

# **Electoral and Referendum Amendment Regulations 2001 (No. 2)**

## **2001 No. 340**

### **EXPLANATORY STATEMENT**

#### **Statutory Rules 2001 No. 340**

Issued by the authority of the Special Minister of State

*Commonwealth Electoral Act 1918*

Electoral and Referendum Amendment Regulations 2001 (No. 2)

Section 3 95 of the *Commonwealth Electoral Act 1918* (the Act) provides that the GovernorGeneral may make Regulations for the purposes of the Act.

The Regulations amended the *Electoral and Referendum Regulations 1940* (the (consolidated) Regulations) to extend the operation of subregulation 10(2) and Schedule 3 of the Regulations. Schedule 3 of the (consolidated) Regulations prescribes the permitted purposes for the use of elector information provided on tape or disk to prescribed authorities under the combined powers of paragraph 91(4A)(e) and subsections 91 (10) and (11) of the Act.

Sections 91 and 91A of the Act provide, among other things, that in relation to electoral rolls and habitation indexes, the (consolidated) Regulations may prescribe the purposes for which elector information may be disclosed and the authorities to which disclosure may be made.

Subsection 91 (10) of the Act provides that the Electoral Commission may provide a prescribed authority with a microfiche of the roll or with information that discloses the occupations, sex or dates of birth of electors. Subsection 91 (11) of the Act provides that prescribed authorities are the Agency Heads of the agencies and the Chief Executive Officers of the authorities set out in Schedule 2 of the consolidated Regulations.

Paragraph 91(4A)(e) of the Act provides that the Electoral Commission may, on request, if it considers it appropriate, and subject to conditions (if any) determined by the Commission, provide to any person or organisation a copy on tape or disk of any Roll or any supplement to a Roll. This power was delegated to the Electoral Commissioner on 3 December 1998.

The *Electoral and Referendum Amendment Regulations 2000* (the 2000 Regulations) inserted Schedule 3 of the (consolidated) Regulations, to prescribe the purposes for which elector information provided on tape or disk to specific prescribed authorities may be used. At the time the 2000 Regulations were made, it was the Government's intention to amend the Act, within an eighteen month period, to expressly provide for the provision of elector information to prescribed authorities in a prescribed format. Accordingly, the 2000 Regulations specified that subregulation 10(2) and Schedule 3 ceased to have effect eighteen months after their commencement. As the 2000 Regulations commenced on 25 July 2000, the eighteen month period expired on 25 January 2002.

However, in the intervening period since the 2000 Regulations commenced, the drafting of other electoral legislation has taken priority. Accordingly, to ensure that prescribed authorities may continue to lawfully use elector information provided in electronic format, it was necessary to extend the operation of Schedule 3 of the Regulations for an additional eighteen months, to allow time for the drafting and passage of specific provisions.

Details of the Regulations are in the attachment.

The Regulations commenced on gazettal.

## **Attachment**

### **Electoral and Referendum Amendment Regulations 2001 (No. 2)**

Regulation 1 names the Regulations.

Regulation 2 provides that the Regulations commence on gazettal.

Regulation 3 provides that Schedule 1 amends the *Electoral and Referendum Regulations* 1940.

### **Schedule 1**

Item 1 amends subregulation 10(3) to replace the words "18 months" with "3 years". This will have the effect of extending the operation of subregulation 10(2) and Schedule 3 of the *Electoral and Referendum Regulations* 1940 for an additional eighteen month period. During the eighteen month period, it is anticipated that legislation will be drafted to specifically provide for the release of elector information to the prescribed authorities listed in Schedule 2 of the *Electoral and Referendum Regulations* 1940 for prescribed purposes, in a prescribed format (eg. electronic tape, disk, microfiche etc).