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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Commonwealth Electoral Amendment
(Stop the Lies) Bill 2021**

No. , 2021

(Ms Steggall)

**A Bill for an Act to amend the *Commonwealth
Electoral Act 1918*, and for related purposes**

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1 **A Bill for an Act to amend the *Commonwealth***
2 ***Electoral Act 1918*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Commonwealth Electoral Amendment (Stop the*
6 *Lies) Act 2021*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

1 **Schedule 1—Amendments**
2

3 ***Commonwealth Electoral Act 1918***

4 **1 After Part XXA**

5 Insert:

6 **Part XXB—Misleading and deceptive political**
7 **advertising**
8

9 **321J Definitions**

10 In this Part:

11 ***election participant***: see subsection 321K(3).

12 ***engage in conduct*** means:

- 13 (a) do an act; or
14 (b) omit to perform an act.

15 ***publish*** means communicate by any means, including by print,
16 radio, television, internet or telephone.

17 **321K Electoral matter that is misleading or deceptive etc.**

18 *Electoral matter that is misleading or deceptive etc.*

19 (1) A person must not print, publish or distribute, or cause, permit or
20 authorize to be printed, published or distributed, electoral matter if
21 the electoral matter contains a statement in relation to a matter of
22 fact (including an implied statement) that is:

- 23 (a) misleading or deceptive to a material extent; or
24 (b) likely to mislead or deceive to a material extent.

25 Example: Electoral matter that states that a candidate in an election made a
26 statement that the candidate did not make.

27 Note: See also section 329 (Misleading or deceptive publications etc. in
28 relation to the casting of a vote).

1 *Impersonating or passing-off*

- 2 (2) Without limiting subsection (1), a person must not engage in
3 conduct if:
4 (a) the conduct is likely to cause another person to believe any of
5 the following in relation to electoral matter that is printed,
6 published or distributed:
7 (i) the electoral matter is printed, published or distributed
8 by a particular election participant;
9 (ii) a particular election participant caused, permitted or
10 authorised the electoral matter to be printed, published
11 or distributed;
12 (iii) the electoral matter is authorised by a particular election
13 participant; and
14 (b) that belief would be incorrect.

15 Example 1: Electoral matter that purports to have been published by the campaign
16 of a candidate in an election but is actually published by someone
17 opposed to the candidate.

18 Example 2: A pre-recorded telephone message that consists of a voice recording
19 of someone impersonating a candidate in an election.

- 20 (3) Each of the following is an *election participant*:
21 (a) a political entity;
22 (b) a political campaigner (within the meaning of section 287);
23 (c) a member or official of the Electoral Commission (see
24 section 6).

25 **321L Complaints**

26 Any person may make a written complaint to the Electoral
27 Commissioner that another person has breached section 321K.

28 **321M Powers of Electoral Commissioner**

29 *Electoral Commissioner may investigate possible breaches*

- 30 (1) The Electoral Commissioner may investigate (whether in response
31 to a complaint made under section 321L or on the Electoral
32 Commissioner's own initiative) a possible breach of section 321K

1 if the Commissioner is satisfied on reasonable grounds that the
2 investigation would be in the public interest.

3 *Electoral Commissioner may request person to end breaches*

- 4 (2) If the Electoral Commissioner is satisfied on reasonable grounds
5 (whether or not following an investigation under subsection (1) of
6 this section) that a person has breached section 321K, the Electoral
7 Commissioner may:
- 8 (a) ask the person not to print, publish or distribute the relevant
9 electoral matter, or not to cause, permit or authorize the
10 relevant electoral matter to be printed, published or
11 distributed, or
 - 12 (b) ask the person to publish, or cause to be published, a
13 retraction or correction in specified terms and in a specified
14 way; or
 - 15 (c) publish a correction.

16 **321N Powers of courts**

- 17 (1) On application by:
- 18 (a) the Electoral Commissioner; or
 - 19 (b) a person who has made a complaint under section 321L;
- 20 a court of competent jurisdiction that is satisfied on reasonable
21 grounds that a person has contravened section 321K may order the
22 person:
- 23 (c) not to print, publish or distribute the relevant electoral matter,
24 or not to cause, permit or authorize the relevant electoral
25 matter to be printed, published or distributed; or
 - 26 (d) to publish, or cause to be published, a retraction or correction
27 in specified terms and in a specified way.
- 28 (2) The Electoral Commissioner must not make an application under
29 paragraph (1)(a) in relation to a contravention of section 321K
30 unless he or she has made a request under subsection 321M(2) in
31 relation to the contravention.
- 32 (3) Without limiting the powers of a court in dealing with an
33 application made under paragraph (1)(b), the court may dismiss
34 such an application if the application:

- 1 (i) is frivolous, vexatious, misconceived or lacking in substance;
2 or
3 (ii) has no reasonable prospects of success; or
4 (iii) is otherwise an abuse of the process of the court.

5 **321P Offence**

- 6 (1) A person commits an offence if:
7 (a) the person is subject to a requirement under section 321K;
8 and
9 (b) the person engages in conduct; and
10 (c) the person's conduct breaches the requirement.

11 Penalty: 50 penalty units.

12 **2 Section 329 (at the end of the heading)**

13 Add, "in relation to the casting of a vote".

14 **3 After subsection 383(10)**

15 Insert:

16 *This section does not apply in relation to contraventions of Part*
17 *XXB*

- 18 (10A) This section does not apply in relation to a contravention of, or an
19 offence against, Part XXB (Misleading and deceptive political
20 advertising).