



# **Electoral Legislation Amendment (COVID Enfranchisement) Act 2022**

**No. 5, 2022**

**An Act to amend the law relating to elections in  
respect of the enfranchisement of persons in  
self-isolation or quarantine due to COVID-19, 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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**An Act to amend the law relating to elections in  
respect of the enfranchisement of persons in  
self-isolation or quarantine due to COVID-19, and  
for related purposes**

*[Assented to 17 February 2022]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Electoral Legislation Amendment (COVID Enfranchisement) Act 2022*.

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No. 5, 2022      *Electoral Legislation Amendment (COVID Enfranchisement) Act 2022*      1

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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.	18 February 2022

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *Commonwealth Electoral Act 1918*

#### **1 Section 202AA**

Insert:

*electronically assisted voting method* includes a method prescribed for the purposes of subsection 202AB(1B).

#### **2 After subsection 202AB(1A)**

Insert:

- (1B) The regulations may provide for a telephone voting method, to be used by coronavirus affected individuals covered by a determination under subsection 202AFA(1), to vote at general elections, Senate elections and by-elections.

#### **3 After subsection 202AB(2)**

Insert:

- (2A) Without limiting subsection (1B), subsection (2) applies to regulations made for the purposes of subsection (1B) in the same way as it applies to regulations made for the purposes of subsection (1) or (1A).

#### **4 At the end of section 202AB**

Add:

- (7) Without limiting subsection 33(3A) of the *Acts Interpretation Act 1901*, regulations made for the purposes of this Part may also make different provision in relation to coronavirus affected individuals, sight-impaired persons and Antarctic electors.
- (8) Section 202AE does not apply to a vote cast using a method prescribed for the purposes of subsection 202AB(1B). The regulations may make provision for, or in relation to, how this Act applies in relation to such votes.

## 5 At the end of Part XVB

Add:

### **202AFA Electoral Commissioner may determine that coronavirus affected individuals may use a secure telephone voting method**

- (1) If the Electoral Commissioner is satisfied on reasonable grounds that it is necessary or conducive to ensure the due conduct of a general election, Senate election or by-election, the Electoral Commissioner may, by legislative instrument, determine that a secure telephone voting method prescribed for the purposes of subsection 202AB(1B) may be used by individuals in Australia:
  - (a) who have not previously voted in the election; and
  - (b) who are coronavirus affected individuals during all or part of the period:
    - (i) starting at 6.01 pm on the Wednesday that is 3 days before the polling day in the election; and
    - (ii) ending on the close of the poll for the election.

Note: Nothing in this section or in regulations made for the purposes of subsection 202AB(1B) authorises any person to vote more than once at an election, see subsection 202AB(5).

- (2) An individual residing in a State or Territory is a ***coronavirus affected individual*** during a period if a public health order of that State or Territory prevents the individual from attending a polling place in that State or Territory during that period because:
  - (a) the individual has tested positive for the coronavirus known as COVID-19 on a test approved by the Therapeutic Goods Administration for that purpose; or
  - (b) the individual is a close contact, household contact or household-like contact of an individual referred to in paragraph (a); or
  - (c) the individual is otherwise directed to self-isolate or quarantine under the public health order due to the risk of transmission of the coronavirus known as COVID-19.



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*Electoral Commissioner must notify the Prime Minister and Leader of the Opposition*

- (3) Before making an instrument under subsection (1), the Electoral Commissioner must notify the Prime Minister and the Leader of the Opposition in the House of Representatives, in writing:
- (a) that the Electoral Commissioner is considering making the instrument; and
  - (b) why the Electoral Commissioner considers it necessary to make the instrument; and
  - (c) what measures are proposed to ensure the integrity of the use of the proposed secure telephone voting method (which may be new measures or measures based on existing measures in the regulations).

*Instrument must be published on the Electoral Commission's website*

- (4) If the Electoral Commissioner makes a legislative instrument under subsection (1), the Electoral Commissioner:
- (a) must publish the legislative instrument on the Electoral Commission's website; and
  - (b) may publish the legislative instrument in any other way the Electoral Commissioner considers appropriate.

*Electoral Commissioner's powers may not be delegated*

- (5) Despite section 28, the Electoral Commissioner may not delegate a power or function under this section.

*Secure telephone voting for coronavirus affected individuals only available until 31 December 2022*

- (6) The following are repealed at the end of 31 December 2022:
- (a) this section;
  - (b) the definition of ***electronically assisted voting method*** in section 202AA;
  - (c) subsections 202AB(1B), (2A), (7) and (8).

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*[Minister's second reading speech made in—  
Senate on 9 February 2022  
House of Representatives on 15 February 2022]*

(17/22)