



# **Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004**

**No. 34, 2004**

**An Act to amend the *Commonwealth Electoral Act 1918*, and for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# **Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004**

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**An Act to amend the *Commonwealth Electoral Act 1918*, and for related purposes**

[Assented to 20 April 2004]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Commonwealth Electoral Amendment (Representation in the House of Representatives) Act 2004*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	20 April 2004
2. Schedule 1	On the day after the end of the period of 7 days beginning on the day on which this Act receives the Royal Assent.	27 April 2004

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### ***Commonwealth Electoral Act 1918***

#### **1 Subsection 4(1)**

Insert:

*Census* means a Census of the population taken under section 8 of the *Census and Statistics Act 1905*.

#### **2 Subsection 46(1)**

Repeal the subsection, substitute:

- (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;
  - (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;
  - (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.

### 3 Section 47

Repeal the section, substitute:

#### 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.

**4 Subsection 48(1)**

Omit "The", substitute "Subject to subsection (2G), the".

**5 Paragraph 48(1)(b)**

Omit "and (2B)", substitute ", (2B), (2C) and (2F)".

**6 Subsection 48(2A)**

Omit "subsection (2B)", substitute "subsections (2B), (2C) and (2F)".

**7 Subsection 48(2C)**

Omit "If", substitute "Subject to subsection (2F), if".

**8 Paragraph 48(2C)(e)**

Before "the Electoral Commissioner", insert "subject to subsection (2G),".

**9 After subsection 48(2C)**

Insert:

- (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
  - (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 Northern Territory will have been re-ascertained in accordance with section 46 because of the operation of subsection (2C).

- (2G) The determinations made under subsection (1), and paragraphs (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).

## **10 At the end of section 48**

Add:

- (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).

## **11 After section 48**

Insert:

### **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.

## **12 Subparagraph 49(1)(a)(i)**

Repeal the subparagraph, substitute:

- (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;
  - (E) the Territory of Cocos (Keeling) Islands;
  - (F) the Territory of Christmas Island;
  - (G) each of the other Territories; and

## **13 At the end of paragraph 49(1)(a)**

Add:

- (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

## **14 At the end of subsection 49(1)**

Add:

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Note: Subparagraph (a)(iii)—Adjustments may be necessary to give effect, for example, to the subsection 4(1) definition of the *Australian Capital Territory*, to subsection 45(2), to subsection 46(2) or to subsection 48(2C) or (2F).

## **15 After subsection 49(1)**

Insert:

- (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).

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*[Minister's second reading speech made in—  
House of Representatives on 25 March 2004  
Senate on 1 April 2004]*

(43/04)