



Australian Capital Territory

# Electoral Legislation Amendment Act 2020

A2020-28

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Australian Capital Territory

# **Electoral Legislation Amendment Act 2020**

**A2020-28**

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An Act to amend legislation about electoral matters, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Electoral Legislation Amendment Act 2020*.

### 2 Commencement

- (1) This Act (other than schedule 2) commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Schedule 2 commences on the later of—

- (a) the day after this Act's notification day; and
- (b) the commencement of the [COVID-19 Emergency Response Legislation Amendment Act 2020 \(No 2\)](#), section 3.

### 3 Legislation amended

This Act amends the [Electoral Act 1992](#) and the [Public Unleased Land Act 2013](#).

*Note* This Act also amends the [Referendum \(Machinery Provisions\) Act 1994](#) (see sch 1).

### 4 Legislation repealed

The [Electoral \(Canvassing within 100m of polling places\) Notice 2016](#) (NI2016-536) is repealed.

## Part 2 Electoral Act 1992

### 5 Meaning of *extract* from roll Section 59, definition of *extract*, new paragraph (d)

*before the note, insert*

- (d) if the elector's address is included under paragraph (c)—
- (i) the electorate that the address is in (the *current electorate*);  
or
  - (ii) if the address will be in an electorate other than the current electorate at the next election because of a determination under section 35 (Redistribution of electorates)—that electorate.

### 6 Enrolment etc Section 76 (5)

*omit*

, subject to section 80

### 7 New section 76 (7) and (8)

*insert*

- (7) If Australia Post notifies the commissioner, in writing, that the delivery of a posted claim for enrolment or transfer of enrolment has been delayed by an industrial dispute and, apart from the dispute, would have been delivered to the commissioner before 6pm on polling day for an election, the claim is taken to have been received by the commissioner before 6pm on polling day for the election.
- (8) In this section:

*Australia Post* means the Australian Postal Corporation established under the [Australian Postal Corporation Act 1989](#) (Cwlth), section 12.

**8 Closed rolls  
Section 80**

*omit*

**9 Candidates to be nominated  
Section 105 (2) (b)**

*substitute*

- (b) 20 electors listed on the preliminary certified list of electors for the electorate.

**10 Section 105 (4) (g)**

*omit*

20 electors entitled to vote at the election

*substitute*

20 electors listed on the preliminary certified list of electors for the electorate

**11 New section 110A**

*insert*

**110A Candidate information to be published**

- (1) After the declaration of candidates under section 109, a candidate may give the commissioner information about the candidate for publication under this section.
- (2) The commissioner must, as soon as practicable after receiving the information, arrange for it to be published on the Elections ACT website.



- (3) The commissioner must determine by lot the order of the publication of information about candidates on the Elections ACT website.
- (4) Once only, within 14 days after the publication of a candidate's information, the candidate may give the commissioner revised information about the candidate.
- (5) The commissioner must, as soon as practicable after receiving the revised information from the candidate, arrange for it to be published on the Elections ACT website.
- (6) If the commissioner is satisfied on reasonable grounds that any information given to the commissioner for publication includes content that is obscene, defamatory or otherwise unlawful, the commissioner must not publish that part of the information.
- (7) The commissioner must give a candidate whose information is not published under subsection (6), written notice of the reason for not publishing the information and the opportunity to amend the information so that it is suitable for publication.
- (8) For a party candidate, the registered officer of the registered party for the candidate may act on behalf of the candidate under this section.
- (9) In this section:  
*information*, about a candidate, means—
  - (a) a photograph of the candidate; and
  - (b) the contact details for the candidate including a link to a website used by the candidate for the purposes of the election; and
  - (c) a statement about the candidate of not more than 500 words.

**12 Section 121***substitute***121 Certified extracts and certified lists of electors**

- (1) As soon as practicable after the beginning of the pre-election period for an election, the commissioner must—
  - (a) prepare—
    - (i) a preliminary certified extract of electors for each electorate; and
    - (ii) a preliminary certified list of electors for each electorate; and
  - (b) give a copy of the preliminary certified lists to the OIC for each polling place; and
  - (c) on request by a candidate for the electorate—give a copy of the preliminary certified extract to the candidate.
- (2) As soon as practicable after polling day for an election, the commissioner must prepare—
  - (a) a supplementary certified extract of electors for each electorate; and
  - (b) a supplementary certified list of electors for each electorate.
- (3) For subsection (1) (c), the candidate may ask for, and the commissioner may give, the preliminary certified extract in electronic or paper form.
- (4) In this section:  
***eligible elector***, in relation to an election, means an elector who is, or will be, at least 18 years old on polling day for the election.

***preliminary certified extract of electors***, for an election in an electorate, means an extract from the roll for the electorate, certified by the commissioner, for each eligible elector who is enrolled for the electorate immediately before 6pm on the first day of the pre-election period.

***preliminary certified list of electors***, for an election in an electorate, means a list, certified by the commissioner, that contains—

- (a) the preliminary certified extract of electors; and
- (b) each elector's year of birth and gender.

***supplementary certified extract of electors***, for an election in an electorate, means an extract from the roll for the electorate, certified by the commissioner, for each eligible elector who—

- (a) is enrolled for the electorate—
  - (i) at or after 6pm on the first day of the pre-election period; but
  - (ii) before 6pm on polling day; or
- (b) was enrolled for the electorate at or after 6pm on polling day but applied to be enrolled before—
  - (i) 6pm on polling day; or
  - (ii) for a person mentioned in section 154 (2)—the close of the polling place.

***supplementary certified list of electors***, for an election in an electorate, means a list, certified by the commissioner, that contains—

- (a) the supplementary certified extract of electors; and
- (b) each elector's year of birth and gender.

**13 Claims to vote  
Section 133 (1)**

*substitute*

- (1) This section applies if—
- (a) a person attends before an officer at a polling place on polling day for an election; and
  - (b) claims to vote at the election; and
  - (c) the officer is satisfied that the preliminary certified list of electors for an electorate—
    - (i) includes the claimant's name; and
    - (ii) states an address for the claimant or indicates that the claimant's address is suppressed; and
    - (iii) has not been marked so as to indicate that a ballot paper has already been issued to the claimant.
- (1A) The officer must issue a ballot paper to the claimant for the electorate.

**14 Section 133 (2)**

*omit*

subsection (1)

*substitute*

subsection (1A)

**15 Declaration voting at polling places  
Section 135 (1) (a) and (b)**

*substitute*

- (a) a preliminary certified list of electors does not include the person's name; or
- (b) a preliminary certified list of electors has been marked so as to indicate that a ballot paper has already been issued to the person but the person claims not to have voted already at the election.

**16 Applications for postal voting papers  
Section 136A (6) (a)**

*before*

certified list of electors

*insert*

preliminary

**17 Ordinary or declaration voting in ACT before polling day  
Section 136B (3)**

*omit*

**18 Section 136B (5)**

*substitute*

- (5) This section applies if—
  - (a) a person attends before an authorised officer on a day and at a time determined under subsection (2); and
  - (b) the person makes a declaration to the effect that the person is an eligible elector; and

- (c) the authorised officer is satisfied that the preliminary certified list of electors for an electorate—
  - (i) includes the person’s name; and
  - (ii) states an address for the person or indicates that the person’s address is suppressed; and
  - (iii) has not been marked so as to indicate that a ballot paper has already been issued to the person.
- (5A) The authorised officer must issue a ballot paper to the person for the electorate.

**19 Section 136B (6)**

*omit*

subsection (5)

*substitute*

subsection (5A)

**20 Section 136B (7) and (17)**

*before*

certified list of electors

*insert*

preliminary

**21 Functions of visiting officers  
Section 151 (1) (a)**

*before*

certified list of electors

*insert*

preliminary

**22 Arrangements at polling places  
New section 154 (2)**

*insert*

- (2) For subsection (1) (b), an *elector* present in the polling place includes a person who—
- (a) is not on the preliminary certified extract of electors for an electorate; but
  - (b) wishes to apply for enrolment in the electorate.

**23 Arrangements for the polling in Antarctica  
Section 172 (1) (a) (i)**

*before*

certified list of electors

*insert*

preliminary

**24 Copies of returns to be available for public inspection  
Section 243 (5)**

*omit*

information about a gift made by an individual

*substitute*

information about a gift or other reportable amount received from an individual

**25 Immaterial delays and errors  
Section 268 (1) (b)**

*before*

certified extracts of electors

*insert*

preliminary

**26 Dissemination of unauthorised electoral matter  
Section 292 (1) (b) (i)**

*substitute*

- (i) the first and last name of the individual who authorised, or authored, the matter; and

**27 Section 292 (1) (b) (iii)**

*omit*

published

*insert*

disseminated



**28 New section 292 (1) (b) (iv)**

*insert*

- (iv) if the matter is disseminated for an entity not mentioned in subparagraph (iii)—a statement to the effect that the matter is disseminated for the entity and the full name of the entity.

**29 New section 292 (1A)**

*insert*

- (1A) For electoral matter prepared before the commencement of the *Electoral Legislation Amendment Act 2020*, part 2, it is sufficient for the initial of the person's first name and the person's full last name to be included on the matter.

*Note* The defendant has an evidential burden in relation to the matter mentioned in s (1A) (see [Criminal Code](#), s 58).

**30 New section 292 (3)**

*insert*

- (3) This subsection and subsection (1A) expire 6 months after the day the general election, due to be held in October 2020, happens.

**31 Canvassing within 100m of polling places  
Section 303 (2) and (3)**

*omit*

**32 Section 303 (7), definition of *defined polling area***

*substitute*

***defined polling area***, in relation to a polling place, means the area within the building where the polling place is located, and within 100m of the building.

**33 Preliminary scrutiny of declaration voting papers  
Schedule 3, new clause 6 (2) (ba)**

*insert*

- (ba) the elector's name is on the supplementary certified list of electors; and

**34 Schedule 3, clause 9 (a)**

*substitute*

- (a) when the elector signed the declaration, the elector was entitled to be enrolled; and

**35 Meaning of *count* votes—sch 4  
Schedule 4, clause 1A (2)**

*substitute*

- (2) Any fraction must be rounded down to 6 decimal places.

**36 Dictionary, definitions of *certified extract of electors* and  
*certified list of electors***

*substitute*

*certified extract of electors*, for an election in an electorate, means a preliminary or supplementary certified extract of electors.

*certified list of electors*, for an election in an electorate, means a preliminary or supplementary certified list of electors.

**37 Dictionary, definition of *closed***

*omit*

**38 Dictionary, definition of *official error***

*omit*

the roll closed for the purpose of

*substitute*

6pm on the first day of the pre-election period for

**39 Dictionary, new definitions**

*insert*

*preliminary certified extract of electors*, for an election in an electorate—see section 121 (4).

*preliminary certified list of electors*, for an election in an electorate—see section 121 (4).

*supplementary certified list of electors*, for an election in an electorate—see section 121 (4).

## Part 3 Public Unleased Land Act 2013

### 40 New section 105A

*insert*

#### 105A Removal of non-compliant electoral advertising signs by Territory

- (1) This section applies if—
  - (a) a person places an electoral advertising sign on public unleased land; and
  - (b) either—
    - (i) the person fails to comply with the movable signs code of practice; or
    - (ii) the sign does not comply with the movable signs code of practice.
- (2) An authorised person may remove the electoral advertising sign to a retention area.
- (3) If an authorised person removes an electoral advertising sign to a retention area, the authorised person must as soon as practicable take reasonable steps to give the owner of the sign a written notice stating—
  - (a) that the sign has been moved to a retention area; and
  - (b) when and where the sign may be collected; and
  - (c) that, if the owner does not collect the sign within 7 days after the notice is given to the owner, the sign may be disposed of under the *Uncollected Goods Act 1996*.

*Note* A decision under s (2) is a reviewable decision. A notice under s (3) must include requirements prescribed under the *ACT Civil and Administrative Tribunal Act 2008* for a reviewable decision notice.

(4) To remove any doubt, the authorised person may remove the electoral advertising sign without giving the person a removal direction under section 98.

(5) In this section:

***authorised person*** includes a police officer.

***electoral advertising sign*** means a movable sign that contains electoral matter.

***electoral matter***—

- (a) means a matter that is intended, or is likely, to affect voting in an ACT, State or Commonwealth election or referendum; and
- (b) includes any matter that contains an express or implied reference to—
  - (i) an ACT, State or Commonwealth election or referendum; or
  - (ii) any matter on which electors are required to vote in an ACT, State or Commonwealth election or referendum.

*Note* ***State*** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

***owner***, for an electoral advertising sign that states it is authorised by a person, means the person.

## 41 Disposal of objects by Territory Section 106 (1)

*after*

section 105

*insert*

or section 105A

**42 Reviewable decisions  
Schedule 1, new item 26**

*insert*

26	105A (2)	remove electoral advertising sign	owner of sign
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**Schedule 1      Referendum (Machinery Provisions) Act 1994—  
Consequential amendment**

(see s 3)

**[1.1]      Section 9**

*omit*

## Schedule 2 Electoral Act 1992— Consequential amendments

(see s 3)

*Note* This schedule amends provisions inserted into the *Electoral Act 1992* by the *COVID-19 Emergency Response Legislation Amendment Act 2020 (No 2)*.

### [2.1] Section 136BA (4)

*before*

certified list of electors

*insert*

preliminary

### [2.2] Section 136D (6) (a)

*before*

certified list of electors

*insert*

preliminary



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 26 September 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 8 July 2020.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Electoral Legislation Amendment Bill 2020, which originated in the Legislative Assembly as the Electoral Legislation Amendment Bill 2019 and was passed by the Assembly on 2 July 2020.

Acting Clerk of the Legislative Assembly

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