

1983-84

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ELECTORAL AND REFERENDUM
AMENDMENT BILL 1984

EXPLANATORY MEMORANDUM

(Circulated by authority of the Special Minister of State)

OUTLINE

The purpose of this bill is to repeal sub-section 329(2) of the Commonwealth Electoral Act 1918 and section 122(2) of the Referendum (Machinery Provisions) Act 1984, relating to the prohibition of the publication of misleading or deceptive political material, and to amend other sections of those Acts affected by the repeal of the sub-sections specified.

The bill will also amend sub-section 273(20) of the Commonwealth Electoral Act to correct an earlier drafting error.

There are no financial implications flowing from the actions proposed.

NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1: Formal - short title of Act.

Clause 2: Formal - date of commencement to be day Act receives Royal Assent.

PART II - AMENDMENTS OF THE COMMONWEALTH ELECTORAL ACT 1918

Clause 3: Citation of Commonwealth Electoral Act 1918 as Principal Act.

Clause 4: Amends sub-section 273(20) to ensure that that sub-section - which relates to the order of election of Senators - applies to the purposes of the Representation Act 1983. This clause corrects an earlier drafting error.

Clause 5: Misleading or deceptive publications, etc:

Sub-clause 5(a) repeals sub-section 329(2) of the Commonwealth Electoral Act, which prohibits the publication, during an election period, of material that is untrue and which is, or is likely to be, misleading or deceptive.

Sub-clause 5(b) deletes reference to sub-section 329(2) from sub-section 329(4).

Sub-clause 5(c) repeals sub-section 329(6) which relates to the availability of a defence to a prosecution for an offence against the repealed sub-section 329(2). Sub-clause 5(c) also deletes the definition of 'electoral advertisement' in sub-section (7) as that term is used only in sub-section 329(2).

Clause 6: Repeals sub-section 362(4), which provides that an election is not to be declared void on the grounds that a person contravened the provisions of sub-section 329(2) without also contravening 329(1).

PART III - AMENDMENTS OF THE REFERENDUM (MACHINERY PROVISIONS)
ACT 1984

Clause 7: Citation of Referendum (Machinery Provisions)
 Act 1984 as Principal Act.

Clause 8: Misleading or deceptive publications, etc:

Sub-clause 8(a) repeals sub-section 122(2) of the
 Referendum (Machinery Provisions) Act, which, in
 relation to referendums, reflects the provisions of
 sub-section 329(2) of the Electoral Act.

Sub-clause 8(b) deletes reference to sub-section 122(2)
 from sub-section 122(4).

Sub-clause 8(c) repeals sub-section 122(6) which
 relates to the availability of a defence to a prosecution
 for an offence against the repealed sub-section 122(2).