

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Electoral Legislation Amendment Bill 2019

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2019

THE LEGISLATIVE ASSEMBLY
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(Attorney-General)

Electoral Legislation Amendment Bill 2019

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Electoral Legislation Amendment Act 2019*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Legislation amended**

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

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

13 **4 Legislation repealed**

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15 [Notice 2016](#) (NI2016-536) is repealed.

Part 2 Electoral Act 1992

5 Enrolment etc Section 76 (5)

omit

, subject to section 80

6 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.

7 Closed rolls Section 80

omit

8 Candidates to be nominated Section 105 (2) (b)

substitute

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

9 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

10 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.

- 1 (3) For subsection (1) (c), the candidate may ask for, and the
2 commissioner may give, the preliminary certified extract in electronic
3 or paper form.
- 4 (4) In this section:
- 5 ***eligible elector***, in relation to an election, means an elector who is, or
6 will be, at least 18 years old on polling day for the election.
- 7 ***preliminary certified extract of electors***, for an election in an
8 electorate, means an extract from the roll for the electorate, certified
9 by the commissioner, for each eligible elector who is enrolled for the
10 electorate immediately before 6pm on the first day of the pre-election
11 period.
- 12 ***preliminary certified list of electors***, for an election in an electorate,
13 means a list, certified by the commissioner, that contains—
- 14 (a) the preliminary certified extract of electors; and
- 15 (b) each elector's year of birth and gender.
- 16 ***supplementary certified extract of electors***, for an election in an
17 electorate, means an extract from the roll for the electorate, certified
18 by the commissioner, for each eligible elector who—
- 19 (a) is enrolled for the electorate—
- 20 (i) at or after 6pm on the first day of the pre-election period;
21 but
- 22 (ii) before 6pm on polling day; or
- 23 (b) was enrolled for the electorate at or after 6pm on polling day but
24 applied to be enrolled before—
- 25 (i) 6pm on polling day; or
- 26 (ii) for a person mentioned in section 154 (2)—the close of the
27 polling place.

Section 11

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

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

6 **11 Claims to vote**
7 **Section 133 (1)**

8 *substitute*

9 (1) This section applies if—

- 10 (a) a person attends before an officer at a polling place on polling
11 day for an election; and
12 (b) claims to vote at the election; and
13 (c) the officer is satisfied that the preliminary certified list of
14 electors for an electorate—
15 (i) includes the claimant's name; and
16 (ii) states an address for the claimant or indicates that the
17 claimant's address is suppressed; and
18 (iii) has not been marked so as to indicate that a ballot paper
19 has already been issued to the claimant.

20 (1A) The officer must issue a ballot paper to the claimant for the electorate.

21 **12 Section 133 (2)**

22 *omit*

23 subsection (1)

24 *substitute*

25 subsection (1A)

13 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.

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

before

certified list of electors

insert

preliminary

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

omit

16 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

Section 17

- 1 (c) the authorised officer is satisfied that the preliminary certified
2 list of electors for an electorate—
- 3 (i) includes the person's name; and
- 4 (ii) states an address for the person or indicates that the
5 person's address is suppressed; and
- 6 (iii) has not been marked so as to indicate that a ballot paper
7 has already been issued to the person.
- 8 (5A) The authorised officer must issue a ballot paper to the person for the
9 electorate.

17 Section 136B (6)

- 11 *omit*
- 12 subsection (5)
- 13 *substitute*
- 14 subsection (5A)

18 Section 136B (7) and (17)

- 16 *before*
- 17 certified list of electors
- 18 *insert*
- 19 preliminary

- 1 **19 Functions of visiting officers**
2 **Section 151 (1) (a)**
- 3 *before*
4 certified list of electors
5 *insert*
6 preliminary
- 7 **20 Arrangements at polling places**
8 **New section 154 (2)**
- 9 *insert*
- 10 (2) For subsection (1) (b), an *elector* present in the polling place includes
11 a person who—
12 (a) is not on the preliminary certified extract of electors for an
13 electorate; but
14 (b) wishes to apply for enrolment in the electorate.
- 15 **21 Arrangements for the polling in Antarctica**
16 **Section 172 (1) (a) (i)**
- 17 *before*
18 certified list of electors
19 *insert*
20 preliminary

- 1 **22** **Copies of returns to be available for public inspection**
2 **Section 243 (5)**
- 3 *omit*
4 information about a gift made by an individual
5 *substitute*
6 information about a gift or other reportable amount received from an
7 individual
- 8 **23** **Immaterial delays and errors**
9 **Section 268 (1) (b)**
- 10 *before*
11 certified extracts of electors
12 *insert*
13 preliminary
- 14 **24** **Dissemination of unauthorised electoral matter**
15 **Section 292 (1) (b) (i)**
- 16 *before*
17 name
18 *insert*
19 full
- 20 **25** **Section 292 (1) (b) (iii)**
- 21 *omit*
22 published
23 *insert*
24 disseminated

- 1 **26 New section 292 (1) (b) (iv)**
- 2 *insert*
- 3 (iv) if the matter is disseminated for an entity not mentioned in
4 subparagraph (iii)—a statement to the effect that the
5 matter is disseminated for the entity and the full name of
6 the entity.
- 7 **27 Canvassing within 100m of polling places**
8 **Section 303 (2) and (3)**
- 9 *omit*
- 10 **28 Section 303 (7), definition of *defined polling area***
- 11 *substitute*
- 12 *defined polling area*, in relation to a polling place, means the area
13 within the building where the polling place is located, and within
14 100m of the building.
- 15 **29 Preliminary scrutiny of declaration voting papers**
16 **Schedule 3, new clause 6 (2) (ba)**
- 17 *insert*
- 18 (ba) the elector's name is on the supplementary certified list of
19 electors; and
- 20 **30 Schedule 3, clause 9 (a)**
- 21 *substitute*
- 22 (a) when the elector signed the declaration, the elector was entitled
23 to be enrolled; and

- 1 **31** **Meaning of *count* votes—sch 4**
2 **Schedule 4, clause 1A (2)**
- 3 *substitute*
- 4 (2) Any fraction must be rounded down to 6 decimal places.
- 5 **32** **Dictionary, definitions of *certified extract of electors* and**
6 ***certified list of electors***
- 7 *substitute*
- 8 ***certified extract of electors***, for an election in an electorate, means a
9 preliminary or supplementary certified extract of electors.
- 10 ***certified list of electors***, for an election in an electorate, means a
11 preliminary or supplementary certified list of electors.
- 12 **33** **Dictionary, definition of *closed***
- 13 *omit*
- 14 **34** **Dictionary, definition of *official error***
- 15 *omit*
- 16 the roll closed for the purpose of
- 17 *substitute*
- 18 6pm on the first day of the pre-election period for

1 **35 Dictionary, new definitions**

2 *insert*

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

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

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

Part 3 Public Unleased Land Act 2013

36 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.

37 Disposal of objects by Territory

Section 106 (1)

after

section 105

insert

or section 105A

Section 38

1 **38** **Reviewable decisions**
2 **Schedule 1, new item 26**

3 *insert*

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

4 (see s 3)

5 **[1.1] Section 9**

6 *omit*

Endnotes

1 Presentation speech

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

2 Notification

Notified under the [Legislation Act](#) on 2019.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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