked on a postal ballot paper must be taken not to have been recorded prior to the close of the poll if the date referred to in paragraph 194(1)(c) in relation to the postal vote certificate is a date after polling day.

7A. A vote marked on a postal ballot paper must be taken not to have been recorded prior to the close of the poll if:

(a) subsection 194(1A) applies in relation to the vote; and

(b) the date referred to in paragraph 194(1A)(a) is a date after polling day.

7B. Paragraphs 7 and 7A do not apply to a vote marked on a postal ballot paper if:

(a) the envelope purporting to contain the postal ballot paper is endorsed with the date and time of receipt under paragraph 195A(2)(c); and

(b) the date and time is before the close of the poll.

8. An envelope purporting to contain an absent vote ballot paper or a provisional vote ballot paper or a pre-poll vote ballot paper shall not be regarded as failing to meet the requirements of paragraph 6 only because the declaration or certificate, as the case requires, is not witnessed if the voter's name appears on a record made under subsection 232(2) or section 200G, as the case requires, or, if neither of those requirements is met, if the DRO is satisfied that the ballot paper was properly issued.

9. The DRO shall seal up in a parcel the envelopes that do not meet the requirements of paragraph 6 and shall write on the parcel a description of its contents, the name of the Division and the date of commencement of the preliminary scrutiny.

10. If the preliminary scrutiny relates to a Senate election held concurrently with a House of Representatives election or a Senate election held alone, the DRO must divide the envelopes that meet the requirements of paragraph 6 into groups as follows:

(a) in one group:

(i) the envelopes bearing certificates or declarations by persons who are enrolled for the Division or whose claims for enrolment are claims to which subsection 102(5) of the Act applies; and

(ii) the envelopes to which paragraph 12 applies and that bear certificates or declarations by persons who, at the time of the omission referred to in that paragraph, were living at an address in the Division;

(b) in another group:

(i) the envelopes bearing certificates or declarations by persons who are not enrolled for the Division but are enrolled for the State or Territory in which the Division is situated; and

(ii) the envelopes to which paragraph 12 applies and that bear certificates or declarations by persons who, at the time of the omission referred to in that paragraph, were not living at an address in the Division but were living at an address in the State or Territory in which the Division is situated;

(c) in another group, all the other envelopes.

11. If the preliminary scrutiny relates to a House of Representatives election not held concurrently with a Senate election, the DRO must divide the envelopes that meet the requirements of paragraph 6 into groups as follows:

(a) in one group:

(i) the envelopes bearing certificates or declarations by persons who are enrolled for the Division or whose claims for enrolment are claims to which subsection 102(5) of the Act applies; and

(ii) the envelopes to which paragraph 12 applies and that bear certificates or declarations by persons who, at the time of the omission referred to in that paragraph, were living at an address in the Division;

(b) in another group, all the other envelopes.

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

(a) that the elector who signed a 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 the Division; and

(ii) that the omission of the elector's name from the Roll for the Division was due to an error made by an officer or to a mistake of fact.

13. Subparagraph 12(b) does not apply if:

(a) more than one election (excluding the election to which the scrutiny relates) has been held since the error or mistake was made; 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 error or mistake was made before the last such redistribution.

14. In paragraph 13, ***election*** means:

(a) a general election for the House of Representatives;

(b) a Senate election not held concurrently with a general election for the House of Representatives; or

(c) a referendum not held concurrently with a general election.

15. The DRO shall, without opening the envelopes, subject to the operation of paragraphs 23 and 25, exclude from further scrutiny the ballot papers contained in envelopes referred to in subparagraphs 10(c) and 11(b).

16. The DRO shall seal up in a parcel the envelopes referred to in subparagraphs 10(c) and 11(b) and shall write on the parcel a description of the contents, the name of the Division and the date.

17. The DRO shall, after the close of the poll for the Division, without unfolding or inspecting them or allowing any other person to do so, withdraw the ballot papers from the envelopes referred to in paragraph 10 or 11 that still remain in the preliminary scrutiny.

18. Ballot papers withdrawn from envelopes referred to in subparagraph 10(a) or 11(a) shall be placed in a ballot-box by themselves for further scrutiny.

19. A ballot paper for a Senate election withdrawn from an envelope referred to in subparagraph 10(b) shall be placed in the ballot-box referred to in paragraph 18 for further scrutiny. A ballot paper for a House of Representatives election withdrawn from such an envelope shall be excluded from further scrutiny.

20. The DRO shall seal up in a parcel ballot papers excluded under paragraph 19 and shall write on the parcel a description of its contents, the name of the Division and the date.

21. Where a ballot paper has been finally excluded from further scrutiny, other than because of subparagraph 6A(b), the DRO shall send to the voter a written statement of the reason for the rejection.

22. For the purposes of paragraph 17, an envelope that contains a ballot paper for a referendum shall be dealt with as if it did not contain that ballot paper.

23. In the course of a preliminary scrutiny of declaration votes, the DRO, as soon as practicable after the ballot papers that are required, under that scrutiny, to be placed in a ballot-box under paragraph 18 or 19 are so placed, but not before the close of the poll for the Division, must:
    (a) open the parcel of envelopes that contains the ballot papers that are, under paragraph 5 and subject to the operation of this paragraph and paragraph 24, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 24; and
    (b) open the parcel of envelopes that contains the ballot papers that are, under paragraph 15 and subject to the operation of this paragraph and paragraph 25, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 25.

24. For the purpose of dealing further with declaration votes referred to in subparagraph 23(a), paragraphs 3 to 22, inclusive, reapply in relation to those votes as if:
    (a) the words “subject to the operation of paragraphs 23 and 24,” were omitted from paragraph 5; and
    (b) the words “subject to the operation of paragraphs 23 and 25,” were omitted from paragraph 15.

25. For the purpose of dealing further with declaration votes referred to in subparagraph 23(b), paragraphs 10 to 22, inclusive, reapply in relation to those votes as if the words “subject to the operation of paragraphs 23 and 25,” were omitted from paragraph 15.

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled

~~law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.~~

~~If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.~~

Endnote 2—Abbreviation key

~~Endnote 2—Abbreviation key~~

~~ad = added or inserted~~
~~am = amended~~
~~amdt = amendment~~
~~c = clause(s)~~
~~C[x] = Compilation No. x~~
~~Ch = Chapter(s)~~
~~def = definition(s)~~
~~Dict = Dictionary~~
~~disallowed = disallowed by Parliament~~
~~Div = Division(s)~~
~~ed = editorial change~~
~~exp = expires/expired or ceases/ceased to have effect~~
~~F = Federal Register of Legislation~~
~~gaz = gazette~~
~~LA = *Legislation Act 2003*~~
~~LIA = *Legislative Instruments Act 2003*~~
~~(md) = misdescribed amendment can be given effect~~
~~(md not incorp) = misdescribed amendment cannot be given effect~~
~~mod = modified/modification~~
~~No. = Number(s)~~
~~o = order(s)~~
~~Ord = Ordinance~~
~~orig = original~~
~~par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)~~
~~pres = present~~
~~prev = previous~~
~~(prev…) = previously~~
~~Pt = Part(s)~~
~~r = regulation(s)/rule(s)~~
~~reloc = relocated~~
~~renum = renumbered~~
~~rep = repealed~~
~~rs = repealed and substituted~~
~~s = section(s)/subsection(s)~~
~~Sch = Schedule(s)~~
~~Sdiv = Subdivision(s)~~
~~SLI = Select Legislative Instrument~~
~~SR = Statutory Rules~~
~~Sub-Ch = Sub-Chapter(s)~~
~~SubPt = Subpart(s)~~
~~underlining = whole or part not commenced or to be commenced~~

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Commonwealth Electoral Act 1918	27, 1918	21 Nov 1918	s 1–3, 76, 85–97, 105, 113, 124, 133, 134, 136, 138–140, 168, 169, 174, 178, 219 and Sch (Form F): 25 Nov 1918 (s 2 and gaz 1918, No 184, p 2257) s 32: 14 Dec 1920 (s 2 and gaz 1920, No 110, p 2277) Remainder: 21 Mar 1919 (s 2 and gaz 1919, No 34, p 401)	
Commonwealth Electoral Act 1919	31, 1919	28 Oct 1919	28 Oct 1919	—
Commonwealth Electoral Act 1921	14, 1921	15 Dec 1921	15 Dec 1921	—
Commonwealth Electoral Act 1922	14, 1922	28 Sept 1922	4 Oct 1922 (s 2 and gaz 1922, No 84, p 1787)	—
Commonwealth Electoral Act 1924	10, 1924	31 July 1924	31 July 1924	—
Commonwealth Electoral Act 1925	20, 1925	26 Sept 1925	26 Sept 1925	—
Commonwealth Electoral Act 1928	17, 1928	22 June 1928	22 June 1928	—
Commonwealth Electoral Act 1929	2, 1929	25 Feb 1929	25 Feb 1929	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Commonwealth Electoral Act 1934	9, 1934	27 July 1934	27 July 1934	—
Commonwealth Electoral Act 1940	19, 1940	29 May 1940	16 Aug 1940 (s 2 and gaz 1940, No 155, p 1727)	—
Commonwealth Electoral Act 1946	42, 1946	15 Aug 1946	15 Aug 1946 (s 2(1), (2))	—
Commonwealth Electoral Act 1948	17, 1948	18 May 1948	18 May 1948 (s 2)	—
Commonwealth Electoral Act 1949	10, 1949	25 Mar 1949	22 Apr 1949	—
Commonwealth Electoral Act (No. 2) 1949	47, 1949	27 Oct 1949	27 Oct 1949 (s 2)	s 4(2)
Commonwealth Electoral Act 1952	106, 1952	18 Nov 1952	16 Dec 1952	—
Commonwealth Electoral Act 1953	79, 1953	10 Dec 1953	7 Jan 1954	—
Commonwealth Electoral Act 1961	26, 1961	19 May 1961	16 June 1961	—
Commonwealth Electoral Act 1962	31, 1962	21 May 1962	18 June 1962	—
Commonwealth Electoral Act 1965	48, 1965	3 June 1965	1 July 1965	—
Commonwealth Electoral Act (No. 2) 1965	70, 1965	22 Nov 1965	1 July 1965 (s 2)	—
Commonwealth Electoral Act 1966	32, 1966	24 May 1966	24 May 1966 (s 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	s 9 and First Sch: 1 Dec 1966 (s 2(1))	—
Commonwealth Electoral Act 1973	7, 1973	16 Mar 1973	21 Mar 1973 (s 2 and gaz 1973, No 33A)	s 8
Commonwealth Electoral Act (No. 2) 1973	38, 1974	7 Aug 1974	20 Sept 1974 (s 2 and gaz 1974, No 77A)	s 3(2)
Postal and Telecommunications Commissions (Transitional Provisions) Act 1975	56, 1975	12 June 1975	Sch 2: 1 July 1975 (s 2(1))	—
Commonwealth Electoral Amendment Act 1977	14, 1977	28 Feb 1977	28 Feb 1977 (s 2)	—
Commonwealth Electoral Amendment Act (No. 2) 1977	116, 1977	7 Nov 1977	s 3(1): 28 Feb 1977 (s 3(2)) Remainder: 7 Nov 1977 (s 2)	s 3(2) and 4
Jurisdiction of Courts (Miscellaneous Amendments) Act 1979	19, 1979	28 Mar 1979	s 124(1): 28 Mar 1979 (s 2(1)) Sch: 15 May 1979 (s 2(3) and gaz 1979, No S86)	s 124(1)
Commonwealth Electoral Amendment Act 1980	102, 1980	6 June 1980	6 June 1980 (s 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
High Court of Australia (Consequential Provisions) Act 1980	155, 1980	19 Sept 1980	s 6–10: 19 Sept 1980 (s 2)	—
Statute Law (Miscellaneous Amendments) Act 1981	176, 1981	2 Dec 1981	s 32–35: 26 Jan 1984 (s 2(5) and gaz 1983, No S247)	—
as amended by				
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982	26, 1982	7 May 1982	s 215: 26 Jan 1984 (s 2(10))	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 43, 44: 22 Sept 1982 (s 2(1))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	s 7(1) and Sch 1: 18 July 1983 (s 2(1))	s 7(1)
Migration (Miscellaneous Amendments) Act 1983	84, 1983	14 Nov 1983	s 8: 2 Apr 1984 (s 2(1))	—
Commonwealth Electoral Legislation Amendment Act 1983	144, 1983	22 Dec 1983	s 3–144, 150(2), 151(2)–(6), 152–154 and Sch 1–4: 21 Feb 1984 (s 2 and gaz 1984, No S62)	s 10(2)–(4), 11(2)–(6), 14(2), (3), 40(2), 65(2), 113(2), 150(2), (3), 151(2)–(6) and 152–154
as amended by				
Commonwealth Electoral Legislation Amendment Act 1984	45, 1984	25 June 1984	Sch 1: 21 Feb 1984 (s 2(2))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Commonwealth Electoral Legislation Amendment Act 1984	45, 1984	25 June 1984	s 5, 6, 8 and Sch 1–3: 23 July 1984 (s 2(3))	s 6 and 8
Cocos (Keeling) Islands Self-Determination (Consequential Amendments) Act 1984	46, 1984	25 June 1984	s 4–6: 25 June 1984 (s 2(1))	—
Christmas Island Administration (Miscellaneous Amendments) Act 1984	120, 1984	18 Oct 1984	s 8–10: 18 Oct 1984 (s 2(1))	—
Electoral and Referendum Amendment Act 1984	133, 1984	25 Oct 1984	s 4–6: 25 Oct 1984 (s 2)	—
Broadcasting and Television (Consequential Amendments) Act 1985	67, 1985	5 June 1985	s 4 and Sch: 1 Jan 1986 (s 2)	s 4
Public Service and Statutory Authorities Amendment Act 1985	166, 1985	11 Dec 1985	s 45(2) and Sch: 8 Jan 1986 (s 2(7))	s 45(2)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s 16: 16 Dec 1985 (s 2(1)) Sch 1: 1 May 1987 (s 2(5))	s 16
Commonwealth Electoral Amendment Act 1987	35, 1987	3 June 1987	3 June 1987 (s 2)	s 35(2)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1) and Sch 1: 18 Dec 1987 (s 2(1))	s 5(1)
Broadcasting Amendment Act (No. 3) 1987	184, 1987	30 Dec 1987	s 38: 27 Jan 1988 (s 2(1))	—
Industrial Relations (Consequential Provisions) Act 1988	87, 1988	8 Nov 1988	Sch 2: 1 Mar 1989 (s 2(2))	—
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	Sch: 2 Dec 1988 (s 2)	—
A.C.T. Self-Government (Consequential Provisions) Act 1988	109, 1988	6 Dec 1988	Sch 5: 11 May 1989 (s 2(3) and gaz 1989, No S164)	—
Migration Legislation Amendment (Consequential Amendments) Act 1989	159, 1989	18 Dec 1989	Sch 2: 19 Dec 1989 (s 2(2))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment Act 1989	24, 1990	23 Jan 1990	s 4(a), (c), (e), 38, 44–48, 54, 55(c), 57, 58, 61, 65, 73, 74, 76, 80(e), 81(e)–(n), 85(a), (d)–(f), 86–109, 111–113, 115, 116, 119, 120 and Sch 3 (amdt to s 29(2), 100(1), 128, 169(2), 277, 294(2), 334(4) Commonwealth Electoral Act 1918): 9 Feb 1990 (s 2(2) and gaz 1990, No S30) s 4(b), 31–35, 37, 39, 41, 42, 49, 51–53, 55(a), (b), 56, 59, 60, 62–64, 66–72, 75, 77–79, 80(a)–(d), 81(a)–(d), 82–84, 85(b), (c), 110, 114, 118, Sch 2 and Sch 3 (amdt to 4(3), 89(1), 98(1), (3), 101(2), (3), (6), 120(1), 166(1), 203(2)–(7), 207, 220(d), 231(1), 248(2)(b), 337(2), 342, 343, The Schedule Commonwealth Electoral Act 1918): 30 Sept 1990 (s 2(3)) s 4(d), 5–30, 36, 40, 43, 50 and 117: 23 Jan 1990 (s 2(1))	s 7(2), 9(2), 10(2), 22(2), 34(2), 45(2), 91(2), 95(2), (3) and 96(2)
as amended by				
Electoral and Referendum Amendment Act 1991	167, 1991	13 Nov 1991	Sch 3: 30 Sept 1990 (s 2(3))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	s 31(2) and Sch: 10 Dec 1991 (s 2(3) and gaz 1991, No S332)	s 31(2)
Electoral and Referendum Amendment Act 1991	167, 1991	13 Nov 1991	s 4–31: 13 May 1992 (s 2(4))	s 26(2)
Special Broadcasting Service Act 1991	180, 1991	25 Nov 1991	Sch: 23 Dec 1991 (s 2(1))	—
Political Broadcasts and Political Disclosures Act 1991	203, 1991	19 Dec 1991	s 3, 11–31: 19 Dec 1991 (s 2(1))	s 3, 15(2), 18(2) and 31
Australian Capital Territory Self-Government Legislation Amendment Act 1992	10, 1992	6 Mar 1992	s 15–17: 6 Mar 1992 (s 2(1))	—
Commonwealth Electoral Amendment Act 1992	45, 1992	11 June 1992	11 June 1992 (s 2)	—
Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992	105, 1992	9 July 1992	s 3 and Sch 2: 5 Oct 1992 (s 2)	s 3
Norfolk Island (Electoral and Judicial) Amendment Act 1992	121, 1992	17 Oct 1992	s 4–16: 17 Oct 1992 (s 2)	—
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1992	167, 1992	11 Dec 1992	s 14(2) and Sch: 1 July 1993 (s 2)	s 14(2)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment Act 1992	219, 1992	24 Dec 1992	s 4–14, 16–31 and Sch: 24 Dec 1992 (s 2(1)) s 15: 24 June 1993 (s 2(3))	—
Law and Justice Legislation Amendment Act 1993	13, 1994	18 Jan 1994	s 36–39: 11 Apr 1994 (s 2(3) and gaz 1994, No S126)	—
Commonwealth Electoral Amendment Act 1994	21, 1994	16 Feb 1994	16 Feb 1994 (s 2)	—
Migration Legislation Amendment Act 1994	60, 1994	9 Apr 1994	Sch 3 (items 21, 22): 1 Sept 1994 (s 2(3))	—
Commonwealth Electoral Amendment Act 1995	42, 1995	15 June 1995	15 June 1995 (s 2)	s 4–6
Electoral and Referendum Amendment Act 1995	166, 1995	16 Dec 1995	s 5 and Sch 1: 16 Dec 1995 (s 2)	s 5
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Sch 16 (items 2, 3): 25 May 1997 (s 2(2), (3)) Sch 19 (items 14, 15): 25 Nov 1996 (s 2(1), (2))	—
as amended by				
Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Sch 3 (items 1, 2): 25 Nov 1996 (s 2(4))	—
Financial Sector Reform (Consequential Amendments) Act 1998	48, 1998	29 June 1998	Sch 1 (item 35): 29 June 1998 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment Act 1998	94, 1998	17 July 1998	Sch 1 (items 1–37, 43–146, 148–152, 155–182): 18 July 1998 (s 2(1)) Sch 1 (items 38–42, 147, 153 and 154): 14 Aug 1998 (s 2(2))	—
Electoral and Referendum Amendment Act (No. 1) 1999	134, 1999	13 Oct 1999	s 4 and Sch 1 (items 13–30): 13 Oct 1999 (s 2(1)) Sch 1 (items 1–9): 10 Nov 1999 (s 2(2)) Sch 1 (items 10–12): repealed before commencing (s 2(3))	s 4
as amended by				
Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004	115, 2004	13 July 2004	Sch 1 (item 103): 13 July 2004 (s 2(1) item 26)	—
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 301–317): 5 Dec 1999 (s 2(1), (2))	—
Commonwealth Electoral Amendment Act (No. 1) 2000	126, 2000	26 Oct 2000	Sch 2: 3 Oct 2000 (s 2(2)) Remainder: 26 Oct 2000 (s 2(1))	Sch 2 (items 10–12)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000	137, 2000	24 Nov 2000	Sch 2 (items 134–140, 418, 419): 24 May 2001 (s 2(3))	Sch 2 (items 418, 419)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment Act (No. 1) 2001	34, 2001	28 Apr 2001	Sch 1: 16 July 2001 (s 2 and gaz 2001, No S284)	Sch 1 (items 80, 81)
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 125, 126): 15 July 2001 (s 2(1), (3))	s 4–14
Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001	109, 2001	17 Sept 2001	s 5 and Sch 1A (items 1–36): 15 Oct 2001 (s 2(a))	s 5
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	Sch 1 (items 35, 97): 29 Oct 2001 (s 2(1))	Sch 1 (item 97)
Commonwealth Electoral Amendment Act (No. 1) 2002	81, 2002	10 Oct 2002	10 Oct 2002 (s 2)	—
Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002	105, 2002	14 Nov 2002	Sch 3 (items 34, 36): 12 May 2003 (s 2(1) item 23)	—
Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003	140, 2003	17 Dec 2003	Sch 1 (items 13, 14): 1 Jan 2005 (s 2(1) item 3)	—
Commonwealth Electoral Amendment (Members of Local Government Bodies) Act 2003	144, 2003	17 Dec 2003	17 Dec 2003 (s 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004	34, 2004	20 Apr 2004	Sch 1: 27 Apr 2004 (s 2(1) item 2)	—
Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004	78, 2004	23 June 2004	Sch 1 (items 1–32, 43–72, 110–120): 21 July 2004 (s 2(1) item 2)	Sch 1 (items 110–120)
Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004	115, 2004	13 July 2004	Sch 1 (items 1–4, 6–8, 11, 14, 15, 20–25, 27–36, 38–41, 43, 44, 46–61, 64–74, 76, 77, 88–92, 92A, 93–102, 132A, 133–135): 10 Aug 2004 (s 2(1) items 2, 4, 7, 10, 15, 17, 19, 21, 23, 25, 31) Sch 1 (items 5, 18A, 19, 42): repealed before commencing (s 2(1) items 3, 14, 18)	Sch 1 (items 133–135)
as amended by				
Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004	123, 2004	16 Aug 2004	Sch 3: 10 Aug 2004 (s 2(1) item 9)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006	65, 2006	22 June 2006	Sch 1 (items 100, 101): 22 June 2006 (s 2(1) item 14)	—
Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004	123, 2004	16 Aug 2004	Sch 1 (items 1–5): 10 Aug 2004 (s 2(1) items 2–6)	—
Administrative Appeals Tribunal Amendment Act 2005	38, 2005	1 Apr 2005	Sch 1 (item 206): 16 May 2005 (s 2(1) item 6)	—
Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006	65, 2006	22 June 2006	Sch 1 (items 1–16, 20, 24, 28, 36, 39–91, 93–99), Sch 2 (item 28) and Sch 3: 22 June 2006 (s 2(1) items 2, 4, 6, 8, 10, 12, 14, 20, 22) Sch 1 (items 17–19, 21–23, 25–27, 29–35): 21 Nov 2006 (s 2(1) items 3, 5, 7, 9) Sch 1 (items 37, 38, 92): 1 July 2007 (s 2(1) items 11, 13) Sch 2 (items 1–27, 29): 8 Dec 2005 (s 2(1) items 19, 21)	Sch 1 (items 7, 16, 85), Sch 2 (item 29) and Sch 3
as amended by				
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 2 (items 6, 7, 10, 11): 15 Mar 2007 (s 2(1) item 49)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Act 2006	170, 2006	12 Dec 2006	Sch 1 (items 13–17): 13 Dec 2006 (s 2(1) item 4)	—
Australian Citizenship (Transitionals and Consequentials) Act 2007	21, 2007	15 Mar 2007	Sch 1 (items 9–16) and Sch 3 (items 14, 18): 1 July 2007 (s 2(1) item 2)	Sch 3 (items 14, 18)
Electoral and Referendum Legislation Amendment Act 2007	22, 2007	15 Mar 2007	Sch 1 (items 1–24), Sch 2 (item 1) and Sch 3 (items 5–9, 17): 15 Mar 2007 (s 2(1) items 2, 4) Sch 3 (items 1–4): 16 Apr 2007 (s 2(1) item 3)	Sch 3 (item 4)
Anti-Money Laundering and Counter-Terrorism Financing Amendment Act 2007	52, 2007	12 Apr 2007	Sch 1 (items 54–57): 13 Apr 2007 (s 2(1) item 6)	—
Commonwealth Electoral Amendment (Democratic Plebiscites) Act 2007	157, 2007	24 Sept 2007	24 Sept 2007 (s 2)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 169, 170): 4 July 2008 (s 2(1) item 64)	—
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008	144, 2008	9 Dec 2008	Sch 7 (items 1–7): 9 Mar 2009 (s 2(1) item 15)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 10 (items 4, 5): 1 July 2009 (s 2(1) item 32)	—
Disability Discrimination and Other Human Rights Legislation Amendment Act 2009	70, 2009	8 July 2009	Sch 3 (item 16): 5 Aug 2009 (s 2(1) item 7)	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 1 (items 8–14), Sch 4 and Sch 5 (item 137): 1 Mar 2010 (s 2(1) items 2, 29, 30, 38)	—
Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Act 2010	108, 2010	14 July 2010	Sch 1 and Sch 2 (items 1, 2, 5): 23 July 2010 (s 2(1) items 2, 3)	Sch 1 (item 9) and Sch 2 (item 5)
Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010	109, 2010	14 July 2010	Sch 1 (items 1–39, 77), Sch 3 and Sch 4 (items 1–20, 40): 14 July 2010 (s 2(1) items 2, 4) Sch 2 (items 1–181, 189): 19 July 2010 (s 2(1) item 3)	Sch 1 (item 77), Sch 2 (item 189), Sch 3 (item 5) and Sch 4 (item 40)
as amended by				
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 2 (item 6): 19 July 2010 (s 2(1) item 6)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010	110, 2010	14 July 2010	Sch 1 (items 1–18, 34–36), Sch 4 (items 1–17, 32–38, 46, 47), Sch 8 (items 1, 2, 5) and Sch 9 (items 1–46, 49): 15 July 2010 (s 2(1) items 2, 3, 5–8, 13) Sch 2 and 3: 19 July 2010 (s 2(1) item 4) Sch 5 (items 1–54, 107, 108(1)) and Sch 7: 23 July 2010 (s 2(1) items 9, 12) Sch 6 (items 1, 3–10, 21, 22): 14 Jan 2011 (s 2(1) item 10)	Sch 1 (items 3, 9, 18), Sch 2 (items 11, 12), Sch 3 (item 9), Sch 5 (items 107, 108(1)), Sch 6 (items 21, 22), Sch 7 (item 12), Sch 8 (item 5) and Sch 9 (item 49)
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 5 (items 52–55) and Sch 6 (items 23, 123): 19 Apr 2011 (s 2(1) items 13, 15, 17)	—
Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011	29, 2011	25 May 2011	Sch 1 (items 1–8, 13) and Sch 2 (items 1–5, 7): 25 May 2011 (s 2)	Sch 1 (item 13) and Sch 2 (item 7)
Electoral and Referendum Amendment (Provisional Voting) Act 2011	37, 2011	26 May 2011	Sch 1 (items 1–3, 7): 26 May 2011 (s 2)	Sch 1 (item 7)
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 381–407) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 3, 12)	Sch 3 (items 10, 11)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment (Maintaining Address) Act 2012	110, 2012	24 July 2012	Sch 1 and Sch 2 (items 1–15): 25 July 2012 (s 2)	—
Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012	111, 2012	24 July 2012	Sch 1 (items 1–16) and Sch 2 (items 1–6): 25 July 2012 (s 2(1) items 2, 3)	—
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (items 22–25) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19)	Sch 6 (items 15–19)
Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013	19, 2013	27 Mar 2013	Sch 1 (items 1–51, 103, 104(1)), Sch 2 and Sch 3 (items 1, 2, 5–9, 12–40, 47): 27 Mar 2013 (s 2)	Sch 1 (items 103, 104(1)), Sch 2 (item 7) and Sch 3 (item 47)
Electoral and Referendum Amendment (Improving Electoral Administration) Act 2013	26, 2013	28 Mar 2013	Sch 1 (items 1–24, 26, 27, 27A–27C, 28, 54): 29 Mar 2013 (s 2(1) items 2–4, 6) Sch 2 (items 1–3, 7): 1 Jan 2014 (s 2(1) item 7)	Sch 1 (item 54) and Sch 2 (item 7)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (item 33), Sch 8 (items 58–66) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Tribunals Amalgamation Act 2015	60, 2015	26 May 2015	Sch 8 (item 15) and Sch 9: 1 July 2015 (s 2(1) items 19, 22)	Sch 9
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 125, 126): 5 Mar 2016 (s 2(1) item 2)	—
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (items 5, 6): 10 Dec 2015 (s 2(1) item 7)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 1 (item 16) and Sch 4 (items 1, 59–65, 340, 341): 10 Mar 2016 (s 2(1) items 2, 6)	—
Commonwealth Electoral Amendment Act 2016	25, 2016	21 Mar 2016	22 Mar 2016 (s 2(1) item 1)	Sch 1 (items 42A, 57, 95)
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 4 (items 1–45): 1 July 2016 (s 2(1) item 5) Sch 4 (items 49–60): 24 Mar 2016 (s 2(1) item 6)	Sch 4 (items 49–60)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 98–149) and Sch 2 (item 12): 21 Oct 2016 (s 2(1) item 1)	—
Electoral and Other Legislation Amendment Act 2017	99, 2017	14 Sept 2017	Sch 1 (items 1–28): 14 Mar 2018 (s 2(1) item 2)	—
National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018	67, 2018	29 June 2018	Sch 1 (items 35, 36): 30 June 2018 (s 2(1) item 2)	—

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
1940 No. 163	15 Aug 1940	15 Aug 1940	—
as amended by			
1984 No. 287	18 Oct 1984	18 Oct 1984	—
1995 No. 21	28 Feb 1995	28 Feb 1995	—
1999 No. 301	4 Dec 1999	Sch 1 (Pt 4): 5 Dec 1999 (r 1.2)	—
as amended by			
2000 No. 332	8 Dec 2000	Sch 1 (item 2): 5 Dec 1999 (s 2(a))	—

Endnote 4—Amendment history

~~Endnote 4—Amendment history~~

~~Provision affected~~	~~How affected~~
~~Part I~~	
~~s. 3~~	~~am. No. 9, 1934~~
~~s. 4~~	~~am. No. 144, 1983; Nos. 45, 46 and 120, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 121, 1992; No. 94, 1998; No. 34, 2001; Nos. 34 and 78, 2004; No. 65, 2006; No. 22, 2007; No. 144, 2008; Nos. 8, 108, 109 and 110, 2010; Nos. 5 and 29, 2011; No. 19, 2013; No 62, 2014; No 25, 2016; No 33, 2016; No 99, 2017~~
~~s. 4A~~	~~ad. No. 35, 1987~~
~~s. 4B~~	~~ad. No. 35, 1987~~
	~~am. No. 121, 1992; No 33, 2016~~
~~s. 4C~~	~~ad. No. 35, 1987~~
	~~am No 25, 2016~~
~~s. 4D~~	~~ad. No. 109, 2001~~
~~Part II~~	
~~Division 1~~	
~~Heading to Div. 1 of Part II~~	~~ad. No. 144, 1983~~
~~s. 5~~	~~rs. No. 144, 1983~~
	~~am. No. 87, 1988; No. 24, 1990; No. 219, 1992; No. 60, 1996; No. 105, 2002; No. 73, 2008; No. 54, 2009~~
~~s. 5A~~	~~ad. No. 24, 1990~~
~~Division 2~~	
~~Heading to Div. 2 of Part II~~	~~ad. No. 144, 1983~~
~~s. 6~~	~~rs. No. 144, 1983~~
	~~am. No. 24, 1990; No. 60, 1996; No. 146, 1999; No 62, 2014~~
~~s. 7~~	~~ad. No. 144, 1983~~
	~~am. Nos. 10 and 219, 1992; No. 5, 2011~~
~~s. 7A~~	~~ad. No. 219, 1992~~
	~~am. No. 94, 1998; No. 157, 2007; No. 70, 2009; No 197, 2012~~
~~s. 7B~~	~~ad. No. 219, 1992~~
	~~am. No. 94, 1998~~

Endnote 4—Amendment history

Provision affected	How affected
s. 8	ad. No. 144, 1983
	am. No. 24, 1990; No. 219, 1992
s. 9	ad. No. 144, 1983
s. 10	ad. No. 144, 1983
	am. No. 24, 1990
s. 11	ad. No. 144, 1983
	am. No. 24, 1990; No 62, 2014
s. 12	ad. No. 144, 1983
	am. No. 24, 1990
s. 13	ad. No. 144, 1983
	am. No. 24, 1990; No. 46, 2011
s. 14	ad. No. 144, 1983
	am. No. 24, 1990; No. 46, 2011
s. 14A	ad. No. 24, 1990
	am. No. 219, 1992
s. 15	ad. No. 144, 1983
	am. No. 24, 1990
s. 16	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 94, 1998
	ed C64
s. 17	ad. No. 144, 1983
	am. No. 24, 1990; No. 203, 1991; No. 219, 1992; No. 126, 2000; No. 65, 2006; No. 110, 2010; No 62, 2014
s. 17A	ad. No. 203, 1991
	am No 62, 2014
Division 3	
Div. 3 of Part II	ad. No. 144, 1983
s. 18	ad. No. 144, 1983
	am. No. 141, 1987; No. 24, 1990; No. 10, 1992
s. 19	ad. No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 24, 1990; No. 46, 2011
s. 20	ad. No. 144, 1983
	am. No. 141, 1987; No. 24, 1990
s. 21	ad. No. 144, 1983
	am. No. 24, 1990; No. 159, 2001
s. 22	ad. No. 144, 1983
	am. No. 24, 1990 (as am. by No. 167, 1991); No 4, 2016
s. 23	ad. No. 144, 1983
	rs. No. 122, 1991
	am. No. 146, 1999
s. 24	ad. No. 144, 1983
	am. No. 24, 1990
s. 25	ad. No. 144, 1983
	am. No. 24, 1990; No. 122, 1991; No 62, 2014
s. 26	ad. No. 144, 1983
	am. No. 24, 1990; No. 46, 2011
s. 27	ad. No. 144, 1983
	am. No. 24, 1990; No. 46, 2011
s. 28	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 109, 2010; No. 110, 2012
	rs. No. 19, 2013
Division 4	
Div. 4 of Part II	ad. No. 144, 1983
s. 29	ad. No. 144, 1983
	am. No. 24, 1990; No. 146, 1999
s. 30	ad. No. 144, 1983
	am. No. 24, 1990; No. 167, 1991; No. 46, 2011
s. 31	ad. No. 144, 1983
	am. No. 24, 1990; No. 110, 2010; No. 46, 2011
s. 32	am. No. 144, 1983; No. 141, 1987; No. 24, 1990

Endnote 4—Amendment history

Provision affected	How affected
s. 33	am. No. 31, 1919; No. 19, 1940; No. 106, 1952; No. 144, 1983; No. 45, 1984; No. 24, 1990
	rs. No. 19, 2013
s. 34	rs. No. 144, 1983
	am. Nos. 46 and 120, 1984
s. 35	rs. No. 144, 1983
	am. No. 166, 1985; No. 219, 1992; No. 166, 1995; No. 146, 1999
Division 5	
Heading to Div. 5 of Part II	ad. No. 144, 1983
s. 36	am. No. 24, 1990
s. 37	am. No. 144, 1983
	rep. No. 110, 2010
s. 38	rs. No. 144, 1983; No. 65, 2006
Part III	
Part III	ad. No. 144, 1983
Division 1AA	
Div. 1AA of Part III	ad. No. 24, 1990
s. 38A	ad. No. 24, 1990
	am No 33, 2016
Division 1	
s. 39	am. No. 14, 1977
	rs. No. 144, 1983
Division 2	
s. 40	rs. No. 144, 1983
	am. No. 24, 1990; No 33, 2016
s. 41	rs. No. 144, 1983
s. 42	rs. No. 48, 1965; No. 38, 1974
	am. No. 14, 1977
	rs. No. 144, 1983
	am. No. 24, 1990
s. 43	rs. No. 48, 1965; No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
s. 44	rs. No. 48, 1965; No. 144, 1983
	am. No. 109, 1988; No. 24, 1990; No. 167, 1991
Division 3	
Heading to Div. 3 of Part III	am. No. 24, 1990
s. 45	rs. No. 48, 1965; No. 144, 1983
	am. No. 121, 1992; No 33, 2016
s. 46	rs. No. 48, 1965
	am. No. 14, 1977
	rs. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 34, 2004; No 33, 2016
s. 47	am. No. 14, 1977
	rs. No. 144, 1983
	am. No. 24, 1990
	rs. No. 34, 2004
s. 48	am. No. 38, 1974; Nos. 14 and 116, 1977
	rs. No. 144, 1983
	am. No. 24, 1990; No. 34, 2004; No 33, 2016
s. 48A	ad. No. 34, 2004
s. 49	ad. No. 14, 1977
	rs. No. 144, 1983
	am. No. 24, 1990; No. 34, 2004; No 33, 2016
s. 50	ad. No. 144, 1983
	am. No. 24, 1990
Heading to Div. 4 of Part III	rep. No. 24, 1990
s. 51	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 121, 1992; No 33, 2016
s. 52	ad. No. 144, 1983
	rep. No. 24, 1990
ss. 53, 54	ad. No. 144, 1983

Provision affected	How affected
Part IV	
Part IV	ad. No. 144, 1983
s. 55	ad. No. 144, 1983
s. 55A	ad. No. 24, 1990
s. 56	ad. No. 144, 1983
s 56AA	ad No 33, 2016
s. 56A	ad. No. 24, 1990
	am No 33, 2016
ss. 57, 58	ad. No. 144, 1983
s. 59	ad. No. 144, 1983
	am. No. 35, 1987; No. 167, 1991; No. 94, 1998
s. 60	ad. No. 144, 1983
	am. No. 35, 1987; No. 21, 1994; No. 94, 1998; No. 146, 1999; Statutory Rules 1999 No. 301 (as am. by Statutory Rules 2000 No. 332)
s. 61	ad. No. 144, 1983
	rep. No. 94, 1998
s. 62	ad. No. 144, 1983
	am. No. 24, 1990
s. 63	ad. No. 144, 1983
s. 63A	ad. No. 94, 1998
s. 64	ad. No. 144, 1983
	rs. No. 94, 1998
s. 65	ad. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998
s. 66	ad. No. 144, 1983
	am. No. 35, 1987; No. 94, 1998; No 33, 2016
s. 67	am. No. 24, 1990
s. 67A	ad. No. 35, 1987
s. 68	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 94, 1998
s. 69	ad. No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 35, 1987; No. 94, 1998
s. 70	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 94, 1998
s. 71	ad. No. 144, 1983
	am. No. 24, 1990
s. 72	ad. No. 144, 1983
	am. No. 35, 1987; No. 94, 1998; No. 26, 2013
s. 73	ad. No. 144, 1983
	am. No. 35, 1987; No. 94, 1998; No 33, 2016
s. 74	ad. No. 144, 1983
	am. No. 24, 1990
s. 75	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 94, 1998
s. 76	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 94, 1998
s. 76A	ad. No. 24, 1990
s 77	ad No 144, 1983
	am No 24, 1990
s 78	ad No 144, 1983
	am No 24, 1990; No 61, 2016
Part V	
s. 79	am. No. 19, 1940
	rs. No. 144, 1983
	am. Nos. 46 and 120, 1984; No. 24, 1990
s. 80	am. No. 144, 1983; No. 78, 2004; No. 110, 2010
Part VI	
s. 81	am. No. 9, 1934; No. 144, 1983
s. 82	am. No. 144, 1983
s. 83	rs. No. 144, 1983
s. 84	am. No. 39, 1983; No. 45, 1984; No. 10, 1992
s. 85	am. No. 144, 1983; No. 24, 1990; No. 94, 1998

Provision affected	How affected
s. 86	ad. No. 144, 1983
	am. No. 24, 1990; No. 219, 1992; No. 109, 2010
s. 87	am. No. 144, 1983; No. 109, 2010; Nos. 110 and 111, 2012
s. 88	am. No. 144, 1983
s. 89	am. No. 19, 1940; No. 144, 1983; No. 45, 1984; No. 24, 1990
	rep. No. 110, 2010
s. 90	rs. No. 144, 1983
	am. No. 24, 1990
	rs. No. 78, 2004
s. 90A	ad. No. 78, 2004
	am. No. 110, 2010
s. 90B	ad. No. 78, 2004
	am. No. 115, 2004; Nos. 65 and 170, 2006; Nos. 22 and 52, 2007; Nos. 8 and 110, 2010
s. 91	ad. No. 144, 1983
	am. No. 45, 1984
	rs. No. 24, 1990
	am. No. 167, 1991; No. 219, 1992; No. 94, 1998; Nos. 134 and 146, 1999; No. 126, 2000
	rep. No. 78, 2004
ss. 91AA, 91AB	ad. No. 126, 2000
	rep. No. 78, 2004
s. 91A	ad. No. 24, 1990
	am. No. 219, 1992; No. 94, 1998; No. 134, 1999; No. 126, 2000; No. 78, 2004; Nos. 65 and 170, 2006; No. 52, 2007; No. 110, 2010
s. 91B	ad. No. 24, 1990
	am. No. 219, 1992; No. 94, 1998; No. 134, 1999; No. 78, 2004; No. 65, 2006; No. 52, 2007
ss. 91C–91E	ad. No. 167, 1991
	rep. No. 78, 2004
s. 92	am. No. 144, 1983 (as am. by No. 45, 1984); No. 166, 1995; No. 78, 2004; No. 65, 2006; No. 5, 2011; No. 110, 2012

Endnote 4—Amendment history

Provision affected	How affected
Part VII	
s. 93	am. No. 14, 1922; No. 20, 1925; No. 17, 1928; No. 10, 1949; No. 26, 1961; No. 31, 1962; No. 7, 1973; No. 176, 1981 (as am. by No. 26, 1982); Nos. 84 and 144, 1983; No. 45, 1984; No. 193, 1985; No. 35, 1987; No. 159, 1989; No. 24, 1990; No. 167, 1991; No. 166, 1995; Nos. 115 and 123, 2004; No. 65, 2006; No. 29, 2011
s. 93A	ad. No. 34, 2001
	am. No. 109, 2010
s. 94	ad. No. 79, 1953
	am. No. 26, 1961; No. 32, 1966; No. 7, 1973; No. 176, 1981
	rs. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 121, 1992; No. 166, 1995; No. 94, 1998; No. 34, 2001; No. 78, 2004; No. 109, 2010; No 33, 2016
s. 94A	ad. No. 94, 1998
	am. No. 34, 2001; Nos. 78 and 115, 2004; No. 65, 2006; Nos. 109 and 110, 2010; No. 29, 2011
s. 95	ad. No. 26, 1961
	rs. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 121, 1992; No. 166, 1995; No. 94, 1998; No. 34, 2001; Nos. 78 and 115, 2004; No. 65, 2006; No. 144, 2008; Nos. 109 and 110, 2010; No. 29, 2011; No 33, 2016
s. 95AA	ad. No. 121, 1992
	am. No. 94, 1998; No. 115, 2004
	rep No 33, 2016
ss. 95AB, 95AC	ad. No. 121, 1992
	am. No. 109, 2010
	rep No 33, 2016
s. 96	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 121, 1992; No. 166, 1995; No. 34, 2001; No. 65, 2006; Nos. 109 and 110, 2010; No. 29, 2011; No 33, 2016
s. 96A	ad. No. 24, 1990
	am. No. 167, 1991

Provision affected	How affected
s. 97	ad. No. 144, 1983
	am. No. 24, 1990
	rs. No. 109, 2010
Part VIII	
s. 98AA	ad. No. 65, 2006
	am. No. 22, 2007
	rs. No. 110, 2010
	am No 33, 2016
s. 98	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 65, 2006; No. 110, 2010; No. 111, 2012; No. 19, 2013
s. 98A	ad. No. 34, 2001
	am. No. 109, 2010
s. 99	am. No. 20, 1925; No. 17, 1928; No. 9, 1934; No. 26, 1961; No. 144, 1983; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 115, 2004; No 33, 2016
s. 99A	ad. No. 219, 1992
	am. No. 115, 2004; No. 65, 2006; No. 21, 2007; Nos. 109 and 110, 2010; No. 5, 2011
s. 99B	ad. No. 65, 2006
	am. No. 65, 2006 (as am. by No. 73, 2008); No. 109, 2010
s. 100	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 115, 2004; Nos. 109 and 110, 2010; No. 19, 2013
s. 101	am. No. 26, 1961; No. 31, 1962; No. 48, 1965; No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 121, 1992; No. 94, 1998; No. 109, 2001; No. 115, 2004; No. 109, 2010; Nos. 110 and 111, 2012; No 4, 2016; No 33, 2016
s. 102	am. No. 10, 1949
	rs. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 166, 1995; No. 94, 1998; No. 115, 2004; No. 65, 2006; No. 109, 2010
	rs. No. 29, 2011

Endnote 4—Amendment history

Provision affected	How affected
s 103	am No 93, 1966; No 144, 1983; No 24, 1990; No 109, 2001; No 4, 2016; No 61, 2016
s. 103A	ad. No. 110, 2012
s. 103B	ad. No. 111, 2012
s. 104	ad. No. 144, 1983
	am. No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 115, 2004; No. 144, 2008; No. 109, 2010; No. 111, 2012; No. 19, 2013
s. 105	am. No. 9, 1934; No. 19, 1940; No. 144, 1983; No. 24, 1990; No. 115, 2004; No. 65, 2006; No. 109, 2010; No. 111, 2012
s. 106	ad. No. 9, 1934
	am. No. 144, 1983; No. 24, 1990; No. 109, 2010
s. 107	am. No. 26, 1961; No. 144, 1983; No. 109, 2010
s. 108	am. No. 7, 1973; No. 144, 1983; No. 24, 1990; Nos. 109 and 110, 2010; No 33, 2016
s. 109	am. No. 144, 1983; No. 166, 1995; Nos. 115 and 123, 2004
	rs. No. 65, 2006
	am. No. 109, 2010
	rs. No. 29, 2011
	am No 33, 2016
s. 110	am. No. 144, 1983 (as am. by No. 45, 1984); No. 109, 2010
s. 111	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 78, 2004; No. 109, 2010
s. 111A	ad. No. 166, 1995
	rep. No. 109, 2010
s. 112	ad. No. 144, 1983
	am. No. 24, 1990
	rs. No. 109, 2010
	am No 33, 2016
Part IX	
Part IX	rs. No. 24, 1990
s. 113	am. No. 93, 1966; No. 144, 1983
	rs. No. 24, 1990

Provision affected	How affected
	am. No. 94, 1998; No. 115, 2004; No. 109, 2010
s. 114	am. No. 144, 1983
	rs. No. 24, 1990
	am. No. 94, 1998; No. 115, 2004; No. 109, 2010; No. 110, 2012
s. 115	am. No. 144, 1983
	rs. No. 24, 1990
	am. No. 94, 1998; No. 115, 2004; No. 109, 2010
s. 116	am. No. 144, 1983
	rs. No. 24, 1990
	am. No. 109, 2010; No. 110, 2012
s. 117	rs. No. 24, 1990
	rep. No. 109, 2010
s. 118	am. No. 93, 1966; No. 144, 1983
	rs. No. 24, 1990
	am. No. 167, 1991; No. 94, 1998; No. 115, 2004; No. 65, 2006; No. 109, 2010; No. 29, 2011; No. 110, 2012
s. 119	ad. No. 144, 1983
	rep. No. 24, 1990
Part X	
Part X	ad. No. 144, 1983
s. 120	rs. No. 144, 1983
	am. No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 34, 2001; No. 78, 2004; No. 109, 2010 (as am. by No. 5, 2011); No. 110, 2010; Nos. 110 and 111, 2012; No. 19, 2013
s. 121	ad. No. 144, 1983
	am. No. 94, 1998; No. 34, 2001; No. 78, 2004; Nos. 109 and 110, 2010; Nos. 110 and 111, 2012
s. 122	ad. No. 144, 1983
	am. No. 24, 1990
	rs. No. 109, 2010
Part XI	
Part XI	ad. No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
s. 123	ad. No. 144, 1983
	am. No. 109, 1988; No. 24, 1990; No. 126, 2000; No. 110, 2010; No. 19, 2013
s. 124	ad. No. 144, 1983
s. 125	ad. No. 144, 1983
	am. No. 110, 2010
s. 126	ad. No. 144, 1983
	am. No. 24, 1990; No. 126, 2000; No. 110, 2010; No 25, 2016
s. 127	ad. No. 144, 1983
	am. No. 110, 2010
s. 128	ad. No. 144, 1983
	rep. No. 24, 1990
s. 129	ad. No. 144, 1983
	am. No. 126, 2000; No. 115, 2004; No. 110, 2010
s 129A	ad No 25, 2016
s. 130	ad. No. 144, 1983
	am. No. 110, 2010
s. 131	ad. No. 144, 1983
	am. No. 219, 1992; No. 110, 2010; No 25, 2016
s. 132	ad. No. 144, 1983
	am. No. 24, 1990; No. 219, 1992; No. 110, 2010; No. 19, 2013; No 25, 2016
s. 132A	ad. No. 78, 2004
	am. No. 110, 2010; No 25, 2016
s. 133	ad. No. 144, 1983
	am. No. 110, 2010; No. 19, 2013; No 25, 2016
s. 134	ad. No. 144, 1983
	am. No. 24, 1990; No. 126, 2000; No. 78, 2004; No. 110, 2010; No. 19, 2013; No 25, 2016
s. 134A	ad. No. 94, 1998
	am. Nos. 78 and 115, 2004; No. 110, 2010; No 25, 2016
s. 135	ad. No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 94, 1998; No. 110, 2010
s. 136	ad. No. 144, 1983
	am. No. 24, 1990; No. 219, 1992; No. 94, 1998; No. 110, 2010; No. 19, 2013
s. 137	ad. No. 144, 1983
	am. No. 94, 1998; No. 34, 2001; No. 110, 2010; No. 19, 2013; No 25, 2016
s. 138	ad. No. 144, 1983
	am. No. 94, 1998; No. 110, 2010
s. 138A	ad. No. 34, 2001
s. 139	ad. No. 144, 1983
	am. No. 110, 2010
s. 140	ad. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998; No. 110, 2010
s. 141	ad. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998; No. 38, 2005; No. 110, 2010; No 60, 2015; No 25, 2016
Part XII	ad. No. 144, 1983
	rep. No. 35, 1987
s. 142	ad. No. 144, 1983
	am. No. 45, 1984
	rep. No. 35, 1987
s. 143	ad. No. 144, 1983
	rs. No. 45, 1984
	rep. No. 35, 1987
ss. 144, 145	ad. No. 144, 1983
	am. No. 45, 1984
	rep. No. 35, 1987
ss. 146–148	ad. No. 144, 1983
	rep. No. 35, 1987
s. 149	ad. No. 144, 1983
	am. No. 45, 1984

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 35, 1987
s. 150	ad. No. 144, 1983
	rep. No. 35, 1987
Part XIII	
s. 151	ad. No. 144, 1983
s. 152	am. No. 144, 1983; No. 24, 1990
s. 153	rs. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998
s. 154	rs. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998
s. 155	ad. No. 144, 1983
	rs. No. 65, 2006; No. 29, 2011
s. 156	am. No. 144, 1983; No. 94, 1998
s. 157	am. No. 144, 1983; No. 94, 1998
s. 159	am. No. 144, 1983; No. 35, 1987
s. 161	rs. No. 144, 1983
Part XIV	
s. 163	rs. No. 20, 1925
	am. No. 10, 1949; No. 7, 1973; No. 176, 1981; No. 144, 1983
	rs. No. 24, 1990
s. 164	rs. No. 14, 1921; No. 144, 1983
	am. No. 109, 1988
s. 165	ad. No. 144, 1983
s. 166	am. No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; No. 78, 2004; Nos. 8 and 109, 2010; No. 19, 2013
s. 167	am. No. 144, 1983
	rs. No. 167, 1991
	am. No. 94, 1998
s. 168	ad. No. 14, 1922
	am. No. 48, 1965; No. 144, 1983; No. 45, 1984
	rs. No. 35, 1987

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 8, 2010
s. 169	ad. No. 19, 1940
	am. No. 144, 1983
	rs. No. 35, 1987
	am. No. 24, 1990; No. 8, 2010; No 25, 2016
s. 169A	ad. No. 35, 1987
	am. No. 8, 2010
s. 169B	ad. No. 35, 1987
	am. No. 219, 1992; No 25, 2016
s. 169C	ad. No. 35, 1987
s. 170	am. No. 20, 1925; No. 48, 1965; No. 93, 1966; No. 144, 1983; No. 35, 1987; No. 24, 1990
	rs. No. 167, 1991
	am. Nos. 48 and 94, 1998; No. 65, 2006; No. 21, 2007; No. 19, 2013
s. 171	am. No. 144, 1983; No. 24, 1990; No. 8, 2010
s. 172	rs. No. 144, 1983
	am. No. 35, 1987; No. 109, 2010
s. 173	rs. No. 31, 1919
	am. No. 14, 1922; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995; No. 34, 2001; No. 115, 2004; No. 8, 2010
s. 174	am. No. 17, 1928; No. 144, 1983; No. 19, 2013
s. 175	am. No. 144, 1983; No. 94, 1998
s. 176	am. No. 144, 1983; No. 24, 1990
	rs. No. 167, 1991
	am. No. 94, 1998; No. 115, 2004
s. 177	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995; No. 34, 2001
	rs. No. 78, 2004
s. 178	am. No. 24, 1990; No. 166, 1995; No. 115, 2004
s. 179	am. No. 48, 1965; No. 144, 1983
s. 180	rs. No. 17, 1928
	am. No. 166, 1995; No. 34, 2001

Endnote 4—Amendment history

Provision affected	How affected
s. 181	am. No. 17, 1928
Part XV	
Part XV	rs. No. 24, 1990
s. 182	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 65, 2006; No. 19, 2013
s. 183	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 65, 2006
	rs. No. 19, 2013
s. 184	am. No. 31, 1919; No. 14, 1922; No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 26, 1961; No. 70, 1965; Nos. 32 and 93, 1966; No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
	am. No. 167, 1991; No. 137, 2000; No. 34, 2001; No. 22, 2007; No. 110, 2010; No 19 and 26, 2013
s. 184A	ad. No. 24, 1990
	am. No. 167, 1991; No. 166, 1995; No. 137, 2000; Nos. 115 and 123, 2004; No. 22, 2007; Nos. 109 and 110, 2010; No. 19, 2013
s. 184AA	ad. No. 94, 1998
s. 184B	ad. No. 24, 1990
	rs. No. 109, 2010
s. 185	am. No. 31, 1919; No. 14, 1922
	rep. No. 17, 1928
	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 22, 2007; No. 109, 2010; No. 26, 2013
s. 185A	ad. No. 24, 1990
	rep. No. 166, 1995
s. 185B	ad. No. 24, 1990
	am. No. 109, 2010
s. 185C	ad. No. 24, 1990

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 109, 2010
s. 186	ad. No. 144, 1983
	am. No. 45, 1984
	rs. No. 24, 1990
	am. No. 166, 1995; No. 94, 1998; No. 134, 1999; No. 78, 2004; No. 8, 2010; No. 19, 2013
s. 187	am. No. 17, 1928; No. 10, 1949; No. 93, 1966; No. 144, 1983
	rs. No. 24, 1990
	rep. No. 110, 2010
s. 188	am. No. 14, 1922; No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 26, 1961; No. 144, 1983 (as am. by No. 45, 1984); No. 45, 1984
	rs. No. 24, 1990
	am. No. 167, 1991; No. 94, 1998; No. 34, 2001; No. 78, 2004; No. 22, 2007; Nos. 8 and 110, 2010; No 19 and 26, 2013
s. 188A	ad. No. 19, 2013
s. 189	am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
	am. No. 167, 1991; No. 94, 1998; No. 8, 2010
	rs. No. 19, 2013
s. 189A	ad. No. 34, 2001
	am. No. 19, 2013
s 189B	ad No 34, 2001
	am No 19, 2013; No 4, 2016; No 61, 2016
s. 190	am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 144, 1983
	rs. No. 24, 1990
	am. No. 34, 2001; No. 8, 2010
	rep. No. 19, 2013
s. 191	am. No. 48, 1965; No. 32, 1966; No. 144, 1983; No. 45, 1984
	ad. No. 24, 1990
	rep. No. 167, 1991
s. 192	ad. No. 14, 1922

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 17, 1928; No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
s. 193	ad. No. 17, 1928
	am. No. 19, 1940; No. 10, 1949; No. 106, 1952; No. 48, 1965; No. 144, 1983
	rs. No. 24, 1990
	am. No. 94, 1998; No. 146, 1999; No. 78, 2004
s. 194	am. No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 35, 1987
	rs. No. 24, 1990
	am. No. 34, 2001; No. 78, 2004; No. 22, 2007; Nos. 8 and 110, 2010; No. 19, 2013
s 195	am No. 9, 1934; No 93, 1966; No 144, 1983
	rs No 24, 1990
	am No 8, 2010; No 19, 2013; No 61, 2016
s. 195A	ad. No. 24, 1990
	am. No. 22, 2007; Nos. 8 and 110, 2010; No 25, 2016
s 196	ad No 14, 1922
	am No 19, 1940; No 10, 1949; No 93, 1966; No 144, 1983
	rs No 24, 1990
	am No 109, 2001; No 8, 2010; No 61, 2016
s 197	am No 17, 1928; No 19, 1940; No 10, 1949; No 93, 1966; No 144, 1983; No 45, 1984
	rs No 24, 1990
	am No 8, 2010; No 19, 2013; No 61, 2016
s 198	ad No 10, 1949
	am No 93, 1966; No 144, 1983
	rs No 24, 1990
	am No 8, 2010; No 19, 2013; No 61, 2016
s. 199	am. No. 17, 1928; No. 93, 1966; No. 144, 1983
	rs. No. 24, 1990

Provision affected	How affected
s. 200	am. No. 17, 1928; No. 19, 1940; No. 10, 1949; No. 48, 1965; No. 32, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987
	rs. No. 24, 1990
	am. No. 8, 2010
Part XVA	
Part XVA	ad. No. 24, 1990
Division 1	
Div. 1 of Part XVA	ad. No. 109, 2010
s. 200AA	ad. No. 109, 2010
Division 2	
Heading to Div. 2 of Part XVA	ad. No. 109, 2010
s. 200A	ad. No. 24, 1990
	am. No. 65, 2006; No. 109, 2010
s. 200B	ad. No. 24, 1990
s. 200BA	ad. No. 22, 2007
	am. Nos. 109 and 110, 2010
s. 200C	ad. No. 24, 1990
	am. No. 109, 2010
s. 200D	ad. No. 24, 1990
	am. No. 166, 1995; No. 94, 1998; No. 22, 2007; No. 109, 2010; No. 26, 2013
s. 200DA	ad. No. 78, 2004
s. 200DB	ad. No. 78, 2004
	am. No. 22, 2007; No 4, 2016
Division 3	
Div. 3 of Part XVA	ad. No. 109, 2010
Subdivision A	
s. 200DC	ad. No. 109, 2010
	am. No. 26, 2013
s. 200DD	ad. No. 109, 2010
	am. No. 110, 2010

Endnote 4—Amendment history

Provision affected	How affected
ss. 200DE, 200DF	ad. No. 109, 2010
Subdivision B	
s. 200DG	ad. No. 109, 2010
	am. No. 110, 2010; No. 26, 2013
s. 200DH	ad. No. 109, 2010
	rep. No. 26, 2013
s. 200DI	ad. No. 109, 2010
	am. No. 110, 2010; No. 26, 2013
s. 200DJ	ad. No. 109, 2010
	am. No. 110, 2010; No. 26, 2013
s. 200DK	ad. No. 109, 2010
s. 200DL	ad. No. 109, 2010
	am. No. 26, 2013
s. 200DM	ad. No. 109, 2010
	am. No. 26, 2013
Subdivision C	
ss. 200DN–200DR	ad. No. 109, 2010
Division 4	
Heading to Div. 4 of Part XVA	ad. No. 109, 2010
s. 200DS	ad. No. 109, 2010
s. 200E	ad. No. 24, 1990
	am. No. 34, 2001; Nos. 8 and 109, 2010
s. 200F	ad. No. 24, 1990
	am. No. 167, 1991; No. 109, 2010
s. 200G	ad. No. 24, 1990
	am. Nos. 8 and 109, 2010
s. 200H	ad. No. 24, 1990
	rep. No. 167, 1991
s 200J	ad No 24, 1990
	am No 109, 2001; No 8, 2010; No 109, 2010; No 61, 2016

Provision affected	How affected
s 200K	ad No 24, 1990
	am No 8, 2010; No 109, 2010; No 61, 2016
s. 201	ad. No. 144, 1983
	rep. No. 24, 1990
	ad. No. 24, 1990
	am. No. 109, 2010
s. 202	rep. No. 24, 1990
	ad. No. 24, 1990
	am. Nos. 8 and 109, 2010
Part XVB	
Heading to Part XVB	rs. No. 109, 2010
Part XVB	ad. No. 22, 2007
Heading to Div. 1 of Part XVB	rep. No. 109, 2010
s. 202AA	ad. No. 22, 2007
	am. No. 109, 2010
s. 202AB	ad. No. 22, 2007
	am. Nos. 8 and 109, 2010
s. 202AC	ad. No. 22, 2007
s. 202AD	ad. No. 22, 2007
	am. No. 109, 2010
s. 202AE	ad. No. 22, 2007
	am. Nos. 8 and 109, 2010
s. 202AF	ad. No. 22, 2007
	rs. No. 109, 2010
Div. 2 of Part XVB	rep. No. 109, 2010
s. 202AG	ad. No. 22, 2007
	rep. No. 109, 2010
s. 202AH	ad. No. 22, 2007
	am. No. 8, 2010
	rep. No. 109, 2010

Endnote 4—Amendment history

Provision affected	How affected
ss. 202AI-202AK	ad. No. 22, 2007
	rep. No. 109, 2010
s. 202AL	ad. No. 22, 2007
	am. No. 8, 2010
	rep. No. 109, 2010
s. 202AM	ad. No. 22, 2007
	rep. No. 109, 2010
Part XVI	
s. 202A	ad. No. 24, 1990
	am. No. 110, 2010
s. 203	am. No. 144, 1983; No. 24, 1990; No. 219, 1992; Nos. 8 and 110, 2010
s. 204	am. No. 24, 1990
s. 205	am. No. 80, 1982; No. 144, 1983; No. 24, 1990
	rs. No. 167, 1991
s. 206	am. No. 8, 2010
s. 207	am. No. 144, 1983; No. 24, 1990
s. 208	am. No. 144, 1983; No. 24, 1990
	rs. No. 94, 1998
	am. No. 115, 2004; No. 65, 2006; No. 109, 2010; No. 29, 2011
s. 208A	ad. No. 110, 2010
s. 209	rs. No. 48, 1965; No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 94, 1998; No. 78, 2004; No. 8, 2010; No. 19, 2013; No 25, 2016
s. 209A	ad. No. 24, 1990
	rs. No. 94, 1998
	am. Nos. 8 and 110, 2010
s. 210	ad. No. 14, 1922
	am. No. 19, 1940; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 8, 2010; No 25, 2016
s. 210A	ad. No. 35, 1987
	am. No. 8, 2010; No 25, 2016
s. 211	am. No. 14, 1922

Endnote 4—Amendment history

Provision affected	How affected
	rs. No. 144, 1983
	am. No. 45, 1984; No. 35, 1987; No. 94, 1998; No. 34, 2001; No. 8, 2010
	rep No 25, 2016
s. 211A	ad. No. 35, 1987
	am. No. 167, 1991; No. 94, 1998; No. 34, 2001; No. 8, 2010
	rep No 25, 2016
s. 212	ad. No. 144, 1983
	am. No. 8, 2010
s. 213	ad. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998; No. 8, 2010
s. 214	ad. No. 144, 1983
	am. No. 45, 1984
	rs. No. 35, 1987
	am. No. 8, 2010; No 25, 2016
s 214A	ad No 25, 2016
s. 215	am. No. 144, 1983
	rs. No. 34, 2001
	am. No. 8, 2010
s. 216	ad. No. 144, 1983
	am. No. 45, 1984
	rs. No. 35, 1987; No. 34, 2001
	am. No. 8, 2010
	rep No 25, 2016
s. 217	am. No. 144, 1983; No. 78, 2004
s 218	am No 93, 1966; No 144, 1983; No 24, 1990; No 61, 2016
s. 219	am. No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
s. 220	am. No. 17, 1928; No. 144, 1983; No. 24, 1990
s. 221	am. No. 144, 1983; No. 24, 1990; No. 65, 2006; No. 109, 2010; No. 29, 2011
s. 222	am. No. 31, 1919; No. 32, 1966; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 65, 2006

Endnote 4—Amendment history

Provision affected	How affected
s. 223	ad. No. 144, 1983
	am. No. 110, 2010
s. 224	ad. No. 144, 1983
	rs. No. 24, 1990
	am. No. 8, 2010; No. 110, 2010
s. 225	ad. No. 144, 1983
	am. No. 24, 1990; No. 94, 1998; No. 8, 2010
	rep. No. 110, 2010
s. 226	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 94, 1998; No 8, 2010;No 110, 2010; No 25, 2016
s. 226A	ad. No. 24, 1990
	am. No. 78, 2004; No. 65, 2006; No. 8, 2010
	rep. No. 110, 2010
s. 227	rs. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990 (as am. by No. 167, 1991); No. 167, 1991; No. 166, 1995; No 8, 2010; No 110, 2010; No 25, 2016; No 33, 2016
s. 228	ad. No. 45, 1984
	rs. No. 35, 1987
	am. No. 24, 1990; No. 94, 1998; No. 78, 2004; No. 22, 2007; No 8, 2010; No 110, 2010; No 25, 2016
s. 229	rs. No. 14, 1922
	am. No. 17, 1928; No. 10, 1949; No. 7, 1973; No. 176, 1981
	rs. No. 144, 1983
	am. No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 115, 2004; No. 110, 2010
s. 230	am. No. 144, 1983; No. 115, 2004; Nos. 109 and 110, 2010; No. 26, 2013
s. 231	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; Nos. 8 and 110, 2010
s. 232	rs. No. 45, 1984
	am. No. 35, 1987; No. 24, 1990; No. 65, 2006; Nos. 8 and 110, 2010
s. 233	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 65, 2006; No. 8, 2010
s. 234	rs. No. 17, 1928

Provision affected	How affected
	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 166, 1995; No. 65, 2006; Nos. 8 and 110, 2010
s. 234A	ad. No. 94, 1998
	am. No. 65, 2006; No. 8, 2010
s. 235	am. No. 14, 1922; No. 17, 1928; No. 26, 1961; No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
	am. No. 167, 1991; No. 115, 2004; No. 65, 2006; Nos. 8 and 110, 2010; No. 37, 2011; No. 19, 2013; No 25, 2016
s. 236	ad. No. 14, 1922
	am. No. 144, 1983; No. 45, 1984
	rep. No. 24, 1990
s. 237	ad. No. 144, 1983
	am. No. 45, 1984
	rep. No. 24, 1990
s. 238	am. No. 144, 1983; No. 24, 1990 (as am. by No. 167, 1991); Nos. 8 and 109, 2010; No. 26, 2013
s. 238A	ad. No. 19, 2013
s. 238B	ad. No. 26, 2013
s. 239	am. No. 31, 1919; No. 9, 1934; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 8, 2010; No 25, 2016
s. 240	am. No. 144, 1983; No. 45, 1984
	rs. No. 24, 1990
	am. No. 94, 1998; No. 8, 2010
s. 240A	ad. No. 78, 2004
s. 241	rs. No. 48, 1965
	am. No. 78, 2004
s. 242	am. No. 144, 1983
s. 243	rs. No. 14, 1922
	am. No. 144, 1983
s 245	ad No 10, 1924

Endnote 4—Amendment history

Provision affected	How affected
	am No 17, 1928; No 48, 1965; No 32, 1966; No 93, 1966; No 144, 1983; No 24, 1990; No 167, 1991; No 219, 1992; No 94, 1998; No 34, 2001; No 109, 2001; No 78, 2004; No 4, 2016; No 61, 2016
Part XVII	
Part XVII	ad. No. 144, 1983
s. 246	ad. No. 144, 1983
	am. No. 24, 1990
s. 247	ad. No. 144, 1983
	am. No. 24, 1990
s. 248	ad. No. 144, 1983
	am. No. 24, 1990; Nos. 19 and 26, 2013
s. 249	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 109, 2010
s. 250	ad. No. 144, 1983
	am. No. 8, 2010
s. 251	ad. No. 144, 1983
	am. No. 8, 2010
s. 252	ad. No. 144, 1983
s. 253	ad. No. 144, 1983
	am. No. 46, 2011
s. 254	ad. No. 144, 1983
s. 255	rs. No. 24, 1990
ss. 256, 257	ad. No. 144, 1983
	am. No. 24, 1990; No. 8, 2010
s. 258	ad. No. 144, 1983
s. 259	ad. No. 144, 1983
	am. No. 24, 1990; No. 8, 2010
s. 260	ad. No. 144, 1983
	am. No. 24, 1990; No. 34, 2001; No. 8, 2010; No 25, 2016
s. 261	ad. No. 144, 1983
	am. No. 24, 1990; No. 34, 2001; No. 8, 2010

Endnote 4—Amendment history

Provision affected	How affected
s. 262	ad. No. 144, 1983
Part XVIII	
s. 264	rs. No. 26, 1961
	am. No. 144, 1983; No. 24, 1990; No. 78, 2004; No. 8, 2010
s. 265	am. No. 144, 1983; No. 219, 1992; No. 94, 1998; No. 8, 2010
s. 266	ad. No. 45, 1984
	rs. No. 24, 1990
	am. No. 134, 1999; No. 8, 2010
s. 267	am. No. 24, 1990; No. 8, 2010
s. 268	am. No. 31, 1919; No. 14, 1922; No. 9, 1934; No. 19, 1940; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 94, 1998; No. 65, 2006; No 8, 2010; No 109, 2010; No 110, 2010; No. 26, 2013; No 25, 2016
s 268A	ad No 25, 2016
s. 269	ad. No. 144, 1983
	am. No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 8, 2010; No 25, 2016
	ed C64
s. 270	ad. No. 144, 1983
	am. No. 94, 1998; No. 8, 2010
	rep No 25, 2016
s 271	am No 93, 1966; No 144, 1983; No 8, 2010; No 61, 2016
s. 272	ad. No. 144, 1983
	am. No. 35, 1987; No. 8, 2010
	rs No 25, 2016
s. 273	rs. No. 31, 1919
	am. No. 14, 1922; No. 17, 1928; No. 9, 1934; No. 17, 1948; No. 144, 1983; Nos. 45 and 133, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 94, 1998; No. 78, 2004; Nos. 8, 109 and 110, 2010; No 25, 2016
s. 273A	ad. No. 94, 1998
	am. Statutory Rules 1999 No. 301 (as am. by Statutory Rules 2000 No. 332); No. 8, 2010; No 25, 2016
s. 273B	ad. No. 94, 1998
s. 274	rs. No. 31, 1919

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 14, 1922; No. 17, 1928; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; No. 78, 2004; Nos. 8, 109 and 110, 2010
s. 275	ad. No. 31, 1919
	am. No. 14, 1922; No. 17, 1928; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 8, 2010
s. 276	ad. No. 144, 1983
	am. No. 167, 1991; No. 94, 1998; No. 8, 2010
s. 277	ad. No. 144, 1983
	am. No. 24, 1990
ss. 278, 279	am. No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 8, 2010
s. 279A	ad. No. 24, 1990
	am. No. 8, 2010
s. 279B	ad. No. 24, 1990
	am. No. 146, 1999; No. 8, 2010
s. 280	am. No. 8, 2010
s. 281	am. No. 144, 1983; No. 24, 1990; No. 8, 2010
s. 282	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 8, 2010; No 25, 2016
Part XIX	
s. 283	am. No. 14, 1922; No. 17, 1928; No. 48, 1965; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 94, 1998; No. 78, 2004
s. 284	am. No. 14, 1922; No. 17, 1928; No. 10, 1949; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 167, 1991; No. 34, 2001; No. 78, 2004; No. 8, 2010
s. 285	am. No. 78, 2004; Nos. 8 and 110, 2010
s. 286	am. No. 144, 1983; No. 45, 1984; No. 35, 1987
Part XX	
Heading to Part XX	rs. No. 102, 1980
Part XX	ad. No. 144, 1983
Division 1	
s. 287	rs. No. 42, 1946

Provision affected	How affected
	am. No. 93, 1966
	rep. No. 102, 1980
	ad. No. 144, 1983
	am. No. 45, 1984; No. 67, 1985; No. 35, 1987; No. 24, 1990; No. 180, 1991; Nos. 45 and 105, 1992; No. 42, 1995; No. 60, 1996; No. 94, 1998; No. 134, 1999; No. 55, 2001; Nos. 81 and 105, 2002; No. 65, 2006; No. 54, 2009; No. 8, 2010
s. 287A	ad. No. 24, 1990
	am. No. 45, 1992
s. 287B	ad. No. 81, 2002
Division 2	
s. 288	rs. No. 42, 1946
	rep. No. 102, 1980
	ad. No. 144, 1983
	rs. No. 24, 1990
s. 288A	ad. No. 166, 1995
s. 289	rep. No. 102, 1980
	ad. No. 144, 1983
	am. No. 24, 1990; No. 8, 2010
s. 290	rep. No. 102, 1980
	ad. No. 144, 1983
	am. No. 24, 1990; No. 42, 1995
ss. 291, 292	am. No. 93, 1966
	rep. No. 102, 1980
	ad. No. 144, 1983
	rs. No. 24, 1990
s. 292A	ad. No. 24, 1990
s. 292B	ad. No. 24, 1990
	am. No. 45, 1992
ss. 292C, 292D	ad. No. 24, 1990
s. 293	am. No. 93, 1966
	rep. No. 102, 1980

Endnote 4—Amendment history

Provision affected	How affected
	ad. No. 144, 1983
	rep. No. 42, 1995
Division 3	
s. 293	am. No. 93, 1966
	rep. No. 102, 1980
	ad. No. 144, 1983
	rep. No. 42, 1995
s. 294	am. No. 93, 1966
	rep. No. 102, 1980
	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 42, 1995
s. 295	am. No. 93, 1966
	rs. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990
	rep. No. 42, 1995
s. 296	ad. No. 144, 1983
	rep. No. 42, 1995
s. 297	ad. No. 144, 1983
	am. No. 24, 1990
s. 298	ad. No. 144, 1983
	rep. No. 42, 1995
s. 299	ad. No. 144, 1983
	am. No. 35, 1987; Nos. 42 and 166, 1995; No. 81, 2002
s. 299A	ad. No. 24, 1990
	rep. No. 42, 1995
	ad. No. 81, 2002
	am. No. 8, 2010
s. 300	ad. No. 144, 1983
	am. No. 24, 1990; No. 42, 1995
s. 301	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 42, 1995

Provision affected	How affected
s. 302	ad. No. 144, 1983
Division 4	
s. 303	ad. No. 144, 1983
	am. No. 203, 1991
s. 304	ad. No. 144, 1983
	am. No. 45, 1984; No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 65, 2006; No. 8, 2010
s. 305	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995; No. 134, 1999
	rep. No. 65, 2006
s. 305A	ad. No. 45, 1992
	am. No. 42, 1995; No. 65, 2006
s. 305B	ad. No. 42, 1995
	am. No. 134, 1999; No. 65, 2006
s. 306	ad. No. 144, 1983
	am. No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 65, 2006
s. 306A	ad. No. 134, 1999
	am. No. 55, 2001; No. 65, 2006
s. 306B	ad. No. 81, 2002
	am. No. 65, 2006
s. 307	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 203, 1991
Division 5	
s. 308	ad. No. 144, 1983
	am. No. 45, 1984; No. 203, 1991; No. 45, 1992; No. 42, 1995; No. 65, 2006; No. 108, 2010; No 99, 2017
s. 309	ad. No. 144, 1983
	am. No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995; No. 94, 1998; No. 65, 2006; No. 8, 2010
s. 310	ad. No. 144, 1983
	am. No. 67, 1985; No. 24, 1990; No. 105, 1992

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 65, 2006
s. 311	ad. No. 144, 1983
	am. No. 24, 1990
	rep. No. 65, 2006
s. 311A	ad. No. 203, 1991
	am. No. 146, 1999; No. 65, 2006; No. 5, 2011
s. 312	ad. No. 144, 1983
	rep. No. 35, 1987
s. 313	ad. No. 144, 1983
	am. No. 24, 1990; No. 203, 1991; No. 42, 1995
s. 314	ad. No. 144, 1983
	am. No. 24, 1990
Division 5A	
Heading to Div. 5A of Part XX	am. No. 42, 1995 rs. No. 65, 2006
Div. 5A of Part XX	ad. No. 203, 1991
	rs. No. 45, 1992
s. 314AA	ad. No. 203, 1991
	rs. No. 45, 1992
	am. No. 42, 1995; No. 134, 1999; No. 8, 2010
s. 314AB	ad. No. 45, 1992
	am. No. 42, 1995; No. 94, 1998
s. 314AC	ad. No. 45, 1992
	am. No. 42, 1995; No. 134, 1999; No. 65, 2006
s. 314AD	ad. No. 45, 1992
	am. No. 42, 1995
	rep. No. 94, 1998
s. 314AE	ad. No. 45, 1992
	am. No. 65, 2006
s. 314AEA	ad. No. 42, 1995
	am. No. 134, 1999

Provision affected	How affected
s. 314AEB	ad. No. 65, 2006
	am. No. 108, 2010; No 99, 2017
s. 314AEC	ad. No. 65, 2006
s. 314AF	ad. No. 45, 1992
s. 314AG	ad. No. 45, 1992
	am. No. 42, 1995
Division 6	
s. 314A	ad. No. 24, 1990
	am. No. 45, 1992
s 315	ad No 144, 1983
	am No. 24, 1990; No 203, 1991; No 109, 2001; No 4, 2016; No 61, 2016
s. 315A	ad. No. 24, 1990
s 316	ad No 144, 1983
	am No 24, 1990; No 203, 1991; No 42, 1995; No 94, 1998; No 109, 2001; No 81, 2002; No 4, 2016; No 61, 2016
s. 317	ad. No. 144, 1983
	am. No. 24, 1990; Nos. 167 and 203, 1991
s. 318	ad. No. 144, 1983
	am. No. 45, 1984; No. 24, 1990; No. 45, 1992; No. 8, 2010
s. 318A	ad. No. 203, 1991
	rep. No. 65, 2006
s. 319	ad. No. 144, 1983
	am. No. 35, 1987
s. 319A	am. No. 35, 1987; No. 42, 1995
s. 320	ad. No. 144, 1983
	am. No. 35, 1987; No. 24, 1990; No. 203, 1991; No. 45, 1992; No. 42, 1995
s. 321	ad. No. 144, 1983
	am. No. 24, 1990; No. 42, 1995; No 145, 2015
s. 321A	ad. No. 65, 2006
	am. No. 65, 2006; No 145, 2015
Part XXA	

Endnote 4—Amendment history

Provision affected	How affected
Part XXA	ad No 99, 2017
Division 1	
s 321B	ad No 99, 2017
s 321C	ad No 99, 2017
Division 2	
s 321D	ad No 99, 2017
s 321E	ad No 99, 2017
Division 3	
s 321F	ad No 99, 2017
s 321G	ad No 99, 2017
s 321H	ad No 99, 2017
Part XXI	
s. 322	rs. No. 144, 1983; No. 45, 1984
	am. No. 24, 1990
s 323	am No 93, 1966
	rs No 144, 1983
	am No 24, 1990; No 61, 2016
s 324	am No 31, 1962
	rs No 144, 1983
	am No 24, 1990; No 4, 2016; No 61, 2016
s 325	am No 31, 1962
	rs No 144, 1983
	am No 45, 1984; No 109, 2001; No 4, 2016; No 61, 2016
s 325A	ad No 24, 1990
	am No 190, 2001; No 61, 2016
s 326	am No. 31, 1962
	rs No 144, 1983
	am No 24, 1990; No 109, 2001; No 61, 2016
s 327	am No 31, 1962
	rs No 144, 1983
	am No 203, 1991; No 144, 2003; No 61, 2016

Provision affected	How affected
s 328	rs No 144, 1983
	am No 35, 1987; No 167, 1991; No 94, 1998; No 34, 2001; No 78, 2004; No 8, 2010; No 108, 2010; No 4, 2016; No 61, 2016
	rep No 99, 2017
s. 328A	ad. No. 65, 2006
	am. No. 8, 2010
	rep No 99, 2017
s. 328B	ad. No. 108, 2010
	am. No. 26, 2013
	rep No 99, 2017
s 329	am No 17, 1928; No 102, 1980
	rs No 144, 1983
	am No 133, 1984; No 24, 1990; No 94, 1998; No 109, 2001; No 108, 2010; No 4, 2016; No 61, 2016
s. 329A	ad. No. 219, 1992
	rep. No. 94, 1998
s 330	am No 93, 1966
	rs No 144, 1983
	am No 4, 2016; No 61, 2016
s 331	am No 93, 1966; No 144, 1983; No 35, 1987; No 24, 1990
	rs No 167, 1991
	am No 94, 1998; No 115, 2004; No 61, 2016
	rep No 99, 2017
s. 332	am. No. 17, 1928; No. 93, 1966; No. 144, 1983; No. 45, 1984; No. 35, 1987; No. 94, 1998
	rep. No. 134, 1999
s. 333	ad. No. 19, 1940
	am. No. 93, 1966; No. 144, 1983 (as am. by No. 45, 1984); No. 45, 1984; No. 67, 1985
	rep. No. 184, 1987
s 334	ad No. 43, 1946

Endnote 4—Amendment history

Provision affected	How affected
	am No 47, 1949; No 26, 1961; No 93, 1966; No 144, 1983; No 45, 1984; No 24, 1990; No 109, 2001; No 61, 2016
	rep No 99, 2017
s 335	am No 93, 1966; No 144, 1983; No 109, 2001; No 61, 2016
s 336	am No 93, 1966; No 144, 1983; No 45, 1984; No 24, 1990; No 167, 1991; No 61, 2016
s. 337	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 115, 2004
s 338	am No 93, 1966; No 144, 1983; No 24, 1990; No 8, 2010; No 61, 2016
s 339	am No 93, 1966
	rs No 144, 1983
	am No 24, 1990; No 167, 1991; No 94, 1998; No 137, 2000; No 109, 2001; No 115, 2004; No 8, 2010; No 4, 2016; No 61, 2016
s. 339A	ad. No. 26, 2013
s 340	am No 26, 1961; No 93, 1966; No 144, 1983; No 24, 1990; No 78, 2004; No 61, 2016
s 341	ad No 19, 1940
	am No 93, 1966; No 144, 1983; No 109, 2001; No 4, 2016; No 61, 2016
s 342	am No 93, 1966; No 144, 1983; No 24, 1990; No 110, 2010; No 61, 2016
s 343	am No 93, 1966; No 144, 1983; No 24, 1990; No 109, 2001; No 109, 2010; No 110, 2010; No 61, 2016
s. 344	am. No. 144, 1983; No. 94, 1998
	rep. No. 137, 2000
s 345	am No 93, 1966; No 144, 1983; No 45, 1984; No 24, 1990; No 61, 2016
	ed C64
s 346	am No 93, 1966; No 144, 1983; No 24, 1990; No 8, 2010; No 61, 2016
s 347	am No 9, 1934; No 93, 1966; No 144, 1983; No 167, 1991; No 109, 2001; No 4, 2016; No 61, 2016
s 348	am No 144, 1983; No 45, 1984
	rs No 24, 1990
	am No 22, 2007; No 8, 2010; No 61, 2016
s. 349	am. No. 144, 1983
	rep. No. 24, 1990

Endnote 4—Amendment history

Provision affected	How affected
s. 350	am. No. 93, 1966; No. 144, 1983; No. 24, 1990; No. 109, 2001
	rep. No. 22, 2007
s. 351	ad No 19, 1940
	am No 93, 1966; No 144, 1983; No 24, 1990; No 167, 1991; No 109, 2001; No 65, 2006; No 8, 2010; No 108, 2010; No 4, 2016; No 61, 2016; No 99, 2017
	ed C64
Part XXII	
Division 1	
s 352	rs No 144, 1983
	am No 67, 2018
s. 353	am. No. 19, 1940; No. 144, 1983; No. 109, 1988
s. 354	am. No. 144, 1983; No. 94, 1998; No. 34, 2001
s. 355	am. No. 19, 1940; Nos. 102 and 155, 1980; No. 144, 1983; No. 45, 1984; No. 24, 1990; No. 115, 2004
s. 356	am. No. 93, 1966; No. 155, 1980; No. 144, 1983
	rs. No. 13, 1994
	am. No. 166, 1995
s. 357	ad. No. 144, 1983
	am. No. 24, 1990
s. 358	am. No. 144, 1983; No. 24, 1990
s. 359	am. No. 144, 1983
s. 360	am. No. 14, 1922; No. 144, 1983; No. 8, 2010
s. 361	am. No. 144, 1983; No. 8, 2010
s. 362	am. No. 144, 1983; No. 133, 1984; No. 24, 1990; No. 203, 1991; No. 167, 1992; No. 94, 1998
s. 363	am. No. 155, 1980; No. 13, 1994
s. 363A	ad. No. 94, 1998
s. 364A	ad. No. 24, 1990
	am. No. 8, 2010
s. 365	am. No. 14, 1922; No. 167, 1991
s. 365A	ad. No. 134, 1999

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 8, 2010
s. 366	ad. No. 144, 1983
	am. No. 35, 1987; No. 8, 2010
	rs No 25, 2016
s. 367	ad. No. 14, 1922
	am. No. 24, 1990
s. 367A	ad. No. 24, 1990
s. 369	am. No. 155, 1980
	rs. No. 167, 1991
	am. No. 13, 1994
s. 370	rs. No. 166, 1995
s. 374	am. No. 24, 1990
s. 375	am. No. 19, 1940; No. 80, 1982; No. 99, 1988; No. 140, 2003; No 126, 2015
s. 375A	ad. No. 24, 1990
Division 2	
ss. 377-379	am. No. 144, 1983
s. 380	am. No. 155, 1980; No. 144, 1983; No. 13, 1994
s. 381	am. No. 144, 1983
Part XXIII	
s. 381A	ad. No. 35, 1987
s. 382	am. No. 144, 1983
	rep. No. 34, 2001
	ad. No. 109, 2010
	am. No. 110, 2010
s. 383	ad. No. 144, 1983
	am. No. 34, 2001; No. 78, 2004; No 99, 2017
s 384	ad No 144, 1983
	am No 61, 2016
s 384A	ad No 99, 2017
s. 385	am. No. 144, 1983

Endnote 4—Amendment history

Provision affected	How affected
s. 385A	ad. No. 219, 1992
	am. No. 65, 2006; Nos. 8 and 110, 2010
	rs No 99, 2017
s 386	am No 144, 1983; No 109, 2001; No 67, 2018
s. 386A	ad. No. 203, 1991
	rep. No. 219, 1992
	ad No 25, 2016
s. 387	am. No. 56, 1975; No. 144, 1983; No. 24, 1990
s. 387A	ad. No. 219, 1992
	am. No. 78, 2004
s. 388	am. No. 17, 1928
s. 389	am. No. 19, 1940
s. 390	ad. No. 26, 1961
	am. No. 24, 1990; No. 219, 1992; Nos. 110 and 111, 2012
s. 390A	ad. No. 219, 1992
	am. No. 8, 2010; Nos. 110 and 111, 2012
s. 391	ad. No. 45, 1984
	am. No. 24, 1990; No. 219, 1992
	ed C64
s. 392	am. No. 144, 1983; No. 24, 1990
s. 393	am. No. 144, 1983
	rs. No. 24, 1990
	rep. No. 94, 1998
s. 393A	ad. No. 24, 1990
	am. No. 94, 1998; Nos. 8, 109 and 110, 2010; No. 26, 2013; No 25, 2016
s. 394	ad. No. 14, 1922
	am. No. 144, 1983; No. 45, 1984; No. 167, 1991; No. 121, 1992
	rs No 33, 2016
s 395	am No 10, 1924; No 93, 1966; No 144, 1983; No 157, 2007; No 8, 2010; No 61, 2016

Endnote 4—Amendment history

Provision affected	How affected
Schedules	
Heading to Schedule	rep. No. 24, 1990
Heading to Schedule 1	ad. No. 24, 1990
Schedule	ad. No. 144, 1983
	am. No. 45, 1984; Statutory Rules 1940 No. 163 (as am. by Statutory Rules 1984 No. 287); No. 35, 1987; 1988 No. 339; 1989 No. 32
Schedule 1.....	am. No. 24, 1990; Statutory Rules 1940 No. 163 (as am. by Statutory Rules 1995 No. 21); No. 34, 2001; No. 78, 2004; No. 8, 2010; No. 19, 2013; No 25, 2016
Schedule 2.....	ad. No. 24, 1990
	am. No. 167, 1991; Nos. 115 and 123, 2004; No. 110, 2010; No. 19, 2013
Schedule 3.....	ad. No. 24, 1990
	am. No. 167, 1991; No. 166, 1995; No. 94, 1998; No. 134, 1999; No. 34, 2001; No. 115, 2004; No. 65, 2006 (as am. by No. 73, 2008); Nos. 8 and 110, 2010; Nos. 29 and 37, 2011; No. 111, 2012; No. 19, 2013

Endnote 5—Miscellaneous

Repeal table

The amendment history of the repealed provisions of the *Commonwealth Electoral Act 1918* up to and including the *Commonwealth Electoral Legislation Amendment Act 1984* (No. 45, 1984) appears in the table below.

Provision affected	How affected
s. 4	rs. No. 26, 1961
	rep. No. 14, 1977
s. 12	rep. No. 144, 1983
Part III (ss. 14A, 15–18, 18A, 19–23, 23A, 24, 25, 25A)	rep. No. 144, 1983
s. 14A	ad. No. 14, 1977
	rep. No. 144, 1983
s. 15	rep. No. 144, 1983
s. 18A	ad. No. 48, 1965
	am. No. 14, 1977
	rep. No. 144, 1983
s. 23A	ad. No. 48, 1965
	rep. No. 144, 1983
s. 28	rep. No. 144, 1983
ss. 44, 45	rep. No. 144, 1983
Part IX (s. 58)	rep. No. 144, 1983
s. 87A	ad. No. 10, 1949
	am. No. 93, 1966
	rep. No. 144, 1983
s. 93A	ad. No. 14, 1922
	am. No. 17, 1928; No. 93, 1966
	rep. No. 144, 1983
s. 105	rep. No. 144, 1983
s. 105B	ad. No. 48, 1965

Endnote 5—Miscellaneous

Provision affected	How affected
	rep. No. 144, 1983
Part XVI (s. 153)	rep. No. 144, 1983
s. 164BA	ad. No. 47, 1949
	am. No. 93, 1966
	rep. No. 144, 1983
s. 164BB	ad. No. 47, 1949
	am. No. 19, 1979
	rep. No. 144, 1983
s. 166	am. No. 93, 1966
	rep. No. 144, 1983
s. 178	am. No. 93, 1966
	rep. No. 144, 1983
s. 182	rep. No. 144, 1983
s. 189A	ad. No. 14, 1922
	am. No. 17, 1928
	rep. No. 48, 1965
s. 212	rs. No. 9, 1934
	rep. No. 56, 1975
s. 214	am. No. 2, 1929
	rep. No. 144, 1983
The Schedule	am. No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 9, 1934; No. 19, 1940; No. 26, 1961; No. 93, 1966; No. 102, 1980
	rep. No. 144, 1983

Renumbering table

The renumbering of provisions of the *Commonwealth Electoral Act 1918*, made by the *Commonwealth Electoral Legislation Amendment Act 1984* (No. 45, 1984) appears in the table below.

Old Number	New Number
Section	Section
1	1
2	2
3	3
5	4
6	5
7	6
7A	7
7B	8
7C	9
7D	10
7E	11
7F	12
7G	13
7H	14
7J	15
7K	16
7L	17
7M	18
7N	19
7O	20
7P	21
7Q	22
7R	23
7S	24
7T	25

Old Number	New Number
7U	26
7V	27
7W	28
Section	Section
7X	29
7Y	30
7Z	31
8	32
9	33
10	34
11	35
13	36
14	37
15	38
16	39
17	40
18	41
19	42
20	43
21	44
22	45
23	46
24	47
25	48
25A	49
25B	50

Endnote 5—Miscellaneous

Old Number	New Number
25C	51
25D	52
25E	53
25F	54
Part IIIA	Part IV
Section	Section
25G	55
25H	56
25I	57
25J	58
25K	59
25L	60
25M	61
25N	62
25P	63
25Q	64
25R	65
25S	66
25T	67
25U	68
25V	69
25W	70
25X	71
25Y	72
25Z	73
25ZA	74
25ZB	75
25ZC	76
25ZD	77
25ZE	78
Part IV	Part V

Old Number	New Number
Section	Section
26	79
27	80
Part V	Part VI
Section	Section
29	81
30	82
31	83
32	84
33	85
33A	86
34	87
Section	Section
35	88
36	89
37	90
37A	91
38	92
Part VI	Part VII
Section	Section
39	93
39A	94
39B	95
39C	96
39D	97
Part VII	Part VIII
Section	Section
40	98
41	99
41A	100
42	101

Old Number	New Number
43	102
46	103
46A	104
47	105
47A	106
48	107
49	108
50	109
51	110
51A	111
51B	112
Part VIII	Part IX
Section	Section
52	113
53	114
54	115
55	116
56	117
57	118
57A	119
Part IX	Part X
Section	Section
58	120
58AA	121
58AB	122
Part IXA	Part XI
Section	Section
58A	123
58B	124
58C	125
58D	126

Old Number	New Number
58E	127
58F	128
58G	129
58H	130
58J	131
58K	132
58L	133
58M	134
58N	135
58P	136
58Q	137
58R	138
58S	139
58T	140
58U	141
Part IXB	Part XII
Section	Section
58V	142
58W	143
58X	144
58Y	145
58Z	146
58ZA	147
58ZB	148
58ZC	149
58ZD	150
Part X	Part XIII
Section	Section
59AA	151
59	152
60	153

Endnote 5—Miscellaneous

Old Number	New Number
61	154
61A	155
62	156
63	157
64	158
65	159
66	160
67	161
Part XI	Part XIV
Section	Section
68	162
69	163
70	164
70A	165
71	166
72	167
72A	168
72B	169
73	170
74	171
75	172
76	173
77	174
78	175
79	176
80	177
81	178
82	179
83	180
84	181
Part XII	Part XV

Old Number	New Number
Section	Section
85AA	182
85AB	183
85	184
86	185
86A	186
87	187
88	188
89	189
90	190
91	191
91A	192
91B	193
92	194
93	195
93B	196
94	197
94A	198
95	199
96	200
96A	201
97	202
Part XIII	Part XVI
Section	Section
98	203
99	204
100	205
101	206
102	207
103	208
104	209

Old Number	New Number
105A	210
106	211
106A	212
106B	213
106C	214
107	215
107A	216
Section	Section
108	217
109	218
110	219
111	220
112	221
113	222
113A	223
113B	224
113C	225
113D	226
114	227
114A	228
115	229
116	230
117	231
118	232
119	233
120	234
121	235
121A	236
121B	237
122	238
123	239

Old Number	New Number
124	240
125	241
126	242
127	243
128	244
128A	245
Part XIIIA	Part XVII
Section	Section
128B	246
128C	247
128D	248
128E	249
128F	250
128G	251
128H	252
Section	Section
128J	253
128K	254
128L	255
128M	256
128N	257
128P	258
128Q	259
128R	260
128S	261
128T	262
Part XIV	Part XVIII
Section	Section
129	263
130	264
131	265

Endnote 5—Miscellaneous

Old Number	New Number
131A	266
132	267
133	268
133A	269
133B	270
134	271
134A	272
135	273
136	274
136A	275
136B	276
136C	277
137	278
138	279
139	280
140	281
140A	282
Part XV	Part XIX
Section	Section
141	283
142	284
143	285
144	286
Part XVI	Part XX
Section	Section
145	287
146	288
147	289
148	290
149	291
150	292

Old Number	New Number
151	293
152	294
153	295
153A	296
153B	297
153C	298
153D	299
153E	300
153F	301
153G	302
153H	303
153J	304
153K	305
153L	306
153M	307
153N	308
153P	309
153Q	310
153R	311
153S	312
153T	313
153U	314
153V	315
153W	316
153X	317
153Y	318
153Z	319
153ZA	320
153ZB	321
Part XVII	Part XXI
Section	Section

Old Number	New Number
154	322
155	323
156	324
157	325
158	326
159	327
160	328
161	329
162	330
163	331
164	332
164A	333
164B	334
165	335
167	336
168	337
169	338
170	339
171	340
171A	341
172	342
173	343
174	344
175	345
176	346
177	347
179	348
180	349
181	350
181A	351
Part XVIII	Part XXII

Old Number	New Number
Section	Section
182	352
183	353
184	354
185	355
186	356
Section	Section
186A	357
187	358
188	359
189	360
190	361
191	362
192	363
193	364
194	365
194AA	366
194A	367
195	368
196	369
197	370
198	371
199	372
200	373
201	374
202	375
203	376
204	377
205	378
206	379
207	380

Endnote 5—Miscellaneous

Old Number	New Number
208	381
Part XIX	Part XXIII
Section	Section
209	382
209A	383
209B	384
210	385
211	386
213	387
215	388
216	389
216A	390
216B	391
217	392
Section	Section
218	393
218A	394
Section	Section
219	395

Other information relating to the *Commonwealth Electoral Act 1918* is set out below:

Section 3—For Proclamations fixing the dates of repeal of these Acts: *see Gazettes* 1918, p. 2257; 1919, p. 401 and 1934, p. 1351.

Section 95—Section 41 of the Constitution provides as follows:

41 Right of electors of States

No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

Section 152—Sections 12, 32 and 33 of the Constitution provide as follows:

12 Issue of writs

The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

32 Writs for general election

The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33 Writs for vacancies

Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

Section 163—*Note also* sections 43 and 44 of the Constitution, which provide as follows:

43 Member of one House ineligible for other

A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

44 Disqualification

Any person who:

(i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or

(ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or

(iii) Is an undischarged bankrupt or insolvent; or

(iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth; or

(v) Has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But subsection (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

Sections 93 and 208:

(1) Some provisions relating to voting by prisoners have been found to be invalid by the High Court of Australia, namely subsection 93(8AA) and paragraph 208(2)(c). For more information, see the High Court press release of 30 August 2007 or the full judgment Roach v Electoral Commissioner [2007] HCA 43 as available at:

http://www.austlii.edu.au/au/cases/cth/high_ct/2007/43.html

(2) Sections 93 and 208 of the *Commonwealth Electoral Act 1918* were subsequently amended by the *Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011*, which commenced on 25 May 2011.

Sections 94A, 95, 96, 102 and 155:

(1) The High Court of Australia has declared some provisions relating to electoral rolls and voting to be invalid, namely items 20, 24, 28, 41, 42, 43, 44, 45 and 52 of Schedule 1 to the *Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006*. Those provisions affected paragraph 94A(4)(a), subsections 95(4), 96(4) and 102(4), paragraph 102(4A)(a), subparagraph 102(4A)(b)(ii), subsection 102(4B), paragraphs

~~102(4B)(a) and (b) and section 155 of the *Commonwealth Electoral Act 1918*. For more information, see the High Court press release of 6 August 2010 as available online at:~~

~~http://www.hcourt.gov.au/assets/publications/judgment-summaries/2010/rowe-2010-08-06.pdf~~

~~(2) Sections 94A, 95, 96, 102 and 155 of the *Commonwealth Electoral Act 1918* were subsequently amended by the *Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011*, which commenced on 25 May 2011.~~