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# AUSTRALIA

## Commonwealth Electoral Act 1918

Reprinted as at December 31, 1995.

### **The Election Commission.**

#### **Establishment of commission**

Article 6.

(A Chairperson, an Electoral Commissioner and one another member. Chairperson and Non Judicial appointee appointed by Governor General. Chairperson to be included in the list of eligible judges).

#### **Functions and Powers of Commission**

Article 7 .

( Consider electoral matters referred and other electoral matters it thinks fit. Promote public awareness of electoral and parliamentary matters by education and information programs. Provide electoral advices to parliament, government and other departments. Conduct research in electoral matters. Publish electoral materials.

#### **Tenure and Terms of offices**

Article 8.

(Seven years terms with reappointment.)

#### **Termination of Appointment**

Article 12.

#### **Acting Chairman**

Article 13, 14.

(May be appointed but not exceeding to 12 months.)

#### **Meetings of Commission**

Article 15 .

#### **Delegation by Commission**

Article 16.

#### **Reports by the Commission**

Article 17.

(Shall furnish yearly reports after every June 30.)

#### **Electoral Commissioner**

Article 18.

(Chief executive officer)

#### **Deputy Electoral Commissioner**

Article 19.

#### **Australian Electoral officers for states**

Article 20.

#### **Terms and Conditions for appointment**

Article 21.

#### **Termination of appointment**

Article 25.

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Article 27.

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Qualifications for nominations (18 years, citizen, entitled to vote or qualified to become a voter.)	Article 163.
State & Territory members not entitled to be nominated	Article 164.
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Mode of nominations (Name, Place of residence and occupation. Signature of 6 electors in the constituency). Senate election 1A. House of representative election 1B.	Article 166.
To whom nominations made (Made to Australian Electoral Officer)	Article 167.
Grouping of candidates (Two or more candidates may group their names on ballot papers. Request made to Australian Electoral Officer in writing.)	Article 168.
Notification of party endorsement	Article 169.
Notification of independent candidacy	Article 169 A.
Verification of party endorsement	Article 169 B.
Requisites for nominations	Article 170.
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Place of nomination (Office of the Australian Electoral Commission)	Article 174.
Hours of nomination	Article 175.
Declaration of nominations	Article 176.
Withdrawal of consent to nomination	Article 177.
Proceeding on nomination day (If No. Of nominated candidate is not greater than required,, shall be declared elected.	Article 179.
Death of a candidate after nomination	Article 180.
Qualifications of members to parliament (21 years age, qualified to vote at election to house of representatives, or qualified to elect to such an elector)	Article 34 of const;
Disqualification of becoming members (acknowledgment of allegiance to foreign power, bankrupt or insolvent, holds office of profit under govt., pecuniary interest in an agreement with the public service of common wealth.)	Article 44, of const;

## **Elections.**

Issue of writs for election of Senators for Territories	Article 151.
Forms of writs (Three forms, A, AA, B.)	Article 152.
Writs for election of Senators	Article 153.
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Date for close of Rolls (shall be 7 days after the date of writ.)	Article 155.
Date of nominations	Article 156.
Date of polling (Shall not be less than 11 and more than 28 days after the date of writ.)	Article 157.
Polling to be on Saturday	Article 158.
General elections to be held on same day	Article 160.
No state referendum or vote to be held on polling day	article 394.
Time of elections of Senators for Territories	Article 43.
Time of elections for members of Territories	Article 54 .
Senators to be directly chosen by the people of state	Article 39.
Representation of the Territories in the Senate (Two senators for each of Australian Capital Territory and the Northern Territory shall be elected directly by people)	Article 40.

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Ascertainment of the number of the people of Commonwealth, States and Territories (Federal Electoral Commissioner shall determine the number of people within one month after the expiration of 9 months long continued house of representative.)	Article 46.
Determination of number of members of House of Representatives to be chosen in States and Territories (Federal Electoral Commissioner shall determine the numbers of representative. Twice the number of senators from the state. Additional member if number of people remained are greater than one half of the quota. No member chosen if voters turn out less than .5. member chosen if voter turn out is above .5 and less than 1.5 in a constituency.	Article 48.
Notification of Determination	Article 49.

( the Federal Electoral Commissioner shall determine the number of members for house of representative to be chosen by people from states and territories.)

Number of members of House of Representatives to be chosen in States and Territories	Article 50.
States and Australian Capital Territory to be distributed into Electoral Division	Article 56.
Certain Territories to be included in same division	Article 56 A.
One member to be chosen for each Electoral Division	Article 57.
Times at redistribution are to commence (Within 30 days after the expiration of 7 years from electoral division)	Article 59.
Redistribution Committee for State ( the Electoral Commissioner shall appoint the Electoral Redistributive Committee, consisting of Electoral Commissioner, Electoral Officer for the state, either Surveyor General for the state or appointee of the State Minister equivalent to the office of Surveyor General, and Auditor General of the State.	Article 60.
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Compulsory enrolment and transfer	Article 101.
The penalty on officer neglecting to enrol claimants (\$1000)	Article 103.
Address not to be shown on Roll	Article 104.
Alteration of Rolls	Article 105.
<small>The Divisional Officer may make alterations in rolls either upon the request of an applicant or at his own motions if finds any mistake or alteration necessary to the provisions of act.</small>	
List of deaths to be forwarded	Article 108.
Computer record relating to Rolls	Article 111.
Objections to enrolment	Article 114.
Person enrolled may object to any other enrollment on the grounds of entitlement.	
Form and manner of objection	Article 115-117.
Determination of Objection	Article 118.
<small>A DRO shall determine the objections within 20 days of the notice or earlier. He may make any queries and actions necessary fir that end.</small>	
Review by Australian Electoral Officer	Article 120.

Review by Administrative Appeals Tribunal	Article 121.
Persons entitled to vote	Article 93.
<small>Persons of 18 or above age, Australian citizen, name on the enrollment register.</small>	
Enrolled Voters leaving Australia	Article 94.
<small>Apply within 30 days before ceasing to reside in Australia for casting vote as an overseas voter. Eligibility and non eligibility of an overseas voter.</small>	
Eligibility of spouse or Child of eligible overseas elector	Article 95.
<small>Living outside Australia, not less than 18 years of age, not on the vote roll,</small>	
Norfolk Island electors'	Article 95 AA.
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Itinerant electors'	Article 96.
<small>Elector living in Australia but not entitled to vote because of his residing falling in place not part of any subdivision for electors.</small>	
Enrolment of prisoners	Article 96 A.
Agents of political parties	Article 288.
<small>Shall have agents for the purpose of election.</small>	
Appointments of Agents by candidates and groups	Article 289.
Requisites for appointment	Article 290.
<small>Natural person of attaining 18 years of age. Written of appointment to electoral commission indicating his name and address.</small>	
Register of party agents	Article 291.
Responsibility for action when agent of party is dead or appointment vacant	Article 292 B.
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<b>The Poll</b>	
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Arrangements for polling	Article 203.
<small>Polling booths. Ballot boxes. Ballot papers and necessary list of voters.</small>	
Substitute	Article 204.
Use of licensed premises as pooling booths	Article 205.
<small>Electoral Commissioner may declare a place as polling place.</small>	
Separate voting compartments	Article 206.



Each compartment shall be furnished with a pencil for the use of voters.

**Ballot boxes** Article 207.

**Certified lists of voters** Article 208 .

**Ballot papers** Article 209.

Shall be a green paper for house of representative and white paper for senate election. Shall use black type face of a kind used in commonwealth. It must show name of the state, number of candidates with their names.

**Form of party name on ballot papers** Article 210 A.

Registered abbreviation of political party.

**Group voting tickets** Article 211.

**Individual voting tickets** Article 211-A.

**Determination of order of name** Article 213.

Person preparing the list of names or groups, as he considers appropriate and fit.

**Ballot papers to be initialed** Article 215.

**Scrutineer at the polling** Article 217.

**Participation of candidates in conduct of election** Article 219.

Candidate is not allowed to participate in the conduct of election in any way.

**The polling** Article 220.

Exhibit the ballot box as empty before start of poll. Poll time 8 am to 6 pm. Polling will be closed at 6 pm. At closing, presiding officer will take the controls of entire ballot papers and other materials in the presence of agents and scrutineer.

**Elections at which electors entitled to vote** Article 221.

Senate election. Only enrolled electors entitled to vote.

**Where electors may vote** Article 222.

Polling places designated for voting

**Mobile booths-hospital, Prison, Remote Divisions** Article 224, 225,  
226 A, 227.

**Scrutineer at security** Article 264.

**Scrutiny, how conducted** Article 265.

**Action on objections to ballot paper** Article 267.

Mark the ballot paper either admitted or rejected.

**Informal ballot papers** Article 268.

If not authenticated by the initials of presiding officer or by the presence of official mark.

**Certain votes with non-consecutive numbers to be formal** Article 270.

**Officers not to mark ballot paper so that voter can be identified** Article 271.

Penalty= \$1,000

Scrutiny prior to receipt of declaration ballot papers Article 275.

Notice of re-count Article 279-A.

Conduct of re-count Article 279-B.

DRO opens sealed parcel of ballot papers in the presence of scrutineer and other electoral officers to count. after scrutinizing ballot papers shall restore to their original covers. Refasten, reseal and write on cover. number of ballot papers in a cover. Electoral officer shall sign the cover.

Question to be put to voter Article 229.

Name, residence, voted in a election and current election.

Errors not to forfeit vote Article 230.

Omission and wrong spelling of given name or Christian name. Wrong address.

Right of elector to receive ballot paper Article 231.

Voters to be recorded Article 232.

Mark against the voters name.

Assistance to certain voters Article 234.

Impaired eye sight. Physical disability. Illiterate.

Provisional votes Article 235.

Missing name from list or indicated as has casted the vote.

Spoilt ballot papers Article 238.

Adjournment of polling Article 241.

Riot. Violence. Storm or flood.

Voting at adjourned polling Article 243.

Arrangements where elections held in some Divisions only Article 244.

Compulsory voting Article 245.

List of electors with addresses failed to appear to vote. Penalty notice with in 3 months of election.

### **Postal Voting**

Grounds of application for postal vote (Schedule 2) Article 183.

Application for postal vote Article 184.

Approved form, declaration fro entitlement, submitted to DRO, penalty \$1000.

Provision relating to registration of postal voting Article 185 to 186.

Living at least 20 miles to nearest polling station. Serious illness or infirmity. Detained. Incapable of signing name and address. Precluded by religious belief to attend polling station.

Duty of witness Article 187.

<b>Issue of certificate and ballot papers</b>	Article 188.
Postal vote certificate. Postal ballot paper.	
<b>Inspection of applications for postal ballot</b>	Article 189.
<b>Numbering of applications and certificates</b>	Article 190.
DRO shall allocate a number to each postal ballot application.	
<b>Form of postal certificate</b>	Article 192.
<b>Postal voting</b>	Article 194.
Applicant shall show unsigned postal vote certificate and unmarked postal ballot to an authorized witness. Witness shall sign the ballot paper. applicant will mark the ballot paper secretly and then place it in an envelope addressed to the appropriate DRO and fasten the envelop. Post or deliver the envelop. Reach before a day of polling or 13 days after polling in any specific case.	
<b>Procedure for dealing with postal vote certificates etc.</b>	Article 195 A.
<b>Opening of postal ballot paper</b>	Article 196.
DRO will open the postal ballot papers. Penalty \$500.	
<b>Failure to post or deliver postal vote application</b>	Article 197.
Penalty; \$1000.	
<b>Inducing elector to hand over marked ballot paper</b>	Article 198.
Penalty; \$1000.	
<b>Correction of formal errors</b>	Article 199.
<b>Mistakes</b>	Article 200.
Spelling of name or surname is no mistake.	
<b>Pre Poll Voting</b>	
<b>Grounds of application for pre poll vote</b> (schedule 2 ).	Article 200-A.
<b>Pre poll voting officers</b>	Article 200-B.
<b>Place and time of application</b>	Article 200-D
DRO office. Day and time fixed by electoral commission in gazette.	
<b>Manner of pre poll voting</b>	Article 200-E.
<b>Opening of pre poll voting envelope</b>	Article 200-J.
DRO will open the pre poll ballot paper. Penalty \$500.	
<b>Correction of formal errors</b>	Article 201.
<b>Mistakes</b>	Article 202.
<b>Election Funding and Donations</b>	
<b>General entitlement to funds</b>	Article 294.

<b>Claims for payment</b>	Article 295.
Claim to electoral commission. Payment through agent of political party or individual candidate.	
<b>Determination of claims</b>	Article 296.
<b>Payment not to be made in certain circumstances</b>	Article 297.
If votes favored are less than 4% of the total vote favored to other candidates.	
<b>Amount of payment not to exceed electoral expenditure</b>	Article 298.
<b>Revocation of determination regarding payment</b>	Article 299-A.
<b>Death of candidate</b>	Article 300.
<b>Disclosure of gifts</b>	Article 304, 305-A.
<b>Expenditure incurred for political purposes</b>	Article 305.
<b>Certain gifts not to be received</b>	Article 306.
<b>Nil returns</b>	Article 307, 313.
<b>Returns of electoral expenditure</b>	Article 309.
<b>Returns by Broadcasters</b>	Article 310.
<b>Returns by publishers</b>	Article 311.

## **Election Offences**

<b>Officers and scrutineer to observe secrecy</b>	Article 323.
Penalty; \$1000. Or imprisonment for 6 months, or both.	
<b>Officers not to contravene act etc. (Penalty \$1000.)</b>	Article 324.
<b>Officers not to influence vote</b>	Article 325.
Penalty; \$1000. Or imprisonment for 6 months, or both.	
<b>Influencing votes of hospital patients etc</b>	Article 325-A.
Penalty; \$1000. Or imprisonment for 6 months, or both.	
<b>Bribery</b>	Article 326.
Penalty; \$5000. Or imprisonment for years, or both.	
<b>Interference with political liberty</b>	Article 327.
Penalty; \$1000. Or imprisonment for 6 months, or both.	
<b>Printing and publication of electoral advertisement, notices etc.</b>	Article 328.
Penalty; if natural person= \$1000. If corporate body \$5000.	
<b>Misleading or deceptive publications</b>	Article 329.

Penalty, if natural person= \$1000. If corporate body \$5000.

Encouraging persons to mark ballot papers otherwise  
than in accordance with act

Article 329-A.

Imprisonment for 6 months.

False statements in relations to rolls

Article 330.

Penalty, \$1000. Or imprisonment for 6 months, or both.

Heading to electoral advertisements

Article 331.

Cards in polling both

Article 335.

Penalty, \$500.

Signature to electoral paper

Article 336.

Witnessing electoral papers

Article 337.

Unlawfully marking ballot papers

Article 338, 339.

Penalty, \$1000. Or imprisonment for 6 months, or both.

Prohibition of canvassing near polling booths

Article 340.

Penalty, \$500.

Badges or emblems in polling booths

Article 341.

Penalty, \$1000.

Duty of witness to claim, and failure

Article 342, 343.

Penalty, \$1000. Or imprisonment for 6 months, or both.

Forging or uttering electoral papers

Article 344.

Penalty, \$1000. Or imprisonment for 6 months, or both.

Control of behavior at polling booths

Article 348.

Penalty, \$500.

Defamation of candidate

Article 350, 351.

Penalty, if natural person= \$1000. If corporate body \$5000.

## **Challenging an Election**

Method of disputing an election

Article 353.

Petition addressed to court of Disputed Returns.

The Court of Disputed Returns (High Court)

Article 354.

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Article 355, 356, 358.

Facts invalidating election. Specific matter relied. Prayer. Signed by candidate. Attested by two witnesses. File in the registry of High Court.

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Evidence that person not permitted to vote	Article 367.
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