



Electoral Legislation Amendment (Electoral Offences and Preventing Multiple Voting) Act 2021

No. 93, 2021

**An Act to amend the law relating to elections in
respect of suspected multiple voting and
interference with political liberty and to provide for
application of the amendments**

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

Contents

1	Short title.....	2
2	Commencement.....	2
3	Schedules.....	3
Schedule 1—Designated electors		4
Part 1—Main amendments		4
<i>Commonwealth Electoral Act 1918</i>		4
Part 2—Contingent amendments		9
<i>Commonwealth Electoral Act 1918</i>		9
Schedule 2—Offence relating to interference with political liberty		10
<i>Commonwealth Electoral Act 1918</i>		10



Electoral Legislation Amendment (Electoral Offences and Preventing Multiple Voting) Act 2021

No. 93, 2021

**An Act to amend the law relating to elections in
respect of suspected multiple voting and
interference with political liberty and to provide for
application of the amendments**

[Assented to 2 September 2021]

The Parliament of Australia enacts:

*No. 93, 2021 Electoral Legislation Amendment (Electoral Offences and Preventing
Multiple Voting) Act 2021 1*

1 Short title

This Act is the *Electoral Legislation Amendment (Electoral Offences and Preventing Multiple Voting) Act 2021*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	2 September 2021
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	3 September 2021
3. Schedule 1, Part 2	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 1 to the <i>Electoral Legislation Amendment (Counting, Scrutiny and Operational Efficiencies) Act 2021</i> . However, the provision does not commence at all if the event mentioned in paragraph (b) does not occur.	3 September 2021
4. Schedule 2	The day after this Act receives the Royal Assent.	3 September 2021

Note: This table relates only to the provisions of this Act as originally enacted.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—Designated electors

Part 1—Main amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1)

Insert:

designated elector: see subsection 202AH(1).

2 At the end of section 84

Add:

- (3) However, particulars contained in the Rolls in accordance with paragraph (2)(c) must not relate to whether a person is a designated elector.

3 After subsection 90B(6)

Insert:

Information about designated electors

- (6A) The Electoral Commission must not include in information given under subsection (1) or (4) information about whether a person is a designated elector.

4 Paragraph 185(4)(c)

Omit “Commission”, substitute “Commissioner”.

5 After subsection 185(4)

Insert:

- (4AA) The Electoral Commissioner must not, for the purposes of paragraph (4)(c), determine any particulars relating to whether an elector is a designated elector.

6 After subsection 189(2)

Insert:

(2A) The Electoral Commissioner must not, for the purposes of subparagraph (2)(b)(iii), determine any particulars relating to whether an applicant is a designated elector.

7 Subsection 200A(2) (before the note)

Insert:

Note 1: A person who is a designated elector is not entitled to vote by pre-poll ordinary vote: see paragraph 200DG(2)(ea).

8 Subsection 200A(2) (note)

Omit “Note”, substitute “Note 2”.

9 After paragraph 200DG(2)(e)

Insert:

(ea) the voter is a designated elector; or

10 After Part XVB

Insert:

Part XVC—Designated electors

202AG Simplified outline of this Part

The Electoral Commissioner may declare an elector to be a designated elector on the basis of a reasonable suspicion that the elector has voted more than once in an election.

A designated elector may only vote by declaration vote.

Information about whether a person is a designated elector is excluded from information relating to Rolls that may be disclosed under the Act.

202AH Electoral Commissioner may declare designated electors

(1) The Electoral Commissioner may, in writing, declare that an elector is a *designated elector* if the Electoral Commissioner

reasonably suspects that the elector has voted more than once in an election (whether or not the elector has been convicted of an offence against subsection 339(1A) or (1C)).

- (2) The Electoral Commissioner must give the elector written notice of the declaration. The notice must set out the elector's right to have the decision to make the declaration reviewed.
- (3) A declaration under subsection (1) ceases to have effect if:
 - (a) the declaration relates to an elector who has been convicted of an offence against subsection 339(1A) or (1C); and
 - (b) the elector's conviction is quashed on appeal.
- (4) A declaration made under subsection (1) is not a legislative instrument.

202AJ Review by Electoral Commissioner

- (1) An elector may apply to the Electoral Commissioner for review of a decision under subsection 202AH(1) (the **original decision**) to declare that the elector is a designated elector.
- (2) An application under subsection (1) must:
 - (a) be in writing; and
 - (b) include the elector's name and address and a statement of the elector's reasons for making the application; and
 - (c) be made within 28 days of the day on which the elector is notified under subsection 202AH(2) of the original decision.
- (3) After receiving an application under subsection (1), the Electoral Commissioner must:
 - (a) personally review the original decision; or
 - (b) cause the original decision to be reviewed by a person to whom the Commissioner's powers and functions under this section are delegated and who was not involved in making the original decision.
- (4) The person who reviews the original decision under subsection (3) (the **reviewer**) must make a decision to either:
 - (a) confirm the original decision; or
 - (b) set aside the original decision and substitute a new decision.

- (5) The reviewer must give the elector written notice of the reviewer's decision under subsection (4), including the reasons for the decision. The notice must set out the elector's right to have the decision reviewed.
- (6) This section does not apply if the original decision was made by the Electoral Commissioner personally.

202AK Review by Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for review of:

- (a) a decision under subsection 202AH(1) made by the Electoral Commissioner personally; or
- (b) a decision under paragraph 202AJ(4)(a) by the reviewer (within the meaning of subsection 202AJ(4)).

202AL Voting by designated electors at elections

- (1) A designated elector is not permitted to vote in an election except in accordance with this section.
- (2) A designated elector may only vote by declaration vote.

Note: The effect of subsection (2) is that designated electors are able to cast declaration votes in accordance with the rules relating to postal voting (see Part XV), pre-poll declaration voting (see Part XVA) and absent and provisional voting (see Part XVI).

11 After subsection 208(2A)

Insert:

- (2B) The list must not include the address of a person who is on the Roll for the Division if the person is a designated elector.

12 At the end of subsection 222(1)

Add:

Note: See section 202AL for rules about voting by designated electors.

13 After subsection 339(1A) (before the penalty)

Insert:

Schedule 1 Designated electors

Part 1 Main amendments

Note: The Electoral Commissioner may declare that a person convicted of an offence against this subsection is a designated elector (see subsection 202AH(1)).

14 After subsection 339(1C) (before the penalty)

Insert:

Note: The Electoral Commissioner may declare that a person convicted of an offence against this subsection is a designated elector (see subsection 202AH(1)).

15 Application of amendment

Section 202AH of the *Commonwealth Electoral Act 1918*, as inserted by this Schedule, applies in relation to a reasonable suspicion that a person has voted more than once in an election, whether or not the election occurred before or after the commencement of this item.

Part 2—Contingent amendments

Commonwealth Electoral Act 1918

16 Paragraph 17A(a) of Schedule 3

Repeal the paragraph, substitute:

- (a) may withdraw the ballot papers in accordance with paragraph 17:
 - (i) for ballot papers of electors other than designated electors—at any time on or after the day that is 5 days before polling day; or
 - (ii) for ballot papers of designated electors—after the close of the poll; and

Schedule 2—Offence relating to interference with political liberty

Commonwealth Electoral Act 1918

1 Subsection 327(1) (penalty)

Repeal the penalty, substitute:

Note: Violence, obscene or discriminatory abuse, property damage and harassment or stalking are examples of conduct that may be an offence under this subsection.

Penalty: Imprisonment for 3 years or 100 penalty units, or both.

*[Minister's second reading speech made in—
House of Representatives on 12 August 2021
Senate on 26 August 2021]*

(102/21)

10 *Electoral Legislation Amendment (Electoral Offences and Preventing
Multiple Voting) Act 2021* No. 93, 2021