

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

REFERENDUM (MACHINERY PROVISIONS) AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Administrative
Services, the Hon Stewart West MP)

OUTLINE

In December 1986 the Joint Select Committee on Electoral Reform presented its Report (No 2) on the operation during the 1984 General Election of the 1983/84 amendments to Commonwealth electoral legislation.

The Government has announced that it accepts most of the Report's recommendations and that legislation to give effect to the acceptable recommendations will be introduced in stages. Prior to the July 1987 Federal election the Commonwealth Electoral Act 1918 was amended to give effect to those recommendations which were considered essential for implementation before the election.

The purpose of this legislation is to bring the Referendum (Machinery Provisions) Act 1984 into line with the Commonwealth Electoral Act and to give effect to those recommendations specific to referendums.

The major provisions are designed to:

- . require Commonwealth and State Governments to comply with the Act to the same extent as other participants in the electoral process and to ensure that overseas polling officials are subject to the same penalties for neglect of duties as those officials in Australia;
- . remove existing time limits on the ability to alter polling day and/or return of the writs;
- . allow the preparation and distribution of arguments for and against proposed referendum proposals in a form suitable for the visually impaired;
- . consolidate the requirements relating to the forwarding of declaration votes;
- . provide that only those votes that are unequivocally 'YES' or 'NO' should be regarded as formal;
- . provide that there be no obligation on broadcasters and publishers to furnish returns for a referendum where it is held in conjunction with an election.

Financial Impact Statement

As the majority of the provisions are administrative amendments there will be no major additional costs involved in their implementation.

CLAUSE NOTES

Clauses 1 and 2

The first two clauses provide for the short title and for the Act to come into operation on the day on which it receives Royal Assent.

Clause 3 : Interpretation

Inserts definitions in section 3 of the Principal Act of declaration vote.

Inserts provisions clarifying the intent to references in the Principal Act to:

- . Australian Electoral Officer
- . Divisional Returning Officer

Clause 4 : Extraterritorial operation of Act, Act to Bind Crown

Inserts provisions after section 3 of the Principal Act:

- . a new section 3A, designed to ensure that overseas polling officials are subject to the same penalties for neglect of duty as officials in Australia; and
- . a new section 3B, the effect of which will be to require Commonwealth and State Governments to comply with the Act to the same extent as other participants in the electoral process.

Clause 5 : Extension of time

Repeals section 10 of the Principal Act and substitutes a new section which deletes the present 20 and 7 day limitations for altering date of polling and/or the date of the return of the writ. At present the Governor General issuing the writ may alter the date of polling and/or the date of return of the writ, provided the he/she does so within 20 days of the day originally appointed for polling, and provided polling day is not postponed within the last 7 days. These limitations appear to serve no useful purpose.

Clause 6 : Distribution to electors of arguments for and against proposed law

Amends section 11 of the Principal Act to allow for the official preparation and distribution of arguments for and against any referendum proposal in forms suitable for the visually impaired. At present, the Act only provides for the presentation of material as a written pamphlet.

Clause 7 : Forwarding of declaration votes

Inserts a new section 46A after section 46 of the Principal Act which consolidates the requirements relating to the forwarding of declaration votes.

The provisions are designed to streamline the forwarding of declaration votes to the relevant Divisional Returning Officer, by providing that:

- . Presiding Officers are to forward all declaration votes to a designated Assistant Returning Officer;
- . Assistant Returning Officers are to forward them to the respective Divisional Returning Officers;
- . each Divisional Returning Officer is to forward them to other Divisional Returning Officers or to a central exchange point in the State, from which the votes are to be sent to the relevant Divisional Returning Officer;
- . overseas Assistant Returning Officers are to be directed by the Electoral Commissioner to forward votes to a specified person for subsequent forwarding to the relevant Divisional Returning Officer.

At all stages, checking and advisory procedures are provided for.

Clause 8 : Informal ballot-papers

Amends section 93 of the Principal Act to provide that only unequivocal 'YES' and 'NO' answers should be regarded as formal.

Clause 9 : Application

Inserts a new section 109A before section 110 of the Principal Act to provide that where a referendum is held in conjunction with an election for the House of Representatives and/or the Senate there is no obligation on broadcasters and publishers to furnish returns.

Clause 10 : Extension of time for acts by officers

Inserts a new section 136A before section 137 of the Principal Act to enable the Electoral Commission to extend by 48 hours the time in which acts must be completed in the event of a failure by any person to perform a statutory duty or function.

Clause 11 : Further amendments

The Schedule:

- . amends section 30(3),(5)(a),(5)(b) and (6) of the Principal Act so that electors enrolled for a Division need not have lived within the Division for 3 months prior to polling

day, in order to vote;

- . amends section 34(2) to consolidate provisions relating to Presiding Officers' records of declaration votes;
- . repeals sections 46(6),(7) and (8) which outlined the procedures for the forwarding of the ballot papers of absent voters. New streamlined procedures are contained in Clause 7.
- . amends sections 66(3) and 72(1) to extend from 10 to 13 days the cut-off date after the close of the poll for receipt of postal ballot-papers sent directly to Divisional Returning Officers;
- . repeals section 113 (with a consequential amendment to section 136) of the Principal Act which requires printers to furnish returns in respect of a referendum;
- . repeals section 114(3) to remove the obligation of braodcasters and publishers to furnish returns where a referendum is held in conjunction with an election.

