

EXPLANATORY STATEMENT

Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Repeal Regulations 2020

Issued by Authority of the Minister for Finance

Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Act 2010

Legislative Authority

Item 189 of Schedule 2 to the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010* (the 2010 Act) provides that the Governor-General may make regulations of a transitional, application or saving nature in relation to the amendments and repeals made by Schedule 2 to the 2010 Act.

Subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that where an Act confers a power to make a legislative instrument, the power shall be construed as including a power to repeal that instrument, provides authority for the Governor-General to repeal regulations made under the 2010 Act.

Background

The purpose of the *Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Repeal Regulations 2020* (the Regulations) is to repeal the *Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Regulations 2010* (the 2010 Regulations).

The 2010 Act implemented the Government response to a number of recommendations made in the Joint Standing Committee on Electoral Matters (JSCEM) report into the conduct of the 2007 federal election. The 2010 Regulations, made under item 189 of Schedule 2 to the 2010 Act, allowed for transitional and application provisions to be made, ensuring decisions underway before the amendments to the *Commonwealth Electoral Act 1918* (the Electoral Act) commenced were continued under the amended Electoral Act.

Purpose and operation

The 2010 Regulations are due to sunset on 1 October 2020. All relevant decisions have been made and notifications put in place. As a result, the 2010 Regulations are no longer required and can be repealed.

Details of the proposed Regulation are set out in the **Attachment**.

Consultation

Consultation was undertaken for the repeal of the 2010 Regulations between the Minister for Finance and the Australian Electoral Commission. This consultation resulted in agreement that the 2010 Regulations should be repealed, rather than allowing them to sunset on 1 October 2020, in accordance with best practice.

Statement of compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Electoral and Referendum Amendment (ASADA) Regulations 2017

This Regulation is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the disallowable Legislative Instrument

Item 189 of Schedule 2 to the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Act 2010* (the 2010 Act) provides that the Governor-General may make regulations of a transitional, application or saving nature in relation to the amendments and repeals made by Schedule 2 to the 2010 Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides authority for the Governor-General to repeal regulations made under the 2010 Act.

This Regulation repeals the *Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Regulations 2010* (the 2010 Regulations), which were made under item 189 of Schedule 2 to the 2010 Act.

Human rights implications

This Regulation does not engage any of the applicable rights or freedoms.

Conclusion

This Regulation is compatible with human rights as it does not raise any human rights issues.

ATTACHMENT

Details of the proposed *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Repeal Regulations 2020*

Section 1 - Name of Regulation

This section provides that the title of the Regulation is the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Repeal Regulations 2020*.

Section 2 - Commencement

This section provides for the Regulation to commence the day after registration on the Federal Register of Legislation.

Section 3 - Authority

This section provides that the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Repeal Regulations 2020* is made under item 189 of Schedule 2 to the *Electoral and Referendum Amendment (Pre-Poll Voting and Other Measures) Act 2010*.

Section 4 - Schedule

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

Schedule 1 – Amendments

Clause 1 of Schedule 1 repeals the *Electoral and Referendum Amendment (Pre-poll Voting and Other Measures) Regulations 2010*.