



Electoral and Referendum Amendment (Eligibility) Regulations 2018

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 29 May 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Mathias Cormann
Minister for Finance

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
	Schedule 1—Amendments	2
	<i>Electoral and Referendum Regulation 2016</i>	<i>2</i>

1 Name

This instrument is the *Electoral and Referendum Amendment (Eligibility) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument 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. The whole of this instrument	The day after this instrument is registered.	30 May 2018

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Commonwealth Electoral Act 1918*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Electoral and Referendum Regulation 2016

1 Before Division 1 of Part 4

Insert:

Division 1A—Nomination of candidates

13A Qualification checklist to be included in nomination forms in Schedule 1 to the Act

- (1) This section is made for the purposes of paragraph 392(2)(a) of the Act.
- (2) Each of Forms C, CA, D and DA in Schedule 1 to the Act are altered by including the text in Part 1 of Schedule 3 to this instrument at the end of the Form.
- (3) Form CC in Schedule 1 to the Act is altered by including the text in Part 2 of Schedule 3 to this instrument at the end of the Form.

13B Providing additional documents with nomination papers

- (1) A person who is nominated for election as a Senator or a member of the House of Representatives may provide the following additional documents to an Australian Electoral Officer or DRO along with the nomination paper for the person:
 - (a) documents providing particulars of the person's Australian citizenship;
 - (b) documents providing particulars to support the person's contention that the person is not incapable of being chosen or of sitting as a Senator or member of the House of Representatives by reason of section 44 of the Constitution.
- (2) The Electoral Commission must publish on the Commission's website:
 - (a) the checklist in Schedule 3 to this instrument from the nomination paper for the person if the person fills out the checklist and consents to it being published (unless the person's name is not declared under section 176 of the Act); and
 - (b) any additional documents provided under subsection (1) by the person (whether or not the person consents to the publishing of the checklist).
- (3) The checklist and documents must:
 - (a) be published as soon as practicable after the declaration time; and
 - (b) remain available to the public until a petition disputing the election can no longer be filed under section 355 of the Act.
- (4) Before providing documents under subsection (1), the person may omit, redact or delete from the documents any information that the person does not wish to be published under subsection (2).

2 After Part 4

Insert:

Part 5—Application and transitional matters

Division 1—Application of the Electoral and Referendum Amendment (Eligibility) Regulations 2018

29 Application of the *Electoral and Referendum Amendment (Eligibility) Regulations 2018*

The amendments made by the *Electoral and Referendum Amendment (Eligibility) Regulations 2018* to this instrument apply in relation to any elections, the writs for which are issued on or after the commencement of that instrument.

3 At the end of the instrument

Add:

Schedule 3—Qualification checklist to be included in nomination forms in Schedule 1 to the Act

Note: See section 13A.

Part 1—Qualification checklist for Forms C, CA, D and DA

QUALIFICATION CHECKLIST RELATING TO SECTION 44 OF THE CONSTITUTION

.....
[Candidate's name]

You may fill out this checklist to demonstrate your eligibility to be elected to the Parliament. This nomination paper (including this checklist) is made public under section 176 of the *Commonwealth Electoral Act 1918*.

Information relating to the requirements under section 44 of the Australian Constitution is provided as part of the nomination form. In responding to the questions below, you are encouraged to familiarise yourself with the requirements of the Australian Constitution. Further, if you have any doubts about your eligibility to nominate, or about any of the questions below, you may wish to seek independent legal advice.

1. Are you an Australian citizen by birth?

YES NO

If 'no', provide the following details:

Country of Birth	Citizenship at Birth	Date of Birth	Date of Australian naturalisation

2. Were any of your parents or grandparents born outside Australia?

YES NO

If 'yes', provide the following details, if known:

	Mother	Father
Country of Birth		
Date/Year of Birth		

	Maternal Grandmother	Maternal Grandfather
Country of Birth		
Date/Year of Birth		

	Paternal Grandmother	Paternal Grandfather
Country of Birth		
Date/Year of Birth		

3. Was your spouse or any former spouse born outside Australia (if applicable)?

YES NO N/A

If 'yes', provide the following details:

Relationship	Country of Birth	Date/Year of Birth	Spouse citizenship status at time of marriage

4. Have you taken any steps to assure yourself that you have not acquired citizenship of another country by descent, marriage or other means?

YES NO

If 'yes', provide details:

Steps taken to assure yourself you have not acquired citizenship of another country by descent, marriage or other means

[Particulars of, and documents related to, the steps taken to assure yourself may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

5. Are you now a subject or citizen of any country other than Australia?

YES NO

6. Have you ever been a subject or citizen of any country other than Australia?

YES NO

If 'yes', have you renounced or lost that status in accordance with the laws of that country/ies?

YES NO

If 'yes', provide the following details:

Country	Method of renunciation or manner in which foreign citizenship was lost	Date

[Particulars of, and documents related to, the date and manner in which your citizenship was renounced or was otherwise lost may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

If you have not renounced or lost that status in accordance with the laws of that country/ies, is there any reason why you are not disqualified by reason of section 44(i)? (For example, despite your having taken reasonable steps to renounce your citizenship of a country, the laws of the country do not allow you to renounce that citizenship.)

YES NO

If 'yes', provide the following details:

Basis on which you contend that you are not disqualified by reason of section 44(i)

[Particulars of, and documents related to, your contention that you are not disqualified by reason of section 44(i) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

7. Are you under sentence, or subject to be sentenced, for an offence for which you have been convicted that is punishable under an Australian law by one or more years imprisonment?

YES NO

If 'yes', is there any reason as to why you are not disqualified by reason of section 44(ii)?

YES NO

If 'yes', provide the following details:

Basis on which you contend that you are not disqualified by reason of section 44(ii)

[Particulars of, and documents related to, your contention that you are not disqualified by reason of section 44(ii) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

8. Are you currently an undischarged bankrupt or insolvent?

YES NO

9. Do you hold an office of profit under the Crown, other than an office expressly exempt from section 44(iv)? (Offices of profit include, for example, many public service jobs.)

YES NO

If 'yes', provide the following details:

Details of your office(s) of profit

[Particulars of, and documents related to, your office(s) of profit may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

10. Do you have a direct or indirect financial interest in any contract or other agreement with the Commonwealth public service, other than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons?

YES NO

If 'yes', provide the following details:

Details of your direct or indirect financial interest(s)
--

[Particulars of, and documents related to, your direct or indirect financial interest(s) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

11. Are you disqualified for any other reason under the Australian Constitution or the *Commonwealth Electoral Act 1918*?

YES NO

The questions above relate to the most common causes of disqualification under the Australian Constitution, and include those most recently considered by the High Court of Australia. This is not comprehensive, and you should, as always, take your own steps to assure yourself that you are not affected by any other legal disqualification.

I confirm the information in the checklist provided above, and any additional information provided in support of my statements, to be true and correct, to the best of my knowledge.

[Signature of candidate] [Date]

I agree to the Australian Electoral Commission publishing this checklist in its entirety.

[Signature of candidate] [Date]

Particulars and documents provided as additional information to support your statement are published by the Australian Electoral Commission on its website.

Part 2—Qualification checklist for Form CC

QUALIFICATION CHECKLIST RELATING TO SECTION 44 OF THE CONSTITUTION

.....
[Candidate's name]

You may fill out this checklist to demonstrate your eligibility to be elected to the Parliament if you are one of the persons nominated above. This nomination paper (including this checklist) is made public under section 176 of the *Commonwealth Electoral Act 1918*.

Information relating to the requirements under section 44 of the Australian Constitution is provided as part of the nomination form. In responding to the questions below, you are

encouraged to familiarise yourself with the requirements of the Australian Constitution. Further, if you have any doubts about your eligibility to nominate, or about any of the questions below, you may wish to seek independent legal advice.

1. Are you an Australian citizen by birth?

YES NO

If 'no', provide the following details

Country of Birth	Citizenship at Birth	Date of Birth	Date of Australian naturalisation

2. Were any of your parents or grandparents born outside Australia?

YES NO

If 'yes', provide the following details, if known:

	Mother	Father
Country of Birth		
Date/Year of Birth		

	Maternal Grandmother	Maternal Grandfather
Country of Birth		
Date/Year of Birth		

	Paternal Grandmother	Paternal Grandfather
Country of Birth		
Date/Year of Birth		

3. Was your spouse or any former spouse born outside Australia (if applicable)?

YES NO N/A

If 'yes', provide the following details:

Relationship	Country of Birth	Date/Year of Birth	Spouse citizenship status at time of marriage

4. Have you taken any steps to assure yourself that you have not acquired citizenship of another country by descent, marriage or other means?

YES NO

If 'yes', provide details:

Steps taken to assure yourself you have not acquired citizenship of another country by descent, marriage or other means

[Particulars of, and documents related to, the steps taken to assure yourself may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

5. Are you now a subject or citizen of any country other than Australia?

YES NO

6. Have you ever been a subject or citizen of any country other than Australia?

YES NO

If 'yes', have you renounced or lost that status in accordance with the laws of that country/ies?

YES NO

If 'yes', provide the following details:

Country	Method of renunciation or manner in which foreign citizenship was lost	Date

[Particulars of, and documents related to, the date and manner in which your citizenship was renounced or was otherwise lost may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

If you have not renounced or lost that status in accordance with the laws of that country/ies, is there any reason why you are not disqualified by reason of section 44(i)? (For example, despite your having taken reasonable steps to renounce your citizenship of a country, the laws of the country do not allow you to renounce that citizenship.)

YES NO

If 'yes', provide the following details:

Basis on which you contend that you are not disqualified by reason of section 44(i)

--

[Particulars of, and documents related to, your contention that you are not disqualified by reason of section 44(i) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

7. Are you under sentence, or subject to be sentenced, for an offence for which you have been convicted that is punishable under an Australian law by one or more years imprisonment?

If 'yes', is there any reason as to why you are not disqualified by reason of section 44(ii)?

YES NO

If 'yes', provide the following details:

Basis on which you contend that you are not disqualified by reason of section 44(ii)

[Particulars of, and documents related to, your contention that you are not disqualified by reason of section 44(ii) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

8. Are you currently an undischarged bankrupt or insolvent?

YES NO

9. Do you hold an office of profit under the Crown, other than an office expressly exempt from section 44(iv)? (Offices of profit include, for example, many public service jobs.)

YES NO

If 'yes', provide the following details:

Details of your office(s) of profit

[Particulars of, and documents related to, your office(s) of profit may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

10. Do you have a direct or indirect financial interest in any contract or other agreement with the Commonwealth public service, other than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons?

YES NO

If 'yes', provide the following details:

Details of your direct or indirect financial interest(s)

[Particulars of, and documents related to, your direct or indirect financial interest(s) may be provided to the Australian Electoral Commission, for publication, as additional information to support your statement]

11. Are you disqualified for any other reason under the Australian Constitution or the *Commonwealth Electoral Act 1918*?

YES NO

The questions above relate to the most common causes of disqualification under the Australian Constitution, and include those most recently considered by the High Court of Australia. This is not comprehensive, and you should, as always, take your own steps to assure yourself that you are not affected by any other legal disqualification.

I confirm the information in the checklist provided above, and any additional information provided in support of my statements, to be true and correct, to the best of my knowledge.

[Signature of candidate]

[Date]

I agree to the Australian Electoral Commission publishing this checklist in its entirety.

[Signature of candidate]

[Date]

Particulars and documents provided as additional information to support your statement are published by the Australian Electoral Commission on its website.