



Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013

No. 19, 2013

**An Act to amend the law relating to elections and
referendums, and for related purposes**

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Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedule(s).....	2
Schedule 1—Postal voting		3
Part 1—Amendments		3
<i>Commonwealth Electoral Act 1918</i>		3
<i>Referendum (Machinery Provisions) Act 1984</i>		10
Part 2—Application and savings provisions		17
Schedule 2—Nominations for election		18
Part 1—Amendments		18
<i>Commonwealth Electoral Act 1918</i>		18
Part 2—Application provision		20
Schedule 3—Other amendments		21
Part 1—Amendments		21
<i>Commonwealth Electoral Act 1918</i>		21
<i>Referendum (Machinery Provisions) Act 1984</i>		26
Part 2—Application provisions		29



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No. 19, 2013

**An Act to amend the law relating to elections and
referendums, and for related purposes**

[Assented to 27 March 2013]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Electoral and Referendum
Amendment (Improving Electoral Procedure) Act 2013*.

Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013 No. 19,
2013 1

2 Commencement

This Act commences on the day this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Postal voting

Part 1—Amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1) (definition of *officer*)

Omit “subsection 28(2)”, substitute “section 28”.

2 Section 28

Repeal the section, substitute:

28 Delegation by Electoral Commissioner

- (1) The Electoral Commissioner may, in writing, delegate all or any of his or her powers or functions under this Act, other than the powers and functions conferred by Parts III and IV, to any of the following:

- (a) any officer;
- (b) any other member of the staff of the Electoral Commission.

Note: The definition of *officer* covers Australian Electoral Officers and Divisional Returning Officers, as well as various other people.

- (2) In exercising powers or performing functions delegated under subsection (1), the delegate must comply with any directions of the Electoral Commissioner.

3 Subsection 182(1) (definition of *appropriate DRO*)

Repeal the definition.

4 Subsection 182(2)

Repeal the subsection, substitute:

- (2) In this Part (other than in sections 184A to 186) and in Schedule 2, a reference to the Division for which a person is enrolled includes:
- (a) in the case of a person who is provisionally enrolled—a reference to the Division for which the person is provisionally enrolled; and

- (b) in the case of a person who is not enrolled—a reference to the Division for which the person would be enrolled if the person were an elector.

5 Section 183

Repeal the section, substitute:

183 Grounds of application for postal vote

A person may apply for a postal vote on any of the grounds set out in Schedule 2.

6 Subsection 184(1)

Omit “an elector”.

7 Subsections 184(2) and (3)

Omit “a DRO”, substitute “the Electoral Commissioner”.

8 Subsection 184(5)

Omit “the DRO or Assistant Returning Officer to whom it is directed”, substitute “the Electoral Commissioner or the Assistant Returning Officer”.

9 Subsection 184(6)

Omit “the DRO or Assistant Returning Officer to whom the application was directed”, substitute “the Electoral Commissioner or the Assistant Returning Officer”.

10 At the end of section 184

Add:

- (7) The Electoral Commissioner must cause a number to be allocated to each application for a postal vote.

11 Subsection 186(1)

Repeal the subsection, substitute:

- (1) As soon as ballot papers for an election for a Division are available, the Electoral Commissioner must send or arrange for the

delivery of postal voting papers to each registered general postal voter for the Division.

12 Before subsection 188(1)

Insert:

Material to be sent to postal vote applicant

13 Subsection 188(1)

Omit “A DRO or Assistant Returning Officer who”, substitute “If the Electoral Commissioner or an Assistant Returning Officer”.

14 Subsection 188(1)

After “subsection 184(1)”, insert “, he or she”.

15 Subparagraphs 188(1)(c)(i) and (ii)

Omit “declares that he or she”.

16 After subsection 188(1)

Insert:

Dealing with certificates and ballot papers before sending

- (1A) Before a postal vote certificate and postal ballot paper are sent to an applicant under subsection (1):
- (a) the date of issue of the certificate and ballot paper must be recorded; and
 - (b) the certificate must be numbered with the same number allocated to the application under subsection 184(7); and
 - (c) the top of the front of the ballot paper must be marked with the initials of the officer who issued the ballot paper, or caused it to be issued.

How material is to be sent

17 Subsections 188(2), (3) and (4)

Omit “the DRO” (wherever occurring), substitute “the Electoral Commissioner”.

18 After section 188

Insert:

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

- (1) This section applies if a postal vote certificate and postal ballot paper are sent to an applicant for a postal vote under subsection 188(1).
- (2) If the application for the postal vote is made to the Electoral Commissioner, the Electoral Commissioner must send, or arrange for the sending of, the application to the DRO for the Division for which the applicant is enrolled.
- (3) If the application for the postal vote is made to an Assistant Returning Officer, the application must be dealt with in accordance with subsection 228(8).

19 Section 189

Repeal the section, substitute:

189 Inspection of applications

- (1) A list of applications for postal votes for a Division must be available for public inspection at the office of the DRO for the Division.
- (2) The list must:
 - (a) be available during ordinary office hours from and including the third day after polling day until the election can no longer be questioned; and
 - (b) set out, for each applicant:
 - (i) the applicant's full name; and
 - (ii) except in the case of an applicant whose address has been excluded from the Roll under section 104—the address of the applicant; and
 - (iii) such other particulars (if any) as the Electoral Commissioner determines.
- (3) The list may be kept in electronic or other form.

(4) A right of inspection under this section does not include the right to copy or record by electronic means the list of applications (in whole or in part).

(5) If the Electoral Commissioner determines particulars under subparagraph (2)(b)(iii) in writing, the instrument is not a legislative instrument.

20 Subsections 189A(1) and (2)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

21 Subsection 189A(3)

Repeal the subsection, substitute:

(3) The list may include the name, date of birth and address of a postal vote applicant.

22 Subsection 189A(4)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

23 Paragraphs 189B(1)(a), (2)(b) and (3)(b)

Omit “Electoral Commission”, substitute “Electoral Commissioner under section 189A”.

24 Subsections 189B(4) and (5)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

25 Section 190

Repeal the section.

26 Paragraph 194(1)(a)

Omit “the elector shall”, substitute “the person voting must”.

27 Paragraph 194(1)(b)

Omit “an elector”, substitute “a person”.

28 Paragraphs 194(1)(b) and (d)

Omit “the elector shall”, substitute “the person must”.

29 Paragraph 194(1)(da)

Omit “the elector must”, substitute “the person must”.

30 Paragraphs 194(1)(e) and (f)

Repeal the paragraphs, substitute:

- (e) the person must post or deliver the envelope to the DRO for the Division for which the person is enrolled;
- (f) if the person (the *elector*) cannot read or is so disabled as to be unable to vote without assistance, another person chosen by the elector may, according to the directions of the elector, complete the postal vote certificate and do for the elector any act required by paragraph (d) or (e);

31 Subsection 194(1A)

Omit “an elector”, substitute “a person”.

32 Subsection 194(1A)

Omit “the elector” (wherever occurring), substitute “the person”.

33 Subsection 194(1A)

Omit “the elector’s” (wherever occurring), substitute “the person’s”.

34 Paragraphs 194(2)(a) and (b)

Omit “appropriate DRO”, substitute “DRO for the Division for which the person is enrolled”.

35 Section 195

Omit “the elector”, substitute “a person voting (the *elector*)”.

36 Paragraphs 195(a) and (b)

Omit “an elector”, substitute “the elector”.

37 Section 197

Omit “an elector”, substitute “another person”.

38 Section 198 (heading)

Repeal the heading, substitute:

198 Inducing person to hand over marked ballot paper

39 Section 198

Omit “an elector”, substitute “another person”.

40 Subsection 209(8)

Omit “a DRO or Assistant Returning Officer shall”, substitute “an officer must”.

41 Paragraph 1 of Schedule 2

Omit “the elector” (wherever occurring), substitute “the person”.

42 Paragraph 2 of Schedule 2

Omit “The elector”, substitute “The person”.

43 Paragraphs 2, 3 and 3A of Schedule 2

Omit “the elector” (wherever occurring), substitute “the person”.

44 Paragraph 4 of Schedule 2

Omit “The elector”, substitute “The person”.

45 Paragraph 4 of Schedule 2

Omit “an elector”, substitute “a person”.

46 Paragraphs 5 and 6 of Schedule 2

Omit “the elector” (wherever occurring), substitute “the person”.

47 Paragraph 7A of Schedule 2

Omit “The elector”, substitute “The person”.

48 Paragraph 8 of Schedule 2

Omit “the elector’s”, substitute “the person’s”.

49 Paragraphs 8 and 9 of Schedule 2

Omit “the elector”, substitute “the person”.

50 Paragraph 10 of Schedule 2

Omit “The elector’s”, substitute “The person’s”.

51 Paragraph 11 of Schedule 2

Omit “the elector” (wherever occurring), substitute “the person”.

Referendum (Machinery Provisions) Act 1984

52 Subsection 3(1) (definition of *officer*)

Omit “subsection 138(2)”, substitute “section 138”.

53 Subsection 25(6)

Omit “a DRO or Assistant Returning Officer shall”, substitute “an officer must”.

54 Subsection 53(1) (definition of *appropriate DRO*)

Repeal the definition.

55 Subsection 53(2)

Repeal the subsection, substitute:

- (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.

56 Section 54

Repeal the section, substitute:

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.

57 Subsection 55(1)

Omit “an elector”.

58 Subsections 55(2) and (3)

Omit “a DRO”, substitute “the Electoral Commissioner”.

59 Subsection 55(5)

Omit “the DRO or Assistant Returning Officer to whom it is directed”, substitute “the Electoral Commissioner or the Assistant Returning Officer”.

60 Subsection 55(6)

Omit “the DRO or Assistant Returning Officer to whom the application was directed”, substitute “the Electoral Commissioner or the Assistant Returning Officer”.

61 At the end of section 55

Add:

- (7) The Electoral Commissioner must cause a number to be allocated to each application for a postal vote.

62 Subsection 58(1)

Omit “the DRO for a Division shall”, substitute “the Electoral Commissioner must”.

63 Subsection 58(1)

Omit “for the Division”.

64 Before subsection 61(1)

Insert:

Material to be sent to postal vote applicant

65 Subsection 61(1)

Omit “A DRO or Assistant Returning Officer who”, substitute “If the Electoral Commissioner or an Assistant Returning Officer”.

66 Subsection 61(1)

After “subsection 55(1)”, insert “, he or she”.

67 Subparagraphs 61(1)(a)(i) and (ii)

Omit “declares that he or she”.

68 After subsection 61(1)

Insert:

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 is to be sent

69 Subsections 61(2), (2A) and (2B)

Omit “the DRO” (wherever occurring), substitute “the Electoral Commissioner”.

70 After section 61

Insert:

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).

71 Section 62

Repeal the section, substitute:

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 *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.

72 Subsections 62A(2) and (3)

Omit "Electoral Commission", substitute "Electoral Commissioner".

73 Subsection 62A(4)

Repeal the subsection, substitute:

- (4) The list may include the name, date of birth and address of a postal vote applicant.

74 Subsection 62A(5)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

75 Paragraphs 62B(1)(a), (2)(b) and (3)(b)

Omit “Electoral Commission”, substitute “Electoral Commissioner under section 62A”.

76 Subsections 62B(4) and (5)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

77 Section 63

Repeal the section.

78 Paragraph 65(1)(a)

Omit “the elector shall”, substitute “the person voting must”.

79 Paragraphs 65(1)(b) and (d)

Omit “the elector shall”, substitute “the person must”.

80 Paragraph 65(1)(da)

Omit “the elector must”, substitute “the person must”.

81 Paragraphs 65(1)(e) and (f)

Repeal the paragraphs, substitute:

- (e) the person must post or deliver the envelope to the DRO for the Division for which the person is enrolled;
- (f) if the person (the *elector*) cannot read or is so disabled as to be unable to vote without assistance, another person chosen by the elector may, according to the directions of the elector, complete the postal vote certificate and do for the elector any act required by paragraph (d) or (e);

82 Subsection 65(1A)

Omit “an elector”, substitute “a person”.

83 Subsection 65(1A)

Omit “the elector” (wherever occurring), substitute “the person”.

84 Subsection 65(1A)

Omit “the elector’s” (wherever occurring), substitute “the person’s”.

85 Paragraphs 65(2)(a) and (b)

Omit “appropriate DRO”, substitute “DRO for the Division for which the person is enrolled”.

86 Section 66

Omit “the elector”, substitute “a person voting (the *elector*)”.

87 Paragraphs 66(a) and (b)

Omit “an elector”, substitute “the elector”.

88 Section 69

Omit “an elector”, substitute “another person”.

89 Section 70 (heading)

Repeal the heading, substitute:

70 Inducing person to hand over marked ballot-paper

90 Section 70

Omit “an elector”, substitute “another person”.

91 Section 138

Repeal the section, substitute:

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.

92 Paragraph 1 of Schedule 3

Omit “the elector” (wherever occurring), substitute “the person”.

93 Paragraph 2 of Schedule 3

Omit “The elector”, substitute “The person”.

94 Paragraphs 2, 3 and 3A of Schedule 3

Omit “the elector” (wherever occurring), substitute “the person”.

95 Paragraph 4 of Schedule 3

Omit “The elector”, substitute “The person”.

96 Paragraph 4 of Schedule 3

Omit “an elector”, substitute “a person”.

97 Paragraphs 5 and 6 of Schedule 3

Omit “the elector” (wherever occurring), substitute “the person”.

98 Paragraph 7A of Schedule 3

Omit “The elector”, substitute “The person”.

99 Paragraph 8 of Schedule 3

Omit “the elector’s”, substitute “the person’s”.

100 Paragraphs 8 and 9 of Schedule 3

Omit “the elector”, substitute “the person”.

101 Paragraph 10 of Schedule 3

Omit “The elector’s”, substitute “The person’s”.

102 Paragraph 11 of Schedule 3

Omit “the elector” (wherever occurring), substitute “the person”.

Part 2—Application and savings provisions

103 Application of amendments

The amendments made by this Schedule apply in relation to elections and referendums the writs for which are issued on or after the commencement of this Schedule.

104 Savings provisions

- (1) A delegation in force under section 28 of the *Commonwealth Electoral Act 1918* immediately before the commencement of item 2 continues to have effect after that commencement as if it were a delegation under that section as amended by that item.
- (2) A delegation in force under section 138 of the *Referendum (Machinery Provisions) Act 1984* immediately before the commencement of item 91 continues to have effect after that commencement as if it were a delegation under that section as amended by that item.

Schedule 2—Nominations for election

Part 1—Amendments

Commonwealth Electoral Act 1918

1 Subsection 166(1)

Repeal the subsection, substitute:

Nominations of single candidates as Senators or members

- (1) Subject to subsections (1A), (1AA), (1B) and (1C), a nomination may be in Form C, CA, D or DA in Schedule 1, as the case requires, and must:
- (a) set out the name, place of residence and occupation of the candidate; and
 - (b) be signed by:
 - (i) not less than 100 electors entitled to vote at the election for which the candidate is nominated; or
 - (ii) the registered officer of the registered political party by which the candidate has been endorsed for that election.

(1AAAA) If:

- (a) 2 or more candidates in a Senate election make a joint request under section 168; and
 - (b) a person signs, under subparagraph (1)(b)(i), a nomination for more than one of the candidates;
- the person's signature must not be counted for any of the candidates for the purposes of that subparagraph.

Nominations of 2 or more candidates as Senators

- (1AAA) Subject to subsections (1A), (1AA) and (1B), a nomination may be in Form CC in Schedule 1, and must:
- (a) set out the name, place of residence and occupation of each candidate; and
 - (b) be signed by the registered officer of the registered political party by which the candidates have been endorsed for that election.

Other matters relating to nominations

2 Subsection 166(1C)

Omit “, or the candidates are,”.

3 Subsection 166(1C)

Omit “or each candidate”.

4 Paragraph 170(3)(a)

Omit “\$1,000”, substitute “\$2,000”.

5 Paragraph 170(3)(b)

Omit “\$500”, substitute “\$1,000”.

6 Form CB in Schedule 1

Repeal the Form.

Part 2—Application provision

7 Application of amendments

The amendments made by this Schedule apply in relation to elections the writs for which are issued on or after the commencement of this Schedule.

Schedule 3—Other amendments

Part 1—Amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1) (definition of *pre-poll voting office*)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

2 Section 33

Repeal the section, substitute:

33 Assistant Returning Officers

- (1) The Electoral Commissioner may, for the purposes of a particular election, appoint a person to be an Assistant Returning Officer.
- (2) A person appointed to be an Assistant Returning Officer may, subject to the control of the Electoral Commissioner, perform such functions and exercise such powers as are conferred on the person by this Act.
- (3) An appointment under subsection (1) terminates upon completion of the election.

5 Paragraph 98(2)(a)

Omit “the approved form”, substitute “an approved form”.

6 Subsection 98(4)

Omit “the form”, substitute “a form”.

7 Paragraph 100(1)(a)

Repeal the paragraph, substitute:

- (a) has turned 16, but is under 18, years of age; and

8 Subsection 104(1)

Omit “or transfer of enrolment”.

9 After subsection 104(4)

Insert:

(4A) If:

- (a) the address of an elector is not shown on the Roll for a Subdivision because of this section; and
- (b) the elector's name is transferred to a Roll for another Subdivision;

the Electoral Commissioner must not enter the elector's address on the Roll for the other Subdivision.

12 Subsection 120(2) (after table item 1)

Insert:

- 1A A decision under section 94A to refuse an application under subsection 94A(1) by a person for enrolment for a Subdivision from outside Australia.

13 Subsection 120(2) (after table item 2)

- 2A A decision under section 96 to refuse an application under subsection 96(1) by a person for enrolment as an itinerant elector.

14 Paragraph 123(3)(b)

Repeal the paragraph, substitute:

- (b) an elector.

15 Subsection 132(1)

Omit all the words after paragraph (b), substitute:

the Electoral Commissioner:

- (c) must publish a notice of the application:
 - (i) in a newspaper circulating generally in each State and Territory; and
 - (ii) on the Electoral Commission's website; and
- (d) may publish the notice in any other way the Electoral Commissioner considers appropriate.

16 Paragraph 132(2)(b)

Omit "in the *Gazette*", substitute "on the Electoral Commission's website".

17 Paragraph 132(7)(b)

Omit “in the *Gazette*”, substitute “on the Electoral Commission’s website”.

18 Paragraph 133(1)(c)

Omit “; and”, substitute “.”.

19 Paragraph 133(1)(d)

Repeal the paragraph.

20 After subsection 133(1)

Insert:

- (1A) If the Electoral Commission makes a determination under subsection (1) that a political party should be registered, the Electoral Commissioner:
- (a) must publish notice of the registration of the party on the Electoral Commission’s website; and
 - (b) may publish notice of the registration in any other way the Electoral Commissioner considers appropriate.

21 Paragraph 134(6)(d)

Omit “; and”, substitute “.”.

22 Paragraph 134(6)(e)

Repeal the paragraph.

23 After subsection 134(6)

Insert:

- (6A) If the Register is changed in accordance with paragraph (6)(a), the Electoral Commissioner:
- (a) must publish notice of the change on the Electoral Commission’s website; and
 - (b) may publish notice of the change in any other way the Electoral Commissioner considers appropriate.

24 Paragraph 136(1A)(b)

Omit “; and”, substitute “.”.

25 Paragraph 136(1A)(c)

Repeal the paragraph.

26 After subsection 136(1A)

Insert:

- (1B) If a political party is deregistered under subsection (1A), the Electoral Commissioner:
- (a) must publish notice of the deregistration on the Electoral Commission’s website; and
 - (b) may publish notice of the deregistration in any other way the Electoral Commissioner considers appropriate.

27 Subsection 137(1)

Omit all the words after “the Commission”, substitute “must give the registered officer of the party notice, in writing, that it is considering deregistering the party under this section, setting out its reasons for considering doing so and the terms of the provisions of subsections (2), (3), (4) and (5)”.

28 After subsection 137(1)

Insert:

- (1A) If the Electoral Commission gives a notice under subsection (1), the Electoral Commissioner:
- (a) must publish a notice, on the Electoral Commission’s website:
 - (i) stating that the Commission is considering deregistering the party under this section; and
 - (ii) specifying the paragraph of subsection (1) by reason of which it is considering doing so; and
 - (b) may publish a notice covered by paragraph (a) of this subsection in any other way the Electoral Commissioner considers appropriate.

29 Subsections 137(2) and (4)

Omit “paragraph (1)(d)”, substitute “subsection (1)”.

30 Subsection 137(4)

Omit all the words after “deregister the party”.

31 Subsection 137(5)

Omit “paragraph (1)(d)”, substitute “subsection (1)”.

32 Paragraph 137(6)(b)

Omit “; and”, substitute “.”.

33 Paragraph 137(6)(c)

Repeal the paragraph.

34 After subsection 137(6)

Insert:

- (6A) If the Electoral Commission deregisters a party under subsection (4) or (6), the Electoral Commissioner:
- (a) must publish a notice of the deregistration on the Electoral Commission’s website; and
 - (b) may publish a notice of the deregistration in any other way the Electoral Commissioner considers appropriate.

35 Subsection 174(2)

Omit “therein”.

36 Paragraph 184A(2)(a)

Repeal the paragraph, substitute:

- (a) the applicant’s real place of living is not within 20 kilometres, by the shortest practicable route, of any polling place;

37 Paragraph 235(1)(d)

Repeal the paragraph, substitute:

- (d) a mark on the certified list of voters, or a record against an approved list of voters, for the Division indicates that the voter has already voted; or

38 After section 238

Insert:

238A Discarded ballot papers

- (1) This section applies if:
 - (a) a ballot paper has been issued to a voter; and
 - (b) an officer is satisfied that the ballot paper has been discarded by the voter.
- (2) The officer must:
 - (a) immediately cancel the ballot paper; and
 - (b) write “discarded” on the back of the ballot paper; and
 - (c) place the ballot paper in an envelope, seal the envelope and write on the envelope an indication of the type of ballot paper enclosed and that it is discarded; and
 - (d) sign the envelope.
- (3) The envelopes containing discarded ballot papers that have been cancelled under this section must be:
 - (a) sealed up in a parcel; and
 - (b) given to the Divisional Returning Officer for the Division after the close of the poll.

39 Subsection 248(1)

After “238,” insert “238A,”.

40 After paragraph 7A of Schedule 3

Insert:

- 7B. Paragraphs 7 and 7A do not apply to a vote marked on a postal ballot paper if:
- (a) the envelope purporting to contain the postal ballot paper is endorsed with the date and time of receipt under paragraph 195A(2)(c); and
 - (b) the date and time is before the close of the poll.

Referendum (Machinery Provisions) Act 1984

41 Subsection 3(1) (definition of *pre-poll voting office*)

Omit “Electoral Commission”, substitute “Electoral Commissioner”.

42 Subsections 6(1), (2) and (3)

Repeal the subsections, substitute:

- (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.

43 Paragraph 37(1)(d)

Repeal the paragraph, substitute:

- (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

44 After section 41

Insert:

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.

45 Subsection 75(1)

Omit “and 41”, substitute “, 41 and 41AA”.

46 After paragraph 7A of Schedule 4

Insert:

- 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.

Part 2—Application provisions

47 Application of amendments

- (1) The amendments made by items 1, 2, 35 and 37 to 46 apply in relation to elections and referendums the writs for which are issued on or after the commencement of this Schedule.
- (2) The amendments made by items 5 and 6 apply in relation to claims made on or after the commencement of this Schedule.
- (3) The amendment made by item 7 applies in relation to claims made before, on or after the commencement of this Schedule.
- (4) The amendments made by items 8 and 9 apply in relation to transfers of enrolment occurring on or after the commencement of this Schedule.
- (5) The amendments made by items 12 and 13 apply in relation to decisions made on or after the commencement of this Schedule, whether the applications to which the decisions relate were made before, on or after that commencement.
- (6) The amendment made by item 14 applies for the purposes of working out, on or after the commencement of this Schedule, who is a member of a political party for the purposes of Part XI of the *Commonwealth Electoral Act 1918*, as amended by this Act.
- (7) The amendments made by items 15 to 34 apply to the publication of notices on or after the commencement of this Schedule, even if the circumstances to which the notice relates arose wholly or partly before that commencement.
- (8) The amendment made by item 36 applies in relation to applications made on or after the commencement of this Schedule.

*[Minister's second reading speech made in—
House of Representatives on 27 June 2012
Senate on 25 February 2013]*

(130/12)

30 *Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013*
No. 19, 2013