

1992

THE PARLIAMENT OF THE COMMONWEALTH
OF AUSTRALIA

SENATE

ELECTORAL AND REFERENDUM AMENDMENT BILL 1992

FURTHER SUPPLEMENTARY EXPLANATORY MEMORANDUM

Further Amendments and New Clauses to be Moved on Behalf of
the Government

(Circulated by authority of the
Minister for Administrative Services,
Senator the Honourable Nick Bolkus)



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ELECTORAL AND REFERENDUM AMENDMENT BILL 1992

OUTLINE

The further amendments and new clauses to be moved on behalf of the Government amend the *Commonwealth Electoral Act 1918*.

The amendments and new clauses to be moved on behalf of the Government are designed to:

- provide that the person appointed as Chairperson of the Australian Electoral Commission shall be a person who is either a serving Judge (other than the Chief Judge) of the Federal Court, or a person who is a retired Judge of the Federal Court;
- omit the requirement that a Chairperson of the Australian Electoral Commission shall cease to be a Commissioner if he or she ceases to be a Judge;
- provide that a Chairperson of the Australian Electoral Commission who is a former Judge of the Federal Court is to be paid such remuneration as is determined by the Remuneration Tribunal, or if no such determination is in operation, the person shall be paid such remuneration as is prescribed, and the person shall be paid such allowances as are prescribed.

FINANCIAL IMPACT STATEMENT

The further amendments and new clauses to be moved on behalf of the Government will give rise to costs if a Chairperson of the Australian Electoral Commission is appointed who is a retired Judge of the Federal Court. In this case the person is to be paid such remuneration as is determined by the Remuneration Tribunal, or if no such determination is in operation, the person shall be paid such remuneration as is prescribed, and the person shall be paid such allowances as are prescribed.

NOTES ON CLAUSES

Clause 3A - Interpretation

1. Amendment (1) inserts clause 3A, which amends section 5 of the Principal Act, to provide that the person appointed as Chairperson of the Australian Electoral Commission shall be a person who is either a serving Judge (other than the Chief Judge) of the Federal Court, and has been a Judge for at least 3 years, or a person who is a retired Judge of the Federal Court who was such a Judge for at least 3 years.

2. As the Commonwealth Electoral Act stands at present, only serving Judges (other than the Chief Judge) are eligible for appointment as Chairperson of the Australian Electoral Commission. This amendment will extend the requisite qualifications for the Chairperson to include retired Judges.

3. A related amendment is made by amendment (2).

4. Amendment (2) inserts new clauses 5A and 5B.

Clause 5A - Tenure and terms of office

5. This clause amends section 8 of the Principal Act by omitting subsection (2), which provides that a Chairperson of the Australian Electoral Commission shall cease to be a Commissioner if he or she ceases to be a Judge. This requirement is no longer necessary as a consequence of the amendment made by clause 3A, which qualifies a retired Judge for appointment as Chairperson.

Clause 5B - Remuneration

6. Clause 5B amends section 14A of the Principal Act to provide that a Chairperson of the Australian Electoral Commission who is a former Judge of the Federal Court is to be paid such remuneration as is determined by the Remuneration Tribunal, or if no such determination is in operation, the person shall be paid such remuneration as is prescribed, and the person shall be paid such allowances as are prescribed.

7. The Commonwealth Electoral Act currently provides that an acting Chairperson or an acting non-judicial appointee to the Australian Electoral Commission shall be paid remuneration and allowances in the above manner. As the Chairperson currently must be a Federal Court Judge no provision is made for remuneration of the permanent Chairperson. This amendment will allow for payment of remuneration and allowances to a permanent Chairperson who is a retired Judge of the Federal Court.

8. This amendment is related to amendment (1).

