



# **Commonwealth Electoral Amendment Act 2016**

**No. 25, 2016**

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

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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# Commonwealth Electoral Amendment Act 2016

No. 25, 2016

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

[Assented to 21 March 2016]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Commonwealth Electoral Amendment Act 2016*.

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## 2 Commencement

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

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	22 March 2016

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Senate voting**

#### **Division 1—Amendments**

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

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

Insert:

***above the line***: a square is printed ***above the line*** on a ballot paper if the square is printed on the ballot paper in accordance with subparagraph 210(1)(f)(ii).

***below the line***: a square is printed ***below the line*** on a ballot paper if the square is printed on the ballot paper in accordance with subparagraph 210(1)(f)(i).

***dividing line*** means the line on a ballot paper that separates the voting method described in subsection 239(1) from the voting method described in subsection 239(2).

##### **2 Paragraph 169(4)(b)**

Repeal the paragraph, substitute:

- (b) the candidates have made a request under section 168 that their names be grouped in the ballot papers for the election;

##### **3 Subsection 169(4)**

After “the request”, insert “under subsection (1)”.

##### **4 Subsection 169(4)**

Omit “in relation to the group in accordance with subsection 211(5)”, substitute “above the line in relation to the group”.

##### **5 Paragraphs 195A(5)(b) and (c)**

Repeal the paragraphs, substitute:

- (b) keep the envelope in the ballot-box until the ballot-box is forwarded to the designated Divisional Returning Officer as required by subsection 227(10); and
- (c) when so forwarding the ballot-box to the designated Divisional Returning Officer, also forward to that Officer the record made by the mobile polling team leader under paragraph (2)(e).

**6 Paragraph 210(1)(f)**

Repeal the paragraph, substitute:

- (f) except as otherwise provided by the regulations:
  - (i) a square must be printed opposite the name of each candidate; and
  - (ii) for candidates who made a request under section 168 that their names be grouped in the ballot papers for the election—a square must be printed above the dividing line and above the squares printed opposite those names.

**7 Subsection 210(2)**

Repeal the subsection.

**8 Subsection 210A(5)**

Omit “, in accordance with subsection 211(5),”, substitute “above the line”.

**9 Sections 211 and 211A**

Repeal the sections.

**10 Paragraphs 214(2)(d) and (e)**

Omit “, in accordance with subsection 211(5),”, substitute “above the line”.

**11 Section 216**

Repeal the section.

**12 Subsection 226(3)**

Repeal the subsection.

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**13 Subparagraph 227(8)(a)(i)**

Omit “, group voting tickets registered for the purposes of the election”.

**14 Subsection 227(10)**

Omit “Assistant Returning Officer”, substitute “Divisional Returning Officer”.

**15 Subsection 228(1)**

Omit “Assistant Returning Officer designated for the purposes of this subsection by the Divisional Returning Officer”, substitute “Divisional Returning Officer designated for the purposes of this subsection by the Australian Electoral Officer for the relevant State or Territory”.

**16 Subsection 228(2)**

Repeal the subsection.

**17 Subsection 228(3)**

Repeal the subsection, substitute:

- (3) Each Divisional Returning Officer for a Division, to whom a ballot-box is forwarded under subsection (1) or subsection 227(10) must:
  - (a) compare the particulars on the envelopes with the particulars appearing in the relevant records forwarded to the Divisional Returning Officer under this Act, note the number of envelopes and report any discrepancy to the Australian Electoral Officer for the State or Territory that includes the Division; and
  - (b) maintain a record of the particulars of the advices, and of the number of envelopes bearing certificates or declarations, received from each presiding officer and pre-poll voting officer; and
  - (c) until they are dealt with under other provisions of this Act, keep the envelopes received from presiding officers and pre-poll voting officers in one or more securely fastened ballot-boxes; and
  - (d) compare the record referred to in paragraph (b) with the envelopes received and note any discrepancy.

**18 Subsection 235(8)**

Omit “Assistant Returning Officer”, substitute “Divisional Returning Officer”.

**19 Subsection 239(1)**

Repeal the subsection, substitute:

*Voting below the line*

- (1) Subject to subsection (2), a person must mark his or her vote on the ballot paper in a Senate election by:
  - (a) writing at least the numbers 1 to 12 in the squares printed on the ballot paper below the line (with the number 1 being given to the candidate for whom the person votes as his or her first preference, and the numbers 2, 3, 4 and so on to at least the number 12 being given to other candidates so as to indicate the order of the person’s preference for them); or
  - (b) if there are 12 or fewer squares printed on the ballot paper below the line—numbering the squares consecutively from the number 1 (in order of preference as described in paragraph (a)).

Note: See also section 268A for when the vote is formal.

**20 Subsections 239(2) and (3)**

Repeal the subsections, substitute:

*Voting above the line*

- (2) A vote may be marked on a ballot paper by:
  - (a) writing at least the numbers 1 to 6 in the squares (if any) printed on the ballot paper above the line (with the number 1 being given to the party or group for whom the person votes as his or her first preference, and the numbers 2, 3, 4, 5 and 6 being given to other parties or groups so as to indicate the order of the person’s preference for them); or
  - (b) if there are 6 or fewer squares printed on the ballot paper above the line—numbering the squares consecutively from the number 1 (in order of preference as described in paragraph (a)).

Note: See also section 269 for when the vote is formal.

*Candidates who die before polling day*

**21 Subsection 260(5)**

Omit “subsections 273(4) and”, substitute “subsection”.

**21A Paragraph 268(1)(b)**

Repeal the paragraph, substitute:

- (b) subject to sections 268A and 269, in a Senate election, it has no vote indicated on it, or it does not indicate the voter’s first preference for 1 candidate and then consecutively number at least 11 other candidates in the order of his or her preference;

**21B After section 268**

Insert:

**268A Formal votes below the line**

- (1) A ballot paper in a Senate election is not informal under paragraph 268(1)(b) if:
  - (a) the voter has marked the ballot paper in accordance with paragraph 239(1)(b); or
  - (b) if there are more than 6 squares printed on the ballot paper below the line—the voter has consecutively numbered any of those squares from 1 to 6 (whether or not the voter has also included one or more higher numbers in those squares).
- (2) For the purposes of this Act:
  - (a) a voter who, in a square printed on the ballot paper below the line, marks only a single tick or cross is taken as having written the number 1 in the square; and
  - (b) the following numbers written in a square printed on the ballot paper below the line are to be disregarded:
    - (i) numbers that are repeated and any higher numbers;
    - (ii) if a number is missed—any numbers that are higher than the missing number.

Note: Paragraph (2)(b) applies both for the purposes of determining whether a ballot paper is formal, and for the purposes of determining which numbers marked on a ballot paper are counted in the election.

Example: A ballot paper has squares below the line that are numbered 1, 2, 3, 3, 4, 5 and 6. The vote is informal because, by disregarding the numbers

3 and upwards under subparagraph (2)(b)(i), only 2 squares have been numbered.

A second ballot paper has squares below the line that are numbered consecutively from 1 to 9 and then 11, 12, 13 and 14. The vote is formal under paragraph (1)(b). However, only the squares numbered from 1 to 9 are counted for the purposes of sections 273 and 273A because the numbers 11 and upwards are disregarded under subparagraph (b)(ii) of this subsection.

## 22 Section 269 (heading)

Repeal the heading, substitute:

### 269 Formal votes above the line

## 23 Subsection 269(1)

Repeal the subsection, substitute:

(1) A ballot paper in a Senate election is not informal under paragraph 268(1)(b) if:

- (a) the voter has marked the ballot paper in accordance with subsection 239(2); or
- (b) the voter has marked the number 1, or the number 1 and one or more higher numbers, in squares printed on the ballot paper above the line.

(1A) For the purposes of this Act:

- (a) a voter who, in a square printed on the ballot paper above the line, marks only a single tick or cross is taken as having written the number 1 in the square; and
- (b) the following numbers written in a square printed on the ballot paper above the line are to be disregarded:
  - (i) numbers that are repeated and any higher numbers;
  - (ii) if a number is missed—any numbers that are higher than the missing number.

Note: Paragraph (1A)(b) applies both for the purposes of determining whether a ballot paper is formal, and for the purposes of determining which numbers marked on a ballot paper are counted in the election.

Example: A ballot paper has squares above the line that are numbered 1, 1, 2 and 3. The vote is informal because, by disregarding the numbers 1 and upwards under subparagraph (2)(b)(i), no squares have been numbered.

A second ballot paper has squares above the line that are numbered consecutively from 1 to 9 and then 11, 12, 13 and 14. The vote is formal under paragraph (1)(b). However, only the squares numbered from 1 to 9 are counted for the purposes of sections 273 and 273A because the numbers 11 and upwards are disregarded under subparagraph (b)(ii) of this subsection.

*Votes that are formal both above and below the line*

#### **24 Subsection 269(2)**

Repeal the subsection, substitute:

- (2) If a ballot paper in a Senate election:
- (a) has squares marked above the line in accordance with subsection 239(2) or paragraph (1)(b) of this section; and
  - (b) has squares marked below the line in accordance with subsection 239(1) or section 268A;

then, for the purposes of sections 272 and 273, the only squares that are taken to have been marked on the ballot paper are the squares that are marked below the line.

#### **25 Subsections 269(3) and (4)**

Repeal the subsections.

#### **26 Section 270**

Repeal the section.

#### **28 Section 272**

Repeal the section, substitute:

#### **272 Treatment of Senate ballot papers of voters who have voted above the line**

- (1) This section applies if:
- (a) a ballot paper for a Senate election is marked in accordance with subsection 239(2) or paragraph 269(1)(b); and
  - (b) one or more numbers, that are not disregarded under paragraph 269(1A)(b), are written in squares printed on the ballot paper above the line in relation to groups of candidates (each group being a *preferred group*).

- (2) The ballot paper is taken to have been marked as if, instead of the numbers referred to in paragraph (1)(b):
- (a) each candidate in a preferred group was given a different number starting from 1; and
  - (b) candidates in a preferred group were numbered consecutively starting with the candidate whose name on the ballot paper is at the top of the group to the candidate whose name is at the bottom; and
  - (c) the order in which candidates in different preferred groups are numbered is worked out by reference to the order in which the groups were numbered on the ballot paper, starting with the group marked 1; and
  - (d) when all the candidates in a preferred group have been numbered, the candidate whose name is at the top of the next preferred group is given the next consecutive number.

## 29 Subsections 273(2) to (6)

Repeal the subsections, substitute:

- (2) An Assistant Returning Officer must take the following steps in the presence of a polling official, and of any authorised scrutineers who attend:
- (a) exhibit each securely fastened ballot-box for the inspection of the scrutineers;
  - (b) record the condition of the ballot-box;
  - (c) open the ballot-box and:
    - (i) remove the ballot papers from the box; and
    - (ii) count the ballot papers without inspecting them; and
    - (iii) record the number of ballot papers removed from the box;
  - (ca) count the number of first preference votes marked in each of the squares above the line;
  - (d) make, sign and keep a copy of a statement (which may be countersigned by a polling official, and by any scrutineers who are present if they so desire) setting out the number of first preference votes marked in each of the squares above the line and the number of ballot papers;

- (da) transmit the number of first preference votes marked in each of the squares above the line to the Divisional Returning Officer as soon as practicable;
  - (e) seal up the ballot papers in a securely fastened container and endorse on each container a description of the contents of the container, and permit any scrutineers present, if they so desire, to countersign the endorsement;
  - (f) transmit the container to the Divisional Returning Officer for the relevant Division as soon as practicable, together with the statement under paragraph (d).
- (3) The Divisional Returning Officer for a Division must:
- (a) in relation to containers of ballot papers for the Division received under paragraph (2)(f), do the following:
    - (i) open the containers of ballot papers;
    - (ii) check the accuracy of the statement made under paragraph (2)(d) by carrying out the steps in paragraphs (2)(c) and (ca);
    - (iii) repeat the steps in paragraphs (2)(d) to (e) (as if the reference in paragraph (2)(da) to the Divisional Returning Officer were a reference to the Australian Electoral Officer for the State that includes the Division); and
  - (b) in relation to ballot-boxes for the Division received under this Act by the Divisional Returning Officer—repeat the steps in paragraphs (2)(c) to (e) (as if the reference in paragraph (2)(da) to the Divisional Returning Officer were a reference to the Australian Electoral Officer for the State that includes the Division); and
  - (c) keep a copy of:
    - (i) the statement made under paragraph (2)(d) by the Assistant Returning Officer; and
    - (ii) the statements made by the Divisional Returning Officer under that paragraph (as a result of subparagraph (a)(iii) and paragraph (b) of this subsection); and
  - (d) transmit the containers sealed under paragraph (2)(e) (as a result of subparagraph (a)(iii) and paragraph (b) of this subsection) to the Australian Electoral Officer for the State that includes the Division as soon as practicable, together

with the statements made by the Divisional Returning Officer.

- (4) An Australian Electoral Officer must:
- (a) scrutinise all ballot papers received by him or her under paragraph (3)(d); and
  - (b) reject any informal ballot papers; and
  - (c) make, sign and keep a record of the preferences on the ballot papers that have been received by him or her (including informal ballot papers, and formal ballot papers that are not sequentially numbered).

**30 Subsection 273(19)**

Repeal the subsection, substitute:

- (19) At the conclusion of the scrutiny, the Australian Electoral Officer must place in containers all ballot papers transmitted to the officer under paragraph (3)(d), seal the containers and endorse a description of the contents on each container.

**31 Subsection 273A(2)**

Repeal the subsection.

**32 Subsection 273A(3)**

Repeal the subsection.

**33 Subsection 273A(4)**

After “or her”, insert “under paragraph 273(3)(d)”.

**34 Subsection 273A(6)**

After “proceedings under”, insert “section 273 and”.

**35 After subsection 273A(6)**

Insert:

*Statements setting out numbers of ballot papers*

- (6A) After complying with subsections (4) and (5), the Australian Electoral Officer must make, sign and keep a copy of a statement (which may be countersigned by any scrutineers who are present if



they so desire) setting out the number of ballot papers scrutinised by the officer under those subsections.

**36 Paragraph 273A(7)(a)**

Omit “parcels” (wherever occurring), substitute “containers”.

**37 Paragraphs 273A(7)(c) to (e)**

Repeal the paragraphs, substitute:

- (c) after scrutinising all the ballot papers, restore the ones that were in containers to their original containers, and place the remaining ballot papers in one or more containers;
- (d) seal up all the containers and write on each container:
  - (i) the number of ballot papers in the container; and
  - (ii) a statement that all the ballot papers have been the subject of decisions by the Australian Electoral Officer;
- (e) sign each container and permit other persons who were present when the ballot papers were scrutinised to add their signatures.

**38 Subsection 273A(10)**

Repeal the subsection.

**39 Subsection 282(4)**

After “subsection 239(2)” (wherever occurring), insert “or paragraph 269(1)(b)”.

**40 Subsection 393A(2)**

Omit “273(5)(f)”, substitute “273(3)(d)”.


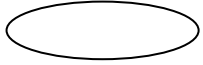
**41 Schedule 1 (Form E)**

Repeal the form, substitute:

**Schedule 1 Amendments**  
**Part 1 Senate voting**

Section 209

FORM E

 AUSTRALIA		SENATE BALLOT PAPER (5) ELECTION OF (6) SENATORS								
<p><b>You may vote in one of two ways</b></p> <div style="border: 1px solid black; padding: 2px; display: inline-block; margin-bottom: 5px;"><i>either</i></div> <p>By numbering at least 6 of these boxes in the order of your choice (with number 1 as your first choice)*</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-right: 1px solid black; padding: 5px;">(8) A <input type="checkbox"/> (2)</td> <td style="border-right: 1px solid black; padding: 5px;">(8) B <input type="checkbox"/> (2)</td> <td style="border-right: 1px solid black; padding: 5px;">(8) C <input type="checkbox"/> (2)</td> <td style="border-right: 1px solid black; padding: 5px;">(8) D <input type="checkbox"/> (4)</td> <td style="border-right: 1px solid black; padding: 5px;">E <input type="checkbox"/> (4)</td> <td style="border-right: 1px solid black; padding: 5px;">(8) F <input type="checkbox"/> (2)</td> <td style="border-right: 1px solid black; padding: 5px;">G <input type="checkbox"/> (4)</td> <td style="padding: 5px;">H <input type="checkbox"/> (4)</td> </tr> </table>	(8) A <input type="checkbox"/> (2)	(8) B <input type="checkbox"/> (2)	(8) C <input type="checkbox"/> (2)	(8) D <input type="checkbox"/> (4)	E <input type="checkbox"/> (4)	(8) F <input type="checkbox"/> (2)	G <input type="checkbox"/> (4)	H <input type="checkbox"/> (4)	
(8) A <input type="checkbox"/> (2)	(8) B <input type="checkbox"/> (2)	(8) C <input type="checkbox"/> (2)	(8) D <input type="checkbox"/> (4)	E <input type="checkbox"/> (4)	(8) F <input type="checkbox"/> (2)	G <input type="checkbox"/> (4)	H <input type="checkbox"/> (4)			

<p><i>or</i></p> <p>By numbering at least 12 of these boxes in the order of your choice (with number 1 as your first choice)**</p>	A (2)	B (2)	C (2)	D (2)	E (2)	F (2)	G (2)	H (2)	Ungrouped
	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)	<input type="checkbox"/> (1) <input type="checkbox"/> (3)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)	<input type="checkbox"/> (1) <input type="checkbox"/> (4)

- (1) Here insert name of a candidate.
- (2) Here insert name of a registered political party or composite name of registered political parties if to be printed.
- (3) Here insert the name of a registered political party if to be printed.
- (4) Here insert name of a registered political party or word 'Independent' if to be printed.
- (5) Here insert name of State or Territory and year of election.
- (6) Here insert number of vacancies.
- (8) Here insert the logo of a registered political party if to be printed.

\* If the ballot paper has 6 or fewer squares above the line, replace the instruction with "By numbering these boxes in the order of your choice (with number 1 as your first choice)".

\*\* If the ballot paper has 12 or fewer squares below the line, replace the instruction with "By numbering these boxes in the order of your choice (with number 1 as your first choice)".

Schedule 1 Amendments  
Part 1 Senate voting



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**42 Schedule 1 (Form F)**

Repeal the form, substitute:

Section 209

FORM F

	BALLOT PAPER HOUSE OF REPRESENTATIVES <i>[here insert name of State or Territory as appropriate]</i>	
Electoral Division of <i>[here insert name of Division]</i> .		
Number the boxes from 1 to <i>[here insert number of candidates]</i> in the order of your choice		
3 <input type="checkbox"/> 1 2	[1 <i>Here insert name of a candidate.</i>	
3 <input type="checkbox"/> 1 2	2 <i>Here insert name of a registered political party, composite name of registered political parties or "Independent" if to be printed.</i>	
<input type="checkbox"/> 1 2	3 <i>Here insert logo of a registered party if to be printed.]</i>	
3 <input type="checkbox"/> 1 2		
Remember. . . . number <i>every</i> box to make your vote count.		

## **Division 2—Application provisions**

### **42A Application of amendments**

The amendments of the *Commonwealth Electoral Act 1918* made by this Part do not apply in relation to any election whose polling day is before 1 July 2016.

Note: Things may be done (for example, a person may vote by pre-poll vote) before 1 July 2016, in accordance with the *Commonwealth Electoral Act 1918* as amended by this Part, in relation to elections whose polling day is on or after that day.

## **Part 2—Registered officers and deputy registered officers**

### **Division 1—Amendments**

#### *Commonwealth Electoral Act 1918*

#### **43 At the end of subsection 4C(1)**

Add:

Note: A person must not be the registered officer or a deputy registered officer of more than one registered political party at a particular time (see subsection 126(2B)).

#### **44 Paragraph 4C(3)(a)**

Omit “shall”, substitute “must”.

#### **45 At the end of paragraph 4C(3)(a)**

Add “and”.

#### **46 Paragraph 4C(3)(b)**

Omit “shall”, substitute “must”.

#### **47 After paragraph 4C(3)(b)**

Insert:

(ba) must include a signed declaration by the person nominated that subsection 126(2B) is not contravened by lodging the nomination of the person as the deputy registered officer; and

#### **48 At the end of section 4C**

Add:

(4) A nomination of a person as a deputy registered officer under subsection (2) is invalid if subsection 126(2B) is contravened by lodging the nomination of the person as the deputy registered officer.

#### **49 Before subsection 126(1)**

Insert:

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*Who may make an application*

**50 Before subsection 126(2)**

Insert:

*Requirements for an application*

**51 Before subsection 126(2A)**

Insert:

*A person must not be a member of more than one registered political party*

**52 After subsection 126(2A)**

Insert:

*A person must not be a registered officer etc. of more than one registered political party*

- (2B) A person must not, at a particular time, be:
- (a) the registered officer of more than one registered political party; or
  - (b) a deputy registered officer of more than one registered political party; or
  - (c) the registered officer of one registered political party and a deputy registered officer of another registered political party.

The registration of a political party is not to be cancelled because of this subsection unless the Electoral Commission has taken action to determine whether the party should be deregistered because of paragraph 137(1)(cc).

Note: The registered officer of a registered political party may be changed at any time under paragraph 134(1)(g).

- (2C) Subsection (2B) does not prevent a person from being both:
- (a) the registered officer or a deputy registered officer of a registered political party for the purposes of this Act; and
  - (b) the registered officer or a deputy registered officer (however described), for the purposes of an Act of a State or Territory or an Ordinance of an external Territory, of a political party or a branch of a political party.

*Electoral Commission to deal with application*

**53 At the end of subsection 131(1)**

Add:

Note: For example, if an application to register a political party would be refused because subsection 126(2B) would be contravened, the party could change the person who is to be the registered officer of the party so subsection 126(2B) is not contravened.

**54 At the end of subsection 134(1)**

Add:

Note: A person must not be the registered officer or a deputy registered officer of more than one registered political party at a particular time (see subsection 126(2B)).

**55 Paragraph 134(4)(c)**

Omit “a reference in subparagraph 132(2)(b)(ii) to section 126”, substitute “the reference in subparagraph 132(2)(b)(ii) to section 126 (but not the reference to subsection 126(2B))”.

**56 After paragraph 137(1)(cb)**

Insert:

or (cc) a person who is the registered officer or a deputy registered officer of a registered political party is failing to comply with subsection 126(2B) (person must not be registered officer etc. of more than one registered political party);

**Division 2—Application provisions**

**57 Application of amendments relating to registered officers and deputy registered officers**

- (1) The amendments of section 4C of the *Commonwealth Electoral Act 1918* made by this Part apply in relation to any nominations made after this item commences.
- (2) The amendments of section 126 of the *Commonwealth Electoral Act 1918* made by this Part apply after this item commences in relation to any registered political party (whether registered before or after this item commences).



Note: A registered political party that, at commencement, has a registered officer or deputy registered officer who is failing to comply with subsection 126(2B) has 90 days to change that officer (see subitem (4)).

- (3) The amendments of section 134 of the *Commonwealth Electoral Act 1918* made by this Part apply in relation to any application made under that section after this item commences.
- (4) The amendment of section 137 of the *Commonwealth Electoral Act 1918* made by this Part applies:
  - (a) in relation to any political party registered after this item commences—after this item commences; and
  - (b) in relation to any political party registered before this item commences—on and after the 90th day after this item commences.
- (5) To avoid doubt, subitem (4) does not allow the Electoral Commission to deregister a political party in contravention of section 127 of the *Commonwealth Electoral Act 1918*.

## Part 3—Party logos

### Division 1—Amendments

#### *Commonwealth Electoral Act 1918*

##### **58 At the end of paragraphs 126(2)(a) and (b)**

Add “and”.

##### **59 After paragraph 126(2)(b)**

Insert:

(ba) if the party wishes a logo of the party to be entered in the Register—set out a copy of a logo; and

##### **60 At the end of paragraphs 126(2)(c) to (d)**

Add “and”.

##### **61 After subsection 126(2)**

Insert:

#### *Requirements for logos*

(2AA) For the purposes of paragraph (2)(ba), a logo set out in an application must:

- (a) be in black and white; and
- (b) meet any other requirements determined under subsection (2AB).

(2AB) For the purposes of paragraph (2AA)(b), the Electoral Commissioner may, by legislative instrument, determine requirements in relation to setting out a logo in an application.

##### **62 At the end of subsection 126(3)**

Add:

Note: The Electoral Commission may also decide under section 129A to refuse to enter a logo of the political party in the Register.

### **63 After section 129**

Insert:

#### **129A Certain party logos not to be entered in the Register**

The Electoral Commission may refuse to enter in the Register a logo of a political party (the *applicant*), set out in an application to register the applicant, if, in its opinion, the applicant's logo:

- (a) is obscene; or
- (b) is the logo of any other person; or
- (c) so nearly resembles the logo of any other person that it is likely to be confused with or mistaken for that logo; or
- (d) is one that a reasonable person would think suggests that a connection or relationship exists between the applicant and a registered political party if that connection or relationship does not in fact exist; or
- (e) comprises the words "Independent Party" or comprises or contains the word "Independent" and:
  - (i) the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)); or
  - (ii) matter that so nearly resembles the name, or an abbreviation or acronym of the name, of a recognised political party (within the meaning of subsection 129(2)) that the matter is likely to be confused with or mistaken for that name or that abbreviation or acronym, as the case may be.

#### **64 Subsection 131(1)**

After "refuse the application", insert " , or refuse to enter a logo of the party in the Register,".

#### **65 Paragraph 132(2)(b)**

Repeal the paragraph, substitute:

- (b) invite any persons who believe that:
  - (i) the application does not relate to an eligible political party; or

- (ii) the application is not in accordance with section 126 (including because subsection 126(2B) would be contravened); or
- (iii) the application should be refused under section 129; or
- (iv) the Electoral Commission should refuse to enter a logo of the party in the Register under section 129A; to submit written particulars of the grounds for that belief to the Electoral Commission within 1 month after the date of the publication of the notice on the Electoral Commission’s website.

**66 Paragraph 132A(1)(a)**

After “party concerned”, insert “or decides to refuse to enter a logo of the party in the Register”.

**67 At the end of subparagraphs 133(1)(a)(i) and (ii)**

Add “and”.

**68 After subparagraph 133(1)(a)(ii)**

Insert:

- (ia) if a logo of the party was set out in the application, and the Electoral Commission has not decided to refuse to enter the logo in the Register under section 129A—that logo; and

**69 At the end of subparagraph 133(1)(a)(iv)**

Add “and”.

**70 At the end of paragraph 133(1)(b)**

Add “and”.

**71 Paragraph 133(1)(c)**

After “registered the party,”, insert “or entered the logo in the Register,”.

**72 Subsection 133(3)**

Repeal the subsection, substitute:

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- (3) If the Electoral Commission refuses an application made by a person to register a political party, or refuses to enter in the Register a logo set out in such an application, the Electoral Commission must give written notice to the person giving reasons for the decision.

**73 At the end of paragraphs 134(1)(c) to (e)**

Add “or”.

**74 After paragraph 134(1)(e)**

Insert:

- (ea) if the party’s logo is entered in the Register—changing that logo to a logo set out in the application; or
- (eb) if the party’s logo is not entered in the Register—entering in the Register the logo set out in the application; or

**75 Subsection 134(4)**

Omit “or (e), sections 127, 129,”, substitute “, (e), (ea) or (eb), sections 127, 129, 129A,”.

**76 Paragraph 134(6)(c)**

Omit “or (e)”, substitute “, (e), (ea), (eb) or (g)”.

**77 Paragraph 134(8)(a)**

Omit “or (e)”, substitute “, (e), (ea) or (eb)”.

**78 Section 134A (heading)**

Repeal the heading, substitute:

**134A Objection to continued use of name or logo**

**79 Paragraph 134A(1)(a)**

Repeal the paragraph, substitute:

- (a) the Electoral Commission is satisfied that:
  - (i) the name or logo of the parent party is the same as, or relevantly similar to, the name or logo of the second party and the parties are not related at the time of the objection; or

- (ii) the name or logo of the second party is one that a reasonable person would think suggests that a connection or relationship exists between the second party and the parent party and that connection or relationship does not in fact exist; and
- (aa) the second party was registered after the commencement of this section; and

**80 Paragraph 134A(1)(b)**

After “name”, insert “or logo”.

**81 Subparagraph 134A(1)(e)(i)**

After “name”, insert “or logo”.

**82 Subsection 134A(2)**

After “name” (wherever occurring), insert “or logo”.

**83 Subsection 134A(3)**

Insert:

*logo* of a registered political party means the logo of the party that is entered in the Register.

**84 Paragraph 137(1)(ca)**

Omit “use of a name (within”, substitute “use of a name or logo (both within”.

**85 Paragraph 137(1)(ca)**

After “party’s name”, insert “or logo”.

**86 Subsection 141(1) (after paragraph (b) of the definition of *reviewable decision*)**

Insert:

- (ba) to enter a logo of a political party in the Register; or
- (bb) to refuse to enter a logo of a political party in the Register; or

**87 Subsection 169B(2)**

Omit “section 214”, substitute “sections 214 and 214A”.

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## **88 At the end of subsection 209(3)**

Add:

Note: One effect of this subsection is that party logos are printed only in black on ballot papers.

## **89 After section 214**

Insert:

### **214A Printing of party logos on ballot papers**

- (1) This section applies if:
  - (a) a logo is, at the time of the declaration of the nominations, entered in the Register in relation to a registered political party; and
  - (b) the party has requested that the logo be used.
- (2) A ballot paper for a Senate election must have the logo printed adjacent to the square that is printed, in accordance with paragraph 214(2)(d), adjacent to the name of the party.
- (3) For the purposes of subsection (2), if candidates who have made a request under section 168 are endorsed by more than one political party:
  - (a) no more than 2 logos may be printed adjacent to the square that is printed, in accordance with paragraph 214(2)(d), adjacent to the names of the parties; and
  - (b) if more than 2 of those parties have logos entered in the Register—the parties must notify the Electoral Commission, in writing, which of the logos are to be printed adjacent to that square.
- (4) A ballot paper for a House of Representatives election must have the logo printed in accordance with Form F in Schedule 1.
- (5) All logos of registered political parties must be printed on the ballot paper in a uniform size and format.

## **90 Section 366**

Repeal the section, substitute:

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### 366 Errors relating to printing of party affiliations

The Court of Disputed Returns is not to declare that a person returned as elected was not duly elected, or declare an election void, by reason only that:

- (a) there was or was not printed on one or more ballot papers used in the election:
  - (i) the name; or
  - (ii) an abbreviation of the name; or
  - (iii) a logo of a political party;  
adjacent to the name of a candidate or group of candidates; or
- (b) the name or an abbreviation of the name of a political party printed on one or more ballot papers used in the election was misspelt; or
- (c) the name, an abbreviation of the name or a logo of a political party printed on one or more ballot papers used in the election was inaccurate or incorrect; or
- (d) an officer failed to comply with section 210A, 214 or 214A in relation to the election.

### 91 After section 386

Insert:

### 386A Immunity from suit

No action, suit or proceeding (except proceedings under this Act) lies against the Commonwealth, or a person who has been an officer or employee of the Commonwealth, in relation to anything done in good faith by the Electoral Commission, or an officer or an employee of the Electoral Commission, under this Act in relation to a logo of a party.

### 92 Schedule 1 (Form CA)

After:

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the person named below as a Senator for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

insert:

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I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

### **93 Schedule 1 (Form CC)**

After:

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the persons named below as Senators for the above [State/Territory] to serve in the Senate of the Parliament of the Commonwealth.

insert:

I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

### **94 Schedule 1 (Form DA)**

After:

I, [*name*], the registered officer [*or deputy registered officer*] of the [*name of registered political party*] hereby nominate the person named below as a Member of the House of Representatives for the above Division.

insert:

I wish/do not wish the logo of the [*name of registered political party*] entered in the Register to appear on the ballot paper.

## **Division 2—Application provision**

### **95 Application of amendments**

- (1) The amendments made by this Part apply (subject to subitem (2)) after this item commences in relation to any registered political party (whether registered before or after this item commences).
- (2) The following do not apply in relation to any election whose polling day is before 1 July 2016:
  - (a) section 214A of the *Commonwealth Electoral Act 1918* as inserted by this Part;
  - (b) the amendments of the following provisions made by this Part:
    - (i) sections 169B, 209 and 366 of that Act;

**Schedule 1** Amendments

**Part 3** Party logos

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(ii) Schedule 1 to that Act.

Note: Things may be done (for example, ballot papers that include party logos may be printed) before 1 July 2016, in accordance with the *Commonwealth Electoral Act 1918* as amended by this Part, in relation to elections whose polling day is on or after that day.

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*[Minister's second reading speech made in—  
House of Representatives on 22 February 2016  
Senate on 2 March 2016]*

(25/16)

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