

EXPOSURE DRAFT

Schedule 1—Section 44 candidate checklist

Commonwealth Electoral Act 1918

1 Subsection 4(1) (definition of *answers*)

Repeal the definition.

2 Subsection 4(1)

Insert:

mandatory: an item in the qualification checklist is *mandatory* for a person unless:

- (a) the item only applies if a specified response is given to a previous item and the person does not give the specified response; or
- (b) the item is marked “[OPTIONAL]”.

3 Subsection 4(1) (definition of *mandatory question*)

Repeal the definition.

4 Paragraph 170(1)(d)

Repeal the paragraph, substitute:

- (d) marks a response to every item in the qualification checklist that is mandatory for the person and signs the qualification checklist in the space provided (see Form DB in Schedule 1 for the qualification checklist).

5 Subsection 170(1) (note 1)

Omit “include an answer to every mandatory question in the checklist as altered”, substitute “mark a response to every item that is mandatory for the person in the checklist as altered”.

6 After subsection 170(1)

Insert:

- (1AA) For the purposes of paragraph (1)(d), a person is taken to have marked a response to an item in the qualification checklist as long as the person does not leave the space provided for response blank.

EXPOSURE DRAFT

7 Subsection 170(1A)

Omit “an answer to a question”, substitute “a response to an item”.

8 Subsection 170A(2)

Omit “answered every mandatory question (see paragraph 170(1)(d))”, substitute “complied with paragraph 170(1)(d)”.

9 Paragraph 170A(3)(a)

Omit “an answer to a question”, substitute “a response to an item”.

10 Paragraph 170A(3)(d)

Omit “an answer”, substitute “a response”.

11 Subsection 172(2) (note)

Omit “answer every mandatory question in the qualification checklist”, substitute “mark a response to every item in the qualification checklist that is mandatory for the person”.

12 Subsection 392(1) (note)

Omit “mandatory question in the qualification checklist in Form DB of Schedule 1 is not answered”, substitute “response is not marked to an item in the qualification checklist in Form DB that is mandatory for the person or the checklist is not signed”.

13 Schedule 1 (Form DB)

Repeal the form, substitute:

FORM DB

QUALIFICATION CHECKLIST RELATING TO YOUR ELIGIBILITY UNDER SECTION 44 OF THE AUSTRALIAN CONSTITUTION

.....
[Candidate's name]

Please fill out this checklist.

Be aware that completing this checklist does not guarantee that you are eligible to be elected under section 44 of the Australian Constitution or under the *Commonwealth Electoral Act 1918*.

EXPOSURE DRAFT

1 If you have any doubts about your eligibility, you should seek independent legal
2 advice.

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4 If you provide information in this checklist that you know is false or
5 misleading, you may commit an offence against the *Criminal Code* with a
6 maximum penalty of imprisonment for 12 months, 60 penalty units, or both.

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8 You must respond to all of the items in the checklist, except when a response is
9 not required because of your response to a previous item or the item is marked
10 “[OPTIONAL]”. You must also sign the checklist in the space provided at the
11 end of the checklist. Your nomination will be rejected if these things are not
12 done.

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14 Please provide supporting documentation as appropriate. You may provide
15 additional documents if you are unable to fit all your responses in this checklist.

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17 Note: If you respond “YES” to item 5a.2 then you **must provide at least one**
18 **document** in response to item 5a.

19
20 You should not include information in this checklist, or in any additional
21 documents you provide, that is inappropriate in any way. If you do, the
22 information may be redacted by the Electoral Commissioner and not published
23 on the Australian Electoral Commission’s website.

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25 You may choose to redact information (for example, your own or another
26 person’s personal information) from additional documents before providing
27 them. Redactions must be in accordance with any directions of the Electoral
28 Commissioner.

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30 The candidate statement and declaration that you have made elsewhere in this
31 nomination also relate to your eligibility to be elected. In that statement and
32 declaration:

- 33 (a) you have declared that you are qualified under the Constitution
34 and the laws of the Commonwealth to be elected as a Senator or
35 member of the House of Representatives; and
36 (b) you have stated that you are an Australian citizen.

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39 1. Provide the following details about yourself. Provide as many details as
40 you know and “DON’T KNOW” for any details you do not know.

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Date of birth (DD/MM/YYYY)	Place of birth (town/city and country)	Citizenship at time of birth
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EXPOSURE DRAFT

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1a. If you were not an Australian citizen at time of birth, provide your date of Australian naturalisation or enter “DON’T KNOW” if you do not know.

Date of Australian naturalisation

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1b. If you entered “DON’T KNOW” for any details at item 1 or 1a, explain why you don’t know.

Explanation

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2. Provide the following details about each of your parents and grandparents (whether biological or adoptive and whether or not still living). Provide as many details as you know and enter “DON’T KNOW” for any details you do not know.

Parent or grandparent

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|-----|---|
| 2.1 | This person’s relationship to you (eg. mother, adoptive father) |
| 2.2 | Date of birth (DD/MM/YYYY) |
| 2.3 | Place of birth (town/city and country) |
| 2.4 | Is this person (or was this person at the time of their death) an Australian citizen? |
| 2.5 | If “YES” to item 2.4—date this person became an Australian citizen |
| 2.6 | Is this person, or has this person ever |
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EXPOSURE DRAFT

Parent or grandparent

been, a citizen of a country other than Australia?

2.7 If “YES” to item 2.6—list each country other than Australia of which this person is or has been a citizen and the dates this person became a citizen of each country

2.8 If “YES” to item 2.6—has this person ceased to be a citizen of any country other than Australia?

2.9 If “YES” to item 2.8—list the dates this person ceased to be a citizen of the other country or countries

2.10 [OPTIONAL] If you would like to provide further details about this person that are relevant to your qualification, do so in this space

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2a. If you entered “DON’T KNOW” for any details at item 2, explain why you don’t know.

Explanation

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3. Do you have a spouse or similar partner?

YES NO DON’T KNOW

3a. If you entered “DON’T KNOW” for item 3, explain why you don’t know.

Explanation

EXPOSURE DRAFT

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3b. If you entered “YES” for item 3, provide the following details for your spouse or similar partner. Provide as many details as you know and enter “DON’T KNOW” for any details you don’t know.

Spouse or similar partner

- | | |
|------|---|
| 3b.1 | This person’s relationship to you (eg. spouse, similar partner) |
| 3b.2 | Is this person, or has this person been at any time during your relationship, a citizen of a country other than Australia? |
| 3b.3 | If “YES” to item 3b.2—list each country other than Australia of which this person is a citizen or has been a citizen at any time during your relationship and the dates the person became a citizen of each country |
| 3b.4 | If “YES” to item 3b.2—has this person ceased to be a citizen of any country other than Australia? |
| 3b.5 | If “YES” to item 3b.4—list the dates this person ceased to be a citizen of the other country or countries |
| 3b.6 | Did you become a citizen of a country other than Australia as a result of the relationship? |
| 3b.7 | [OPTIONAL] If you would like to provide further details about this person that are relevant to your qualification, please do so in this space |
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EXPOSURE DRAFT

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[Provide particulars of, or documents related to, any details provided in response to item 3b. These will be published with this checklist on the Australian Electoral Commission's website.]

3c. If you entered "DON'T KNOW" for any details at item 3b, explain why you don't know.

Explanation

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4. Do you have a former spouse or similar partner who was a foreign citizen at any time during your relationship?

YES NO DON'T KNOW

4a. If you entered "DON'T KNOW" for item 4, explain why you don't know.

Explanation

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4b. If you entered "YES" for item 3, provide the following details for each of your former spouses and similar partners who was a foreign citizen at any time during your relationship. Provide as many details as you know and enter "DON'T KNOW" for any details you don't know.

Former spouse or similar partner

4b.1 This person's relationship to you
(eg. former spouse)

4b.2 List each country other than

EXPOSURE DRAFT

Former spouse or similar partner

Australia of which this person was a citizen at any time during your relationship

4b.3 Did you become a citizen of a country other than Australia as a result of the relationship?

4b.4 [OPTIONAL] If you would like to provide further details about this person that are relevant to your qualification, please do so in this space

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[Provide particulars of, or documents related to, any details provided in response to item 4b. These will be published with this checklist on the Australian Electoral Commission's website.]

4c. If you entered "DON'T KNOW" for any details at item 4b, explain why you don't know.

Explanation

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5. Are you now, or have you ever been, a subject or citizen of any country other than Australia?

YES NO DON'T KNOW

5a. If you entered "YES" for item 5, provide the following details. Provide as many details as you know and enter "DON'T KNOW" for any details you don't know.

5a.1	Country of foreign citizenship	
5a.2	Have you ceased to be a citizen of the foreign country?	

EXPOSURE DRAFT

5a.3	If YES to item 5a.2—how did you cease to be a citizen of the foreign country?	
5a.4	If YES to item 5a.2—date you ceased to be a citizen of the foreign country	
5a.5	If NO to item 5a.2—provide additional details about your citizenship of the foreign country	
5a.6	[OPTIONAL] If you would like to provide further information about your foreign citizenships, including how you ceased to be a citizen of a foreign country, please do so in this space	

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*[If you contend that you have renounced or lost your foreign citizenship, you **must provide at least one document** that you are satisfied supports your contention. (The document may be an official document, or if you have no official document, a statutory declaration detailing your renunciation or loss of foreign citizenship and why you cannot provide other documentation.) This will be published with this checklist on the Australian Electoral Commission’s website.]*

5b. If you entered “DON’T KNOW” at item 5 or for any details at item 5a, explain why you don’t know and specify the steps you have taken to ascertain any details you don’t know.

Explanation and steps taken

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[In addition to the requirement to provide at least one document mentioned under item 5a if you responded YES to item 5a.2, also

EXPOSURE DRAFT

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provide particulars of, or documents related to, the other details provided in response to items 5a and 5b. These will be published with this checklist on the Australian Electoral Commission's website.]

6. Are you under sentence or subject to be sentenced, for an offence against a law of the Commonwealth or of a State for which you have been convicted, which is punishable by imprisonment for one year or longer?

NOTE: A person convicted of an offence with a maximum penalty of imprisonment for one year or longer may be disqualified even if the sentence imposed on the person for the offence is less than the maximum penalty.

YES NO

6a. If you entered "YES" for item 6, provide details.

Details relating to possible disqualification by reason of section 44(ii) of the Australian Constitution

[Provide particulars of, and documents related to, the details provided in your response to item 6a. These will be published with this checklist on the Australian Electoral Commission's website.]

7. Are you an undischarged bankrupt or insolvent?

YES NO

7a. If you entered "YES" for item 7, provide details.

Relevant details relating to possible disqualification by reason of section 44(iii) of the Australian Constitution
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EXPOSURE DRAFT

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[Provide particulars of, and documents related to, the details provided in your response to item 7a. These will be published with this checklist on the Australian Electoral Commission's website.]

8. Do you hold an office of profit under the Crown, other than an office expressly exempt from section 44(iv) of the Australian Constitution? (Offices of profit under the Crown include, for example, many public sector jobs in Australia.)

YES NO DON'T KNOW

8a. If you entered "YES" or "DON'T KNOW" for item 8, provide details (for example, the relevant body in which you hold the office of profit and your role, or why your answer is "DON'T KNOW"):

Relevant details relating to possible disqualification by reason of section 44(iv) of the Australian Constitution

[Provide particulars of, and documents related to, the details provided in your response to item 8a. These will be published with this checklist on the Australian Electoral Commission's website.]

9. Do you have a direct or indirect financial interest in any contract or other agreement with the Commonwealth public service? Do not count an interest that is expressly excluded from section 44(v) of the Australian Constitution, such as a shareholding in a company that has 25 or more other shareholders.

NOTE: You may be disqualified by reason of section 44(v) even if you are not a party to the relevant contract or agreement. A disqualifying financial interest may arise, for example, from an agreement between the Commonwealth public service and a trustee of a family trust of which you are a beneficiary.

EXPOSURE DRAFT

YES NO DON'T KNOW

9a. If you entered “YES” or “DON'T KNOW” for item 9, provide details (for example, your direct or indirect financial interests, or why your answer is “DON'T KNOW”).

Relevant details relating to possible disqualification by reason of section 44(v) of the Australian Constitution

[Provide particulars of, and documents related to, any details provided in your response to item 9a. These will be published with this checklist on the Australian Electoral Commission's website.]

10. [OPTIONAL] Provide any additional details relating to your qualification under the Australian Constitution or the *Commonwealth Electoral Act 1918*:

[Provide particulars of, and documents related to, any details provided in your response to item 11. These will be published with this checklist on the Australian Electoral Commission's website.]

I confirm the information in the checklist provided above, and any additional information provided in support of my statements, to be true and correct, to the best of my knowledge.

[Signature of candidate]

[Date]