

1995

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

ELECTORAL (AMENDMENT) BILL 1995

EXPLANATORY MEMORANDUM

**Circulated by authority of
Gary Humphries, Attorney General**

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OUTLINE

The Electoral (Amendment) Bill 1995 amends the *Electoral Act 1992* to prohibit canvassing for votes and dissemination of electoral matter within 100 metres of a polling place during polling. The main purpose of this Bill is to reduce the influence of party machines on election and referendum outcomes. Other intended benefits include:

- reducing wastage of paper used in how-to-vote cards,
- reducing the cost of campaigning for candidates and political parties,
- removing the advantage currently enjoyed by those parties and candidates with the resources to print and distribute material widely on polling day; and
- removing a source of irritation to voters entering polling places

FINANCIAL IMPLICATIONS

The Bill has no financial implications

DETAILED EXPLANATION

Formal clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement and definition of the Principal Act (the *Electoral Act 1992*). The amending Bill is to commence upon notification of the Act in the Gazette.

Functions of visiting officers

Clause 4 amends section 151 of the Principal Act to remove the provision for how-to-vote cards to be distributed by electoral officers during mobile polling. This provision is to be removed so that the prohibition on canvassing is consistent. **Clause 8(a)** amends a cross reference to section 151 in section 305 of the Principal Act for the same purpose.

Interpretation

Clause 5 amends section 291 of the Principal Act by inserting a new definition of polling place. For the purposes of Division 3 of Part XVII of the Principal Act, 'polling place' is to mean an ordinary polling place, a place where a declaration vote may be made before an officer (such as a pre-poll voting centre) or a place where mobile polling is taking place. Use of this definition ensures that offences relating to campaigning apply at all places where votes may be taken by officers.

This definition is used in a number of offences in this Division, including the proposed new section 303. It is inserted in section 291 to avoid duplication

Clause 7 amends section 304 of the Principal Act to remove a provision made redundant by the insertion of the definition of polling place in section 291. As the definition of 'polling place' includes a place where a declaration vote may be made before an officer, the prohibition applying to an officer wearing a political badge or emblem at a declaration voting place in subsection 304(1) is covered by the prohibition on officers wearing political badges or emblems in polling places in subsection 304(2).

Clause 8(b) amends section 305 of the Principal Act to remove an equivalent definition of 'polling place' made redundant by the insertion of the definition in section 291. The effect of section 305 is unchanged by this amendment.

Canvassing within 100 metres of polling places

Clause 6 replaces section 303 of the Principal Act.

This clause makes it an offence during polling hours to do anything with the intention of influencing the vote of an elector, or to do anything with the intention of inducing an elector not to vote, as the elector is approaching, or while the elector is at, a polling place — either in a polling place or within 100 metres of the boundary of a polling place

This clause also makes it an offence during polling hours to exhibit a notice containing electoral matter which is able to be clearly seen by electors approaching, or at, a polling place, except for a notice authorised by the Electoral Commissioner — either in a polling place, or within 100 metres of the boundary of a polling place.

The clause provides that the above prohibitions on canvassing are to apply in a 'defined polling area', meaning either.

- within the building in which the polling place is located and within 100 metres of the building, or
- if the building in which the polling place is located is situated on grounds within an enclosure, and the Electoral Commissioner has specified the boundary of that enclosure in the Gazette — within the boundary of that enclosure (including the building containing the polling place) and within 100 metres outside that boundary.

The clause defines 'polling hours' to mean.

- in the case of an ordinary polling place on polling day — between the normal hours of polling from 8 am to 6 pm;
- in the case of a place where a declaration vote may be made before an officer (such as a pre-poll voting centre) — any time during which the place is open for the acceptance of declaration votes; or

- in the case of mobile polling — during the period when mobile polling is taking place in the building.

This clause also provides that an officer may, if directed by the Commissioner, remove or obliterate electoral matter exhibited in breach of this clause within the 100 metre limit. This is intended to enable the Electoral Commissioner to respond quickly to complaints about breaches of this provision without drawing on the resources of the police. It is also intended that this power would generally only be exercised where material was exhibited unaccompanied. If a person distributing material in breach of this provision refused to desist when requested to do so by an electoral officer, it is intended that the police be called in to enforce the prohibition rather than involve an electoral officer in a personal confrontation.

The power to remove or obliterate electoral matter does not authorise an officer to enter private land.

This clause also makes it an offence to obstruct an officer attempting to remove or obliterate electoral matter under this clause.