

Acts of the 39th Parliament amending the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984*
(in order by date of assent)

Referendum Legislation Amendment Act 1999 (No. 22, 1999)

This Act contains measures that allowed the Government to expend money on public information activities in the lead-up to the constitutional referenda in 1999. The Act also amends the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) to:

- allow the AEC to expend money in relation to the printing, publication and distribution of the Yes/No case pamphlets by means other than post and to persons other than electors (amending section 11 of the Referendum Act);
- provide that where the Minister gives a written notice to the Electoral Commissioner that referenda on two or more proposed laws are to be held on the same day the ballot papers for each of the referenda specified in the notice are to be printed on separate pieces of paper, and in different colours chosen by the Electoral Commissioner (amending section 25 of the Referendum Act); and
- correct an error in section 36A of the Referendum Act in the Referendum Act in relation to voting outside the polling place.

Electoral and Referendum Amendment Act (No. 1) 1999 (No. 134, 1999)

This Act contains a number of amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act) and the Referendum Act. The significant amendments:

- require that, as prescribed by regulations, new electors produce one original form of identification at the time of enrolment, and lodge their enrolment form for witnessing with an elector in a particular class of persons (amending section 98 of the Electoral Act and adding a new section 99A) (Note that proclamation of these amendments was to follow the make up of relevant regulations. However, the regulations were disallowed so these amendments have not come into effect);
- allow for the provision of date of birth and salutation details of electors to Members, Senators, and registered political parties, and allow those people may use the electoral information for research into electoral matters (amending sections 91, 91A, and 91B of the Electoral Act);
- provide that the preliminary scrutiny of declaration votes may commence on the Monday prior to polling day (amending section 266 of the Electoral Act);
- in regard to donations to political parties, raise from \$500 to \$1 500 the threshold for counting individual amounts received (amending section 314AC of the Electoral Act);
- amend the definition of an associated entity (amending section 287 of the Electoral Act); and
- make loans to political parties or candidates illegal unless they are from a financial institution or particular details of the loan and the source of the loan are retained by the party or candidate (inserting a new section 306A and amending section 314AC of the Electoral Act).

In addition, this Act makes a number of largely technical and administrative changes to the Electoral Act and the Referendum Act.

A number of amendments initially in the Bill for this Act were removed during passage through the parliament. These included amendments to:

- provide that all electors notify the AEC of a change of address within one month of moving;
- reduce the time period between the issue of the writ and the close of the rolls to 6pm on the day of the issue of the writ for new enrolments, and three working days after the issue of the writ for existing electors;
- provide that any person serving a sentence of imprisonment is not entitled to enrol or to vote;
- provide that only the Presiding Officer at a polling place may assist electors in voting;
- provide that political parties are required to disclose a total amount of \$5 000 or more, rather than the current \$1 500, received from a person or organisation during a financial year; and
- increase from \$1 500 to \$10 000 the amount above which a donor to a registered political party must provide a return for a financial year.

Public Employment (Consequential and Transitional) Amendment Act 1999 (No.146, 1999)

This Act deals with the consequential and transitional matters arising from the repeal of the *Public Service Act 1922* and the enactment of its replacement legislation, the *Public Service Act 1999*. In the Electoral Act, sections 6, 23, 29, 35, 60, 91, 193, 279B, and 311A were amended.

Commonwealth Electoral Amendment Act (No. 1) 2000 (No. 126, 2000)

This Act contains measures which:

- specifically allow for the provision to Members, Senators, and federally registered political parties of a wide range of elector information, in addition to name and address information (amending sections 17 and 91, and adding a new section 91AA to the Electoral Act);
- specifically allow for the provision of age range extracts from the Roll for use in approved medical research and public health screening programs (adding a new section 91AB of the Electoral Act);
- require all non parliamentary political parties applying for registration from 3 October 2000 to prove that they have 500 members (amending section 126 of the Electoral Act); and
- provide that currently registered parliamentary parties retain their registration as long as they have a party member in Federal parliament (amending section 123 of the Electoral Act).

This Act also contains a transitional arrangement that provides that parliamentary parties which were registered on the basis that they had a party member in a State or Territory legislature had a period of 6 months from 3 October 2000 in which to satisfy the AEC that they had 500 members or be deregistered.

Commonwealth Electoral Legislation (Provision of Information) Act 2000 (No 127, 2000)

This Act results from legal advice indicating that the AEC could only provide elector information in electronic format to the prescribed authorities listed in Schedule 2 of the *Electoral and Referendum Regulations 1940* if permitted purposes for the use of the information had been prescribed. At the time the legal advice was given, no such permitted purposes had been prescribed.

There was also concern that prescribed authorities may have difficulty in progressing cases, which had, in some way, relied upon elector information supplied electronically by the AEC.

This Act contains measures which:

- resolve any questions about the past use by agencies of electronically supplied elector information;
- avoid any potential argument about the admissibility of evidence in court which has been gathered relying, in some way, on the use of such elector information; and
- resolve any questions about future use of elector information that was supplied electronically and has been incorporated into prescribed authorities' information systems.

The Act does not amend the Electoral Act.

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000 (No. 137, 2000)

This Act amends the *Criminal Code Act 1995*. The second schedule of the Act contains amendments to other legislation. Most of these concern the repeal of over 250 offences that are no longer necessary because they have been replaced by *Criminal Code* offences. In the Electoral Act, parts of sections 184, 339, and all of section 344 were repealed.

Electoral and Referendum Amendment Act (No. 1) 2001 (No. 34, 2001)

This Act contains technical measures, amending both the Electoral Act and the Referendum Act, arising from the recommendations of the JSCEM report on the 1998 Federal Election supported by all members of the committee.

The most notable amendments include those that:

- allow persons who are enrolling or voting overseas to provide a certified copy of particular sections of their current passport as verification of their identity where they cannot find an authorised witness (amending sections 94, 94A, 95, 184, and 194 of the Electoral Act and sections 55, and 65 of the Referendum Act);
- provide that Divisional Returning Officers and Australian Electoral Officers may reject applications for enrolment from persons who have changed their names to something 'inappropriate' (eg. fictitious, frivolous, offensive, obscene or

- contrary to public interest) (inserting new sections 93A and 98A and amending sections 120 and 121 of the Electoral Act);
- allow for the provision of electronic lists of postal vote applicants to candidates and registered political parties following a general election, and to Members, Senators, and registered political parties following a referendum (inserting new sections 189A and 189B in the Electoral Act and sections 62A and 62B in the Referendum Act);
 - allow for the amendment or withdrawal of a Group Voting Ticket or Individual Voting Ticket statements up to the closing time for lodgement of such statements (amending section 211 and 211A of the Electoral Act);
 - provide that Senate nomination deposits are to be returned to the person who paid the deposit (amending section 173 of the Electoral Act);
 - allow, prior to the close of nominations, for the substitution of a candidate in a bulk nomination, where a candidate who was part of that bulk nomination withdraws their consent, or dies prior to the close of nominations (amending sections 177 and 180 of the Electoral Act);
 - provide that all ballot papers are to be initialled on the front top right-hand corner (amending sections 190, 200E, 215, and 260 of the Electoral Act and sections 26, 63, 73D, and 85 of the Referendum Act);
 - allow for the display of Group Voting Ticket and Individual Voting Ticket information in pamphlet form as well as in poster form (amending section 216 of the Electoral Act);
 - provide that the registered abbreviation of a political party name may be only an acronym or a shortened version of the party name (amending section 4 of the Electoral Act);
 - clarify the authorisation requirements for electoral notices and advertisements (amending section 328 of the Electoral Act and section 121 of the Referendum Act);
 - substitute the Federal Court for the Supreme Court in relation to injunctions and the Court of Disputed Returns (amending sections 354 and 383 of the Electoral Act and section 139 of the Referendum Act); and
 - provide the AEC with the power to review the eligibility of registered political parties (amending section 137 and inserting a new section 138A in the Electoral Act).

Corporations (Repeals, Consequential and Transitionals) Act 2001 (No. 55, 2001)

This Act is one of a package of Acts responding to the High Court's decisions in *Re Wakim; ex parte McNally* (1999) 198 CLR 511 (*Wakim*) and *The Queen v Hughes* (2000) 74 ALJR 802; 171 ALR 155 (*Hughes*). As part of the consequential amendment of other acts, sections 287 and 306A of the Electoral Act were amended.

Finance and Administration Legislation Amendment (Application of the Criminal Code) Act 2001 (No. 109, 2001)

This Act brings together six different acts within the Finance and Administration portfolio that were in need of amendment due to the application of Chapter 2 of the

Criminal Code from 15 December 2001. Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and when it commences the general principles contained in the *Criminal Code* will apply to criminal offence provisions in all Commonwealth acts.

In the Electoral Act, a new section 4D was inserted, and sections 101,103,196, 200J, 245, 315, 316, 325, 325A, 326, 329, 334, 335, 339, 341, 347, 350, 351, and 386 were amended. In the Referendum Act, a new section 3C was inserted, and sections 45, 55, 68, 73A, 118, 119, 122, 126, 130, 132, 134, and 136 were amended.

***Abolition of Compulsory Retirement (Statutory Office Holders) Act 2001
(No. 159, 2001)***

This Act repeals provisions in various Acts that prevent the appointment of a person over a certain age or for a term that would continue beyond a certain age (commonly 65 years). The amendments complement the removal of compulsory age retirement in the Australian Public Service (APS) and aim to remove barriers to the continued appointment of those over 65 to Commonwealth statutory appointments. This Act repeals section 21(3) of the Electoral Act, which prevented the retention or employment of electoral officers over the age of 65.