Plebiscite (Same-Sex Marriage) Bill 2016

No. , 2016

(Attorney-General)

A Bill for an Act to provide for a plebiscite in relation to same-sex marriage, and for related purposes
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A Bill for an Act to provide for a plebiscite in relation to same-sex marriage, and for related purposes

The Parliament of Australia enacts:

Part 1—Preliminary

1 Short title

This Act is the Plebiscite (Same-Sex Marriage) Act 2016.
Part 1 Preliminary

Section 2

2 Commencement

(1) Each provision of this Act 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.

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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</thead>
<tbody>
<tr>
<td>Provisions</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>1. The whole of this Act</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Simplified outline of this Act

This Act provides for a national plebiscite to be held on whether the law should be changed to allow same-sex couples to marry.

Broadly, the plebiscite is to be held in the same way as a referendum is held under the Referendum (Machinery Provisions) Act 1984.

The result of the plebiscite is determined by whether more than 50% of the votes cast are given in favour or not in favour of the plebiscite proposal (disregarding informal ballot-papers).

4 Definitions

(1) In this Act:
Committee for the No Case has the meaning given by
subsection 11(3) of the Referendum Act (as that subsection applies
because of section 15 of this Act).

Committee for the Yes Case has the meaning given by
subsection 11(2) of the Referendum Act (as that subsection applies
because of section 15 of this Act).

plebiscite means the national plebiscite to be held in accordance
with this Act.

plebiscite matter means matter of any of the following kinds:
(a) matter commenting on same-sex marriage, the plebiscite or
the plebiscite proposal (other than matter printed or published
by the Electoral Commission);
(b) matter stating or indicating the plebiscite proposal (other than
matter printed or published by the Electoral Commission);
(c) matter soliciting votes in favour or not in favour of the
plebiscite proposal;
(d) matter referring to a meeting held or to be held in connection
with same-sex marriage, the plebiscite or the plebiscite
proposal.

plebiscite period means the period that starts 33 days before the
voting day for the plebiscite and ends at the close of voting on that
day.

plebiscite proposal means the proposal for the law to be changed to
allow same-sex couples to marry.

Referendum Act means the Referendum (Machinery Provisions)

Referendum Regulation means the Electoral and Referendum
Regulation 2016.
Part 1 Preliminary

Section 4

Expressions defined in Referendum Act

(2) An expression used in this Act that is defined for the purposes of the Referendum Act has the same meaning in this Act as it has in that Act.

Expressions defined in this Act

(3) If:

(a) this Act provides for a modification of all or part of a provision of an Act or instrument; and

(b) an expression used in the modified provision is defined in subsection (1) of this section;

the expression has the same meaning in the modified provision as it has in this Act.

Note: Modifications is defined in section 2B of the Acts Interpretation Act 1901.
Part 2—Plebiscite on same-sex marriage

5 Plebiscite on same-sex marriage

(1) The Governor-General may cause a plebiscite to be held in accordance with this Act.

(2) The question to be submitted to electors at the plebiscite is “Should the law be changed to allow same-sex couples to marry?”.

(3) The writ for the plebiscite must be issued within 120 days after the day this Act commences.

Note: The voting day may be deferred, or voting on voting day may be suspended or adjourned, under section 10, 41A, 42 or 43 of the Referendum Act (which apply because of section 9 of this Act).

6 Result of the plebiscite

(1) The result of the plebiscite is in favour of the plebiscite proposal if, disregarding informal ballot-papers, more than 50% of the votes cast in the plebiscite are given in favour of the plebiscite proposal.

(2) The result of the plebiscite is not in favour of the plebiscite proposal if, disregarding informal ballot-papers, more than 50% of the votes cast in the plebiscite are given not in favour of the plebiscite proposal.

Note: Section 93 of the Referendum Act (which applies because of section 9 of this Act) sets out when a ballot-paper is informal.

7 Functions of the Electoral Commission

(1) For the purposes of paragraph 7(1)(g) of the Commonwealth Electoral Act 1918, the Electoral Commission has the functions conferred on it in relation to the plebiscite by this Act, and the Referendum Act (as it applies because of section 9 of this Act).
Part 2 Plebiscite on same-sex marriage

Section 8

Note: The Electoral Commission has other functions that relate to this function (see paragraphs 7(1)(b) to (f) of the Commonwealth Electoral Act 1918).

(2) The Electoral Commission may perform the function referred to in subsection (1) of this section in conjunction with the electoral authorities of a State, of the Australian Capital Territory or of the Northern Territory.

8 No offence to vote informally

To avoid doubt, a person does not commit an offence under the Referendum Act merely because the person’s ballot-paper is informal.

Note 1: Section 93 of the Referendum Act (which applies because of section 9 of this Act) sets out when a ballot-paper is informal.

Note 2: A person may commit an offence if the person fails to vote at the plebiscite (see subsection 45(14) of the Referendum Act, which applies because of section 9 of this Act).
Part 3—Application of the law in relation to the plebiscite

Division 1—Application of the Referendum Act

Subdivision A—General

9 Application of the Referendum Act

The Referendum Act applies in relation to the plebiscite with the modifications set out in this Division.

10 References to referendum

(1) The Referendum Act applies (subject to subsection (2)) as if references in that Act to referendum or referendums included references to the plebiscite.

Note: There are many ways “referendum” is referred to in the Referendum Act. These include “a referendum”, “the referendum”, “each referendum” or “a particular referendum”.

(2) Subsection (1) does not apply in relation to:

(a) the definitions of referendum and referendum period in subsection 3(1) of that Act, and references to referendum period in that Act; or

(b) the reference to last referendum in paragraph 16(2)(b) of that Act; or

(c) the definition of referendum in subsection 62B(6) of that Act; or

(d) the second reference to referendum in section 143 of that Act; or

(e) section 145 of that Act; or

(f) Schedule 2 to that Act; or

(g) paragraph 13(c) of Schedule 4 of that Act.
Part 3 Application of the law in relation to the plebiscite
Division 1 Application of the Referendum Act

Section 11

Note: The definition of referendum period in subsection 3(1) of that Act is dealt with in section 13 of this Act.

11 References to proposed law

The Referendum Act applies as if references in that Act to:
(a) proposed law for the alteration of the Constitution; or
(b) proposed law;
included references to the plebiscite proposal.

12 References to the Referendum Act, the Referendum Regulation or provisions of the Referendum Act

The Referendum Act applies as if references in that Act to:
(a) that Act; or
(b) a provision of that Act; or
(c) the Referendum Regulation;
included references to that Act or provision, or that Regulation, as it applies in relation to the plebiscite.

Note: For example, a reference in section 116 of the Referendum Act to the performance of functions or the exercise of powers under that Act is taken to include a reference to the performance of functions or the exercise of powers under that Act in relation to the plebiscite.

13 Meaning of referendum period

The Referendum Act applies as if the definition of referendum period in subsection 3(1) of that Act were replaced with the following definition:

referendum period, in relation to the plebiscite, means the period:
(a) commencing at the start of the day the Plebiscite (Same-Sex Marriage) Act 2016 commences; and
(b) ending at the latest time on the voting day for the plebiscite at which an elector in Australia could enter a polling booth for the purpose of voting at the plebiscite.
Subdivision B—Holding the plebiscite

14 Writ and forms for the plebiscite

(1) The Referendum Act applies as if:
   (a) subsection 8(2) and paragraph 12(a) of that Act were omitted; and
   (b) the reference to “and a copy of the proposed law or of the
       statement (if any) attached to the writ” in paragraphs 12(b) and
       13(b) of that Act were omitted; and
   (c) paragraph 14(1)(a) and subparagraphs 14(1)(b)(ii) and (iii) of
       that Act were omitted.

(2) The Referendum Act applies as if Forms A and B in Schedule 1 to
that Act were replaced with Forms A and B in Schedule 1 to this
Act.

15 Committee for the Yes Case and Committee for the No Case

The Referendum Act applies as if section 11 of that Act
(distribution to electors of arguments for and against proposed law)
were replaced with the following sections:

11 Establishment of Committee for the Yes Case and Committee for
the No Case

(1) There are to be 2 committees, each consisting of:
   (a) up to 5 members of the Parliament of the Commonwealth,
       consisting of:
       (i) up to 2 members of the Government; and
       (ii) up to 2 members of the Opposition; and
       (iii) up to 1 other member of the Parliament; and
   (b) up to 5 other individuals.

(2) The purpose of one committee (the Committee for the Yes Case) is
to conduct the campaign in favour of the plebiscite proposal.
Part 3 Application of the law in relation to the plebiscite

Division 1 Application of the Referendum Act

Section 15

(3) The purpose of the other committee (the Committee for the No Case) is to conduct the campaign that is not in favour of the plebiscite proposal.

(4) A committee may do all things necessary or convenient to be done for the purposes of the committee.

Chair of committee

(5) There is to be a Chair of each committee who is to be one of the members of the Government referred to in subparagraph (1)(a)(i).

Appointment of members

(6) The members of each committee (including the Chair) are to be appointed jointly by the Attorney-General and the Special Minister of State.

Notifiable instrument

(7) The Special Minister of State may, by notifiable instrument, provide in relation to:
   (a) the functions of a committee; or
   (b) any other matters relating to a committee.

Public Governance, Performance and Accountability Act 2013

(8) For the purposes of the Public Governance, Performance and Accountability Act 2013, the Committee for the Yes Case and the Committee for the No Case are not Commonwealth entities.

11A Funding of and gifts to the Committee for the Yes Case and the Committee for the No Case

(1) The Special Minister of State may, on behalf of the Commonwealth, make payments to the Committee for the Yes Case and the Committee for the No Case.

Note: The Consolidated Revenue Fund is appropriated under section 40 for the purposes of making the payments.
(2) The total amount of payments made under subsection (1) is to be no more than $15,000,000.

(3) The Special Minister of State must ensure that the total amount of payments made under subsection (1) to the Committee for the Yes Case and the Committee for the No Case are equal.

Establishment of bank account

(4) The Chair of a committee must establish a bank account for the purposes of receiving:
   (a) payments made to the committee under subsection (1); and
   (b) deductible gifts made to the committee; and
   (c) any other payments made to the committee.

Directions to committees

(5) The Special Minister of State may, by notifiable instrument, issue directions to the committees relating to:
   (a) any payments made to the committees under subsection (1); and
   (b) any deductible gifts made to the committees; and
   (c) any other payments made to the committees; including directions relating to the governance arrangements for those payments or gifts and the purposes for which those payments or gifts may be spent.

(6) A committee must comply with a direction given under subsection (5).

Surplus money to be transferred to DisabilityCare Australia Fund Special Account

(7) Before the end of 6 months after the voting day for the plebiscite, or any shorter period prescribed by the regulations, the Chair of the Committee for the Yes Case and the Chair of the Committee for the No Case:
Part 3 Application of the law in relation to the plebiscite

Division 1 Application of the Referendum Act

Section 16

(a) must determine the amount of any surplus money standing to
the credit of the bank account established for the committee
for the purposes of subsection (4); and
(b) notify the Treasurer, in writing, of that amount; and
(c) arrange for that amount to be transferred to the Treasurer, on
behalf of the Commonwealth.

(8) The Treasurer must make a determination under section 12 of the
DisabilityCare Australia Fund Act 2013 specifying that an amount
that is equal to the sum of the amounts transferred in accordance
with paragraph (7)(c) of this section is to be credited to the
DisabilityCare Australia Fund Special Account.

(9) A notification under subsection (7) is not a legislative instrument.

Definition of deductible gift

(10) In this section:

deductible gift means a gift of money made to the Committee for
the Yes Case or the Committee for the No Case to the extent that
the gift is deductible under Subdivision 30-A of the Income Tax
Assessment Act 1997 (as that Subdivision applies because of
section 39 of the Plebiscite (Same-Sex Marriage) Act 2016).

16 Applications for and issue of postal votes

(1) The Referendum Act applies as if subsection 55(4) of that Act
were replaced with the following subsection:

(4) An application for a postal vote may not be made until after the
issue of the writ for the plebiscite.

(2) The Referendum Act applies as if subsection 61(1) of that Act
referred to “and subsection 55(4)” after “subsection 55(1)”.

17 Application forms for postal votes

The Referendum Act applies as if section 56 of that Act
(application forms for postal votes) were omitted.
18 Dispatch of postal voting papers to registered general postal voters

The Referendum Act applies as if subsection 58(1) of that Act were replaced with the following subsection:

(1) On, or as soon as practicable after, the Friday that is 22 days before the voting day for the plebiscite, the Electoral Commissioner must send, or arrange for the delivery of, postal voting papers to each registered general postal voter.

19 Applying for a pre-poll vote

The Referendum Act applies as if subsections 73B(4) and (5) of that Act were replaced with the following subsection:

(4) An application for a pre-poll vote may not be made before the Friday that is 22 days before the voting day for the plebiscite.

20 Sending advertisements by voice call and text message

The Referendum Act applies as if the following section were inserted after section 121 of that Act:

121AA Sending advertisements by voice call and text message

Advertisements sent by voice call

(1) A person commits an offence if:

(a) either:

(i) the person sends an advertisement relating to the plebiscite by voice call; or

(ii) the person causes, permits or authorises an advertisement relating to the plebiscite to be sent by voice call; and

(b) the advertisement is intended to affect the result of the plebiscite; and
Part 3 Application of the law in relation to the plebiscite
Division 1 Application of the Referendum Act

Section 20

(c) the advertisement is paid for by the person or another person; and
(d) the name and address of the person who authorised the advertisement is not stated at the beginning of the voice call.

Note: See subsection (3) for authorisations by the Committee for the Yes Case or the Committee for the No Case.

Penalty: 10 penalty units.

Advertisements sent by text message

(2) A person commits an offence if:

(a) either:

(i) the person sends an advertisement relating to the plebiscite by text message; or
(ii) the person causes, permits or authorises an advertisement relating to the plebiscite to be sent by text message; and

(b) the advertisement is intended to affect the result of the plebiscite; and

(c) the advertisement is paid for by the person or another person; and

(d) the name and address of the person who authorised the advertisement is not included:

(i) at the end of the text message; or
(ii) if the name and address is too long to be included in the text message—in a website that can be accessed by a URL included in the text message.

Note: See subsection (3) for authorisations by the Committee for the Yes Case or the Committee for the No Case.

Penalty: 10 penalty units.
Section 20

Authorisations by Committee for the Yes Case or Committee for the No Case

(3) An advertisement authorised by the Committee for the Yes Case or the Committee for the No Case must be authorised by the Chair of the Committee or a person authorised by the Chair.

Exception for carriage service providers

(4) A person does not contravene subsection (1) or (2) merely because the person supplies a carriage service that enables a voice call or text message to be sent.

Extended geographical jurisdiction

(5) Section 15.4 of the Criminal Code (extended geographical jurisdiction—category D) applies to an offence against this section.

Definitions

(6) In this section:

address of a person means an address, including a full street address and suburb or locality, that is located in Australia at which the person can usually be contacted during the day. It does not include a post office box.

carriage service has the same meaning as in the Telecommunications Act 1997.

standard telephone service has the same meaning as in the Telecommunications (Consumer Protection and Service Standards) Act 1999.

text message means an electronic message (within the meaning of section 5 of the Spam Act 2003) that is sent to an electronic address in connection with a telephone account.

voice call means a call or calls that send in bulk a pre-recorded message to standard telephone services.
Part 3 Application of the law in relation to the plebiscite
Division 1 Application of the Referendum Act

Section 21

Subdivision C—Determining the result of the plebiscite

21 Appointment of scrutineers for voting

The Referendum Act applies as if section 27 of that Act were replaced with the following section:

27 Appointment of scrutineers for voting

(1) A member of the Parliament of the Commonwealth may appoint persons to act as scrutineers during voting at the plebiscite at each place in the member’s State or Territory where voting is being conducted.

(2) The Special Minister of State may, by notifiable instrument, provide in relation to scrutineers appointed under subsection (1), including in relation to the number or numbers of scrutineers allowed at a polling booth.

(3) In this section:

State or Territory of a member of the Parliament of the Commonwealth means:

(a) for a member of the House of Representatives—the State or Territory in which the Division for which the member is elected is located; and

(b) for a Senator for a State or Territory—the State or Territory.

22 Appointment of scrutineers for pre-poll voting

The Referendum Act applies as if section 73CA of that Act were replaced with the following section:

73CA Appointment of scrutineers for pre-poll voting

(1) A member of the Parliament of the Commonwealth may appoint persons to act as scrutineers during voting at each pre-poll voting office for the plebiscite in the member’s State or Territory.
(2) The Special Minister of State may, by notifiable instrument, provide in relation to scrutineers appointed under subsection (1), including in relation to the number or numbers of scrutineers allowed at a pre-poll voting office.

(3) In this section:

**State or Territory** of a member of the Parliament of the Commonwealth means:

(a) for a member of the House of Representatives—the State or Territory in which the Division for which the member is elected is located; and

(b) for a Senator for a State or Territory—the State or Territory.

### 23 Ascertainment of result of plebiscite

The Referendum Act applies as if section 89 of that Act were replaced with the following section:

### 89 Ascertainment of result of plebiscite

(1) The result of the plebiscite is to be ascertained by scrutiny.

(2) A member of the Parliament of the Commonwealth may appoint persons to act as scrutineers during the scrutiny at each counting centre in the member’s State or Territory.

(3) The Special Minister of State may, by notifiable instrument, provide in relation to scrutineers appointed under subsection (2), including in relation to the number or numbers of scrutineers allowed at a counting centre.

(4) In this section:

**counting centre** means any premises at which a scrutiny or counting of ballot-papers for the plebiscite is to be, or is being, conducted.

**State or Territory** of a member of the Parliament of the Commonwealth means:
Part 3  Application of the law in relation to the plebiscite

Division 1  Application of the Referendum Act

Section 24

(a) for a member of the House of Representatives—the State or Territory in which the Division for which the member is elected is located; and
(b) for a Senator for a State or Territory—the State or Territory.

24 Recount

The Referendum Act applies as if subsection 95(2) of that Act were replaced with the following subsection:

(2) The Electoral Commissioner may, if requested to do so by a member of the Parliament of the Commonwealth, or of the Electoral Commissioner’s own motion, direct a recount of any ballot-papers.

25 Return of the writ

The Referendum Act applies as if subsection 98(1) of that Act were replaced with the following subsection, and section 99 were omitted:

(1) The Electoral Commissioner must, immediately after receiving the statements sent under section 97:

(a) certify in relation to the whole Commonwealth:

(i) the number of votes given in favour of the plebiscite proposal; and
(ii) the number of votes given not in favour of the plebiscite proposal; and
(iii) the number of ballot-papers rejected as informal;

and attach the certificate to the original writ; and

(b) return the writ and the certificate to the Governor-General.

26 Disputing validity of submission or return

The Referendum Act applies as if section 100 of that Act were replaced with the following section:
100 Disputing validity of submission or return

The validity of the plebiscite, or of any return or statement showing the voting at the plebiscite, may be disputed by a member of the Parliament of the Commonwealth by petition addressed to the High Court.

27 Requirements for petition by member of Parliament

The Referendum Act applies as if paragraph 101(1)(c) of that Act required a petition by a member of the Parliament of the Commonwealth under section 100 of that Act (as that section applies because of section 26 of this Act) to be signed by the member.

28 Notice of petition and joinder of parties

The Referendum Act applies as if sections 105 and 106 of that Act were replaced with the following sections:

105 Notice of petition

If a petition is filed under section 100 by a member of the Parliament of the Commonwealth, the member must notify the Electoral Commission of the filing of the petition.

106 Joinder of parties

(1) If a petition is filed under section 100 or 102, the High Court may, on the application of the Electoral Commission or a member of the Parliament of the Commonwealth, order the applicant to be joined as a party petitioning or responding (as the case may be).

(2) This section does not limit the power of the High Court to join any other person as a party petitioning or responding (as the case may be).
Part 3 Application of the law in relation to the plebiscite
Division 2 Application of the Referendum Regulation

Section 29

Division 2—Application of the Referendum Regulation

29 Application of the Referendum Regulation

The Referendum Regulation applies in relation to the plebiscite with the modifications set out in:

(a) this Division; and

(b) any regulations made for the purposes of subsection 41(2).

30 References to referendum

(1) The Referendum Regulation applies as if references in that Regulation to referendum (except references to the Referendum Act) included references to the plebiscite.

(2) Subsection (1) does not apply in relation to the definition of referendum in section 5 of the Referendum Regulation.

31 References to the Referendum Act or provisions of the Referendum Act

The Referendum Regulation applies as if references in that Regulation to the Referendum Act, or a provision of the Referendum Act, included references to that Act or provision as it applies in relation to the plebiscite.
Division 3—Application of other laws

Subdivision A—General

32 Application of other laws

(1) A provision of an Act applies in relation to the plebiscite with the modifications set out in this Division.

(2) An instrument made under an Act, or a provision of an instrument made under an Act, applies in relation to the plebiscite with the modifications set out in:
   (a) this Division; and
   (b) any regulations made for the purposes of subsection 41(2).

33 References to referendum

The following provisions apply as if references in those provisions to referendum or referendums included references to the plebiscite:

(a) paragraphs (d) and (e) of the definition of election period, and paragraph (b) of the definition of required period, in clause 1 of Schedule 2 to the Broadcasting Services Act 1992;

(b) the following provisions of the Commonwealth Electoral Act 1918:
   (i) the definition of electoral matters in section 5;
   (ii) subparagraph 35(1)(a)(i);
   (iii) paragraphs 91A(1A)(a), (2)(a), (2A)(a) and (2B)(a) and paragraphs 189B(4)(a) and (5)(a);
   (iv) subsections 202A(4) and (5) and 203(7);
   (v) clause 22 of Schedule 3;
(c) subparagraph 80.2(3)(a)(ii) and subsection 80.2(4) of the Criminal Code;
(d) paragraphs 7C(1)(b) and (4)(b), and subparagraph 7C(2)(b)(ii), of the Privacy Act 1988.
Part 3 Application of the law in relation to the plebiscite

Division 3 Application of other laws

Section 34

Note: Further modifications are made to the Broadcasting Services Act 1992 in section 36.

34 References to the Referendum Act

The following provisions apply as if references in those provisions to the Referendum Act or a provision (the Referendum Act provision) of the Referendum Act included references to the Referendum Act or the Referendum Act provision as it applies in relation to the plebiscite:

(a) item 41 of the table in Schedule 1 to the Age Discrimination Act 2004;
(b) paragraph 105(4)(b) of the Commonwealth Electoral Act 1918;
(c) the Schedule to the Jurisdiction of Courts (Cross-Vesting) Act 1987;
(d) item 2A of the table in subsection 355-65(8) in Schedule 1 to the Taxation Administration Act 1953;
(e) item 120 of the table in Schedule 1 to the Electronic Transactions Regulations 2000.

Subdivision B—Broadcasting

35 Identification of certain political matter and records of matter broadcast

(1) The following provisions apply, subject to subsection (3), as if references in those provisions to political matter included references to plebiscite matter:
(a) clauses 1 and 4 of Schedule 2, and subclause 24(4) of Schedule 6, to the Broadcasting Services Act 1992;
(b) section 70A of the Special Broadcasting Service Act 1991.

(2) The following provisions apply, subject to subsection (3), as if references in those provisions to political subject included references to plebiscite matter:
(a) clause 5 of Schedule 2 to the Broadcasting Services Act 1992;
Application of the law in relation to the plebiscite  Part 3
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(b) section 70B of the Special Broadcasting Service Act 1991.

(3) The obligations in subclauses 4(2) and (3) and clause 5 of
Schedule 2 to the Broadcasting Services Act 1992, and
subsections 70A(2) and (3) and section 70B of the Special
Broadcasting Service Act 1991, apply in relation to plebiscite
matter only if the matter is broadcast during the plebiscite period.

No requirement to lodge annual return

(4) A person is not required to provide a return for a financial year
under section 314AEB of the Commonwealth Electoral Act 1918
merely because the person incurred expenditure for the purposes of
broadcasting plebiscite matter, in relation to which particulars were
required to be announced under subclause 4(2) of Schedule 2 to the
Broadcasting Services Act 1992 (see
subparagraph 314AEB(1)(a)(iv) of the Commonwealth Electoral
Act 1918).

36 Obligations on broadcasters in relation to plebiscite matter

Requirement to give a reasonable opportunity

(1) Clause 3 of Schedule 2 to the Broadcasting Services Act 1992
applies as if subclause 3(2) of that Schedule required a broadcaster
that, during the election period, broadcasts plebiscite matter that is
in favour of the plebiscite proposal to give a reasonable
opportunity to a representative of an organisation that is not in
favour of the plebiscite proposal to broadcast plebiscite matter
during that period, and vice versa.

Note: The definition of election period in clause 1 of Schedule 2 to the
Broadcasting Services Act 1992 is modified by paragraph 33(a) of this
Act.

Limitation on broadcasting during blackout period

(2) Clause 3A of Schedule 2 to the Broadcasting Services Act 1992
applies as if that clause prohibited a broadcaster from broadcasting
any advertisement that contains plebiscite matter during the period:
Part 3 Application of the law in relation to the plebiscite

Division 3 Application of other laws

Section 37

(a) commencing at the end of the Wednesday before the polling day for the plebiscite; and

(b) ending at the close of the poll on that polling day.

References to clauses 3 and 3A of Schedule 2

(3) Paragraphs 7(1)(j), 8(1)(i), 9(1)(i), 10(1)(i) and 11(1)(d) of Schedule 2, and paragraph 24(1)(a) and subclause 24(4) of Schedule 6, to the Broadcasting Services Act 1992 apply as if references in those provisions to clauses 3 and 3A of Schedule 2 to that Act included references to those clauses as they apply in relation to the plebiscite.

37 SBS to give a reasonable opportunity to broadcast plebiscite matter

The Special Broadcasting Service Act 1991 applies as if the following section were inserted after section 70B of that Act:

70BA SBS to give a reasonable opportunity to broadcast plebiscite matter

(1) If, during the plebiscite period, SBS broadcasts plebiscite matter that is in favour of the plebiscite proposal, SBS must give a reasonable opportunity to a representative of an organisation that is not in favour of the plebiscite proposal to broadcast plebiscite matter during that period, and vice versa.

(2) This section does not require SBS to broadcast any matter free of charge.

38 SBS not to broadcast advertisements containing plebiscite matter during the blackout period

Section 70C of the Special Broadcasting Service Act 1991 applies as if that section prohibited SBS from broadcasting any advertisement that contains plebiscite matter during the period:
Application of the law in relation to the plebiscite Part 3
Application of other laws Division 3

Section 39

(a) commencing at the end of the Wednesday before the polling
day for the plebiscite; and
(b) ending at the close of the poll on that polling day.

Subdivision C—Deductibility of gifts made to Committee for
the Yes Case or Committee for the No Case

39 Deductibility of gifts made to Committee for the Yes Case or
Committee for the No Case

Deductibility of gifts

(1) The Income Tax Assessment Act 1997 applies as if the following
item was added at the end of the table in section 30-15 of that Act:

<table>
<thead>
<tr>
<th>The Committee for the Yes Case or the Committee for the No Case.</th>
<th>A gift of money.</th>
<th>The amount you are giving (subject to subsection (6)).</th>
<th>The gift must be:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) made after the commencement of the Plebiscite (Same-Sex Marriage) Act 2016 and before the voting day for the plebiscite; and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) $2 or more; and</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) paid directly into the bank account established for the committee for the purposes of subsection 11A(4) of the Referendum Act (as that subsection applies because of section 15 of the Plebiscite (Same-Sex Marriage) Act 2016)).</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

$1,500 limit on deductions to each committee

(2) The Income Tax Assessment Act 1997 applies as if the following
subsection was added at the end of section 30-15:
Part 3  Application of the law in relation to the plebiscite
Division 3  Application of other laws

Section 39

(6) For the purposes of item 9 of the table in subsection (2), you cannot deduct more than $1,500 under that item for gifts made to a particular committee.

Modification of other Acts and instruments

(3) The Special Minister of State may, by notifiable instrument, modify the operation of any Act, or any instrument made under an Act, in relation to:
(a) the modification of the Income Tax Assessment Act 1997 made by subsection (1) of this section; and
(b) gifts made to the Committee for the Yes Case or the Committee for the No Case.
Part 4—Miscellaneous

40 Appropriation

The Consolidated Revenue Fund is appropriated for the purposes of:

(a) paying or discharging the costs, expenses and other obligations incurred by the Commonwealth in relation to the plebiscite; and

(b) making payments under subsection 11A(1) of the Referendum Act (as that subsection applies because of section 15 of this Act).

41 Regulations

(1) The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed by the regulations; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), regulations may be made modifying the operation of any instrument made under any Act, or any provision of such an instrument, in relation to the plebiscite.

(3) This Act does not limit the regulations that may be made for the purposes of this section.
Schedule 1—Forms

Note: See subsection 14(2) of this Act and subsections 8(1) and 25(1) of the Referendum Act.

FORM A

Commonwealth of Australia

Writ for the plebiscite

To the Electoral Commissioner

I command you to cause the following question to be submitted, according to law, to the electors who are entitled to vote at elections.

Should the law be changed to allow same-sex couples to marry?

I appoint the following dates:

1. For the close of the Rolls: the day of 20.
2. For taking the votes of the electors: the day of 20.
3. For the return of the writ: the day of 20.

[Here insert Governor-General’s title and the date]

Governor-General

By His Excellency’s command
FORM B

Commonwealth of Australia

BALLOT-PAPER

Plebiscite on same-sex marriage

DIRECTIONS TO VOTER

WRITE “YES” or “NO” in the space provided opposite the question set out below.

Should the law be changed to allow same-sex couples to marry?