



Referendum (Machinery Provisions) Act 1984

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About this compilation

This compilation

This is a compilation of the *Referendum (Machinery Provisions) Act 1984* that shows the text of the law as amended and in force on 1 December 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act relating to the submission to the electors of proposed laws for the alteration of the Constitution

Part I—Preliminary

1 Short title

This Act may be cited as the *Referendum (Machinery Provisions) Act 1984*.

2 Commencement

This Act shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

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

absent voter means an elector voting or desiring to vote pursuant to section 46 other than at a polling place appointed for the Division for which the elector is enrolled.

absent voting means voting as an absent voter pursuant to section 46.

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 is, in the course of the elector's employment:

- (a) in Antarctica; or
- (b) on a ship at sea in transit to or from Antarctica.

approved form means a form that:

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

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(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.

Assistant Divisional Returning Officer means an Assistant Divisional Returning Officer appointed under section 34 of the *Commonwealth Electoral Act 1918*.

Assistant Returning Officer means a person appointed to be an Assistant Returning Officer under section 6 of this Act or, where the voting day for a referendum is the same as that fixed for the polling at an election, under section 33 of the *Commonwealth Electoral Act 1918*.

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 Electoral Officer means:

- (a) an Australian Electoral Officer for a State; or
- (b) the Australian Electoral Officer for the Australian Capital Territory; or
- (c) the Australian Electoral Officer for the Northern Territory.

Australian Electoral Officer for a State means an Australian Electoral Officer for a State referred to in section 20 of the *Commonwealth Electoral Act 1918*.

Australian Electoral Officer for a Territory means an Australian Electoral Officer for a Territory appointed under section 5 of this Act or, where the voting day for a referendum is the same as that fixed for the polling at an election, under section 30 of the *Commonwealth Electoral Act 1918*.

Australian Electoral Officer for the Australian Capital Territory means the Australian Electoral Officer for the Australian Capital Territory appointed under:

- (a) section 5 of this Act; or
- (b) if the voting day for a referendum is the same as that fixed for the polling at an election—section 30 of the *Commonwealth Electoral Act 1918*.

Australian Electoral Officer for the Northern Territory means an Australian Electoral Officer for the Northern Territory referred to in section 20 of the *Commonwealth Electoral Act 1918*.

authorized witness, in relation to any act or thing done by a person for the purposes of voting at a referendum, means:

- (a) in a case to which paragraph (b) does not apply—an elector; or
- (b) in the case of an act or thing done outside Australia:
 - (i) an elector;
 - (ii) an officer of the Defence Force or of the naval, military or air forces of a Commonwealth country;
 - (iii) a member of the civil or public service of a State or Territory or of a Commonwealth country;
 - (iiia) a person appointed or engaged under the *Public Service Act 1999*; or
 - (iv) a justice of the peace for, or a minister of religion or medical practitioner resident in, a State or Territory or a Commonwealth country; or
 - (v) an Australian citizen.

For the purposes of this definition, ***Commonwealth country*** means a political entity, or part of a political entity, that is a member of

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the international organisation known as the Commonwealth of Nations.

capital city office of the Electoral Commission has the meaning given by subsection 90A(3) of the *Commonwealth Electoral Act 1918*.

carriage service provider has the meaning given by section 87 of the *Telecommunications Act 1997*.

certified list of voters, in respect of a Division, means a list prepared and certified under subsection 22(1).

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 20; and
- (b) in relation to a place at which pre-poll ordinary voting is available—a compartment constructed in the place pursuant to section 73CE.

Note: For the places at which pre-poll ordinary voting is available, see section 73CD.

constable means a member or a special member of the Australian Federal Police or a member of the Police Force of a State or Territory.

Controller-General of Prisons, in relation to a State or Territory, means the official having control of the prisons of the State or 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.

Deputy Electoral Commissioner means the Deputy Electoral Commissioner referred to in section 19 of the *Commonwealth Electoral Act 1918*.

Division means an Electoral Division created pursuant to the *Commonwealth Electoral Act 1918* for the election of a member of the House of Representatives.

Divisional Returning Officer means a Divisional Returning Officer referred to in section 32 of the *Commonwealth Electoral Act 1918*.

DRO means Divisional Returning Officer.

election means an election of a Member of the House of Representatives or an election of Senators for a State or Territory.

elector means a person whose name appears on a Roll as an elector.

Electoral Commission means the Australian Electoral Commission established by section 6 of the *Commonwealth Electoral Act 1918*.

Electoral Commissioner means the Electoral Commissioner referred to in section 18 of the *Commonwealth Electoral Act 1918*.

eligible overseas elector means an elector who is entitled under the *Commonwealth Electoral Act 1918* to be treated as an eligible overseas elector for the purposes of that Act.

hospital includes a convalescent home or an institution similar to a hospital or to a convalescent home.

Immigration Department means the Department administered by the Minister administering the *Migration Act 1958*.

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itinerant elector means an elector who is entitled under section 96 of the *Commonwealth Electoral Act 1918* to be treated as an itinerant elector for the purposes of that Act.

listed carriage service has the meaning given by section 16 of the *Telecommunications Act 1997*.

mobile polling team leader means a mobile polling team leader appointed under section 51.

mobile polling team member means a mobile polling team member appointed under section 51.

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

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, 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 138.

polling booth means a building, structure, vehicle or enclosure, or a part of a building, structure, vehicle or enclosure, provided at a polling place for the purpose of taking votes at a referendum.

polling official means a deputy presiding officer or an assistant presiding officer.

polling place means a place appointed as a polling place pursuant to paragraph 80(1)(a) of the *Commonwealth Electoral Act 1918*.

postal voting means voting pursuant to Part IV.

pre-poll declaration vote: see subsection 71A(2).

pre-poll ordinary vote: see subsection 71A(2).

pre-poll voting office for a referendum means a place declared by the Electoral Commissioner under subsection 73AA(1) to be a pre-poll voting office for the referendum.

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

referendum means the submission to the electors of a proposed law for the alteration of the Constitution.

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

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.

Regulatory Powers Act means the *Regulatory Powers (Standard Provisions) Act 2014*.

Roll means a roll of electors kept pursuant to the *Commonwealth Electoral Act 1918*.

Subdivision means a Subdivision of a Division referred to in paragraph 79(1)(a) of the *Commonwealth Electoral Act 1918*.

substitute presiding officer means a person holding an appointment under section 18.

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.

voting day, in relation to a referendum, means the day fixed for the taking of the votes for the purposes of the referendum.

Section 3A

- (1A) A person is *provisionally enrolled* if:
- (a) the person is provisionally enrolled under section 99B of the *Commonwealth Electoral Act 1918*; or
 - (b) the person is provisionally enrolled under section 38 of this Act.
- (2) 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.
- (3) This Act extends to:
- (a) Norfolk Island; and
 - (b) the Territory of Cocos (Keeling) Islands; and
 - (c) the Territory of Christmas Island.
- (4) In relation to a matter concerning an elector or any other matter arising under this Act, a provision of this Act that includes the expression “the Australian Electoral Officer” without words relating the expression to a particular State or Territory shall be read as referring to the Australian Electoral Officer for the State or Territory for which the elector is enrolled or in which the matter arises, as the case requires.
- (5) In relation to a matter concerning an elector or any other matter arising under this Act, a provision of this Act that includes the expression “the Divisional Returning Officer” without words relating the expression to a particular Division shall be read as referring to the Divisional Returning Officer for the Division for which the elector is enrolled or in which the matter arises, as the case requires.

3A Extraterritorial operation of Act

This Act extends to officers outside Australia.

3B Application to 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.

3C 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.

4 Electors entitled to vote at a referendum

- (1) An elector is entitled to vote at a referendum where, if the referendum were an election, the elector would be entitled to vote at the election.
- (2) For the purposes of voting at a referendum:
 - (a) applications or claims for enrolment, or transfer of enrolment, under the *Commonwealth Electoral Act 1918* (including applications or claims to which subsection 99B(6) or 100(2) of that Act apply) that are received during the period (the *suspension period*):
 - (i) starting at 8 pm on the day of the close of the Rolls for a referendum; and
 - (ii) ending on the close of voting at the referendum; must not be considered until after the end of the suspension period; and
 - (aa) a name must not be deleted from a roll or entered on another roll under section 103A of the *Commonwealth Electoral Act 1918* during the suspension period; and
 - (ab) a name must not be entered on a roll under section 103B of the *Commonwealth Electoral Act 1918* during the suspension period; and

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- (b) a name must not be removed from a roll under section 118 of the *Commonwealth Electoral Act 1918* during the suspension period.

5 Australian Electoral Officer for the Australian Capital Territory

- (1) The Electoral Commission must, for the purposes of each referendum, appoint an Australian Electoral Officer for the Australian Capital Territory and such an appointment terminates upon the completion of the referendum.
- (2) The Electoral 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 Australian Capital 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*.

6 Assistant Returning Officers and Assistant Divisional Returning Officers

- (1) The Electoral Commissioner may, for the purposes of a referendum, 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 referendum.
- (4) An Assistant Divisional Returning Officer for a Subdivision may, subject to the directions 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.

6A AEC staff may act as Divisional Returning Officers or Assistant Divisional Returning Officers

- (1) The Electoral Commissioner may, in writing, authorise one or more persons who are members of the staff of the Electoral Commission to exercise or perform:
 - (a) in relation to one or more specified Divisions, powers, functions or duties that are conferred on a Divisional Returning Officer for those Divisions; or
 - (b) in relation to one or more specified Subdivisions, powers, functions or duties that are conferred on an Assistant Divisional Returning Officer for those Subdivisions.
- (2) An authorisation:
 - (a) may be made subject to conditions or limitations specified in the authorisation; and
 - (b) does not limit the power of a Divisional Returning Officer or Assistant Divisional Returning Officer (as the case requires) to act in any matter.

Effect of authorisation relating to DROs

- (3) If an authorisation is given in relation to the powers, functions or duties of a Divisional Returning Officer for a specified Division:
 - (a) the person authorised in relation to the Division may exercise or perform any power, function or duty of a Divisional Returning Officer for the Division, subject to:
 - (i) any condition or limitation under paragraph (2)(a); and
 - (ii) any direction of a Divisional Returning Officer for the Division; and
 - (b) a reference to a Divisional Returning Officer or DRO in this Act is taken to include a reference to the person.

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Effect of authorisation relating to Assistant Divisional Returning Officers

- (4) If an authorisation is given in relation to the powers, functions or duties of an Assistant Divisional Returning Officer for a specified Subdivision:
- (a) the person authorised in relation to the Subdivision may exercise or perform any power, function or duty of an Assistant Divisional Returning Officer for the Subdivision, subject to:
 - (i) any condition or limitation under paragraph (2)(a); and
 - (ii) any direction of an Assistant Divisional Returning Officer for the Subdivision, or of a Divisional Returning Officer for the Division in which the Subdivision is situated; and
 - (b) a reference to an Assistant Divisional Returning Officer in this Act is taken to include a reference to the person.

Note: As a result of subsection 6(4), the person authorised may also exercise or perform, in relation to the Subdivision, any power, function or duty of the Divisional Returning Officer for the Division in which the Subdivision is situated.

Part II—Writ for a referendum

7 Writ for a referendum

Whenever a proposed law for the alteration of the Constitution is to be submitted to the electors, the Governor-General may issue a writ for the submission of the proposed law to the electors.

8 Form of writ

- (1) A writ issued under section 7 may be in accordance with Form A in Schedule 1, shall be signed by the Governor-General and shall appoint:
 - (a) the day for the close of the Rolls;
 - (b) the day, being a Saturday, for taking the votes of electors; and
 - (c) the day for the return of the writ.
- (1A) The date fixed for the return of the writ must not be more than 100 days after the issue of the writ.
- (2) The Governor-General shall cause to be attached to the writ a copy of the proposed law, or a copy of a statement setting out:
 - (a) the text of the proposed law; and
 - (b) the text of the particular provisions (if any) of the Constitution proposed to be textually altered by the proposed law, and the textual alterations proposed to be made therein.
- (3) For the purposes of this Act, a writ shall be deemed to have been issued at 6 o'clock in the afternoon of the day on which the writ was issued.

9 Day for close of Rolls and voting day

- (1) The day fixed for the close of the Rolls is the seventh day after the issue of the writ.

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- (2) The day fixed for taking the votes of electors at a referendum shall be not less than 33 days and not more than 58 days after the issue of the writ.

10 Extension of time

- (1) In spite of any other provision of this Act, the Governor-General may, before the voting day for a referendum, by notice published in the *Gazette*, fix a later day for the taking of votes of electors, either generally or for a specified Division.
- (2) The Electoral Commissioner shall, as soon as possible, give such notice of the fixing of the new day as he or she thinks necessary.
- (3) Where the voting day for a referendum is the same as the day fixed for the polling at an election and the time for holding the election is extended under section 286 of the *Commonwealth Electoral Act 1918*:
- (a) where the extension of time for holding the election relates only to a specified Division—the day on which the election is to be held in that Division shall be taken to be the voting day for the referendum in that Division; and
 - (b) in any other case—the day on which the election is to be held shall be taken to be the voting day for the referendum.
- (4) In spite of any other provision of this Act, the Governor-General may, before or after the voting day for a referendum, by notice published in the *Gazette*, postpone the day appointed under subsection 8(1) for the return of the writ.
- (5) A day to which the taking of votes or the return of the writ is postponed under this section shall, for the purposes of other provisions of this Act, be regarded as having been appointed under subsection 8(1).

11 Distribution to electors of arguments for and against proposed law

(1) Where:

- (a) a proposed law for the alteration of the Constitution, being a proposed law passed by an absolute majority of both Houses of the Parliament, is to be submitted to the electors; and
- (b) within 4 weeks after the passage of that proposed law through both Houses of the Parliament, there is forwarded to the Electoral Commissioner:
 - (i) an argument in favour of the proposed law, consisting of not more than 2,000 words, authorized by a majority of those members of the Parliament who voted for the proposed law and desire to forward such an argument; or
 - (ii) an argument against the proposed law, consisting of not more than 2,000 words, authorized by a majority of those members of the Parliament who voted against the proposed law and desire to forward such an argument;

the Electoral Commissioner shall, unless the Minister informs the Electoral Commissioner that the referendum is not to be held, not later than 14 days before the voting day for the referendum, cause to be printed and to be sent to each address to which subsection (2A) applies, as nearly as practicable, a pamphlet containing the arguments together with a statement showing the textual alterations and additions proposed to be made to the Constitution.

(2) Where:

- (a) a proposed law for the alteration of the Constitution, being a proposed law passed by an absolute majority of one House of the Parliament only, is to be submitted to the electors; and
- (b) within 4 weeks after the second passage of that proposed law through that House of the Parliament, there is forwarded to the Electoral Commissioner:
 - (i) an argument in favour of the proposed law, consisting of not more than 2,000 words, authorized by a majority of

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those members of the Parliament who voted for the proposed law and desire to forward such an argument;
or

- (ii) an argument against the proposed law, consisting of not more than 2,000 words, authorized by a majority of those members of the Parliament who voted against the proposed law and desire to forward such an argument;

the Electoral Commissioner shall, unless the Minister informs the Electoral Commissioner that the referendum is not to be held, not later than 14 days before the voting day for the referendum, cause to be printed and to be sent to each address to which subsection (2A) applies, as nearly as practicable, a pamphlet containing the arguments together with a statement showing the textual alterations and additions proposed to be made to the Constitution.

(2A) This subsection applies to the following addresses:

- (a) an address that is shown on the Roll for a Subdivision;
(b) an address that is not shown on the Roll for a Subdivision because of section 104 of the *Commonwealth Electoral Act 1918*.

(2B) The Electoral Commissioner may arrange for a pamphlet referred to in subsection (1) or (2) to be sent to any other addresses that the Electoral Commissioner considers appropriate.

(2C) The Electoral Commissioner may arrange for the information in a pamphlet referred to in subsection (1) or (2) to be sent to any email addresses that the Electoral Commissioner considers appropriate.

(3) When there are to be referendums upon more than one proposed law on the same day:

- (a) the arguments in relation to all the proposed laws shall be printed in one pamphlet;
(b) the argument in favour of any proposed law may exceed 2,000 words if the arguments in favour of all the proposed laws do not average more than 2,000 words each and the argument against any proposed law may exceed 2,000 words

- if the arguments against all the proposed laws do not average more than 2,000 words each; and
- (c) there may be one statement setting out all the alterations and additions proposed to be made to the Constitution by all the proposed laws, with marginal notes identifying the proposed law by which each alteration or addition is proposed to be made.
- (4) The Commonwealth shall not expend money in respect of the presentation of the argument in favour of, or the argument against, a proposed law except in relation to:
- (a) the preparation, printing and sending, in accordance with this section, of the pamphlets referred to in this section;
 - (aa) the preparation, by or on behalf of the Electoral Commission, of translations into other languages of material contained in those pamphlets;
 - (ab) the preparation, by or on behalf of the Electoral Commission, of presentations of material contained in those pamphlets in forms suitable for the visually impaired;
 - (ac) the distribution or publication, by or on behalf of the Electoral Commission, of those pamphlets, translations or presentations (including publication on the internet);
 - (b) the provision by the Electoral Commission of other information relating to, or relating to the effect of, the proposed law; or
 - (c) the salaries and allowances of members of the Parliament, of members of the staff of members of the Parliament or of persons who are appointed or engaged under the *Public Service Act 1999*.

12 Governor-General to deal with writ

The Governor-General shall, immediately after the issue of a writ for a referendum:

- (a) cause a copy of the writ and a copy of the proposed law or of the statement (if any) attached to the writ to be forwarded to the Governors of the several States, to the Chief Minister for

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the Australian Capital Territory and to the Administrator of the Northern Territory; and

- (b) forward the original writ and a copy of the proposed law or of the statement (if any) attached to the writ to the Electoral Commissioner.

13 Action by Electoral Commissioner

The Electoral Commissioner shall, immediately after receiving a writ for a referendum:

- (a) advise each Australian Electoral Officer of the particulars of the writ; and
- (b) cause to be published in the *Gazette* a notice setting out the particulars of the writ and a copy of the proposed law or of the statement (if any) attached to the writ.

14 Action by Electoral Officers

- (1) The Australian Electoral Officer for each State and Territory shall, immediately after receiving advice of the particulars of a writ for a referendum:

- (a) cause copies of a statement setting out the text of the proposed law and the text of the particular provisions (if any) of the Constitution proposed to be altered by the proposed law to be made available at offices of the Electoral Commission in that State or Territory and at such other places as the Electoral Commissioner directs;
- (b) cause a notice setting out:
 - (i) the particulars of the writ; and
 - (ii) a copy of the proposed law or of the statement (if any) attached to the writ; and
 - (iii) the places at which copies of the statement referred to in paragraph (a) are available;to be inserted in:
 - (iv) not less than 2 newspapers circulating generally in the State or Territory; or

- (v) if there is only one newspaper circulating generally in the State or Territory—that newspaper; and
 - (c) advise each Divisional Returning Officer in that State or Territory of the particulars of the writ.
- (2) The Divisional Returning Officers of the States and the Territories shall, subject to this Act and to the directions of the Electoral Commissioner and the Australian Electoral Officers of their respective States and Territories, immediately after receiving advice of the particulars of a writ for a referendum, take all action that is necessary to be taken to carry the writ into effect.

Part III—Voting at a referendum

Division 1—General

15 Voting on same day throughout Australia

Subject to sections 42 and 43, the voting at a referendum shall be taken throughout Australia on the day appointed by the writ for the referendum for taking the votes of the electors.

16 Polling places

- (1) The polling places appointed pursuant to paragraph 80(1)(a) of the *Commonwealth Electoral Act 1918* shall in addition be polling places for the purposes of a referendum.
- (2) The Electoral Commissioner shall, on at least one occasion after the issue of a writ for a referendum but before the day fixed for taking the votes at the referendum, if it is practicable to do so, in respect of each Division cause to be published 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, at the time of the last referendum or at the time of the last election for which a poll was taken in that Division, whichever last occurred, polling places for that Division but that have been abolished since that time.
- (3) Where the voting day for a referendum is the same as that fixed for the polling at an election, the publication by the Electoral Commissioner of a notice in respect of a Division under subsection 80(3) of the *Commonwealth Electoral Act 1918* shall be deemed to be a publication under subsection (2) of this section.

16A 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 a referendum, other than a referendum held on the same day as an election, unless the officer has signed an undertaking in the approved form relating to that referendum.
- (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;
 - (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 a referendum not 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 a referendum.

17 Arrangements for voting

- (1) Each Divisional Returning Officer shall, for the purposes of a referendum:

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- (a) provide and equip proper polling booths and provide ballot-boxes; and
 - (b) provide ballot-papers and all necessary certified lists of voters and approved lists of voters.
- (2) The Electoral Commission shall, for the purposes of a referendum, appoint a presiding officer to preside at each polling place and all necessary deputy presiding officers and assistant presiding officers, and such appointments shall terminate upon the completion of the referendum.
- (3) In any emergency on the voting day for a referendum due to the absence of any deputy presiding officer or assistant presiding officer, or to any unforeseen and continued pressure at the voting that cannot be met by the duly appointed officers, a presiding officer may appoint any person to act as deputy presiding officer or assistant presiding officer, and a person so appointed shall, if the Electoral Commission afterwards ratifies the appointment, be deemed to have been duly appointed.
- (4) A person who is under the age of 18 years shall not be appointed to be a presiding officer, deputy presiding officer or assistant presiding officer.
- (5) A deputy presiding officer or assistant presiding officer may, subject to the directions 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 a referendum may be used for the purposes of an election held on the same day, but the ballot-papers for the election and the referendum shall be distinctively coloured.

18 Substitute for presiding officer

- (1) During a temporary absence of a presiding officer, the duties of the presiding officer may be performed by a person appointed for the purpose by the presiding officer.

- (2) A person so appointed has all the powers of the presiding officer.

19 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.

20 Separate voting compartments

Polling booths must have separate voting compartments, constructed so as to screen the voters from observation while they are marking their ballot-papers, and each voting compartment must have an implement or method for voters to mark their ballot-papers.

21 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 voting at a referendum:

- (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.

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22 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 voting day; and
 - (c) is not covered by subsection 93(8AA) of the *Commonwealth Electoral Act 1918* (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, of 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 73CD (but disregarding subsection 73CD(4)), available to voters enrolled for the Division.

22A 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.

23 Election and referendum on the same day

Where the voting day for a referendum is the same as that fixed for the polling at an election:

- (a) a person appointed to be an Australian Electoral Officer for a Territory or a presiding officer, deputy presiding officer, substitute presiding officer or assistant presiding officer for the purposes of the polling at the election shall be deemed to be an Australian Electoral Officer for that Territory or a presiding officer, deputy presiding officer, substitute presiding officer or assistant presiding officer, as the case may be, for the purposes of the referendum;
- (b) the same polling booths and ballot-boxes may be used for the purposes of both the election and the referendum, but if the same ballot-boxes are used, the ballot-papers for the referendum shall be of a different colour to the ballot-papers for the election; and
- (c) the same certified lists of voters and approved lists of voters may be used for the purposes of both the election and the referendum.

24 Manner of voting

The voting at a referendum shall be by ballot and each elector shall indicate his or her vote:

- (a) if the elector approves the proposed law—by writing the word “Yes” in the space provided on the ballot-paper; or
- (b) if the elector does not approve the proposed law—by writing the word “No” in the space so provided.

25 Forms of ballot-paper

- (1) Subject to this section, the ballot-papers to be used in a referendum shall:
 - (a) be in accordance with Form B in Schedule 1; and
 - (b) have a buff background colour.

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- (2) Subject to subsection (3A), where 2 or more referendums are held on the same day, the ballot-papers for each referendum shall be printed on one piece of paper and shall be in accordance with Form C in Schedule 1.
- (3) Where 2 or more ballot-papers are printed on one piece of paper as mentioned in subsection (2):
- (a) it is not necessary for the initials of a presiding officer or polling official to appear more than once on the piece of paper;
 - (b) the presence of any mark or writing on the piece of paper by which a voter can be identified invalidates all the ballot-papers and all the votes on the piece of paper; and
 - (c) a ground of informality (other than the ground referred to in paragraph (b)) applies only to the particular ballot-paper and vote to which it relates, and does not affect the validity of any other ballot-paper or vote.
- (3A) If:
- (a) the Minister gives a written notice to the Electoral Commissioner that identifies 2 or more proposed laws; and
 - (b) referendums are to be held on the same day (the *referendum day*) in relation to 2 or more of the proposed laws identified in the notice; and
 - (c) the notice under paragraph (a) is given to the Electoral Commissioner at least 28 days before the issue of the writs for those referendums;
- then:
- (d) the ballot papers for each referendum held on the referendum day must be printed on separate pieces of paper; and
 - (e) for each of those referendums, the ballot papers must be of a different colour, chosen by the Electoral Commissioner.
- (4) The ballot-papers to be used for postal voting shall have the words “Postal Ballot-paper” or “Postal Ballot-papers” as a heading and shall contain the following directions: “Fold the ballot-paper, place

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it in the envelope on which the postal vote certificate is printed and fasten the envelope”.

- (5) Before issuing a ballot-paper for use at a referendum, an officer shall, if the name of the State or Territory printed on the ballot-paper is not the name of the State or Territory in which the referendum is to be held, strike out that name and insert the name of the State or Territory in which the referendum is to be held.
- (6) 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 (4) are printed or written on the ballot-paper.

25A 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.

25B Administrative markings

- (1) The Electoral Commissioner may also provide for a ballot-paper to be marked with any other mark that the Electoral Commissioner thinks fit to assist in the administration of the referendum.
- (2) A mark under subsection (1) does not need to be printed in black typeface.
- (3) To avoid doubt, this section does not authorise a mark to be made that enables the identification of an elector or that identifies the personal information (within the meaning of the *Privacy Act 1988*) of an elector.

Note: An officer who marks a ballot paper enabling an elector to be identified may commit an offence under subsection 93(7).

26 Ballot-papers to be initialled

- (1) Each presiding officer or polling official must place his or her initials on the top of the front of each ballot-paper before handing the ballot-paper to a person claiming to vote.
- (2) Each presiding officer shall cause to be kept an exact account of all ballot-papers so initialled.
- (3) To avoid doubt, this section also applies to a ballot-paper that is a photocopy of an original ballot-paper.

27 Appointment of scrutineers

- (1) The Governor-General, or a person authorized by him or her to act under this subsection, may appoint one person to act as a scrutineer during voting at a referendum at each place in Australia where voting is being conducted.
- (2) The Governor of a State, or a person authorized by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each place in that State where voting is being conducted.
- (2A) The Chief Minister for the Australian Capital Territory, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each place in the Territory where voting is being conducted.
- (3) The Administrator of the Northern Territory, or a person authorized by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each place in the Northern Territory where voting is being conducted.
- (4) The registered officer of a registered political party may appoint persons to act as scrutineers during voting at a referendum at each place in Australia where voting is being conducted, but not more than one scrutineer for each party shall be allowed at each polling booth at any one time.

(5) In this section:

registered officer, in relation to a registered political party, has the same meaning as the expression has in Part XIV of the *Commonwealth Electoral Act 1918* by virtue of section 4C of that Act.

registered political party has the same meaning as in the *Commonwealth Electoral Act 1918*.

28 Provisions relating to scrutineers

(1) A scrutineer appointed under section 27 shall not:

- (a) interfere with or attempt to influence any elector within a polling booth; or
- (b) communicate with any person in a polling booth except so far as is necessary in the discharge of his or her functions.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

(2) A scrutineer appointed under section 27 shall not be prevented from entering or leaving a polling booth during the voting at a referendum.

(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 appointed under section 27 who commits any breach of this section, or who is guilty of misconduct at a polling booth, or who fails at a polling booth to obey the lawful directions of the presiding officer at the polling booth, may be removed from the polling booth by any constable or by a person authorized by the presiding officer to remove the scrutineer.

29 Voting at a referendum

(1) The voting at a referendum shall be conducted as follows:

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- (a) before any vote is taken at a polling booth, the presiding officer at that polling booth shall exhibit each ballot-box that is to be used for the referendum empty, and shall then securely fasten its cover;
 - (b) each polling booth shall open at 8 o'clock in the morning on the voting day and shall not close until all the electors who are present in the polling booth at 6 o'clock in the afternoon on the voting day and who desire to vote at the referendum have voted;
 - (c) the doors of each polling booth shall be closed at 6 o'clock in the afternoon on the voting day and no person shall be admitted to the polling booth after that hour for the purpose of voting;
 - (d) except where the scrutiny is to be proceeded with immediately after the close of voting at a polling booth, at the close of the voting each presiding officer at a polling booth shall, in the presence of a polling official and of any scrutineers appointed under section 27 who are at the polling booth, close, fasten, seal and take charge of each ballot-box used for the referendum and with the least possible delay forward the ballot-box for the purpose of scrutiny.
- (2) A ballot-box used for a referendum shall not be opened except in accordance with this Act or, if the ballot-box has been used for both the referendum and an election, in accordance with this Act or the *Commonwealth Electoral Act 1918*.

30 Questions to be put to voter

- (1) The presiding officer or a polling official must put to each person attending before the officer or official, and claiming to vote in a referendum or referendums (as the case requires), questions in order to ascertain:
- (a) the person's full name; and
 - (b) the person's place of living; and
 - (c) whether the person has voted before at the referendum or referendums (as the case requires).

- (2) In addition to the questions put under subsection (1), the officer or official must ask each person claiming to vote as an absent voter 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 under subsection (1) do not satisfy the officer or official 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 or official 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) A person's claim to vote at a referendum must (subject to section 37) be rejected if:
 - (a) questions are put to the person under subsection (1) and the person:
 - (i) refuses to answer fully any of the questions; or
 - (ii) answers a question so as to indicate that the person has voted before in the relevant referendum or referendums (as the case requires); and
 - (b) the presiding officer is satisfied that subparagraph (a)(i) or (ii) applies in relation to the person.

Note: Section 37 deals with provisional votes.

31 Questions to be put to voter when election and referendum on the same day

- (1) Where the voting day for a referendum is the same as that fixed for the polling at an election, the answers by a person claiming to vote at the referendum to the questions put under section 229 of the *Commonwealth Electoral Act 1918* for the purposes of the election may, if they are satisfactory as regards the election, be accepted as sufficient to enable the person to vote at the referendum.
- (2) If the presiding officer or a polling official accepts under subsection (1) the answers by a person as sufficient to enable the person to vote at a referendum, the officer or official may, if the officer or official thinks fit, put to the person questions in order to

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ascertain whether the person has voted before in the referendum or referendums.

- (3) If the person answers so as to indicate that the person has voted before in the referendum or referendums or does not answer, the person's claim to vote must be rejected if the presiding officer is satisfied that this subsection applies.

32 Errors not to forfeit vote

- (1) The claim of a person to vote at a referendum shall not be rejected by reason only:
- (a) that the person's Christian or given name has been omitted from the Roll, a certified list of voters or an approved list of voters; or
 - (b) of the entry in the Roll, a certified list of voters or an approved list of voters of a wrong Christian or given name, a wrong sex, a wrong date of birth, a wrong address or of a wrongly spelt surname;
- if, in the opinion of the presiding officer, a polling official, or a voting officer within the meaning of Division 3 of Part IVA, the person is sufficiently identified.
- (2) The claim of an elector to vote at a referendum shall not be rejected by reason only that he or she has changed his or her surname by reason of marriage and that that change has not been reflected in the Roll.

33 Right of elector to receive ballot-paper

- (1) Subject to section 37, the presiding officer or a polling official at each polling booth shall hand to each person claiming to vote at a referendum a ballot-paper duly initialled by the officer or official if:
- (a) the name under which the person claims to vote is on the certified list of voters or an approved list of voters used at the polling booth, and the person's answers to the questions

referred to in sections 30 and 31 show that he or she is entitled to vote; or

- (b) the person claims to vote pursuant to provisions of this Act relating to absent voting and complies with those provisions.
- (2) A presiding officer or polling official shall, at the request of a scrutineer appointed under section 27, note any objection by the scrutineer to the right of any person to vote at a referendum, and shall keep a record of all objections.

34 List of voters to be marked when ballot-paper issued

- (1) If a ballot paper has been, or is to be, given to a person who claims to vote at a polling place and whose name is on the certified list of voters, or an approved list of voters, available at the polling place, the presiding officer or a polling official at the polling 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, or is to be, handed a ballot paper.
- (2) The presiding officer or a polling official at a polling place must 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 46(1) or (1A) that he or she is enrolled, and must, at the close of the voting at the referendum, forward the record, duly certified by the presiding officer, in accordance with section 46A.
- (3) If the voting day for a referendum is the same as that fixed for the polling at an election:
- (a) the requirement in subsection (1) of this section is taken to have been met in relation to a person if the requirement in subsection 232(1) of the *Commonwealth Electoral Act 1918* has been met in relation to the person; and
 - (b) the requirements in subsection (2) of this section are taken to have been met in relation to a person if the requirements in

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subsection 232(2) of the *Commonwealth Electoral Act 1918* have been met in relation to the person.

35 Vote to be marked in private

Except as otherwise prescribed, a person voting at a polling booth at a referendum shall, upon receipt of a ballot-paper:

- (a) retire alone to an unoccupied voting compartment at the polling booth and mark, in private, his or her vote on the ballot-paper;
- (b) fold the ballot-paper so as to conceal his or her vote and place it in the ballot-box; and
- (c) leave the booth.

36 Assistance to certain voters

- (1) If any voter satisfies the presiding officer at a polling booth that his or her sight is so impaired or that the voter is so illiterate or physically incapacitated as to be unable to vote without assistance, the presiding officer shall permit a person appointed by the voter to enter an unoccupied voting 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 48 for the purpose of taking the patient's vote must explain to the patient the effect of subsection (1) of this section.
- (2) If a voter referred to in subsection (1) fails to appoint a person pursuant to subsection (1), the presiding officer or a polling official, in the presence of such scrutineers appointed under section 27 as are present, or, if there are no scrutineers appointed under that section present, in the presence of:
 - (a) another person who is either the presiding officer or a polling official; or
 - (b) if the voter so desires, a person appointed by the voter;shall mark, fold and deposit the voter's ballot-paper.

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- (3) Without limiting the generality of subsection (2), a voter to whom that subsection applies may indicate to the presiding officer or polling official the manner in which the voter wishes the officer or official to mark the ballot-paper for the voter by presenting to the officer or official 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 a provisional or absent voter, the presiding officer or a polling official shall:
 - (a) fill in the declaration referred to in subsection 37(2) or 46(1) or (1A) with the required particulars as given 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 another person who is either the presiding officer or a polling official.

36A 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 scrutineers 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 the presiding officer or a polling official; and
 - (b) must fold the ballot-paper so as to conceal his or her vote, and hand the ballot-paper to the officer or official.

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- (4) The presiding officer or 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, mark and fold, or allow a polling official to mark and fold, the voter's ballot-paper.
- (6) The voter must indicate to the presiding officer or polling official how the voter wishes the officer or 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 presiding officer or 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 presiding officer or polling official must:
 - (a) fill in the declaration referred to in subsection 37(2) or 46(1) or (1A) 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 another person who is either the presiding officer or a polling official.

37 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 a Division but his or her address does not appear on the list; or
 - (c) the presiding officer or a polling official has asked the person one or more questions under subsection 30(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 or official 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 person has already voted; or
 - (e) the person is provisionally enrolled.
- (1A) In this Part (other than section 45) and in Schedule 4:
- (a) a reference to an elector includes a reference to a person who has cast 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 elector 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 the presiding officer or a polling official.
- (4) The presiding officer or polling official shall then sign the declaration as witness, adding the date.

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- (5) Before issuing a ballot-paper to the person, the presiding officer or 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 cast a provisional vote.
- (6) A person who casts a provisional vote shall fold the ballot-paper and hand it to the presiding officer or polling official who issued it.
- (7) The presiding officer or 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 Assistant Returning Officer who opens the ballot-box shall deal with the envelope according to section 46A.

38 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 voting day for a referendum; or
 - (ii) a writ for a referendum has been issued; and
 - (b) the voting day for the referendum is not the same as that fixed for the polling at an election; and
 - (c) 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 day of the issue of writ; and
 - (ii) the voting day for the referendum; and
 - (d) the person is not enrolled; and
 - (e) the person is not qualified for enrolment, but would be so qualified if he or she were an Australian citizen.

- Note 1: 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 voting day (see paragraph 6 of Schedule 4).
- Note 2: A person may make a similar application under section 99B of the *Commonwealth Electoral Act 1918* if the voting day for the referendum is the same as that fixed for the polling at an election.

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 voting day for the referendum and the day of the issue of the writ;
 - (ii) 8 pm on the day of the close of the Rolls for the referendum; 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;

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- (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 for which the person would be provisionally enrolled if he or she had made an application under section 99B of the *Commonwealth Electoral Act 1918*; 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 voting day for the referendum, 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 under the *Commonwealth Electoral Act 1918* for enrolment for the Subdivision mentioned in paragraph (5)(a); and
 - (c) sections 102, 103 and 104 of the *Commonwealth Electoral Act 1918* apply to the application as if it were a claim made under section 101 of that Act.
- (7) Otherwise, the Electoral Commissioner must notify the person, in writing, that the person's provisional enrolment has ceased.

39 Other general provisions about applications under section 38

- (1) The Electoral Commissioner may, in writing, determine one or more addresses to which applications under section 38 may be sent.
- (2) A determination under subsection (1) may specify different addresses for use in different circumstances.
- (3) To avoid doubt, an address determined under subsection (1) may be an electronic address.
- (4) If a person sends an application under section 38 to an address in accordance with a determination under subsection (1), the person is taken to have sent the application to the Electoral Commissioner.

Note: Requirements of section 38 relating to the form, content etc. of the application must still be complied with.

- (5) A determination under subsection (1) is not a legislative instrument.

40 Election and referendum on the same day

Where the voting day for a referendum is the same as that fixed for the polling at an election:

- (a) a declaration made for the purposes of the election under section 235 of the *Commonwealth Electoral Act 1918* shall be deemed to be a declaration made under subsection 37(2) of this Act; and
- (b) a ballot-paper containing the vote of a person claiming to vote pursuant to section 37 of this Act may be enclosed in the same envelope as that in which the ballot-paper containing the vote of the person under section 235 of the *Commonwealth Electoral Act 1918* is enclosed.

41 Spoilt ballot-papers

- (1) If a person voting at a referendum, before depositing a ballot-paper in a ballot-box, satisfies the presiding officer, a voting officer

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within the meaning of Division 3 of Part IVA, or a polling official, that the person has spoiled the ballot-paper by mistake or accident, the officer or official shall provide the person with a new ballot-paper and shall cancel the spoiled ballot-paper.

- (2) If a person voting at a referendum in a manner that will involve a ballot-paper being placed in an envelope satisfies the officer or official who issued the ballot-paper that, before the ballot-paper was placed in the relevant envelope, he or she spoiled the ballot-paper by mistake or accident, the officer or official shall provide the person with a new ballot-paper and shall cancel the spoiled ballot-paper.
- (3) An officer or official who has cancelled a spoiled 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 spoiled ballot-papers that have been cancelled under subsection (1) or (2) shall be sealed up in a parcel which shall be given to the DRO for the Division after the close of voting.

41AA 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 DRO for the Division after the close of voting.

41AB Ballot-boxes opened before close of voting

- (1) This section applies if, in relation to a referendum, an officer becomes aware that a ballot-box containing ballot-papers for the referendum (including ballot-papers enclosed in envelopes) has been opened before the close of voting other than as mentioned in subsection 29(2).
- (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 voting other than as mentioned in subsection 29(2) (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.

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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 VI (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 4 (see subsections (9) and (10)).
- (7) The AEO must decide that a ballot-paper is to be included in the scrutiny under Part VI 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 VI, 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 4 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 4, the envelope is to be excluded from that scrutiny.
- (11) The AEO must, after examining all the ballot-papers and envelopes:
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- (a) place in a parcel the ballot-papers that are to be included in the scrutiny under Part VI; and
 - (b) place in another parcel the ballot-papers that are to be excluded from the scrutiny under Part VI; and
 - (c) place in another parcel the envelopes that are to be included in the preliminary scrutiny conducted in accordance with Schedule 4; and
 - (d) place in another parcel the envelopes that are to be excluded from the preliminary scrutiny conducted in accordance with Schedule 4; 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 VI or in the preliminary scrutiny conducted in accordance with Schedule 4, as the case requires.
- (13) Before publication in the *Gazette* of the statement by the Electoral Commissioner showing the result of the referendum, the AEO must advise the Electoral Commissioner of the following:
- (a) a ballot-box was opened before the close of voting other than as mentioned in subsection 29(2);
 - (b) the number of ballot-papers the AEO examined;
 - (c) the number of ballot-papers that were excluded from the scrutiny under Part VI 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 4 because the AEO was satisfied that they had been fraudulently altered.

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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 VIII, 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 publication in the *Gazette* of the statement by the Electoral Commissioner showing the result of the referendum in which the things were used; and
 - (b) the things are no longer required by the Electoral Commission for the performance of its functions.

41A Temporary suspension of polling

- (1) The presiding officer may temporarily suspend the voting at a referendum for a period if the presiding officer is satisfied that the suspension of voting 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.
- (2) If:
 - (a) the voting day for a referendum is the same as that fixed for the polling at an election; and

(b) the presiding officer at a polling booth temporarily suspends the polling at the polling booth for a period under section 240A of the *Commonwealth Electoral Act 1918*;
the presiding officer must temporarily suspend the voting at the referendum at the polling booth for the same period.

42 Adjournment of voting

- (1) The presiding officer at a polling booth may adjourn the voting at a referendum at that polling booth from day to day if the voting 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.
- (2) If from any cause any polling booth at a polling place is not opened on the voting day at a referendum the presiding officer at the polling booth may adjourn the voting for a period not exceeding 21 days, and shall forthwith give public notice of the adjournment.

43 Adjournment at both referendum and election

Where:

- (a) the voting day for a referendum is the same as that fixed for the polling at an election; and
 - (b) the presiding officer at a polling booth adjourns the polling at the election to a particular day pursuant to section 241 or 242 of the *Commonwealth Electoral Act 1918*;
- the presiding officer shall adjourn the voting at the referendum to the same day.

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44 Adjourned voting

Where the voting at a referendum is adjourned at a polling place, only those electors:

- (a) who are enrolled for the Subdivision for which the polling place is appointed; or
- (b) who are, by virtue of section 37, entitled to vote as electors of that Subdivision;

and who have not already voted, are entitled to vote during the adjourned voting at that polling place.

45 Compulsory voting

- (1) It is the duty of every elector to vote at a referendum.
- (2) The Electoral Commissioner must, after the voting day at a referendum, being a referendum the voting day for which was not the same as that fixed for the polling at a Senate election or a general election of members of the House of Representatives, prepare for each Division a list of the names and addresses of the electors who appear to have failed to vote at the referendum.
- (3) Subject to subsection (4), within the period of 3 months after the voting day at a referendum, 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 the voting day for the referendum; or
 - (c) was ineligible to vote at the referendum; 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 referendum; and
 - (b) it is an offence to fail to vote at a referendum 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 send by post or deliver to the elector, at his or her latest known address, a second penalty notice, having, subject to subsection (7), the same form as the first such notice but bearing 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.

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- (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 (14) 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 (14) 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.
- (13A) 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.
- (14) An elector commits an offence if the elector fails to vote at a referendum.

Penalty: 1 penalty unit.

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(14A) Strict liability applies to an offence against subsection (14).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

(14B) Subsection (14) 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 (14B) (see subsection 13.3(3) of the *Criminal Code*).

(14C) 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.

(15) 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.

(16) In this section, *elector* does not include:

- (a) an Antarctic elector; or
- (b) an eligible overseas elector; or
- (c) an itinerant elector.

(17) 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.

46 Where electors may vote, and absent voting

(1) On the voting day for a referendum, an elector is entitled:

- (a) to vote at any polling place appointed for the Division for which he or she is enrolled; or
- (b) to vote as an absent voter, after 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 voting day for a referendum, a person who is provisionally enrolled is entitled to vote as an absent voter, after 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 45) and in Schedule 4:
- (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 48 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) An elector who votes as an absent voter shall mark and fold the ballot-paper in the manner prescribed by this Act and return it so folded to the presiding officer or a polling official.
- (5) The presiding officer or polling official shall thereupon, in the presence of the elector, and without unfolding the ballot-paper enclose it in the envelope referred to in subsection (3) of this section and shall forthwith securely fasten the envelope and deposit it in the ballot-box.
- (9) Where the voting day for a referendum is the same as that fixed for the polling at an election:

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- (a) a declaration made for the purposes of the election under subsection 222(1) or (1A) of the *Commonwealth Electoral Act 1918* shall be deemed to be a declaration made under subsection (1) or (1A) (as the case requires) of this section;
- (b) the agreement of an appropriate person on the staff of a hospital under subsection 222(2) of the *Commonwealth Electoral Act 1918* shall be deemed to be agreement under subsection (2) of this section; and
- (c) a ballot-paper containing the vote of a person voting as an absent voter under this section may be enclosed in the same envelope as that in which the ballot-paper containing the vote of that person voting as an absent voter under section 222 of the *Commonwealth Electoral Act 1918* is enclosed.

46A Forwarding of declaration votes

Presiding officer to forward declaration votes to ARO

- (1) A presiding officer at a polling place must forward to the Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer 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 or a polling official has made in accordance with paragraph 67(2)(e) and subsection 34(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 73D(7);must forward the envelope, and the record made under paragraph 67(2)(e) or subsection 73F(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.

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- (1B) Envelopes and records required to be forwarded under subsection (1A) must be so forwarded according to the instructions of the Divisional Returning Officer.
- (2) An Assistant Returning Officer to whom a ballot-box is forwarded under subsection (1) or subsection 51(10) must:
- (a) compare the particulars on the envelopes with the particulars appearing in the relevant records forwarded to the Assistant Returning Officer under this Act, note the number of envelopes and report any discrepancy to a Divisional Returning Officer;
 - (b) place the envelopes in one or more securely fastened containers, and cause them to be delivered to a Divisional Returning Officer; and
 - (c) forward to that Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates or declarations enclosed in the containers delivered to that Divisional Returning Officer.
- (2A) Each Divisional Returning Officer to whom envelopes or records are forwarded under subsection (1A) must:
- (a) compare the particulars on the envelopes with the particulars appearing in the records made under paragraph 67(2)(e) or subsection 73F(2), note the number of envelopes and, if the envelopes are to be forwarded to another Divisional Returning Officer, report any discrepancies to that Divisional Returning Officer; and
 - (b) place the envelopes, together with the record made under paragraph 67(2)(e) or subsection 73F(2), in one or more securely fastened containers; and
 - (c) if the envelopes are to be forwarded to another Divisional Returning Officer:
 - (i) cause the envelopes to be delivered to the other Divisional Returning Officer; and
 - (ii) forward to the other Divisional Returning Officer advice in writing of the total number of envelopes delivered to that Divisional Returning Officer.

Section 46A

Obligations on DROs in relation to declaration votes

- (3) Each Divisional Returning Officer to whom advices or envelopes are forwarded under subsection (2) or (2A), or who deals with advices or envelopes under subsection (2A), must:
- (a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from each Assistant Returning Officer and pre-poll voting officer; and
 - (b) until they are dealt with under another provision of this Act, keep the envelopes so received in one or more securely fastened containers; and
 - (c) compare the record referred to in paragraph (a) with the envelopes received and note any discrepancies.
- (3A) After receiving envelopes in accordance with subparagraph 67(6)(b)(iii), each DRO:
- (a) must compare the records received by the DRO in accordance with that subparagraph with the envelopes and note any discrepancy; and
 - (b) except as necessary for the purposes of paragraph (a), keep the envelopes in one or more securely-fastened containers until the envelopes are dealt with under other provisions of this Act.

DROs to forward declaration votes to the appropriate DROs

- (4) A Divisional Returning Officer must do the following in relation to envelopes bearing certificates or declarations dealt with under this section:
- (a) place in a parcel all the envelopes bearing certificates or declarations that relate to a particular Division;
 - (b) endorse on the parcel the number of envelopes;
 - (c) seal up the parcel and cause the parcel to be delivered to the Divisional Returning Officer for that Division to be dealt with in accordance with subsection (5);
 - (d) forward to that Divisional Returning Officer advice in writing of the total number of envelopes bearing certificates

or declarations enclosed in the parcel delivered to that Divisional Returning Officer.

Obligations on DROs who receive declaration votes under subsection (4) or (9)

- (5) Each Divisional Returning Officer for a Division to whom advices, or envelopes bearing certificates or declarations, are forwarded under subsection (4) or (9) must:
- (a) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received under that subsection; and
 - (b) maintain a securely fastened container and identify it as a declaration vote container; and
 - (c) keep in that container, until the scrutiny, all envelopes bearing a certificate or declaration and purporting to contain a ballot paper recording a declaration vote in relation to the 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 (9)).

Note: An envelope is also received within sufficient time to be taken into account in the scrutiny if it is received by a person who is authorised under section 6A.

- (6) Before placing in the container 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 must endorse on the envelope the date of its receipt and must initial the endorsement.

Part III Voting at a referendum

Division 1 General

Section 46A

Declaration votes received outside Australia to be forwarded to a specified person

- (8) An Assistant Returning Officer at a place outside Australia must, in accordance with the written instructions of the Electoral Commissioner, deal with and forward envelopes bearing certificates or declarations, and the relevant records made by the officer under paragraph 67(2)(e) or subsection 73F(2), to such person as are specified in those instructions.
- (9) Where envelopes or 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 must, as soon as practicable, deliver them, or cause them to be delivered, to that Divisional Returning Officer.

Division 2—Mobile booths

47 Interpretation

In sections 48 and 50, *patient*, in relation to a hospital, does not include a person attending the hospital as an out-patient.

48 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 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) A visit to a patient shall be made between 8 a.m. and 6 p.m. on voting day or a day to which the taking of votes of the electors at the referendum 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.

Section 50

50 Provisions related to section 48

- (1) Notwithstanding any arrangement in force under section 48, 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 a referendum may be supplied to the general office of a hospital to which section 48 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 48 may, at the request of the patient, give the patient literature relating to the referendum.
- (3) So far as is practicable, a vote under section 48 shall be taken as if it were taken under the other provisions of this Act (including the provisions relating to absent voting) and, in particular, in the application of this Act for the purposes of subsection 48(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 135, doing so by permission of the presiding officer there present;
 - (b) paragraph 35(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 35(c) were omitted; and
 - (d) the words “enter an unoccupied compartment of the booth with the voter, and” were omitted from subsection 36(1).
- (4) Subsection 131(1) or (1A) applies in relation to a hospital that is a polling place as if:

- (a) the reference in that subsection to voting day for the referendum, or a day to which the taking of votes of the electors at a referendum has been adjourned under section 42 or 43, were a reference to the period:
 - (i) commencing on the day of the issue of the writ for the referendum; and
 - (ii) ending immediately after the voting day or, if the voting is adjourned, after the last day to which the voting is so adjourned; and
 - (b) the references in that subsection to a polling booth were references to the hospital.
- (5) Where an elector has voted under section 48 at a referendum, any postal ballot-paper received by the Divisional Returning Officer that is, or that purports to be, a postal ballot-paper of the elector shall not be admitted in the scrutiny in relation to the referendum.
- (6) The DRO for a Division shall, not later than 4 p.m. on the day before voting 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 48 at each hospital.
- (7) As far as is reasonably practicable, votes taken under section 48 shall be taken on the day or days and at the time or times specified in the relevant notice under subsection (6), but any failure to take those votes in that manner does not invalidate the result of the referendum.

51 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.

Section 51

- (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 at a referendum; 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 State or Territory in which the prison is located.
- (5) A day notified under paragraph (4)(b) shall be any of the 12 days preceding voting day, voting day, or a day to which the taking of votes of the electors at the referendum 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 referendum.
- (8) At any time when a team is at a place for the purposes of taking votes under this section at a referendum:
- (a) the team shall have ballot-boxes, ballot-papers and such other things as are necessary for the votes of electors to be taken at the place;
 - (b) every person at the place who is 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; 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 of this Act (other than section 48) including such of those provisions as relate to absent voting;
 - (da) section 29 applies as if, for paragraph 29(b), there were substituted the following paragraph:
 - “(b) the voting may be conducted:
 - (i) at any time on a day before voting 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”;

Section 52

- (e) section 131 applies as if the references (however described) in subsections 131(1), (1A) and (2) to voting day for the referendum, or a day to which the taking of votes of the electors at the referendum has been adjourned, were a reference to the time of the visit.
- (9) Paragraph 29(1)(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 appointed under section 27 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 Divisional Returning Officer or Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer for the Division in which that last visit occurred.
- (11) Where an elector has voted under this section at a referendum, 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 referendum.
- (12) A determination under paragraph (4)(a) is not a legislative instrument.

52 Election and referendum on same day

Where the voting day for a referendum is the same as that fixed for the polling at an election, any arrangements, appointments or determinations made under section 224 or 227 of the *Commonwealth Electoral Act 1918* for the purposes of the election shall be deemed to have also been made under section 48 or 51, as the case may be, of this Act for the purposes of the referendum.

Part IV—Postal voting

53 Interpretation

- (1) In this Part:

registered general postal voter means an elector who is registered as a general postal voter under section 185 of the *Commonwealth Electoral Act 1918*.

- (2) In this Part and in Schedule 3, 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.

54 Grounds of application for postal vote

A person may apply for a postal vote on any of the grounds set out in Schedule 3.

55 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.

Section 56

- (4) An application for a postal vote may not be made until after the issue of the writ for the referendum in relation to which a postal vote is sought or the public announcement of the proposed date for the voting, 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 voting day in the referendum.
- (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.

56 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.

58 Dispatch of postal voting papers to registered general postal voters

- (1) As soon as practicable after the issue of the writ for a referendum, or the public announcement of the proposed date for the voting, whichever is the earlier, the Electoral Commissioner must send or arrange for the delivery of, postal voting papers to each registered general postal voter.

(2) In this section:

postal voting papers means:

- (a) a postal vote certificate printed on an envelope; and
- (b) a postal ballot-paper; 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.

59 Election and referendum on the same day

Where the voting day for a referendum is the same as the polling day for an election:

- (a) an application for a postal vote in the election shall also have effect as an application for a postal vote in the referendum;
- (b) section 58 does not apply for the purposes of the referendum;
- (c) a person who is entitled to receive a postal ballot-paper under section 186 of the *Commonwealth Electoral Act 1918* for the purposes of the election is also entitled to receive, in the same manner, a postal ballot-paper for the purposes of the referendum;
- (d) a postal vote certificate for the purposes of the election also has effect as a postal vote certificate for the purposes of the referendum;
- (e) a reference in an application or certificate to the election shall be regarded as including a reference to the referendum; and
- (f) a ballot-paper bearing the postal vote of an elector in the referendum may be enclosed in the same envelope as the postal ballot-paper bearing the elector's postal vote in the election.

Section 61

61 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 55(1), he or she must (unless the application fails to meet the deadline as mentioned in subsection 55(5)) send, or arrange for the sending, to the applicant, as provided under subsection (2):
 - (a) a postal vote certificate printed on an envelope addressed:
 - (i) if the application is provided to an Assistant Returning Officer outside Australia—to the Assistant Returning Officer or to the DRO for the Division for which the applicant is enrolled; or
 - (ii) otherwise—to the DRO for the Division for which the applicant is enrolled; and
 - (b) a postal ballot-paper.

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 55(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 to be sent

- (2) If the Electoral Commissioner or Assistant Returning Officer receives the application for a postal vote at or before 6 pm on the Wednesday that is 3 days before voting day in the referendum, the material required by subsection (1) must be sent to the applicant by a means that the Electoral Commissioner or Assistant Returning

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Officer considers to be 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 voting day in the referendum, it fails to meet the deadline (see subsection 55(5)), and therefore no material is required by subsection (1) to be sent to the applicant.

- (3) A postal vote certificate shall be in the approved form.

61A 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 61(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 46A(8).

62 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 referendum 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 of the

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Commonwealth Electoral Act 1918—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.

62A Access to electronic list of postal vote applicants

- (1) This section only applies to postal vote applications in respect of a referendum if the voting day for the referendum is not the same as the polling day for an election.

Note: If those days are the same, a person may be able to request a list of postal vote applicants under section 189A of the *Commonwealth Electoral Act 1918*.

- (2) A request for a list, in electronic form, of the postal vote applicants may be made to the Electoral Commissioner by:
 - (a) a Senator for a State or Territory if the postal vote applications are in respect of any Division in that State or Territory; or
 - (b) a member of the House of Representatives if the postal vote applications are in respect of the Division for which he or she is a member of the House of Representatives; 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 referendum can no longer be questioned.

- (3) The Electoral Commissioner must, as soon as practicable, comply with such a request.
- (4) The list may include the name, date of birth and address of a postal vote applicant.
- (5) 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 of the *Commonwealth Electoral Act 1918*, other than the person's name.

62B 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 62A; 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 62A; 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.

Section 62B

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 62A.

Penalty: 1,000 penalty units.

Permitted purposes

- (4) If the list was provided by the Electoral Commissioner to a Senator or member of the House of Representatives, the ***permitted purposes*** are:
- (a) any purpose connected with an election or referendum; and
 - (b) research about electoral matters; and
 - (c) the monitoring of the accuracy of information contained in a Roll; and
 - (d) the performance by the Senator or member of his or her functions 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 electoral 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, as well as having the meaning given by subsection 3(1), also includes:

- (a) a State or Territory election; and
- (b) a local government election.

referendum, as well as having the meaning given by subsection 3(1), also includes a referendum conducted under a law of a State or Territory.

65 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) 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 voting;
- (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 voting;
- (e) the person must post or deliver the envelope to the DRO for the Division for which the person is enrolled;

Section 65

- (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 67 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 voting, would be unlikely to reach the DRO for the Division for which the person is enrolled within 13 days after voting 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 voting;
- the envelope containing the ballot-paper may:
- (c) before the close of voting 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 voting day and before the close of voting, to a presiding officer (other than a 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 51; 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 of the *Commonwealth Electoral Act 1918* or by section 5 or 6 of this Act; 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 the *Commonwealth Electoral Act 1918*.
- (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 section 67.

66 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.

Section 67

67 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 of the *Commonwealth Electoral Act 1918* or by section 5 or 6 of this Act; or
- (e) a mobile polling team leader; or
- (f) a member of the staff of the Electoral Commission referred to in subparagraph 65(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.

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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 of the <i>Commonwealth Electoral Act 1918</i> or by section 5 or 6 of this Act	the title of the office.
7	a member of the staff of the Electoral Commission referred to in subparagraph 65(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 46A.
- (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 or

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- Assistant Returning Officer as required by subsection 51(10);
and
- (c) when so forwarding the ballot-box to the designated Divisional Returning Officer or Assistant 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 (the *capital city DRO*) for the Division in which the capital city office is located; and
 - (b) the capital city DRO must:
 - (i) remove the envelopes from the ballot-box and place in a parcel all the envelopes that relate to a particular Division; and
 - (ii) endorse on the parcel the number of the envelopes; and
 - (iii) seal up the parcel and cause the parcel, and the record made by the officer under paragraph (2)(e), to be forwarded to, or made available to be collected by, the Divisional Returning Officer for that Division in accordance with the instructions of the capital city DRO.
- (7) Instructions referred to in subparagraph (6)(b)(iii) are not legislative instruments.

68 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*.

69 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.

70 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.

71 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.

Part IVA—Pre-poll voting

Division 1—Introduction

71A 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

72 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 3.
- (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 73CG(2)(f).
- (3) In this Part (other than Division 3) and in Schedule 4:
 - (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.

73 Pre-poll voting officers

- (1) The Electoral Commission may appoint a person to be a pre-poll voting officer for the purposes of this Act.
- (2) A person who is a pre-poll voting officer for the purposes of the *Commonwealth Electoral Act 1918* is also a pre-poll voting officer for the purposes of this Act.

73AA Pre-poll voting offices

- (1) The Electoral Commissioner may declare, in writing, for a referendum:
 - (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.

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- (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 (see section 73CD).

- (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 each registered political party that the Electoral Commissioner considers it appropriate to inform, of the place, the day or days, and the hours specified in the declaration; and

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- (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.
- (4A) 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.
- (5) In this section:
- registered political party* has the same meaning as in the *Commonwealth Electoral Act 1918*.

73A Application for pre-poll vote

- (1) An application for a pre-poll vote may be made to:
- (b) a 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 73CD).

- (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:

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- (a) the Division for which the elector is enrolled; and
- (b) any matters prescribed by the regulations.

73B Place and time of application

- (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 73AA(1) for making such applications at that office.
- (3) An application to an Assistant Returning Officer must 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 73CD).

- (4) Subject to subsection (5), where the voting day for a referendum is the same as the polling day for a House of Representatives election in a Division, an application by an elector cannot be made before the fifth day after the day on which nominations for the election are declared under subsection 176(2) of the *Commonwealth Electoral Act 1918*.
- (5) Where the voting day for a referendum is the same as the polling day for a Senate election to be held in a State or Territory, an application by an elector cannot be made before the fifth day after the day on which nominations for the election are declared under subsection 176(1) of the *Commonwealth Electoral Act 1918*.
- (6) An elector may not make an application after the close of voting in the State or Territory in which the elector is making the application.

73C Election and referendum on the same day

Where the voting day for a referendum is the same as the polling day for an election:

- (a) a place declared by the Electoral Commissioner under subsection 200BA(1) of the *Commonwealth Electoral Act 1918* for the purposes of the election shall be regarded as having been declared under subsection 73AA(1) of this Act for the purposes of the referendum;
- (aa) the specification of a place in accordance with subsection 200BA(1A) of the *Commonwealth Electoral Act 1918* is to be regarded as having been made in relation to the place in accordance with subsection 73AA(1A) of this Act for the purposes of the referendum;
- (ab) a determination made in relation to a place in accordance with subsection 200DD(2) of the *Commonwealth Electoral Act 1918* is to be regarded as having been made in relation to the place in accordance with subsection 73CD(2) of this Act for the purposes of the referendum;
- (b) an application for a pre-poll vote in the election also has effect as an application for a pre-poll vote in the referendum;
- (ca) a pre-poll vote certificate for declaration voting for the purposes of the election also has effect as a pre-poll vote certificate for declaration voting for the purposes of the referendum;
- (d) a reference in such an application or certificate to the election shall be regarded as including a reference to the referendum; and
- (e) a ballot-paper bearing the pre-poll vote of an elector in the referendum may be enclosed in the same envelope as the ballot-paper bearing the elector's pre-poll vote in the election.

73CA Appointment of scrutineers

- (1) The Governor-General, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer

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during voting at a referendum at each pre-poll voting office for the referendum.

- (2) The Governor of a State, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each pre-poll voting office for the referendum in that State.
- (3) The Chief Minister for the Australian Capital Territory, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each pre-poll voting office for the referendum in the Australian Capital Territory.
- (4) The Administrator of the Northern Territory, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer during the voting at a referendum at each pre-poll voting office for the referendum in the Northern Territory.
- (5) The registered officer of a registered political party may appoint persons to act as scrutineers during voting at a referendum at pre-poll voting offices for the referendum, but not more than one scrutineer for each party is allowed at each pre-poll voting office at any one time.
- (6) In this section:

registered officer, in relation to a registered political party, has the same meaning as in Part XIV of the *Commonwealth Electoral Act 1918*.

registered political party has the same meaning as in the *Commonwealth Electoral Act 1918*.

73CB Provisions relating to scrutineers

- (1) A person commits an offence if the person:
 - (a) is a scrutineer appointed under section 73CA; and
 - (b) interferes with or attempts to influence any elector within a pre-poll voting office.

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Penalty: Imprisonment for 6 months.

- (2) A person commits an offence if:
- (a) the person is a scrutineer appointed under section 73CA; and
 - (b) the person communicates with someone else in a 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) A scrutineer appointed under section 73CA must not be prevented from entering or leaving a pre-poll voting office on a day, and during the hours, declared under paragraph 73AA(1)(b).
- (4) 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.
- (5) A scrutineer appointed under section 73CA who:
- (a) commits any breach of this section; or
 - (b) is guilty of misconduct at a pre-poll voting office; or
 - (c) fails at a pre-poll voting office to obey the lawful directions of a pre-poll voting officer;
- may be removed from the polling booth by a constable.

Division 3—Voting by pre-poll ordinary vote

Subdivision A—Preliminary

73CC Definitions

In this Division:

pre-poll ordinary ballot-box: see section 73CN.

voter: see subsection 73CG(1).

voter's Division: see paragraph 73CG(1)(b).

voting officer, in relation to a place at which pre-poll ordinary voting is available, means a pre-poll voting officer at the place.

voting place: see paragraph 73CG(1)(b).

73CD 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 73AA(1A), as a place at which pre-poll ordinary voting is available to voters enrolled 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 22(4)) or an approved list of voters for the Division is available to an officer at the place (see subsection 22A(2)).

73CE 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. Each compartment must have an implement or method for voters to mark their ballot-papers.

73CF 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

73CG 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.

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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 73CI; or
 - (ii) answers a question under subsection 73CI(1) so as to indicate that the person has voted before in the relevant referendum or referendums (as the case requires); or
 - (c) a voting officer has asked the voter one or more questions under subsection 73CI(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.

73CI Questions to be put to voter

- (1) A voting officer must put to each person attending before the voting officer, and claiming to vote in a referendum or referendums (as the case requires), questions in order to ascertain:
- (a) the person's full name; and

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- (b) the person's place of living; and
 - (c) whether the person has voted before in the referendum or referendums (as the case requires).
- (2) If the answers the voter gives to the questions under subsection (1) 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.

If election is held on same day

- (3) If the voting day for a referendum is the same as that fixed for the polling at an election, the answers by the voter under section 200DI of the *Commonwealth Electoral Act 1918* for the purposes of the election may, if they are satisfactory as regards the election, be accepted as sufficient to enable the person to vote at the referendum.
- (4) If the voting officer accepts, pursuant to subsection (3), the answers by the voter to the questions referred to in that subsection as sufficient to enable the person to vote at a referendum, the officer may, if he or she thinks fit, put to the voter questions in order to ascertain whether the person has voted before in the referendum or referendums (as the case requires).

73CJ Right of voter to receive ballot-paper

- (1) If, under section 73CG, 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.

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- (3) If a ballot-paper has been, or is to be, given to a voter, a 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, or is to be, given a ballot paper.

73CK Voter to mark vote on ballot-paper

Except as otherwise prescribed by the regulations, the voter, upon receipt of a ballot-paper under section 73CJ, 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.

73CL 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.

73CM Voter not entitled to vote again etc.

After the voter has, under section 73CJ, 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 referendum.

Subdivision C—Requirements relating to ballot-boxes

73CN 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.

73CO 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.

73CP 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.

73CQ 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

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(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.

73CR 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

73CS 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.

73D 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 pre-poll vote certificate for declaration voting and a ballot-paper.
- (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 46A, 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:

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- (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.

73E 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.

73F Record of issue of pre-poll voting papers

- (2) Where, under subsection 73D(1):
- (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 46A.
- (3) Records forwarded to the DRO under section 46A shall be open to public inspection at the office of the DRO during ordinary office hours from and including the third day after voting day until the referendum can no longer be questioned.

73H 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 73D(1); or
 - (b) an officer acting at the direction of the DRO;
- shall not open an envelope purporting to contain a ballot-paper given to an officer under subsection 73D(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*.

73J Obligations of persons present when pre-poll vote cast

A person who is present when, under section 73D, 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.

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Penalty: 10 penalty units.

73K Correction of formal errors

If an officer who receives a pre-poll vote certificate for declaration voting under subsection 73D(5) is satisfied that the certificate has a formal error, the officer may amend the certificate to rectify the defect or correct the error.

Part IVB—Electronically assisted voting

73L Definitions

In this Part:

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 73P.

73LA Entitlement of Antarctic electors to vote

An Antarctic elector is entitled to vote in accordance with this Part.

73M Providing for voting by an electronically assisted voting method

- (1) The regulations may provide for an electronically assisted voting method to be used by sight-impaired people to vote at referendums.
- (1A) The regulations must provide for an electronically assisted voting method to be used by Antarctic electors to vote at referendums.
- (3) Without limiting subsection (1) or (1A), 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;

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- (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 voting day, as well as on voting day; and
 - (c) provide for other matters related to the integrity of the use of the electronically assisted voting method.
- (4) The electronically assisted voting method must be such that a person using the method at a referendum:
- (a) receives the same information (in the same order), and has the same voting options, as would appear in the ballot-paper for the referendum that the person would be given if he or she were instead voting under Part III; and
 - (b) 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 24.
- (5) 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.
- (6) Nothing in this Part or in regulations made for the purposes of this Part authorises any person to vote more than once at a referendum.
- (7) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, regulations made for the purposes of this Part may make different provision in relation to sight-impaired persons and Antarctic electors.

73N 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.

73P 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.

73Q How this Act applies in relation to voting using the electronically assisted voting method

- (1) This Act (other than Part IVA and Schedule 3) 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.

Section 73QA

73QA Electoral Commissioner may decide that electronically assisted voting method is not to be used by sight-impaired persons

- (1) The Electoral Commissioner may, in writing, determine that the electronically assisted voting method is not to be used by sight-impaired persons either generally or at one or more specified places.
- (2) The determination must specify the referendum to which the determination applies.
- (3) A determination under subsection (1) is not a legislative instrument.
- (4) If:
 - (a) a referendum is held on the same day as an election; and
 - (b) a determination under subsection 202AF(1) of the *Commonwealth Electoral Act 1918* is in force in relation to a place for that election;a determination under subsection (1) of this section is taken to be in force in relation to that place for that referendum.

Part VI—Scrutiny of a referendum

89 Ascertainment of result of referendum

- (1) The result of a referendum shall be ascertained by scrutiny.
- (2) The Governor-General, or a person authorized by the Governor-General to act under this subsection, may appoint one person to act as a scrutineer during the scrutiny at each counting centre.
- (3) The Governor of a State, or a person authorized by the Governor to act under this subsection, may appoint one person to act as a scrutineer during the scrutiny at each counting centre in that State.
- (3A) The Chief Minister for the Australian Capital Territory, or a person authorised by him or her to act under this subsection, may appoint one person to act as a scrutineer during the scrutiny at each counting centre in the Territory.
- (4) The Administrator of the Northern Territory, or a person authorized by the Administrator to act under this section, may appoint one person to act as a scrutineer during the scrutiny at each counting centre in the Northern Territory.
- (4A) The registered officer of a registered political party may appoint persons to act as scrutineers during the scrutiny at each counting centre, but the number of scrutineers for each party shall not exceed the number of officers who are engaged in the scrutiny at each counting centre.
- (5) In this section:

counting centre means any premises at which a scrutiny or counting of ballot-papers for a referendum is to be, or is being, conducted.

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registered officer, in relation to a registered political party, has the same meaning as the expression has in Part XIV of the *Commonwealth Electoral Act 1918* by virtue of section 4C of that Act.

registered political party has the same meaning as in the *Commonwealth Electoral Act 1918*.

89A Preliminary scrutiny of declaration votes

- (1) At any time after receiving any declaration votes, a DRO must conduct preliminary scrutines of the declaration votes received until:
 - (b) all envelopes received by the DRO before the end of 13 days after the close of voting 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 4.
- (4) The DRO may, from time to time, adjourn a preliminary scrutiny to a specified day, time and place.
- (5) For the purposes of this Part, anything done under this section in relation to a referendum shall be taken to be part of the scrutiny in relation to the referendum.

90 Conduct of scrutiny

- (1) The scrutiny of votes at a referendum shall be conducted in accordance with the following provisions:
- (a) it shall commence as soon as practicable after the close of voting at the referendum;
 - (b) the scrutineers appointed under section 89 and any persons approved by the officer conducting the scrutiny may be present;
 - (c) the scrutineers may inspect all the proceedings at the scrutiny;
 - (d) the scrutiny may, if necessary, be adjourned from time to time until the counting of the votes is completed;
 - (e) each Assistant Returning Officer shall, in the presence of a polling official and any scrutineers who attend, do the following:
 - (i) exhibit for the inspection of the scrutineers each ballot-box received from a presiding officer or mobile polling team leader, and each pre-poll ordinary ballot-box (within the meaning of Division 3 of Part IVA) received from a voting officer (within the meaning of that Division);
 - (ii) record the condition of the ballot-box;
 - (iii) open the ballot-box and remove the ballot-papers from the box;
 - (iv) count the number of ballot-papers with votes given in favour of the proposed law, the number of ballot-papers with votes given not in favour of the proposed law, and the number of informal ballot-papers;
 - (f) ballot-boxes not opened by an Assistant Returning Officer shall be opened by a Divisional Returning Officer.
- (2) 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.

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91 Action at scrutiny

- (1) At the scrutiny, the following things shall be done:
- (a) the ballot-papers shall be taken out of the ballot-boxes, examined and either allowed or rejected as informal;
 - (b) the number of informal ballot-papers shall be recorded;
 - (c) the votes on the formal ballot-papers shall be counted and a record of them taken;
 - (d) when the counting is completed, all the ballot-papers shall be made up into separate bundles for all the informal ballot-papers, all the ballot-papers containing a vote in favour of the proposed law, and all the ballot-papers containing a vote not in favour of the proposed law respectively or, if more than one referendum was held on the same day, into such bundles as the Electoral Commissioner directs;
 - (e) each Divisional Returning Officer shall, forthwith after completing the scrutiny of the ballot-papers taken from the ballot-boxes opened by the Officer and making those ballot-papers into bundles, prepare a statement showing, in relation to those ballot-papers:
 - (i) the number of votes given in favour of the proposed law;
 - (ii) the number of votes given not in favour of the proposed law; and
 - (iii) the number of ballot-papers rejected as informal;
 - (f) each Assistant Returning Officer shall, forthwith after completing the scrutiny of the ballot-papers taken from the ballot-boxes opened by the Officer, place the bundles of ballot-papers into a securely fastened container and send the container to the relevant Divisional Returning Officer together with a statement showing, in relation to those ballot-papers:
 - (i) the number of votes given in favour of the proposed law;
 - (ii) the number of votes given not in favour of the proposed law; and

- (iii) the number of ballot-papers rejected as informal;
- (g) the Divisional Returning Officer:
 - (i) shall open the containers received from the Assistant Returning Officers in or for the Division; and
 - (ii) shall make a fresh scrutiny of the ballot-papers contained in the containers, 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.
- (2) Ballot-papers used for absent voting pursuant to section 46 shall be dealt with as provided by this Act.
- (3) Ballot-papers used for voting pursuant to Part IV shall be dealt with as provided by that Part and the regulations.
- (4) Ballot-papers used for voting pursuant to sections 37, 38, 39 and 65 shall be dealt with as provided by those sections and the regulations.

92 Action on objection to ballot-papers

- (1) If, at the scrutiny, a scrutineer appointed under section 89 objects to a ballot-paper as being informal, the officer conducting the scrutiny shall mark the ballot-paper “allowed” or “rejected” according to his or her decision to allow or reject the ballot-paper.
- (2) Nothing in this section prevents an officer conducting the scrutiny from rejecting any ballot-paper as being informal although it is not objected to.

93 Informal ballot-papers

- (1) A ballot-paper is informal if:
 - (a) subject to subsection (3), it is not authenticated by the initials of a presiding officer, a polling official, or a voting officer (within the meaning of Division 3 of Part IVA), or by the presence of the official mark;

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- (b) it has no vote marked on it or the voter's intention is not clear;
 - (c) it has more than one vote marked on it; or
 - (d) it has upon it any mark or writing (not authorized by this Act or by the regulations to be put upon it) by which, in the opinion of a Divisional Returning Officer, the voter can be identified.
- (3) 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 his or her 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.'
- (4) Paragraph (1)(d) does not apply to any mark or writing placed upon a ballot-paper by an officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Act.
- (7) 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.
- (8) Effect shall be given to a ballot-paper of a voter according to the voter's intention, so far as that intention is clear.

94 Return of result of submission by Divisional Returning Officers

The Divisional Returning Officer for each Division shall, immediately after the completion of the scrutiny in that Division, prepare a written statement certifying:

- (a) the number of votes given in favour of the proposed law;
 - (b) the number of votes given not in favour of the proposed law;
- and

(c) the number of ballot-papers rejected as informal;
and shall send the statement to the Australian Electoral Officer for the State or Territory in which that Division is situated.

95 Recount

- (1) At any time before preparing a statement pursuant to section 97, the Australian Electoral Officer for a State or Territory may, and shall, if directed to do so by the Electoral Commissioner, direct the Divisional Returning Officer for a Division of that State or that Territory to make a recount of the ballot-papers contained in any parcel relating to that Division.
- (2) The Electoral Commissioner may, if requested to do so by the Governor-General, the Governor of a State, the Chief Minister for the Australian Capital Territory or the Administrator of the Northern Territory, or of his or her own motion, direct a recount of any ballot-papers.
- (3) The officer conducting a recount shall have the same powers as if the recount were the scrutiny, and may reverse any decision taken at the scrutiny as to the allowance or rejection of any ballot-paper.

95A Notice of re-count

Before recounting any ballot-papers, a DRO shall give notice of the re-count as follows:

- (a) a notice specifying the date, time and place of the re-count shall be displayed in a prominent place in the DRO's office;
- (b) the notice shall be so displayed not later than 4 p.m. on the day before the day fixed for the re-count.

95B 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

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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.

96 Reservation of disputed ballot-papers

- (1) At any recount of votes cast at a referendum, the officer conducting the recount may, and at the request of any scrutineer shall, reserve any ballot-paper for the decision of the relevant Australian Electoral Officer.
- (2) The Australian Electoral Officer shall decide whether any ballot-paper reserved under this section is to be allowed and admitted or disallowed and rejected.
- (3) In the event of the validity of a referendum being disputed, the High Court may consider any ballot-papers which were reserved for the decision of an officer referred to in subsection (1) but shall not order a recount of the whole or any part of the ballot-papers in connection with the referendum unless it is satisfied that such a recount is justified.

Part VII—Return of the writ

97 Statement by Australian Electoral Officers

Each Australian Electoral Officer for a State or Territory shall:

- (a) prepare a written statement showing, in relation to the State or Territory, as the case may be:
 - (i) the number of votes given in favour of the proposed law;
 - (ii) the number of votes given not in favour of the proposed law; and
 - (iii) the number of ballot-papers rejected as informal;
- (b) sign the statement; and
- (c) send the statement to the Electoral Commissioner.

98 Return of the writ

- (1) The Electoral Commissioner must, immediately after receiving the statements sent under section 97:
 - (a) certify, in relation to each State, in relation to the Australian Capital Territory, in relation to the Northern Territory and in relation to the whole Commonwealth:
 - (i) the number of votes given in favour of the proposed law; and
 - (ii) the number of votes given not in favour of the proposed law; and
 - (iii) the number of ballot-papers rejected as informal; and attach the certificate to the original writ; and
 - (b) return the writ and the certificate to the Governor-General.
- (2) The Electoral Commissioner must publish a copy of the certificate referred to in paragraph (1)(a) in the *Gazette*, and a copy of such a certificate so published is, subject to Part VIII, conclusive evidence of the result of the referendum to which it relates.

99 Copies of statement to Governors of the States etc.

The Electoral Commissioner shall forward copies of the certificate attached to the writ to the Governors of the several States, to the Chief Minister for the Australian Capital Territory and to the Administrator of the Northern Territory.

Part VIII—Disputed returns

100 Disputing validity of submission or return

The validity of any referendum or of any return or statement showing the voting at a referendum may be disputed by the Commonwealth, by any State, by the Australian Capital Territory or by the Northern Territory by petition addressed to the High Court.

101 Requisites of petition

- (1) A petition disputing the validity of a referendum or of a return or statement showing the voting at a referendum shall:
 - (a) set out the facts relied on to invalidate the referendum, return or statement, as the case may be;
 - (aa) 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 request asking for the relief to which the petitioner claims to be entitled;
 - (c) subject to subsection 102(2), be signed by the Attorney-General of the Commonwealth for and on behalf of the Commonwealth, the Attorney-General of a State for and on behalf of the State, the Attorney-General of the Australian Capital Territory for and on behalf of the Territory or the Attorney-General of the Northern Territory for and on behalf of the Northern Territory, as the case requires; and
 - (d) be filed in the Registry of the High Court within 40 days after the publication in the *Gazette* of the statement by the Electoral Commissioner showing the result of the referendum.
- (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 (1)(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 (1)(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.

102 Petition by Electoral Commission

- (1) The Electoral Commission is entitled to file a petition disputing the validity of a referendum.
- (2) A petition filed by the Electoral Commission shall be signed by the Electoral Commissioner for and on behalf of the Electoral Commission.

103 Jurisdiction and powers of High Court

- (1) The High Court has jurisdiction with respect to matters arising under this Part.
- (2) Following the hearing of a petition in relation to a referendum, the High Court may:
 - (a) declare the referendum to be void;
 - (b) uphold the petition in whole or in part; or
 - (c) dismiss the petition.
- (3) The High 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.
- (4) Without limiting the generality of this section, the High Court may exercise its powers to declare a referendum void on the ground that contraventions of this Act or the regulations were engaged in in connection with the referendum.

104 Inquiries by High Court

In hearing a matter arising under this Part, the High Court may inquire into the identity of persons, and whether or not the votes of persons were improperly admitted or rejected, but the High Court shall not inquire into the correctness of any Roll.

105 Notice of petition

- (1) Where a petition of the kind referred to in section 100 is filed by the Commonwealth, the Attorney-General of the Commonwealth shall notify the Attorneys-General of the several States, the Attorney-General of the Australian Capital Territory, the Attorney-General of the Northern Territory and the Electoral Commission of the filing of the petition.
- (2) Where a petition of the kind referred to in section 100 is filed by a State, the Attorney-General of that State shall notify the Attorney-General of the Commonwealth, the Attorneys-General of the other States, the Attorney-General of the Australian Capital Territory, the Attorney-General of the Northern Territory and the Electoral Commission of the filing of the petition.
- (2A) Where a petition of the kind referred to in section 100 is filed by the Australian Capital Territory, the Attorney-General of the Territory must notify the Attorney-General of the Commonwealth, the Attorneys-General of the several States, the Attorney-General of the Northern Territory and the Electoral Commission of the filing of the petition.
- (3) Where a petition of the kind referred to in section 100 is filed by the Northern Territory, the Attorney-General of the Northern Territory shall notify the Attorney-General of the Commonwealth, the Attorneys-General of the several States, the Attorney-General of the Australian Capital Territory and the Electoral Commission of the filing of the petition.
- (4) Where a petition of the kind referred to in section 102 is filed by the Electoral Commission, the Electoral Commissioner shall notify

the Attorney-General of the Commonwealth, the Attorneys-General of the several States, the Attorney-General of the Australian Capital Territory and the Attorney-General of the Northern Territory of the filing of the petition.

106 Joinder of parties

The High Court may, on the application of the Commonwealth, of any State, of the Australian Capital Territory, of the Northern Territory or of the Electoral Commission, order it to be joined as a party petitioning or responding as the case may be.

107 Procedure on petition

The procedure in relation to a petition disputing the validity of a referendum or of a return or statement shall, subject to this Act, be as prescribed by Rules of Court or, in default of Rules of Court, as directed by the High Court.

107AA Court must make decision quickly

The Court must make its decision on a petition as quickly as is reasonable in the circumstances.

107A 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 4 if the Court is satisfied that the votes marked on the ballot-papers were recorded prior to the close of voting; 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.

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108 Immaterial errors not to invalidate referendum

- (1) A referendum or a return or statement showing the voting at a referendum shall not be declared void on account of:
 - (a) any delay in relation to:
 - (i) the taking of the votes of the electors; or
 - (ii) the making of any statement or return; or
 - (b) the absence of any officer or any error of, or omission by, an officer;
that did not affect the result of the referendum.
- (2) Where any elector was, on account of the absence of any officer, or error of, or omission by, any officer, prevented from voting at a referendum, the High Court shall not, for the purpose of determining whether the absence, error or omission did or did not affect the result of the referendum, admit any evidence of the way in which the elector intended to vote.

108AA Referendum not affected by failure of delivery arrangement

- (1) This section applies if a DRO or Assistant Returning Officer, under section 61, arranges for delivery of a certificate and ballot-paper instead of posting them.
- (2) A referendum, or a return or statement showing the voting at a referendum, must not be declared void on account 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.

108A Certain other matters not to invalidate referendum

A referendum, or a return or statement showing the voting at a referendum, must not be declared void on the ground that someone has contravened the *Broadcasting Services Act 1992* or the *Radiocommunications Act 1992*.

109 Evidence that person not permitted to vote

On the trial of any petition the High Court shall not admit the evidence of any witness that he or she was not permitted to vote in a referendum during the hours of voting on the voting day for the referendum unless the witness satisfies the High Court:

- (a) that the witness claimed to vote at the referendum pursuant to the provision of this Act under which he or she was entitled or might be permitted to vote; and
- (b) that he or she complied with the requirements of this Act and the regulations relating to voting by electors in so far as he or she was permitted so to do.

109A 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.

Part IX—Authorisation of referendum matter

Division 1—Preliminary

110A 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 referendum 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 110C 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 referendum 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.

communicate: a carriage service provider does not **communicate** referendum 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 (within the meaning of the *Commonwealth Electoral Act 1918*);
- (b) an associated entity (within the meaning of Part XX of that Act);
- (c) a person or entity who:
 - (i) is or will be required to provide a return under section 305A or 305B of that Act 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 of that Act for the financial year in which the time occurs;

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;

- (e) a person who:
 - (i) has incurred expenditure in the period of 12 months before the day the writ for the referendum is issued; or
 - (ii) expects to incur expenditure; exceeding the disclosure threshold (within the meaning of Part XX of that Act), in relation to referendum matter relating to the referendum;
- (f) a senator or a member of the House of Representatives.

Section 110B

Note: Sections 305A and 305B of the *Commonwealth Electoral Act 1918* require returns relating to gifts to candidates, political parties and political campaigners.

primary contravention of section 110C means a contravention of that section that is not an ancillary contravention of that section.

referendum matter means matter intended or calculated to affect the result of a referendum.

relevant town or city of an entity that authorised the communication of referendum 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.

110B Objects of this Part

- (1) The objects of this Part are to promote free and informed voting at referendums by enhancing the following:
 - (a) the transparency of the electoral system as it relates to referendums, by allowing voters to know who is communicating referendum matter;
 - (b) the accountability of those persons participating in public debate relating to referendum matter, by making those persons responsible for their communications;
 - (c) the traceability of communications of referendum 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 referendum matter to be notified if:

- (i) the matter is an advertisement relating to a referendum, 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 referendum matters to be communicated to voters; and
 - (b) voters' ability to communicate with each other on referendum matters.

Division 2—Authorisation of certain referendum matter

110C Authorisation of certain referendum matter

- (1) This section applies in relation to referendum matter that is communicated to a person if:
- (a) all of the following apply:
 - (i) the matter is an advertisement relating to a referendum;
 - (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 referendum matter.
- Note 3: For the geographical application of this section, see section 110D.
- Note 4: For the meaning of *communicate* for carriage service providers, see the definition of that term in section 110A.

- (2) For the purposes of subsection (1), if:

- (a) referendum 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 referendum matter:
 - (a) if the matter forms part of clothing or any other item that it is intended to be worn on the body; or
 - (b) if the matter is communicated by or on behalf of a State, a Territory or an authority of a State or Territory; or
 - (c) if the matter forms part of a communication, or in any other circumstances, determined under subsection 321D(7) of the *Commonwealth Electoral Act 1918* for the purposes of this paragraph.
- (4) This section also does not apply in relation to referendum 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

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- 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 purposes of announcing a meeting.

Notifying particulars

- (5) The notifying entity must ensure that the particulars set out in the following table, and any other particulars determined under subsection 321D(7) of the *Commonwealth Electoral Act 1918* 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 of the <i>Commonwealth Electoral Act 1918</i> , 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 of that Act, 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 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 town or city in which the person lives

Note 1: This provision is a civil penalty provision which is enforceable under the Regulatory Powers Act (see section 140AAA 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.

110D Extended geographical application of section 110C

- (1) A person does not contravene section 110C 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 110C;
 - (ii) the conduct constituting the alleged contravention occurs wholly outside Australia;
 - (iii) the conduct constituting the primary contravention of section 110C, 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 110C 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 110C—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

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- (d) there is not a law creating an offence or contravention that corresponds to section 110C 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 110C—a result of the conduct constituting the primary contravention occurs.

Division 3—Information-gathering powers

110E 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 110C.
- (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).

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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).

110F Copies of documents

- (1) The Electoral Commissioner may inspect a document or copy produced under section 110E 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 110E(2)(c).

110G Retention of documents

- (1) The Electoral Commissioner may take, and retain for as long as is necessary, possession of a document produced under section 110E.
- (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 X—Offences

116 Officers and scrutineers to observe secrecy

A person who is, or has been, an officer or a scrutineer shall not either directly or indirectly, divulge or communicate any information with respect to the vote of an elector at a referendum acquired by the person 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.

117 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.

118 Officers not to influence vote

An officer who does any act or thing with the intention of influencing the vote of another person at a referendum, 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.

118A 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.

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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.

119 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 for the person or any other person, on an understanding that any vote of the first-mentioned person at a referendum will, in any manner, be influenced or affected.

Penalty: Imprisonment for 2 years or 50 penalty units, or both.

- (2) A person shall not give or confer, or promise or offer to give or confer, any property or benefit of any kind to another person:
- (a) with the intention of influencing the vote of any person at a referendum; or
 - (b) with the intention of inducing any person to support or oppose a proposed law for the alteration of the Constitution.

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.

120 Interference with political liberty

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 a referendum under this Act.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

122 Misleading or deceptive publications etc.

- (1) A person shall not, during the referendum period in relation to a referendum, 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 at the referendum.
- (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*).
- (6) Section 15.2 of the *Criminal Code* (extended geographical jurisdiction—category B) applies to an offence against subsection (4).
- (7) In this section, **publish** includes publish by radio, television, internet or telephone.

123 False statements in relation to Rolls

A person who, on the voting day for a referendum, 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

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a period not exceeding 6 months or a fine not exceeding 10 penalty units, or both.

126 Cards in polling booth

- (1) A person shall not, except for the purposes of section 36, display or leave at a polling booth a card or paper that contains a recommendation as to how an elector should vote at a referendum or as to the method of voting at a referendum.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply to an instruction as to the method of voting at a referendum displayed at a polling booth by a person authorized to display such an instruction.

127 Signature to referendum paper

- (1) Every paper which by this Act or the regulations has to be signed by any person shall be signed by that person in his or her own handwriting.
- (2) Where a person who is unable to sign his or her name in writing makes a mark as his or her signature to a referendum 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 referendum paper as such witness.
- (3) Nothing in this section shall authorize any person to sign any referendum paper by a mark or otherwise than in his or her own handwriting in cases where the Act or the regulations require that the referendum paper be signed in the person's own handwriting.
- (4) A person shall not make the signature of any other person on a referendum paper.

Penalty: 10 penalty units.

- (5) Subsection (4) does not affect the liability of any person to be proceeded against for forgery, but a person is not liable to be punished twice in respect of the same offence.
- (6) In this section, *referendum paper* includes a prescribed form and an approved form.

128 Witnessing referendum papers

- (1) A person shall not:
 - (a) sign as witness a blank referendum paper;
 - (b) sign as witness any referendum paper unless it has been signed by the person intended to sign it;
 - (c) sign as witness any referendum paper unless the person has seen the person whose signature he or she is purporting to witness sign it; or
 - (d) write on any referendum paper as his or her own name:
 - (i) the name of another person; or
 - (ii) a name that is not his or her own name.

Penalty: 10 penalty units.

- (2) In subsection (1), *referendum paper* means any document required to be filled in or signed under this Act or the regulations.

129 Marks on ballot-papers

Except as authorized by this Act, a person shall not make any mark on a ballot-paper that has been issued to another person.

Penalty: Imprisonment for 6 months or 10 penalty units, or both.

130 Other offences relating to ballot-papers etc.

- (1) A person shall not:
 - (a) impersonate another person with the intention of voting in that other person's name; or

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- (aa) impersonate another person with the intention of securing a ballot-paper to which the first-mentioned person is not entitled; or
- (b) fraudulently do an act that results in the destruction or defacement of a ballot-paper or other document relating to a referendum; or
- (c) fraudulently put any ballot-paper or other paper into a ballot-box; or
- (d) fraudulently take any ballot-paper out of a polling booth or a place where the scrutiny is being conducted; or
- (f) supply ballot-papers without authority to do so under this Act or the regulations; or
- (g) 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 or 10 penalty units, or both.

- (1A) A person commits an offence if the person votes more than once in the same referendum.

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 referendum.

Penalty: 60 penalty units or imprisonment for 12 months, or both.

- (1D) If a person votes more than once in the same referendum, 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 referendum 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 displayed in any place by, or with the authority of, an officer.

Penalty for a contravention of this subsection: 5 penalty units.

130A 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.

131 Prohibition of certain behaviour near polling booths and pre-poll voting places

- (1) A person commits an offence if:
 - (a) the person engages in any of the following activities:
 - (i) inducing an elector to vote in a particular way at a referendum;
 - (ii) inducing an elector not to vote at a referendum;
 - (iii) exhibiting any notice or sign (other than an official notice or sign) that relates to a referendum; and
 - (b) the activity is engaged in at the entrance to, or in any place (whether public or private) within 6 metres of an entrance to:
 - (i) a polling booth at which voting at the referendum is taking place; or
 - (ii) a pre-poll voting office at which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, for the referendum; and
 - (c) the activity is engaged in:

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- (i) in relation to a polling booth—on voting day for the referendum, or on a day to which the taking of votes of the electors at the referendum has been adjourned under section 42 or 43; or
- (ii) in relation to a pre-poll voting office—at any time during which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, at the office.

Penalty: 5 penalty units.

- (1A) A person commits an offence against this subsection if:
- (a) the person engages in either of the following activities:
 - (i) inducing an elector to vote in a particular way at a referendum;
 - (ii) inducing an elector not to vote at a referendum; and
 - (b) the activity is engaged in in any place (whether public or private) 6 metres or more from an entrance to:
 - (i) a polling booth at which voting at the referendum is taking place; or
 - (ii) a pre-poll voting office at which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, for the referendum; and
 - (ba) the activity is engaged in:
 - (i) in relation to a polling booth—on the voting day for the referendum, or on a day to which the taking of votes of the electors at the referendum has been adjourned under section 42 or 43; or
 - (ii) in relation to a pre-poll voting office—at any time during which applications for pre-poll votes may be made, or pre-poll ordinary voting is available, at the office; 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 pre-poll voting office (as the case requires); or
 - (ii) at an entrance to the polling booth or pre-poll voting office (as the case requires); or
 - (iii) within 6 metres of an entrance to the polling booth or pre-poll voting office (as the case requires).

Penalty: 5 penalty units.

- (2) Where:
- (a) a building used as a polling booth or pre-poll voting office at a referendum is situated in grounds within an enclosure; and
 - (b) the relevant Divisional Returning Officer causes to be displayed at each entrance to those grounds through the days or at all times referred to in paragraph (1)(c) or (1A)(ba), a notice signed by the Divisional Returning Officer stating that those grounds are, for the purposes of this section, part of the polling booth or pre-poll voting office (as the case requires);
- those grounds shall, for the purposes of this section, be deemed to be part of the polling booth or pre-poll voting office (as the case requires).

132 Badges or emblems in polling booths

- (1) An officer or scrutineer who wears or displays in a polling booth on the voting day for a referendum any badge or emblem in support of or in opposition to a proposed law for the alteration of the Constitution commits an offence.

Penalty: 10 penalty units.

- (2) Strict liability applies to an offence against subsection (1).

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Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

133 Employers to allow employees leave of absence to vote

- (1) If an employee who is an elector notifies his or her employer before the voting day for a referendum that the employee requires leave of absence to vote at the referendum, the employer shall, if the absence desired is necessary to enable the employee to vote at the referendum, 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 referendum.
- (2) An employee shall not obtain leave of absence under subsection (1) unless he or she intends to use the leave of absence to vote at the referendum.
- (3) Subsection (1) does not apply to an employee whose absence might 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.

134 Misconduct at public meeting

- (1) This section applies to any lawful public meeting held in relation to a referendum during the referendum period.
- (2) 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.

Penalty: 5 penalty units.

- (3) The chairperson of a meeting to which this section applies:
 - (a) may direct a person who, in the opinion of the chairperson, is preventing the transaction of the business for which the

meeting is being held, to leave the place in which the meeting is being held; and

- (b) if the person fails or refuses to leave the place in which the meeting is being held, may direct a constable to remove the person from that place;

and the constable may thereupon take such steps as are necessary to remove the person.

- (4) A person who:

- (a) has left a place in which a meeting to which this section applies is being held in accordance with a direction given under paragraph (3)(a); or
- (b) has been removed from a place in which a meeting to which this section applies is being held in accordance with a direction given under paragraph (3)(b);

shall not, without the permission of the chairperson of the meeting, return to that place while the meeting is still in progress.

Penalty for a contravention of subsection (4): Imprisonment for 6 months or 10 penalty units, or both.

135 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.

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- (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;
 - (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—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.

Part XI—Miscellaneous

136A 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; and
- (b) the officer refuses or fails to do the act at the time, or within the period, required by that provision;

the Electoral Commission may determine that the act may be done within such further time, not exceeding 48 hours, as the Commission fixes.

138 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 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.

139 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 referendums, the Federal Court of Australia (the *Federal Court*) may, on the application of

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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 referendums;

the Federal Court may, on the application of the Electoral Commission, grant an injunction requiring the first-mentioned person to do that act or thing.

Injunctions relating to section 110C—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 110C in relation to a referendum 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 the Electoral Commission, grant an injunction restraining the carriage service provider from supplying the listed carriage service to the notifying entity.

Note: Section 110C requires the name of the person who authorised the communication of certain referendum matter to be notified.

Injunctions relating to section 110C—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 110C in relation to a referendum matter, the Federal Court may, on the application of 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

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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 110C—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 110C—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.

140 Prosecution of offences

- (1) Subject to subsection (2), an offence against section 119 is an indictable offence.
- (2) A court of summary jurisdiction may hear and determine proceedings in respect of 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) Where, in accordance with subsection (2), a court of summary jurisdiction convicts a person of an offence against section 119, the penalty that the court may impose is imprisonment for a period not

Section 140AAA

exceeding 12 months or a fine not exceeding 20 penalty units, or both.

140AAA Application of Regulatory Powers Act

Application of Parts 4 and 6

- (1) Section 110C 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 section 110C 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.

140A Effect of averment by prosecutor

In proceedings for an offence against section 45 of this Act, an averment by the prosecutor contained in the information or complaint is taken to be proof of the matter averred in the absence of evidence to the contrary.

140AA Evidence of authorship or authorisation of material

In proceedings for a contravention of a civil penalty provision in this Act:

- (a) a communication of referendum 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 referendum 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 referendum matter that includes a statement that a specified person was the printer of the communication is admissible as evidence of that fact.

140B Service of process by mail

For the purposes of proceedings for an offence under section 45, process is taken to be served on a person if it is delivered by mail to the address of the person recorded on the Roll.

141 Referendum papers received by post

Referendum papers posted for transmission to an elector by post and properly addressed shall, in the absence of proof to the contrary, be deemed to have been duly received by the elector at the time when, in the ordinary course of post, they should have been so received.

Section 142A

142A Preservation of documents

- (1) In this section, *referendum 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 45.
- (2) The DRO for a Division is responsible for the safe custody, in accordance with the directions of the Electoral Commissioner, of referendum documents used in the Division in connection with a referendum until the documents are destroyed.
- (3) An officer who conducts a scrutiny shall, after the completion of the scrutiny, parcel up and seal all referendum documents (except approved lists of voters) dealt with or used in the scrutiny.
- (4) Each Assistant Returning Officer shall send to the DRO, in parcels fastened and sealed, all referendum documents (except approved lists of voters) used in connection with a referendum in that portion of the Division for which he or she was appointed.
- (5) A DRO may open a parcel sent to the DRO by an Assistant Returning Officer.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) Subject to Part VIII, the Electoral Commissioner may direct that referendum documents be destroyed if:
 - (a) not less than 6 months have elapsed since the publication, under subsection 98(2), of a statement relating to the referendum in which the documents were used; and
 - (b) the documents are no longer required by the Electoral Commission for the performance of its functions.

143 No referendum or vote of a State or Territory to be held on voting day

On the voting day for a referendum, no election or referendum or vote of the electors of any State or Territory or part of a State or Territory shall, without the authority of the Governor-General, be held or taken under a law of a State or Territory.

144 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and in particular, prescribing the procedure in relation to the imposition and recovery of penalties for offences against the compulsory voting provisions of this Act.

145 Repeal

- (1) The Acts specified in Schedule 2 are repealed.

Section 145

- (2) Notwithstanding the repeal effected by subsection (1), the regulations that were, immediately before the commencement of this Act, in force under the *Commonwealth Electoral Act 1918* and the *Referendum (Constitution Alteration) Act 1906* shall, in so far as those regulations relate to referendums, continue in force, to the extent to which they are consistent with this Act, as if:
- (a) those regulations had been made under that first-mentioned Act and under this Act;
 - (b) a reference in those regulations to a State, in relation to a referendum, included a reference to the Australian Capital Territory and the Northern Territory;
 - (c) a reference in those regulations to the Australian Electoral Officer for a State, in relation to a referendum, included a reference to the Australian Electoral Officers for the Territories;
 - (d) a reference in those regulations to a Division, in relation to a referendum, included a reference to an Electoral Division of the Australian Capital Territory and to the Northern Territory; and
 - (e) a reference in those regulations to the *Referendum (Constitution Alteration) Act 1906* or to a particular provision of that Act were a reference to this Act or to the corresponding provision (if any) of this Act, as the case may be.
- (3) Nothing in subsection (2) prevents the making of regulations under this Act or under the *Commonwealth Electoral Act 1918* and under this Act to repeal or amend the regulations that are continued in force by that subsection.

Schedule 1—Forms

FORM A

Commonwealth of Australia

Writ for a referendum

To the Electoral Commissioner

I command you to cause a proposed law entitled [*here insert the title of the proposed law*] to be submitted, according to law, in each State and in the Australian Capital Territory and the Northern Territory, to the electors who are qualified to vote at referendums.

I appoint the following dates:

1. For the close of the Rolls: the day of 20 .
2. For taking the votes of the electors: the day of 20 .
3. For the return of the writ: the day of 20 .

[*Here insert Governor-General's title and the date*]

Governor-General

By His Excellency's command

FORM B



Commonwealth of Australia



BALLOT-PAPER

[Here insert name of State or Territory]

Referendum on proposed Constitution alteration

DIRECTIONS TO VOTER

WRITE "YES" or "NO" in the space provided opposite the question set out below.

[Here set out the title of the proposed law]

DO YOU APPROVE THIS PROPOSED ALTERATION?

FORM C



Commonwealth of Australia



BALLOT-PAPERS

[Here insert name of State or Territory]

Referendums on proposed Constitution alterations

DIRECTIONS TO VOTER

Write "YES" or "NO" in the space provided opposite each of the questions set out below.

1. *[Here set out the title of the first proposed law]*

DO YOU APPROVE THIS PROPOSED ALTERATION?

2. *[Here set out the title of the second proposed law]*

DO YOU APPROVE THIS PROPOSED ALTERATION?

Schedule 2—Repealed Acts

Section 145

Referendum (Constitution Alteration) Act 1906
Referendum (Constitution Alteration) Act 1909
Referendum (Constitution Alteration) Act 1910
Referendum (Constitution Alteration) Act 1912
Referendum (Constitution Alteration) Act 1912 (No. 2)
Referendum (Constitution Alteration) Act 1915
Referendum (Constitution Alteration) Act 1919
Referendum (Constitution Alteration) Act 1926
Referendum (Constitution Alteration) Act 1928
Referendum (Constitution Alteration) Act 1936
Referendum (Constitution Alteration) Act 1965
Referendum (Constitution Alteration) Act (No. 2) 1965
Referendum (Constitution Alteration) Act Modification Act 1977

Schedule 3—Grounds of application for postal or pre-poll vote

Sections 54 and 72

1. Throughout the hours of voting on voting 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 voting on voting 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 voting on voting 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 voting on voting 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 voting day because of:
 - (a) serious illness;
 - (b) infirmity; or
 - (c) recent or approaching childbirth.(In the case of a person who will be a patient at a hospital on voting day, this paragraph applies regardless of the operation of sections 48 and 51.)
5. On voting 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 has recently given birth or is expected shortly to do so.
6. Throughout the hours of voting on voting 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 voting 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 voting on voting day, is precluded from attending a polling booth.
9. On voting 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 of the *Commonwealth Electoral Act 1918*.
11. Throughout the hours of voting on voting 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 133; 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 4—Rules for the conduct of a preliminary scrutiny of declaration votes

Subsection 89A(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.
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 referendum, to require the elector to provide evidence of his or her identity by the first Friday following the voting day for that referendum.

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 19 and 20, 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 58 to a registered general postal voter who was registered on the ground specified in paragraph 184A(2)(e) or (f) of the *Commonwealth Electoral Act 1918*, 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 65(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 73D 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 declaration has been signed in accordance with section 46 or 37, or under subsection 36(4), as the case may be, and that the signature purports to be witnessed in accordance with that section or subsection, as the case requires; 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*
 - (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 voting.
- 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 19 and 20 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 voting if the date referred to in paragraph 65(1)(c) in relation to the postal vote certificate is a date after voting day.
- 7A. A vote marked on a postal ballot-paper must be taken not to have been recorded prior to the close of voting if:
- (a) subsection 65(1A) applies in relation to the vote; and

- (b) the date referred to in paragraph 65(1A)(a) is a date after voting 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 67(2)(c); and
 - (b) the date and time is before the close of voting.
- 8. An envelope purporting to contain an absent vote ballot-paper, 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 34(2) or section 73F, 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. 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 State or Territory in which the Division is situated (whether or not for the Division itself); and
 - (ii) the envelopes bearing certificates or declarations by persons whose claims for enrolment are claims to which subsection 102(5) of the *Commonwealth Electoral Act 1918* applies; and
 - (iii) the envelopes to which paragraph 11 of this Schedule 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 State or

- Territory in which the Division is situated (whether or not in the Division itself);
- (b) in another group, all the other envelopes.
11. 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.
12. Subparagraph 11(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.
13. In paragraph 12, *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.
14. The DRO shall, without opening the envelopes, subject to the operation of paragraphs 19 and 21, exclude from further scrutiny the ballot-papers contained in envelopes referred to in subparagraph 10(b).
15. The DRO shall seal up in a parcel the envelopes referred to in subparagraph 10(b) and shall write on the parcel a description of the contents, the name of the Division and the date.
16. The DRO must, after the close of voting in the Division, without unfolding or inspecting them or allowing any other person to do so:
-

- (a) withdraw the ballot-papers from envelopes referred to in subparagraph 10(a); and
 - (b) place those ballot papers in a ballot-box by themselves for further scrutiny.
- 18. 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.
- 19. In the course of a preliminary scrutiny of declaration votes, the DRO must, at a time determined to be appropriate by the DRO (which may be before the close of the poll for the Division):
 - (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 20, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 20; and
 - (b) open the parcel of envelopes that contains the ballot-papers that are, under paragraph 14 and subject to the operation of this paragraph and paragraph 21, excluded from scrutiny, and deal further with those declaration votes in accordance with paragraph 21.
- 20. For the purpose of dealing further with declaration votes referred to in subparagraph 19(a), paragraphs 3 to 18, inclusive, reapply in relation to those votes as if:
 - (a) the words “subject to the operation of paragraphs 19 and 20,” were omitted from paragraph 5; and
 - (b) the words “subject to the operation of paragraphs 19 and 21,” were omitted from paragraph 14.
- 21. For the purpose of dealing further with declaration votes referred to in subparagraph 19(b), paragraphs 10 to 18, inclusive, reapply in relation to those votes as if the words “subject to the operation of paragraphs 19 and 21,” were omitted from paragraph 14.

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

Endnotes

Endnote 1—About the endnotes

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

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Referendum (Machinery Provisions) Act 1984	44, 1984	25 June 1984	3 Sept 1984 (<i>see Gazette</i> 1984, No. S342)	—
Christmas Island Administration (Miscellaneous Amendments) Act 1984	120, 1984	18 Oct 1984	Part VIII (ss. 27–31): 1 Oct 1984 Remainder: Royal Assent	—
Electoral and Referendum Amendment Act 1984	133, 1984	25 Oct 1984	25 Oct 1984	—
Broadcasting and Television (Consequential Amendments) Act 1985	67, 1985	5 June 1985	1 Jan 1986	—
Referendum (Machinery Provisions) Amendment Act 1988	77, 1988	24 June 1988	24 June 1988	—
Referendum (Machinery Provisions) Amendment Act (No. 2) 1988	81, 1988	26 Aug 1988	26 Aug 1988	—

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	ss. 1–3, 4(d), 5–30, 36, 40, 43, 50 and 177: Royal Assent ss. 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 and 121–161: 30 Sept 1990 Remainder: 9 Feb 1990 (see <i>Gazette</i> 1990, No. S30)	—
Electoral and Referendum Amendment Act 1991	167, 1991	13 Nov 1991	ss. 1–3, 33 and 44: Royal Assent s. 45: 30 Sept 1990 Remainder: 13 May 1992	—
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	Part 2 (ss. 4–9): 3 Jan 1992 (see <i>Gazette</i> 1992, No. S2) Parts 4 (ss. 32, 33) and 5 (ss. 34, 35): 19 June 1992 Part 6 (ss. 36–38): 16 Jan 1992 Remainder: Royal Assent	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992	105, 1992	9 July 1992	5 Oct 1992 (<i>see Gazette</i> 1992, No. GN38)	—
Norfolk Island (Electoral and Judicial) Amendment Act 1992	121, 1992	17 Oct 1992	17 Oct 1992	s. 18
Radiocommunications (Transitional Provisions and Consequential Amendments) Act 1992	167, 1992	11 Dec 1992	1 July 1993	s. 14(2)
Electoral and Referendum Amendment Act 1992	219, 1992	24 Dec 1992	s. 15: 24 June 1993 Remainder: Royal Assent	—
Electoral and Referendum Amendment Act 1995	166, 1995	16 Dec 1995	16 Dec 1995	—
Electoral and Referendum Amendment Act 1998	94, 1998	17 July 1998	Sch 2: 18 July 1998 (s 2(1))	—
Referendum Legislation Amendment Act 1999	22, 1999	19 Apr 1999	19 Apr 1999 (s 2)	—
Electoral and Referendum Amendment Act (No. 1) 1999	134, 1999	13 Oct 1999	Sch 1 (items 31–37): 13 Oct 1999 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 764–768): 5 Dec 1999 (s 2(1), (2))	—
as amended by				
Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004	115, 2004	13 July 2004	Sch 1 (items 104, 105): 5 Dec 1999 (s 2(1) item 27)	—
Electoral and Referendum Amendment Act (No. 1) 2001	34, 2001	28 Apr 2001	16 July 2001 (<i>see Gazette</i> 2001, No. S284)	—
Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001	109, 2001	17 Sept 2001	15 Oct 2001	s. 5
Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004	78, 2004	23 June 2004	Sch 1: 21 July 2004 Remainder: Royal Assent	Sch. 1 (item 121)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Electoral and Referendum Amendment (Enrolment Integrity and Other Measures) Act 2004	115, 2004	13 July 2004	Sch 1 (items 107, 108): repealed before commencing (s 2(1) item 28) Sch 1 (items 110–112, 114, 115, 117, 119–132): 10 Aug 2004 (s 2(1) items 29, 31)	—
as amended by				
Electoral and Referendum Amendment (Prisoner Voting and Other Measures) Act 2004	123, 2004	16 Aug 2004	Sch 2: 13 July 2004 (s 2(1) item 8)	—
Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006	65, 2006	22 June 2006	Sch 1 (item 100): 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 (item 6): 10 Aug 2004 (s 2(1) item 7)	—
Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006	65, 2006	22 June 2006	Sch 1 (items 102–114, 117–132, 134–139): Royal Assent Sch 1 (items 115, 116, 133): 1 July 2007 (<i>see s. 2(1)</i>)	s. 2(1) (am. by 73, 2008, Sch. 2 [items 8, 9])

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 2 (items 8, 9, 12, 13): 15 Mar 2007 (<i>see s. 2(1)</i>)	—
Electoral and Referendum Legislation Amendment Act 2007	22, 2007	15 Mar 2007	Sch 3 (items 1–4): 16 Apr 2007 (<i>see F2007L01001</i>) Remainder: Royal Assent	—
Statute Law Revision Act 2010	8, 2010	1 Mar 2010	Sch 5 (item 137): 1 Mar 2010 (s 2(1) item 38)	—
Electoral and Referendum Amendment (How-to-Vote Cards and Other Measures) Act 2010	108, 2010	14 July 2010	Sch 2 (items 3–5): 23 July 2010 (<i>see F2010L02127</i>)	Sch. 2 (item 5)
Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010	109, 2010	14 July 2010	Sch 1 (items 40–77) and Sch 4 (items 21–40): Royal Assent Sch 2 (items 182–189): 19 July 2010 (<i>see F2010L02126</i>)	Sch. 1 (item 77), Sch. 2 (item 189) and Sch. 4 (item 40)
Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010	110, 2010	14 July 2010	Sch 1 (items 19–33, 37–39), Sch 4 (items 18–31, 39–45, 48, 49), Sch 8 (items 3–5) and Sch 9 (items 47, 48): 15 July 2010 Sch 5 (items 55–107, 108(2)): 23 July 2010 (<i>see F2010L02128</i>) Sch 6 (items 11, 13–22): 14 Jan 2011	Sch. 1 (items 21, 32), Sch. 5 (items 107, 108(2)), Sch. 6 (items 21, 22) and Sch. 8 (item 5)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 6 (item 94): 19 Apr 2011	—
Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Act 2011	29, 2011	25 May 2011	Sch 1 (items 9–13) and Sch 2 (items 6, 7(1)): Royal Assent	Sch. 1 (item 13) and Sch. 2 (item 7(1))
Electoral and Referendum Amendment (Provisional Voting) Act 2011	37, 2011	26 May 2011	Sch 1 (items 4–7): Royal Assent	Sch. 1 (item 7)
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 973–975) and Sch 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Electoral and Referendum Amendment (Maintaining Address) Act 2012	110, 2012	24 July 2012	Sch 2 (item 16): 25 July 2012	—
Electoral and Referendum Amendment (Protecting Elector Participation) Act 2012	111, 2012	24 July 2012	Sch 1 (item 17) and Sch 2 (items 7–12): 25 July 2012 (s 2(1) items 2, 3)	—
Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013	19, 2013	27 Mar 2013	Sch 1 (items 52–103, 104(2)) and Sch 3 (items 41–46, 47(1)): Royal Assent	Sch 1 (items 103, 104(2)) and Sch 3 (item 47(1))
Electoral and Referendum Amendment (Improving Electoral Administration) Act 2013	26, 2013	28 Mar 2013	Sch 1 (items 29–48, 50, 51, 51A, 52, 54(1)): 29 Mar 2013 (s 2(1) items 4–6) Sch 2 (items 4–7): 1 Jan 2014 (s 2(1) item 7)	Sch 1 (item 54(1)) and Sch 2 (item 7)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Referendum (Machinery Provisions) Amendment Act 2013	34, 2013	17 May 2013	17 May 2013 (s 2)	Sch 1 (item 4)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 258–262): 10 Mar 2016 (s 2(1) item 6)	—
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 4 (items 46–48): 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)
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 402–433) and Sch 2 (item 91): 21 Oct 2016 (s 2(1) item 1)	—
Electoral and Other Legislation Amendment Act 2017	99, 2017	14 Sept 2017	Sch 1 (items 29–46): 14 Mar 2018 (s 2(1) item 2)	—
Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Act 2018	147, 2018	30 Nov 2018	Sch 1 (items 139–142): 1 Jan 2019 (s 2(1) item 3)	—
Electoral Legislation Amendment (Modernisation and Other Measures) Act 2019	2, 2019	1 Mar 2019	Sch 1 (item 84) and Sch 2 (items 94, 105–129, 132–136, 154–173, 175, 176): 8 Mar 2019 (s 2(1) item 2)	—
Electoral Legislation Amendment (Miscellaneous Measures) Act 2020	95, 2020	10 Nov 2020	Sch 1 (items 143–237): 1 Dec 2020 (s 2(1) item 1)	Sch 1 (item 237)

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Provision affected	How affected
Part I	
s 3	am No 120, 1984; No 77, 1988; No 24, 1990; No 167,1991; No 121, 1992; No 94, 1998; No 146, 1999; No 34, 2001; No 78, 2004; No 65, 2006; No 22, 2007; No 109, 2010; No 110, 2010; No 5, 2011; No 19, 2013; No 33, 2016; No 99, 2017; No 95, 2020 ed C35
s. 3A	ad. No. 77, 1988
s. 3B	ad. No. 77, 1988 am. No. 121, 1992; No 33, 2016
s. 3C	ad. No. 109, 2001
s. 4	am. No. 24, 1990; No. 166, 1995; No. 94, 1998; No. 65, 2006; No. 29, 2011; Nos. 110 and 111, 2012
s. 5	am. No. 24, 1990 rs. No. 78, 2004 am. No. 46, 2011
s. 6	am. No. 24, 1990; No. 19, 2013
s 6A	ad No 95, 2020
Part II	
s. 8	am. No. 24, 1990; No. 78, 2004
s. 9	am. No. 65, 2006; No. 29, 2011
s. 10	rs. No. 77, 1988
s. 11	am. No. 77, 1988; Nos. 22 and 146, 1999; No. 8, 2010; No. 34, 2013
s. 12	am. No. 78, 2004
s. 13	am. No. 24, 1990
s. 14	am. No. 78, 2004
Part III	
Division 1	
s. 16	am. No. 110, 2010
s 16A	ad No 24, 1990

Endnote 4—Amendment history

Provision affected	How affected
	am No 110, 2010; No 95, 2020
s 16B.....	ad No 2, 2019 rep No 95, 2020
s 17.....	am. No. 24, 1990; No. 78, 2004; No. 110, 2010
s 18.....	rs. No. 24, 1990
s 19.....	am. No. 24, 1990
s 20.....	am No 95, 2020
s 21.....	am. No. 24, 1990 rs. No. 167, 1991
s 22.....	am. No. 24, 1990 rs. No. 94, 1998 am. No. 115, 2004; No. 109, 2010; No. 29, 2011
s 22A.....	ad. No. 110, 2010
s 23.....	am. No. 24, 1990; No. 110, 2010
s 24.....	am. No. 24, 1990
s 25.....	am No 24, 1990; No 94, 1998; No 22, 1999; No 78, 2004; No 19, 2013; No 95, 2020
s 25A.....	ad. No. 24, 1990 rs. No. 94, 1998 am. No. 110, 2010
s 25B.....	ad No 95, 2020
s 26.....	am No 24, 1990; No 34, 2001; No 95, 2020
s 27.....	am. No. 81, 1988; No. 24, 1990; No. 78, 2004
s 28.....	am No 24, 1990; No 61, 2016
s 29.....	am No 24, 1990
s 30.....	am No. 77, 1988; No 24, 1990; No 167, 1991; No 94, 1998; No 115, 2004; No 110, 2010; No 95, 2020
s 31.....	am No 24, 1990; No 95, 2020
s 32.....	am No 115, 2004; No 109, 2010; No 110, 2010; No 26, 2013; No 95, 2020
s 33.....	am No 24, 1990; No 110, 2010; No 95, 2020

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Endnote 4—Amendment history

Provision affected	How affected
s 34	am No 77, 1988; No 24, 1990; No 65, 2006; No 110, 2010; No 95, 2020
s 35	am. No. 24, 1990
s 36	am No 24, 1990; No 166, 1995; No 65, 2006; No 110, 2010; No 95, 2020
s 36A	ad No 94, 1998 am No 22, 1999; No 78, 2004; No 65, 2006; No 95, 2020
s 37	rs No 24, 1990 am No 167, 1991; No 115, 2004; No 65, 2006; No 110, 2010; No 37, 2011; No 19, 2013; No 95, 2020
s 38	rep. No. 24, 1990 ad. No. 65, 2006 am. No. 65, 2006 (as am. by No. 73, 2008); No. 109, 2010
s 39	rep. No. 24, 1990 ad. No. 109, 2010
s 40	am. No. 24, 1990; No. 94, 1998
s 41	am No 24, 1990; No 109, 2010; No 26, 2013; No 95, 2020
s 41AA	ad. No. 19, 2013
s 41AB.....	ad. No. 26, 2013
s 41A	ad. No. 78, 2004
s 42	am. No. 78, 2004
s 45	am. No. 24, 1990; No. 167, 1991; No. 219, 1992; No. 94, 1998; Nos. 34 and 109, 2001; No. 78, 2004; No 4, 2016; No 61, 2016
s 46	am No 77, 1988; No 24, 1990; No 65, 2006; No 95, 2020
s 46A	ad No 77, 1988 am No 24, 1990; No 167, 1991; No 94, 1998; No 78, 2004; No 22, 2007; No 110, 2010; No 2, 2019; No 95, 2020
Division 2	
s 47	am. No. 110, 2010
s 48	am No 24, 1990 rs No 24, 1990 am No 110, 2010; No 2, 2019
s 49	am. No. 24, 1990; No. 94, 1998

Endnote 4—Amendment history

Provision affected	How affected
	rep. No. 110, 2010
s. 49A	ad. No. 24, 1990
	am. No. 94, 1998; No. 78, 2004
	rep. No. 110, 2010
s. 50	am No 24, 1990; No 94, 1998; No 78, 2004; No 110, 2010; No 2, 2019
s. 51	am No 24, 1990; No 166, 1995; No 110, 2010; No 2, 2019
s. 52	am. No. 110, 2010
Part IV	
Part IV	rs. No. 24, 1990
s. 53	rs. No. 24, 1990
	am. No. 65, 2006; No. 19, 2013
s. 54	rs. No. 24, 1990
	am. No. 65, 2006
	rs. No. 19, 2013
s. 55	rs. No. 24, 1990
	am. No. 167, 1991; Nos. 34 and 109, 2001; No. 22, 2007; No. 110, 2010; No 19 and 26, 2013
s. 56	rep. No. 24, 1990
	ad. No. 94, 1998
s. 57	rs. No. 24, 1990
	rep. No. 166, 1995
s. 58	rs. No. 24, 1990
	am. No. 166, 1995; No. 94, 1998; No. 134, 1999; No. 78, 2004; No. 19, 2013
s. 59	rs. No. 24, 1990
s. 60	rs. No. 24, 1990
	rep. No. 110, 2010
s. 61	rs No 24, 1990
	am No 167, 1991; No 94, 1998; No 34, 2001; No 78, 2004; No 22, 2007; No 110, 2010; No 19, 2013; No 26, 2013; No 95, 2020
s. 61A	ad. No. 19, 2013

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Endnote 4—Amendment history

Provision affected	How affected
s. 62.....	rs. No. 24, 1990 am. No. 167, 1991; No. 115, 2004 rs. No. 19, 2013
s. 62A.....	ad. No. 34, 2001 am. No. 19, 2013
s. 62B.....	ad. No. 34, 2001 am. No. 19, 2013; No 4, 2016; No 61, 2016
s. 63.....	rs. No. 24, 1990 am. No. 34, 2001 rep. No. 19, 2013
s. 64.....	rs. No. 24, 1990 rep. No. 167, 1991
s. 65.....	rs. No. 24, 1990 am. No. 34, 2001; No. 78, 2004; No. 22, 2007; No. 110, 2010; No. 19, 2013
s. 66.....	am. No. 77, 1988 rs. No. 24, 1990 am. No. 19, 2013; No 61, 2016
s. 67.....	rs. No. 24, 1990 am. No. 22, 2007; No 110, 2010; No 2, 2019
s. 68.....	rs. No. 24, 1990 am. No. 109, 2001; No 61, 2016
s. 69.....	rs. No. 24, 1990 am. No. 19, 2013; No 61, 2016
s. 70.....	rs. No. 24, 1990 am. No. 19, 2013; No 61, 2016
s. 71.....	rs. No. 24, 1990
Part IVA	
Part IVA.....	ad. No. 24, 1990
Division 1	
Division 1.....	ad. No. 109, 2010

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Provision affected	How affected
s. 71A	ad. No. 109, 2010
Division 2	
Division 2 heading.....	ad. No. 109, 2010
s. 72	am. No. 77, 1988 rs. No. 24, 1990 am. No. 65, 2006; No. 109, 2010
s. 73	rs. No. 24, 1990
s 73AA	ad No 22, 2007 am No 109, 2010; No 110, 2010; No 95, 2020
s 73A	ad No 24, 1990 am No 109, 2010; No 95, 2020
s 73B	ad No 24, 1990 am No 166, 1995; No 94, 1998; No 22, 2007; No 109, 2010; No 26, 2013; No 2, 2019; No 95, 2020
s. 73C	ad. No. 24, 1990 am. No. 22, 2007; Nos. 109 and 110, 2010; No. 26, 2013
s. 73CA.....	ad. No. 78, 2004
s. 73CB.....	ad. No. 78, 2004 am. No. 22, 2007; No 4, 2016
Division 3	
Division 3	ad. No. 109, 2010
Subdivision A	
s 73CC.....	ad No 109, 2010 am No 26, 2013; No 95, 2020
s 73CD.....	ad No 109, 2010 am No 110, 2010; No 95, 2020
s 73CE.....	ad No 109, 2010 am No 95, 2020
s 73CF	ad No 109, 2010
Subdivision B	
s 73CG.....	ad No 109, 2010

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Provision affected	How affected
	am No 110, 2010; No 26, 2013; No 95, 2020
s 73CH.....	ad No 109, 2010
	rep No 26, 2013
s 73CI.....	ad No 109, 2010
	am No 110, 2010; No 26, 2013; No 95, 2020
s 73CJ.....	ad No 109, 2010
	am No 110, 2010; No 26, 2013; No 95, 2020
s. 73CK.....	ad. No. 109, 2010
s. 73CL.....	ad. No. 109, 2010
	am. No. 26, 2013
s. 73CM.....	ad. No. 109, 2010
	am. No. 26, 2013
Subdivision C	
ss. 73CN–73CR.....	ad. No. 109, 2010
Division 4	
Division 4 heading.....	ad. No. 109, 2010
s. 73CS.....	ad. No. 109, 2010
s. 73D.....	ad. No. 24, 1990
	am. No. 34, 2001; No. 109, 2010
s. 73E.....	ad. No. 24, 1990
	am. No. 167, 1991; No. 109, 2010
s 73F.....	ad No 24, 1990
	am No 109, 2010; No 95, 2020
s. 73G.....	ad. No. 24, 1990
	rep. No. 167, 1991
s. 73H.....	ad. No. 24, 1990
	am. No. 109, 2001; No. 109, 2010; No 61, 2016
s 73J.....	ad No 24, 1990
	am No 109, 2010; No 61, 2016
s 73K.....	ad No 24, 1990
	am No 109, 2010

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Provision affected	How affected
Part IVB	
Part IVB heading	rs No 109, 2010; No 95, 2020
Part IVB	ad. No. 22, 2007
Division 1 heading.....	rep No 109, 2010
s 73L.....	ad No 22, 2007 am No 109, 2010
s 73LA.....	ad No 95, 2020
s 73M.....	ad No 22, 2007 am No 109, 2010; No 95, 2020
s. 73N.....	ad. No. 22, 2007
ss. 73P, 73Q.....	ad. No. 22, 2007 am. No. 109, 2010
s 73QA	ad No 109, 2010 am No 95, 2020
Division 2.....	rep No 109, 2010
ss. 73R–73V	ad. No. 22, 2007 rep. No. 109, 2010
Part V	rep No 95, 2020
s 74.....	am No 24, 1990; No 109, 2010 rep No 95, 2020
s 75.....	am No 24, 1990; No 19, 2013; No 26, 2013 rep No 95, 2020
s 76.....	rep No 95, 2020
s 77.....	rep No 95, 2020
s 78.....	am No 46, 2011 rep No 95, 2020
s 79.....	rep No 95, 2020
s 80.....	rs No 24, 1990 rep No 95, 2020
s 81.....	am No 24, 1990 rep No 95, 2020

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Endnote 4—Amendment history

Provision affected	How affected
s 82	am No 24, 1990 rep No 95, 2020
s 84	am No 24, 1990 rep No 95, 2020
s 85	am No 24, 1990; No 34, 2001 rep No 95, 2020
s 86	am No 24, 1990; No 34, 2001 rep No 95, 2020
s 87	rep No 95, 2020
s 88	rep No 95, 2020
Part VI	
s. 89	am. No. 81, 1988; No. 24, 1990; No. 78, 2004
s 89A	ad No 24, 1990 am No 134, 1999; No 2, 2019
s 90	am No 24, 1990; No 109, 2010; No 110, 2010; No 2, 2019
s 91	am No 24, 1990; No 78, 2004; No 2, 2019
s. 92	am. No. 24, 1990
s 93	am No. 24, 1990; No 94, 1998; No 109, 2010; No 110, 2010; No 26, 2013; No 61, 2016; No 95, 2020
s. 95	am. No. 24, 1990; No. 78, 2004
s. 95A	ad. No. 24, 1990
s. 95B	ad. No. 24, 1990 am. No. 146, 1999
s. 96	am. No. 24, 1990
Part VII	
s. 97	am. No. 24, 1990
s. 98	am. No. 24, 1990; No. 94, 1998 rs. No. 78, 2004
s. 98A	ad. No. 121, 1992 rep No 33, 2016
s. 99	am. No. 78, 2004

Endnote 4—Amendment history

Provision affected	How affected
Part VIII	
s. 100	am. No. 78, 2004
s. 101	am. No. 24, 1990; No. 78, 2004
s. 104	am. No. 95, 2020
s. 105	am. No. 24, 1990; No. 78, 2004
s. 106	am. No. 78, 2004
s. 107AA	ad. No. 94, 1998
s. 107A	ad. No. 24, 1990
s. 108AA	ad. No. 134, 1999
s. 108A	ad. No. 203, 1991 am. No. 167, 1992; No. 94, 1998
s. 109	am. No. 24, 1990
s. 109A	ad. No. 24, 1990
Part IX	
Part IX heading.....	rs No 94, 1998 rep No 65, 2006 ad No 99, 2017
Part IX	rep No 65, 2006 ad No 99, 2017
s. 109A	ad No 77, 1988
Renumbered s. 109B	No 219, 1992
s. 109B	rep No 65, 2006
Division 1	
s. 110A	ad No 99, 2017 am No 147, 2018
s. 110B	ad No 99, 2017
Division 2	
s. 110C	ad No 99, 2017
s. 110D	ad No 99, 2017
Division 3	
s. 110E.....	ad No 99, 2017

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Endnote 4—Amendment history

Provision affected	How affected
s 110F.....	ad No 99, 2017
s 110G.....	ad No 99, 2017
s. 110.....	am. No. 67, 1985; No. 180, 1991; No. 105, 1992 rep. No. 65, 2006
s. 111.....	am. No. 67, 1985; No. 24, 1990; No. 105, 1992 rep. No. 65, 2006
s. 112.....	am. No. 24, 1990; No. 94, 1998 rep. No. 65, 2006
s. 113.....	rep. No. 77, 1988
s. 114.....	am. No. 77, 1988; No. 24, 1990 rep. No. 65, 2006
s. 115.....	rs. No. 24, 1990 rep. No. 65, 2006
Part X	
s 116.....	am No 24, 1990; No 61, 2016; No 95, 2020
s 117.....	am No 24, 1990; No 4, 2016; No 61, 2016
s 118.....	am No 109, 2001; No 4, 2016; No 61, 2016; No 95, 2020
s. 118A.....	ad. No. 24, 1990 am. No. 109, 2001; No 61, 2016
s. 119.....	am. No. 24, 1990; No. 109, 2001; No 61, 2016
s 120.....	am No 61, 2016
s 121.....	am No 167, 1991; No 34, 2001; No 4, 2016; No 61, 2016 rep No 99, 2017
s 121A.....	ad No 65, 2006 am No 8, 2010 rep No 99, 2017
s. 122.....	am. No. 133, 1984; No. 24, 1990; No 109, 2001; No. 78, 2004; No. 108, 2010; No 4, 2016; No 61, 2016
s 123.....	am No 4, 2016; No 61, 2016
s 124.....	rs No 167, 1991 am No 94, 1998; No 115, 2004; No 61, 2016

Endnote 4—Amendment history

Provision affected	How affected
	rep No 99, 2017
s. 125	am. No. 94, 1998
	rep. No. 134, 1999
s. 126	am. No. 109, 2001; No 61, 2016
s. 127	am No 24, 1990; No 61, 2016
s. 128	am No 24, 1990; No 61, 2016
s. 129	am No 61, 2016
s. 130	am. No. 24, 1990; No. 94, 1998; No. 109, 2001; No. 115, 2004; No 4, 2016; No 61, 2016
s. 130A	ad. No. 26, 2013
s. 131	am No 24, 1990; No 78, 2004; No 61, 2016; No 2, 2019; No 95, 2020
s. 132	am. No. 109, 2001; No 4, 2016; No 61, 2016
s. 133	am. No. 24, 1990; No 61, 2016
s. 134	am. No. 167, 1991; No. 109, 2001; No 4, 2016; No 61, 2016
s. 135	rs No 24, 1990
	am No 22, 2007; No 61, 2016; No 95, 2020
s. 136	am. No. 77, 1988; No. 109, 2001
	rep. No. 65, 2006
Part XI	
s. 136A	ad. No. 77, 1988
s. 137	rep. No. 94, 1998
s. 138	am. No. 24, 1990; No. 109, 2010
	rs. No. 19, 2013
s. 139	am No 34, 2001; No 78, 2004; No 99, 2017
s. 140	am No 61, 2016
s. 140AAA	ad No 99, 2017
	am No 147, 2018
s. 140A	ad. No. 167, 1991
s. 140AA	ad No 78, 2004
	rs No 99, 2017
s. 140B	ad. No. 219, 1992

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Endnote 4—Amendment history

Provision affected	How affected
s. 141	am. No. 24, 1990
s. 142	rs. No. 24, 1990
	rep. No. 94, 1998
s. 142A	ad. No. 24, 1990
	am. No. 94, 1998; Nos. 109 and 110, 2010; No. 26, 2013
Schedules	
Schedule 1	am. No. 34, 2001; No. 78, 2004
Schedule 3	ad. No. 24, 1990
	am. No. 167, 1991; Nos. 115 and 123, 2004; No. 110, 2010; No. 19, 2013
Schedule 4	ad No 24, 1990
	am No 167, 1991; No 166, 1995; No 94, 1998; No 134, 1999; No 34, 2001; No 78, 2004; No 115, 2004; No 65, 2006 (as am by No 73, 2008); No 110, 2010; No 29, 2011; No 37, 2011; No 111, 2012; No 19, 2013; No 2, 2019; No 95, 2020
