

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 226

Commonwealth Electoral Act 1918

Referendum (Machinery Provisions) Act 1984

Electoral and Referendum Amendment Regulations 2010 (No. 2)

Section 395 of the *Commonwealth Electoral Act 1918* (the Electoral Act) provides, in part, that the Governor-General may make regulations, not inconsistent with the Electoral Act, prescribing all matters which are required or permitted to be prescribed, or necessary or convenient to be prescribed for giving effect to the Electoral Act.

In addition, section 144 of the *Referendum (Machinery Provisions) Act 1984* (the Referendum Act) provides, in part, that the Governor-General may make regulations, not inconsistent with that Act, prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

The purpose of the Regulations is to prescribe the authenticating information that must be provided if an elector seeks to update his or her address details on the electoral Roll without providing a signature.

Details of the Regulations are set out in the Attachment.

The Regulations commence on the commencement of Schedule 2 to the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010*.

Specific consultation for this legislative instrument was unnecessary as this instrument gives effect to recommendation 9 of the Joint Standing Committee on Electoral Matters *Report on the Conduct of the 2007 Federal Election and Matters Related Thereto* (JSC EM Report). The JSC EM Report was the outcome of an extensive public inquiry into the conduct of the 2007 election which received submissions from 198 individuals and organisations and held public hearings in major capital cities across Australia.

Details of the Electoral and Referendum Amendment Regulations 2010 (No. 2)

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Electoral and Referendum Amendment Regulations 2010 (No. 2)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence on the commencement of Schedule 2 to the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010*.

Regulation 3 – Amendment of Electoral and Referendum Regulations 1940

This regulation provides that the *Electoral and Referendum Regulations 1940* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendments

Item [1] – Schedule 1, after item 21

Item 1 inserts new regulation 13A into the Principal Regulations.

New regulation 13A prescribes the authenticating information that must be provided if an elector wants to update his or her address details on the electoral roll without providing a signature.

The amendments will enable enrolled voters to provide electronic information to the AEC that can be used to update the electoral Roll, make an application to be a general postal voter or apply to be an Antarctic elector without the need for a signature.

Amendments to section 382 of the Electoral Act made by the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010* provide for certain enrolment related claims to be processed by the Electoral Commissioner without the need for the receipt of a hard copy document containing a signature.

These amendments also provided for the making of regulations to enable the AEC to request prescribed information from electors to ensure that the electronic transaction is authentic and is being undertaken by the elector to whom the information relates.

The regulations prescribe that the person must provide his or her date of birth and driver's licence number as authenticating verification information before the Electoral Commissioner can act on the electronic communication.

At this time the authenticating information provided for in the regulations is restricted to date of birth and driver's licence number as this information already forms part of

the evidence of identity checks which are used by the Australian Electoral Commission.

The regulations will facilitate the maintenance of an effective electoral Roll by enabling voters to communicate with the AEC by electronic means rather than by written hardcopy forms.