



Commonwealth Electoral (COVID Enfranchisement) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2022

David Hurley
Governor-General

By His Excellency's Command

Ben Morton
Special Minister of State

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Part 1—Preliminary

1 Name

This instrument is the *Commonwealth Electoral (COVID Enfranchisement) Regulations 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Sections 4 to 29	A single day to be fixed by the Minister by notifiable instrument.	
3. Part 3	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Commonwealth Electoral Act 1918*.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) approved list;
- (b) certified list of voters;
- (c) Electoral Commissioner;
- (d) Roll.

In this instrument:

Act means the *Commonwealth Electoral Act 1918*.

authorised call centre means a call centre established in accordance with arrangements made by the Electoral Commissioner under subsection 25(1).

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call centre operator means an individual who:

- (a) works in an authorised call centre; and
- (b) is a pre-poll voting officer or a polling official.

coronavirus affected individual has the meaning given by subsection 202AFA(2) of the Act.

National Relay Service has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

personal identification number means a personal identification number registered under paragraph 10(1)(c).

reference Roll means a Roll that may be consulted by an officer if an individual wishes to register as a secure telephone voter or wishes to vote by a secure telephone vote.

registered secure telephone voter means an individual who is registered under section 10 as a secure telephone voter.

registration number means a registration number provided under paragraph 10(1)(b).

secure telephone vote means a vote cast using the telephone voting method provided for in Part 2.

5 Time

In this instrument, a reference to time as it relates to an individual is a reference to:

- (a) unless another paragraph of this section applies—the legal time in the State or part of the Commonwealth in which the individual is located; or
- (b) if the individual is located in Norfolk Island or Lord Howe Island—the legal time in Sydney; or
- (c) if the individual is located in the Territory of Cocos (Keeling) Islands or the Territory of Christmas Island—the legal time in Perth.

Part 2—Secure telephone voting for coronavirus affected individuals

Division 1—Preliminary

6 Telephone voting method for coronavirus affected individuals

This Part provides a telephone voting method to be used by certain coronavirus affected individuals covered by a determination under subsection 202AFA(1) of the Act.

7 Telephone voting method to be provided to the extent feasible

- (1) If the Electoral Commissioner is satisfied that it has become unfeasible to provide, or continue to provide, a telephone voting method in accordance with this Part to any extent for any period for a general election, Senate election or by-election, then, to that extent, and throughout that period:
 - (a) this instrument does not require or entitle an individual to be registered as a secure telephone voter; and
 - (b) this instrument does not require a registered secure telephone voter to be enabled to vote by a secure telephone vote or entitle a registered secure telephone voter to vote by a secure telephone vote; and
 - (c) this instrument does not require any other function or duty to be performed, or any other power to be exercised, under this instrument.
- (2) As soon as practicable after being so satisfied, the Electoral Commissioner must:
 - (a) make a written record of that fact, the extent and the period; and
 - (b) publish the record on the Commission's website.
- (3) The record must remain available on the website for 40 days after the polling day for the election.
- (4) Any failure to provide a telephone voting method in accordance with this Part does not invalidate the result of a general election, Senate election or by-election.

Division 2—Registration

8 Entitlement to register to vote by a secure telephone vote

- (1) An individual must register as a secure telephone voter in order to vote by a secure telephone vote in a general election, Senate election or by-election.

Note: In order to vote by a secure telephone vote, a registered secure telephone voter must call an authorised call centre on a day on which and at a time when voting by a secure telephone vote is available for the individual. The registered secure telephone voter must also meet the other requirements in section 11.

- (2) Subject to subsection 7(1), the individual is entitled to be registered as a secure telephone voter if the Electoral Commissioner is satisfied that:
- (a) the individual's name is on an approved list of voters, a certified list of voters or a reference Roll; and
 - (b) the individual has not already voted in the election; and
 - (c) the individual became a coronavirus affected individual in the period beginning:
 - (i) at 6.01 pm on the Tuesday that is 4 days before the polling day in the election; and
 - (ii) ending at the latest time when the individual may apply to be registered by the Electoral Commissioner as a secure telephone voter; and
 - (d) the individual has been directed, by a public health authority of a State or Territory under a public health order of the State or Territory, to self-isolate or quarantine:
 - (i) because the individual has tested positive for the coronavirus known as COVID-19 on a test approved by the Therapeutic Goods Administration for that purpose; or
 - (ii) because of a matter specified by the Minister under subsection (3); and
 - (e) because of the direction, the public health order prevents the individual from attending a polling place in that State or Territory throughout the period:
 - (i) beginning at 6.01 pm on the Wednesday that is 3 days before the polling day in the election; and
 - (ii) ending at 4 pm on the polling day for the election.

Note: Due to paragraph (a) of this subsection, a provisional or declaration vote cannot be cast by a secure telephone vote.

- (3) The Minister may, in writing, specify matters for the purposes of subparagraph (2)(d)(ii). A specified matter must be a matter because of which an individual becomes, or continues to be, a coronavirus affected individual.

9 Registering as a secure telephone voter

- (1) An individual who wishes to be registered as a secure telephone voter must:
- (a) apply, on a day and at a time determined under paragraph 10(2)(a), by:
 - (i) submitting the approved form in the approved manner; or

- (ii) calling an authorised call centre; and
- (b) provide the Electoral Commissioner with the following:
 - (i) the individual's name, address and date of birth;
 - (ii) the individual's telephone number;
 - (iii) the declarations required by subsection (2);
 - (iv) any other evidence requested by the Electoral Commissioner under subsection (3); and
- (c) provide the Electoral Commissioner with:
 - (i) a reference number for the direction to the individual to self-isolate or quarantine that has been provided to the individual; or
 - (ii) if the individual has not been provided with a reference number for the direction—a reference number or serial number for the test on which the individual tested positive; or
 - (iii) if the individual has not been provided with a reference number for the direction and is unable to provide a reference number or serial number under subparagraph (ii)—a declaration to that effect; and
- (d) comply with the procedures for assessing whether an individual may be registered as a secure telephone voter.

Note: The individual is not entitled to be registered if the Electoral Commissioner is not satisfied of the matters in subsection 8(2).

- (2) The individual must make:
 - (a) a declaration to the effect that the individual has not already voted in the election; and
 - (b) either:
 - (i) a declaration to the effect that the individual has been directed, by a public health authority of a State or Territory under a public health order of the State or Territory, to self-isolate or quarantine, from a specified time on a specified date, because the individual has tested positive for the coronavirus known as COVID-19 on a test approved by the Therapeutic Goods Administration for that purpose; or
 - (ii) if the Minister has specified a matter under subsection 8(3)—a declaration to the effect that the individual has been directed, by a public health authority of a State or Territory under a public health order of the State or Territory, to self-isolate or quarantine, from a specified time on a specified date, because of the specified matter; and
 - (c) a declaration to the effect that, because of the direction, the individual believes the public health order prevents the individual from attending a polling place in that State or Territory throughout the period referred to in paragraph 8(2)(e).
- Note: Providing information when registering or voting that the individual knows is false or misleading may be an offence: see section 26 of this instrument and sections 137.1 and 137.2 of the *Criminal Code*.
- (3) If the Electoral Commissioner requires further evidence to assess whether the individual is entitled to be registered as a secure telephone voter, the Electoral Commissioner may request the individual to provide one or more of the following:
 - (a) the individual's email address;

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- (b) if the individual is not self-isolating or quarantining at the individual's address—the address where the individual is self-isolating or quarantining;
- (c) any other information or documents that the Commissioner reasonably requires to make the assessment.

Record keeping

- (4) The individual must keep the following until the day that is 40 days after the polling day for the election:
 - (a) if under subparagraph (1)(c)(i) the individual provided a reference number for the direction to the individual to self-isolate or quarantine—a copy of a document containing the number;
 - (b) if under subparagraph (1)(c)(ii) the individual provided a reference number or serial number for the test on which the individual tested positive—a record of the test or of the test results.

10 Procedures for registering a secure telephone voter

- (1) If an individual who is entitled under subsection 8(2) to be registered as a secure telephone voter complies with section 9, the Electoral Commissioner must:
 - (a) register the individual as a secure telephone voter; and
 - (b) provide the individual with a registration number for the purposes of voting by a secure telephone vote; and
 - (c) register a personal identification number chosen by the individual for the purposes of voting by a secure telephone vote.
- (2) The Electoral Commissioner must in writing:
 - (a) determine the days on which and times when individuals may apply to be registered by the Electoral Commissioner as a secure telephone voter; and
 - (b) approve a form and manner for the purposes of making an application under subsection 9(1) to be registered as a secure telephone voter; and
 - (c) determine procedures for assessing whether an individual may be registered by the Electoral Commissioner as a secure telephone voter under subsection (1) of this section.

Note: The form and manner determined under paragraph (b) of this subsection and the procedures determined under paragraph (c) of this subsection must be consistent with the requirements in this instrument.

- (3) Days and times determined under paragraph (2)(a) must be during the period:
 - (a) starting at 6.01 pm on the Wednesday that is 3 days before the polling day in the election; and
 - (b) ending on the close of the poll for the election.
- (4) The procedures must include:
 - (a) procedures for assessing whether an individual is entitled to be registered as a secure telephone voter; and
 - (b) procedures for the submission of evidence for the purposes of that assessment; and

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- (c) procedures for advising an individual, when making the declaration required by paragraph 9(2)(a), that voting in the election includes voting by attending a polling place, by a pre-poll vote or by a postal vote.
- (5) The procedures may provide for the audio recording of applications to be registered as a secure telephone voter that are made by calling an authorised call centre. If so, the procedures must require applicants to be informed that calls may be recorded.
- (6) The Electoral Commissioner must make and keep a register for the purposes of registering secure telephone voters.

Division 3—Voting

11 Entitlement to vote by a secure telephone vote

- (1) Subject to subsection (2), a registered secure telephone voter is entitled to vote by a secure telephone vote if:
 - (a) the voter calls an authorised call centre on a day on which and at a time when voting by a secure telephone vote is available for individuals; and
 - (b) the voter informs a call centre operator that the voter wishes to vote by a secure telephone vote; and
 - (c) a call centre operator is satisfied that the voter is a registered secure telephone voter; and
 - (d) the voter's name is on an approved list of voters, a certified list of voters or a reference Roll.
- (2) A registered secure telephone voter is not entitled to vote by a secure telephone vote if:
 - (a) the voter does not call an authorised call centre on a day on which and at a time when voting by a secure telephone vote is available for the individual; or
 - (b) a call centre operator is not satisfied that the voter is a registered secure telephone voter after complying with the procedures for assessing whether the voter is a registered secure telephone voter; or
 - (c) the voter's name is not on an approved list of voters, a certified list of voters or a reference Roll; or
 - (d) the voter refuses to answer a question asked in accordance with section 13; or
 - (e) the individual does not make the declarations asked for in accordance with subsection 13(2); or
 - (f) the voter has already voted in the election; or
 - (g) a mark has been placed against the voter's name on a copy of a certified list of voters, or a record for the voter has been made against an approved list of voters, under section 21 of this instrument or under section 200DJ or 232 of the Act; or
 - (h) the voter is provisionally enrolled; or
 - (i) on the basis of any of the voter's answers to questions asked in accordance with section 13, a call centre operator is not satisfied that the individual is the voter whose name the individual has used; or
 - (j) the voter does not otherwise comply with the procedures for:
 - (i) assessing whether the individual is a registered secure telephone voter; or
 - (ii) voting by a secure telephone vote; or
 - (k) the individual is not entitled to vote by a secure telephone vote because of subsection 7(1).

Note: For the purposes of paragraph (f), voting in the election includes voting by attending a polling place, by a pre-poll vote or by a postal vote.

12 Procedures for requesting to vote by a secure telephone vote

- (1) The Electoral Commissioner:
- (a) must determine, in writing, the days on which and times when voting by a secure telephone vote is to be available for an individual; and
 - (b) must determine, in writing, procedures for assessing whether an individual is a registered secure telephone voter; and
 - (c) may give directions to officers in relation to requests to vote by a secure telephone vote.

Note: Due to subsection 202AFA(1) of the Act, voting by a secure telephone vote may only be available to be used by an individual at a general election, Senate election or by-election during the period:

- (a) starting at 6.01 pm on the Wednesday that is 3 days before the polling day in the election; and
- (b) ending on the close of the poll for the election.

Example: For the purposes of paragraph (b) of this subsection, the procedures may include a requirement for a call centre operator to ask the individual one or more questions about information provided on an approved list of voters, a certified list of voters or a reference Roll about the voter whose name the individual has used.

- (2) The Electoral Commissioner must ensure that any registered secure telephone voter who at 6 pm on the polling day for the election:
- (a) is waiting on a call to an authorised call centre to request a vote by a secure telephone vote or is in the process of voting by a secure telephone vote; and
 - (b) is entitled to vote by a secure telephone vote; and
 - (c) wishes to vote;
- is able to vote by a secure telephone vote.

13 Questions to be put to registered secure telephone voter

- (1) If an individual requests to vote by a secure telephone vote, a call centre operator must be satisfied in accordance with the procedures determined under paragraph 12(1)(b) that the individual is a registered secure telephone voter.

Note: The individual will have a personal identification number and a registration number for requesting to vote by a secure telephone vote.

- (2) If a call centre operator is so satisfied, a call centre operator must then ask the individual to make the declarations required by subsection 9(2).
- (3) The procedures determined under paragraph 12(1)(b) must require a call centre operator, when asking the individual to make the declaration required by paragraph 9(2)(a), to advise the individual that voting in the election includes voting by attending a polling place, by a pre-poll vote or by a postal vote.

14 Voting

- (1) A call centre operator who is satisfied that a registered secure telephone voter is entitled to vote by a secure telephone vote must assist the voter in accordance with the procedures determined under subsection 16(1).

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- (2) In order to vote by a secure telephone vote, the voter must tell the call centre operator how the voter wants the ballot paper to be marked.
- (3) If, under this section, the voter tells a call centre operator how the voter wants the ballot paper to be marked, a call centre operator must:
 - (a) initial the voter's ballot paper on the top front; and
 - (b) mark the voter's ballot paper in accordance with the voter's instructions; and
 - (c) read the voter's voting preferences marked on the ballot paper back to the voter; and
 - (d) ask the voter to affirm that the voting preferences marked on the ballot paper are the voter's voting preferences; and
 - (e) if the voter so affirms—put the voter's ballot paper in an envelope that is:
 - (i) in the approved form; and
 - (ii) marked with the name of the voter's Division; and
 - (iii) marked with the voter's registration number; and
 - (iv) marked with the date on which and time when the voter so affirmed; and place the envelope in a ballot-box used at the authorised call centre for secure telephone voting.

Affirming voting preferences marked on the ballot paper

- (4) If, after being asked as mentioned in paragraph (3)(d), the voter does not affirm that the voting preferences marked on the ballot paper are the voter's voting preferences:
 - (a) the ballot paper is taken to be a spoilt ballot paper that has been cancelled under subsection 238(1) or (2) of the Act by the call centre operator who asked the voter as mentioned in paragraph (3)(d) of this section; and
 - (b) the voter may tell a call centre operator how the voter wants a fresh ballot paper to be marked.

Note: For the treatment of a spoilt ballot paper that has been cancelled, see section 238 of the Act.

- (5) The voter may request that another call centre operator read back to the voter the voter's voting preferences marked on the ballot paper. A call centre operator must not do an action referred to in paragraph (3)(d) or (e) until that request has been complied with.

Informal voting permitted

- (6) For the purposes of this section, telling a call centre operator how the voter wants the ballot paper to be marked includes telling the call centre operator that:
 - (a) the voter does not want any preferences marked on the ballot paper; or
 - (b) the voter wants the ballot paper marked in a way that could otherwise result in a ballot paper being informal.

Objections

- (7) A call centre operator must:
 - (a) at the request of a scrutineer, note any objection by the scrutineer:

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- (i) to the right of the voter to vote by a secure telephone vote; or
- (ii) to the marking of a ballot paper under this section; and
- (b) keep a record of that note.

Offence

- (8) A call centre operator commits an offence if the call centre operator intentionally contravenes this section.

Penalty: 10 penalty units.

15 Voter requiring assistance to vote

- (1) If:
- (a) a registered secure telephone voter requires another individual's assistance to vote; and
 - (b) when the voter requests to vote by a secure telephone vote, the voter informs a call centre operator that they require the other individual's assistance to vote by a secure telephone vote;
- the other individual may assist the voter to vote by a secure telephone vote.

- (2) An individual commits an offence if:
- (a) another individual (the **voter**) requests to vote by a secure telephone vote; and
 - (b) the voter does not tell a call centre operator that the voter requires another individual's assistance; and
 - (c) the individual assists the voter to tell a call centre operator how the voter wants the ballot paper to be marked under section 14.

Penalty: 5 penalty units.

- (3) This section does not apply to assistance provided by the following services:
- (a) the National Relay Service;
 - (b) a telephone interpreter service provided for the purposes of voting by a secure telephone vote.
- (4) Nothing in this instrument prevents an individual from using a service referred to in subsection (3) to make an application to be registered as a secure telephone voter, to request to vote by a secure telephone vote or to vote by a secure telephone vote.

16 Procedures for enabling a registered secure telephone voter to vote

- (1) The Electoral Commissioner must determine, in writing, procedures for enabling a registered secure telephone voter to vote by a secure telephone vote.
- (2) The procedures must ensure that the voter:
- (a) receives the same information (in the same order), and has the same voting options, as would appear in the ballot paper that the voter would be given for the election if the voter were voting under Part XVI of the Act; and

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- (b) is able to indicate the voter's vote in a way that, if the voter were marking a ballot paper, would satisfy the requirements of section 239 or 240 of the Act.
- (3) The procedures must not require a call centre operator to communicate orally to a registered secure telephone voter the information referred to in paragraph (2)(a) of this section unless, at the time the voter requests to vote by a secure telephone vote, the voter affirms that they are unable to access or use the representation of the ballot paper for the election that is available on the Commission's website.

Representation of ballot paper

- (4) The procedures must require a representation of the ballot paper for the election to be available on the Commission's website throughout the period:
 - (a) beginning at the earliest time when an individual may apply to be registered as a secure telephone voter for the election; and
 - (b) ending at the latest time when voting by a secure telephone vote is available for an individual in the election.
- (5) The Electoral Commissioner must ensure that the representation of the ballot paper:
 - (a) provides a registered secure telephone voter with the same information (in the same order), and the same voting options, as would appear in the ballot paper that the voter would be given for the election if the voter were voting under Part XVI of the Act; and
 - (b) is visually distinguishable from the ballot paper for the election that the voter would be given if the voter were voting under Part XVI of the Act; and
 - (c) is available throughout the period referred to in subsection (4).

Scrutiny

- (6) The procedures must make provision for scrutineers in attendance at authorised call centres to monitor performance of the duties of call centre operators.
- (7) The procedures must enable a scrutineer, upon request, to listen to a call between a voter and a call centre operator at any time when the call centre operator is performing duties under section 14. The procedures must require voters to be informed that scrutineers may listen to such calls.
- (8) An audio recording must not be made of a request to vote by a secure telephone vote or of a vote by a secure telephone vote.

17 How the Act applies in relation to secure telephone votes

- (1) Except so far as provided in this Part, the Act (other than Part XVA and Schedule 2) applies in relation to a vote cast using a secure telephone vote as if the vote were a pre-poll ordinary vote.
- (2) If an individual votes by a secure telephone vote, the requirements of the Act relating to the individual's right to receive a ballot paper are taken to have been satisfied.

18 Temporary suspension of polling

- (1) The Electoral Commissioner may temporarily suspend the polling by a secure telephone vote for a period if the Electoral Commissioner is satisfied that the suspension of that polling during that period is justified because of:
 - (a) riot or open violence; or
 - (b) the threat of riot or open violence; or
 - (c) storm, tempest, flood or an occurrence of a similar kind; or
 - (d) a health hazard; or
 - (e) a fire or the activation of fire safety equipment (such as sprinklers or alarms); or
 - (f) any other reason related to:
 - (i) the safety of voters; or
 - (ii) difficulties in the physical conduct of the voting.
- (2) The Act applies to a suspension under this section in the same way as it applies to a suspension under section 240A of the Act.

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Division 4—Scrutiny

19 Requirements relating to ballot-boxes

For an election for which voting by a secure telephone vote is available, the requirements in relation to ballot-boxes in Subdivision C of Division 3 of Part XVA of the Act, other than section 200DR, are taken to apply to ballot-boxes used at an authorised call centre as if voting by a secure telephone vote were pre-poll ordinary voting.

20 Scrutineers at authorised call centres

- (1) A candidate in an election for which voting by a secure telephone vote is available may appoint scrutineers to attend at each authorised call centre for the purpose of monitoring performance of the duties of call centre operators.
- (2) A candidate is not entitled to be represented at an authorised call centre at a particular time by a number of scrutineers that is greater than the number of call centre operators performing duties at that time.
- (3) The appointment of a scrutineer must be made by notice, in writing:
 - (a) addressed to a Returning Officer; and
 - (b) signed by the candidate or the appointer (as the case requires); and
 - (c) stating the scrutineer's name and address.
- (4) A scrutineer appointed under subsection (1) who has not complied with subsection 202A(3) of the Act must not attend an authorised call centre to discharge a scrutineer's functions.
- (5) A scrutineer commits an offence if:
 - (a) the scrutineer attends an authorised call centre; and
 - (b) the scrutineer attempts to interfere with the duties of a call centre operator or of an Assistant Returning Officer.

Penalty: 5 penalty units.

- (6) A scrutineer commits an offence if:
 - (a) the scrutineer attends an authorised call centre; and
 - (b) the scrutineer communicates with an individual at the authorised call centre; and
 - (c) the communication is not reasonably necessary for the discharge of the scrutineer's functions.

Penalty: 5 penalty units.

- (7) This section does not prevent a scrutineer from objecting to:
 - (a) how a person has performed, or purported to perform, a function or duty under this instrument; or
 - (b) how a person has exercised, or purported to exercise, a power under this instrument; or
 - (c) a failure to perform or exercise such a function, duty or power.

Note: For example, a scrutineer may object to how a call centre operator has marked a ballot paper under section 14 or to a ballot paper being placed in an envelope under that section by a call centre operator.

21 Record of secure telephone votes

If a ballot paper is placed in an envelope under paragraph 14(3)(e), the Electoral Commissioner must:

- (a) place a mark against the person's name on a copy of a certified list of voters; or
- (b) record electronically against an approved list of voters the fact that the voter has voted by a secure telephone vote.

22 What must be done with the ballot papers

- (1) As soon as possible after the close of the poll for all Divisions, an Assistant Returning Officer must:
 - (a) open each ballot-box mentioned in paragraph 14(3)(e); and
 - (b) sort the envelopes, unopened, into bundles corresponding to Divisions.
- (2) An Assistant Returning Officer must forward each bundle to the Divisional Returning Officer for the appropriate Division for the conduct of a scrutiny.
- (3) An individual commits an offence of strict liability if the individual:
 - (a) does something mentioned in subsection (1) or (2); and
 - (b) is neither an Assistant Returning Officer nor an individual performing tasks under the direction of an Assistant Returning Officer.

Penalty: 5 penalty units.

23 Scrutiny before opening of envelopes containing ballot papers

- (1) On the day that is 4 days after the polling day in the election, a Divisional Returning Officer must do the following for each envelope forwarded to the Divisional Returning Officer under subsection 22(2):
 - (a) find the name of the voter that corresponds to the registration number on the envelope;
 - (b) check whether a mark has been placed against the voter's name on a copy of a certified list of voters, or a record for the voter has been made against an approved list of voters, under section 200DJ or 232 of the Act.

The envelope is not to be opened.

Action if voter not found to have already voted

- (2) If, at the time of checking, no mark has been placed against the voter's name on a copy of a certified list of voters, and no record for the voter has been made against an approved list of voters, under section 200DJ or 232 of the Act, the Divisional Returning Officer must, without inspecting the ballot paper or allowing another individual to do so:
 - (a) open the envelope and withdraw the ballot paper; and
 - (b) place the ballot paper in a ballot-box for further scrutiny under section 24.

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Action if voter found to have already voted

- (3) If, at the time of checking, a mark has been placed against the voter's name on a copy of a certified list of voters, or a record for the voter has been made against an approved list of voters, under section 200DJ or 232 of the Act, the Divisional Returning Officer must, in every circumstance and without opening the envelope, exclude the ballot paper contained in the envelope from further scrutiny under section 24.
- (4) The Divisional Returning Officer must seal up in a parcel ballot papers excluded under subsection (3) and write on the parcel a description of the contents, the name of the Division and the date.

Offence for opening secure telephone vote envelope

- (5) An individual commits an offence of strict liability if the individual:
 - (a) opens an envelope placed in a ballot-box mentioned in paragraph 14(3)(e); and
 - (b) is neither the Divisional Returning Officer nor an individual performing tasks under the direction of the Divisional Returning Officer.

Penalty: 5 penalty units.

24 Scrutiny of ballot papers

- (1) The Divisional Returning Officer must conduct the scrutiny of the ballot papers placed in a ballot-box under paragraph 23(2)(b).
- (2) For a general election, Senate election or by-election, the procedures in Part XVIII of the Act apply to the scrutiny with the modifications necessary to ensure that:
 - (a) no preliminary scrutiny mentioned in section 266 of the Act is to be conducted; and
 - (b) the secure telephone vote is taken to be a pre-poll ordinary vote; and
 - (c) it is irrelevant that the voter did not complete the ballot paper personally; and
 - (d) it is irrelevant that the vote can be identified as being cast by a coronavirus affected individual.
- (3) An individual commits an offence of strict liability if the individual:
 - (a) conducts the scrutiny; and
 - (b) is neither the Divisional Returning Officer nor an individual performing tasks under the direction of the Divisional Returning Officer.

Penalty: 5 penalty units.

Publishing results of the scrutiny

- (4) For the purposes of publishing results of the scrutiny on the Commission's website, a separate vote collection point must be identified for each Division in which votes are cast by using a secure telephone vote.

Division 5—Miscellaneous

25 Authorised call centres

- (1) The Electoral Commissioner must make arrangements for the establishment of one or more call centres to receive telephone calls from individuals who wish to:
 - (a) register as a secure telephone voter; or
 - (b) vote by a secure telephone vote.
- (2) The Electoral Commissioner may approve forms and other documents to be used by call centre operators and other officers for the purposes of:
 - (a) registering an individual as a secure telephone voter; and
 - (b) assisting a registered secure telephone voter to vote by a secure telephone vote.

Example: Statements and responses that allow call centre operators to explain to individuals how to register or vote.

26 Offence for false or misleading declaration

An individual commits an offence if:

- (a) the individual makes a declaration for the purposes of section 9, 11 or 13;
and
- (b) the declaration is false or misleading in a material particular.

Penalty: 10 penalty units.

27 Offences related to secure telephone voting

- (1) An individual commits an offence if the individual:
 - (a) interferes with a voter while the voter votes by a secure telephone vote; or
 - (b) communicates with a voter who votes by a secure telephone vote about the voter's vote; or
 - (c) does anything to find out how a voter who votes by a secure telephone vote voted.

Penalty: 5 penalty units.

- (2) Subsection (1) does not apply if:
 - (a) the individual is a call centre operator who is assisting the voter to vote; or
 - (b) the individual is permitted under subsection 15(1) to assist the voter to vote; or
 - (c) the individual is providing assistance to the voter through a service referred to in subsection 15(3).

Note 1: A defendant bears an evidential burden in relation to the matters in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

Note 2: Other offences related to voting by a secure telephone vote include offences for impersonating any individual with the intention of voting in that other individual's name: see section 339 of the Act.

- (3) If:

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- (a) an individual votes more than once in the same election; and
 - (b) at least one of the votes is by a secure telephone vote;
- the individual commits a separate offence of strict liability for each of the votes that is by a secure telephone vote.

Penalty: 20 penalty units.

Note 1: This subsection means that each act of voting by a secure telephone vote gives rise to a separate offence but it is not necessary to know which act of voting was the first one and therefore legitimate.

Note 2: It is also an offence to intentionally vote more than once in the same election: see subsection 339(1D) of the Act.

28 Offence for destroying or interfering with voting hardware or software

- (1) An individual commits an offence if:
 - (a) the individual destroys or interferes with:
 - (i) a computer program; or
 - (ii) a data file; or
 - (iii) an electronic device; and
 - (b) the program, file or device is used, or intended to be used, for or in connection with voting by a secure telephone vote.

Penalty: 50 penalty units.

- (2) Subsection (1) does not apply if the individual is an officer acting in the course of the officer's duties.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2): see subsection 13.3(3) of the *Criminal Code*.

29 Records

For the purposes of section 393A of the Act, records made under this instrument, including audio records, are taken to be electoral documents.

Part 3—Repeal

30 Repeal

This instrument is repealed at the end of 31 December 2022.