



Appendix K – AEC Proposed changes to penalty provisions

Changes to penalty provisions as outlined by the Australian Electoral Commission in Submission 3A

Section Number	Nature of the Offence	Current Penalty	Possible Change
78	Improper influence of a member of a Redistribution Committee	\$2,000 or imprisonment for 12 months, or both	
91A(1)	Prohibition on the improper use of information from the Roll	100 penalty units	
91B(2)	Prohibition on the disclosure of protected information from the Roll	1,000 penalty units	
91B(3)	Prohibition on the improper use of protected information from the Roll	1,000 penalty units	
101(6)	Failure to enrol to vote or to transfer enrolment when there is a change in the place of living	1 penalty unit and a strict liability/absolute liability offence depending on type of enrolment claim	
103	Penalty on an officer neglecting to enrol claimants	\$1,000	
187(1)	Breach of the duty of a witness to a postal vote application	\$500	
189B(2)	Prohibition on the improper disclosure of information from the electronic list of postal vote applicants	1,000 penalty units	
189B(3)	Prohibition on the commercial use of information from the electronic list of postal	1,000 penalty units	

	vote applicants		
195	Interference with a postal vote ballot paper	\$1,000	
196	Prohibition on any person other than an AEC officer opening a envelope containing a postal vote ballot paper	\$500 and strict liability	
197	Failure to post or deliver postal vote application or a postal vote ballot paper	\$1,000	
200DB(1)	Offence for scrutineer interfering or influencing elector in pre-poll voting office	Imprisonment for 6 months	
200DB(2)	Offence for scrutineer communicating with some else at pre-poll voting office where that communication is not necessary for the discharge of the functions of a scrutineer	Imprisonment for 6 months	
200J	Prohibition on any person other than an AEC officer opening a pre-poll voting envelope	\$500 and strict liability	
200K	Breach of obligations on person present when an elector signs a pre-poll certificate or marks a ballot paper	\$1,000	
218	Prohibition on scrutineers	\$1,000 or imprisonment	

	interfering or influencing electors within a polling booth	for 6 months, or both	
245	Failure to vote without a valid and sufficient reason	245(5) administrative penalty \$20 245(15) \$50 penalty imposed by court and a strict liability offence 245(15C) \$50 penalty imposed by court for false or misleading information in response to a penalty notice for failure to vote	
271	Prohibition on officers marking ballot papers which would enable a voter to be identified	\$1,000	
315(1) and (1A)	Failure to lodge donor returns, election returns and annual returns relating to election funding and disclosure matters	\$5,000 for agent of a political party and \$1,000 for all others – strict liability offence	120 penalty units
315(2) and (2A)	Lodging an incomplete return or failing to retain relevant records	\$1,000 and strict liability offence	120 penalty units
315(3)	Lodging of a return by the agent of a political party that is false or misleading in a material particular.	A fine not exceeding \$10,000	Imprisonment for 2 years or 240 penalty units or both
315(4)	Lodging of a	A fine not	Imprisonment

	return by persons other than political party agent that is false or misleading in a material particular	exceeding \$5,000	for 12 months or 120 penalty units or both
315(6A)	Prohibition on persons providing false or misleading information in relation to a claim for election funding	\$1,000	Imprisonment for 2 years or 240 penalty units or both
315(7)	Prohibition on persons providing false or misleading information in a person who is required to lodge a return	\$1,000	Imprisonment for 12 months or 120 penalty units or both
315(8)	Additional daily penalty of \$100 for failing to lodge a return within the required period	\$100 per day	1 penalty unit per day
315(10)	Cap on the total penalty that may be imposed		
316(5), (5A) and (5B)	Refusing or failing to comply with a notice from an authorized officer to produce information relating to an investigation	\$1,000 and strict liability offence	Imprisonment for 12 months or 60 penalty units or both
316(6)	Prohibition on persons providing false or misleading information in response to a notice	\$1,000 or imprisonment for 6 months, or both	Imprisonment for 12 months or 60 penalty units or both
323	Officers and scrutineers to observe secrecy	\$1,000 or imprisonment for 6 months, or	Maximum penalty of 50 penalty units or

	in relation to the identification of electors who have voted	both	imprisonment for 10 months or both
324	Officers not to contravene a provision of the Act for which no other penalty applies or contravenes a direction given under the Act	\$1,000	Maximum penalty 50 penalty units
325(1) &(2)	Officers not to influence the vote of another person	\$1,000 or imprisonment for 6 months, or both	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
325A	Proprietors and employees in hospitals and nursing homes not to influence the votes of patients and residents	\$1,000 or imprisonment for 6 months, or both	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
326 (1) & (2)	Bribery for votes and support	\$5,000 or imprisonment for 2 years, or both	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
327(1)	Interference with any political right or duty	\$1,000 or imprisonment for 6 months, or both	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
327(2)	Discrimination against persons who have given donations to a political party or candidate	Offender is a natural person - \$5,000 or imprisonment for 2 years Offender is a body corporate - \$20,000	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
328	Failure to include authorization details on printed electoral	Offender is a natural person – a fine not exceeding \$1,000	Maximum penalty of 50 penalty units for a natural person or a maximum

	advertisements	Offender is a body corporate – a fine not exceeding \$5,000	penalty of 250 penalty units for a body corporate
328A	Failure to include authorization details on paid for electoral advertisements published on the Internet	10 penalty units	Maximum penalty of 50 penalty units for a natural person or a maximum penalty of 250 penalty units for a body corporate
329	Prohibition on certain types of misleading or deceptive publications during the election period	Offender is a natural person – a fine not exceeding \$1,000 or imprisonment for a period not exceeding 6 months or both Offender is a body corporate – a fine not exceeding \$5,000	Maximum penalty of 50 penalty units for a natural person or a maximum penalty of 250 penalty units for a body corporate
330	Prohibition on making false or misleading statements about the enrolment of an elector on polling day	\$1,000 or imprisonment for a period not exceeding 6 months or both	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
331(1)	Failure to include the word “advertisement” as a headline for electoral advertisements in the print media	5 penalty units	Maximum penalty of 25 penalty units
331(2)	Failure to include the word “advertisement” as a headline for electoral advertisements that take up 2	\$500	Maximum penalty of 25 penalty units

	opposing pages in the print media		
334(1) and (2A)	Depiction of certain electoral matter directly on public property and locations	\$1,000 and a strict liability offence	Maximum penalty of 25 penalty units and a strict liability offence
335	Leaving How to Vote material in a polling booth	\$500	Maximum penalty of 25 penalty units
336	Prohibition on making the signature of another person on an electoral paper	\$1,000	Maximum penalty of 50 penalty units
337(1)	Falsely witnessing any electoral paper	Imprisonment for 12 months	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
338	Unlawfully marking ballot papers	\$1,000 or imprisonment for 6 months, or both	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
339(1)	Other offences in relation to nomination papers and ballot papers	Imprisonment for 6 months	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
339(1A) and (1B)	Prohibition on a person voting more than once in an election	10 penalty units and a strict liability offence	Maximum penalty of 50 penalty units and a strict liability offence
339(1C)	Prohibition on a person intentionally voting more than once in an election	60 penalty units or imprisonment for 12 months, or both	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
339(2)	Prohibition on any act that results in the defacement or destruction of a notice list or	\$500	Maximum penalty of 25 penalty units

	other document affixed under the authority of a DRO		
340(1) and (2)	Prohibition on canvassing within 6 metres of a polling booth	\$500	Maximum penalty of 25 penalty units
341(1) and (2)	Prohibition on officers and scrutineers wearing political badges or emblems in a polling booth	\$1,000 and a strict liability offence	Maximum penalty of 50 penalty units and a strict liability offence
342	Breach of the duty of a witness to enrolment claim	\$1,000	Maximum penalty of 240 penalty units or imprisonment for 4 years or both
343	Breach of duty to forward claims for enrolment to a DRO	\$1,000 and a strict liability offence	Maximum penalty of 50 penalty units and a strict liability offence
345(3)	Breach of duty on employers to allow an employee time off (of up to 2 hours) for the purpose of voting	Offender is a natural person – \$500 Offender is a body corporate – \$2,500	Maximum penalty of 50 penalty units for a natural person or a maximum penalty of 250 penalty units for a body corporate
346(1)	Prohibition on making or possessing any papers with the “official mark” that is used on ballot papers without lawful authority	\$1,000	Maximum penalty of 50 penalty units
347(1)	Disorderly behaviour at any lawful public political meetings held in relation to the election of MPs during the	\$500	Maximum penalty of 25 penalty units

	election period		
347(4)	Prohibition on a person who has been removed from a public political meeting for being disorderly returning to the meeting	\$1,000 or imprisonment for 6 months, or both	Maximum penalty of 50 penalty units or imprisonment for 10 months or both
348(1)	Prohibition on misconduct at a polling booth	\$500	Maximum penalty of 25 penalty units
351(1)	Prohibition on the publication of certain unauthorised statements purporting to be made on behalf of candidates	Offender is a natural person – \$1,000 Offender is a body corporate – \$5,000	Maximum penalty of 50 penalty units for a natural person or a maximum penalty of 250 penalty units for a body corporate
384	Offence under section 315(3) and 326 are indictable offences which may be dealt with by a court of summary jurisdiction with decreased penalties	315(3) – a fine not exceeding \$5,000 326 – a fine not exceeding \$2,000 or imprisonment for a period not exceeding 12 months or both	