



Queensland

# **Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

## **Act No. 20 of 2020**

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**An Act to amend the City of Brisbane Act 2010, the Electoral Act 1992, the Electoral and Other Legislation Amendment Act 2019, the Electoral Regulation 2013, the Integrity Act 2009, the Local Government Act 2009, the Local Government Electoral Act 2011, the Parliament of Queensland Act 2001 and the legislation mentioned in schedule 1 in relation to electoral funding and expenditure, and for other particular purposes**

**[Assented to 30 June 2020]**





Queensland

# Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020

## Contents

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		Page
<b>Chapter 1</b>	<b>Preliminary</b>	
1	Short title .....	17
2	Commencement .....	17
<b>Chapter 2</b>	<b>Amendments relating to funding and expenditure for State elections</b>	
<b>Part 1</b>	<b>Amendment of Electoral Act 1992</b>	
3	Act amended .....	18
4	Amendment of s 2 (Definitions) .....	19
5	Amendment of s 89 (Deposit to accompany nomination) .....	22
6	Insertion of new s 91A .....	22
	91A Withdrawal of endorsement of candidate .....	22
7	Amendment of s 197 (Definitions) .....	23
8	Insertion of new s 197A .....	26
	197A Meaning of participant in an election .....	26
9	Insertion of new ss 199 and 199A .....	27
	199 Meaning of electoral expenditure .....	27
	199A Meaning of campaign purpose .....	29
10	Amendment of s 200 (Meaning of fundraising contribution) .....	31
11	Insertion of new ss 200A and 200B .....	31
	200A Meaning of sponsorship arrangement .....	31
	200B Meaning of gifted for electoral expenditure .....	32
12	Replacement of s 201 (Meaning of gift) .....	33
	201 Meaning of gift .....	33
13	Insertion of new ss 201B and 201C .....	36
	201B Meaning of value of gift .....	36

Contents

---

	201C	Application to unincorporated body . . . . .	38
14		Amendment of s 203 (Electoral committee to be treated as part of candidate) . . . . .	38
15		Insertion of new ss 204 and 204A . . . . .	39
	204	Associated entity to be treated as part of registered political party . . . . .	39
	204A	Associated entity to be treated as part of candidate in election . . . . .	40
16		Insertion of new pt 11, div 1A . . . . .	41
	Division 1A	Provisions about the source of indirect gifts and loans	
	205A	Who is the source of an indirect gift or loan . . . . .	42
17		Replacement of pt 11, div 2 (Agents) . . . . .	43
	Division 2	Agents	
	206	Agent of registered political party . . . . .	43
	207	Agent of candidate . . . . .	43
	208	Agent of registered third party . . . . .	44
	209	Agent of unregistered third party . . . . .	44
	210	Requirements for registration . . . . .	45
	211	Register of agents . . . . .	45
	212	Registration of agent . . . . .	46
	213	Responsibility for action in absence of agent . . . . .	47
	Division 3	Managing political donations and electoral expenditure	
	Subdivision 1	Preliminary	
	214	Application of division . . . . .	48
	Subdivision 2	State campaign accounts	
	215	Requirement to keep State campaign account . . . . .	48
	216	Payments into State campaign account . . . . .	49
	217	Requirements for loan amounts paid into State campaign account . . . . .	51
	218	Return on investment must be paid into State campaign account . . . . .	52
	Subdivision 3	Managing political donations	
	219	Political donations of money must be paid into State campaign account . . . . .	53
	220	Requirement to keep records about political donations of other property . . . . .	54
	221	Proceeds from disposal of political donation of other property . . . . .	55

	Subdivision 4	Managing payment of electoral expenditure	
	221A	Electoral expenditure must be paid from State campaign account . . . . .	55
	Subdivision 5	General	
	221B	Notice of State campaign account . . . . .	56
18		Amendment of s 222 (Interpretation) . . . . .	57
19		Amendment of s 223 (Entitlement to election funding— registered political parties) . . . . .	57
20		Amendment of s 224 (Entitlement to election funding— candidates) . . . . .	57
21		Amendment of s 225 (Election funding amount) . . . . .	58
22		Replacement of pt 11, div 5 (Policy development payments) . . . . .	58
	Division 5	Policy development payments	
	239	Entitlement to policy development payment—registered political party . . . . .	58
	240	Entitlement to policy development payment—independent member . . . . .	59
	241	Amount of policy development payment . . . . .	60
	242	Meaning of vote ratio for eligible registered political party or independent member . . . . .	60
	243	Meaning of seat ratio for eligible registered political party or independent member . . . . .	62
	244	Payment of policy development payment . . . . .	62
	245	Application for reconsideration of decision about policy development payment . . . . .	63
	246	Recalculation of policy development payment . . . . .	64
	Division 6	Political donations and caps on political donations	
	Subdivision 1	Preliminary	
	247	Meaning of donation cap period . . . . .	66
	Subdivision 2	Political donations and donation caps	
	250	Meaning of political donation . . . . .	66
	251	Meaning of donor statement . . . . .	67
	252	Amount of donation cap . . . . .	68
	253	Adjustment of donation cap . . . . .	68
	Subdivision 3	Caps on political donations	
	254	Caps on political donations made to registered political party . . . . .	70
	255	Caps on political donations made to candidates . . . . .	70
	257	Exceptions to ss 254 and 255 . . . . .	71

Contents

	258	Requirement to notify donor about offence to exceed political donation cap . . . . .	71
	259	Cap on political donations to registered political parties or candidates that may be accepted . . . . .	73
	259A	Recovery of unlawful political donations . . . . .	74
23		Replacement of s 260A (Who is the source of a gift or loan) . . .	75
	260A	How division applies to gift for personal use used for electoral purpose . . . . .	75
24		Relocation and renumbering of s 260B (Donor must disclose source of gift or loan) . . . . .	75
24A		Amendment of s 261 (Disclosure by candidates of gifts) . . . . .	76
25		Amendment of s 262 (Loans to candidates) . . . . .	76
26		Amendment of s 263 (Disclosure of gifts by third parties that incur expenditure for political purposes) . . . . .	77
27		Amendment of s 265 (Gifts to political parties) . . . . .	78
28		Omission of pt 11, div 7, sdiv 3 (Disclosure of large gifts) . . . . .	79
29		Replacement of pt 11, div 8, sdiv 3 (Loans from entities other than financial institutions) . . . . .	79
		Subdivision 3 Records to be kept about loans	
	272	Requirement to keep record about loan received . . .	79
30		Amendment of s 274 (Meaning of political donation) . . . . .	81
31		Insertion of new pt 11, div 9 . . . . .	81
		Division 9 Caps on electoral expenditure	
		Subdivision 1 Preliminary	
	280	Meaning of capped expenditure period . . . . .	82
	280A	Election participant is taken to have incurred gifted electoral expenditure . . . . .	83
	281	When electoral expenditure is incurred . . . . .	83
	281A	Electoral expenditure incurred for another election participant . . . . .	84
	281B	When electoral expenditure of registered political party or third party relates to an electoral district . . . . .	85
		Subdivision 2 Amount of expenditure caps for election participants	
	281C	Amount of expenditure cap—registered political party and endorsed candidate . . . . .	85
	281D	Amount of expenditure cap—independent candidate	86
	281E	Amount of expenditure cap—registered third party . .	87
	281F	Adjustment of expenditure caps for election participants	87
		Subdivision 3 Caps on electoral expenditure	

	281G	Cap on electoral expenditure during capped expenditure period . . . . .	89
	281H	Electoral expenditure of unregistered third party restricted to \$6,000 . . . . .	89
	281I	Expenditure cap exceeded because of aggregation of electoral expenditure . . . . .	90
	281J	Recovery of unlawful electoral expenditure . . . . .	91
	Subdivision 4 Aggregation of electoral expenditure		
	281K	Electoral expenditure incurred by elected members not contesting election . . . . .	92
	281L	Electoral expenditure for candidate endorsed by registered political party for by-election . . . . .	92
32		Amendment of pt 11, div 10, hdg (Disclosure of expenditure) . .	93
33		Omission of ss 282 and 282A . . . . .	93
34		Replacement of s 283 (Returns of electoral expenditure) . . . . .	93
	283	Returns of electoral expenditure . . . . .	93
35		Amendment of s 284 (Returns by broadcasters) . . . . .	95
36		Amendment of s 285 (Returns by publishers) . . . . .	96
37		Omission of s 286 (Nil returns) . . . . .	97
38		Amendment of s 290 (Returns by registered political parties) . . .	97
39		Amendment of s 291 (Amounts received) . . . . .	98
40		Amendment of s 292 (Amounts paid) . . . . .	99
41		Amendment of s 293 (Outstanding amounts) . . . . .	99
42		Replacement of s 294 (Returns by associated entities) . . . . .	99
	294	Returns by associated entity of registered political party or candidate . . . . .	99
43		Insertion of new pt 11, divs 12–12B . . . . .	101
	Division 12 Registration of third parties		
	297	Requirement for registration . . . . .	101
	298	Register of third parties . . . . .	102
	299	Application for registration . . . . .	102
	300	Deciding application . . . . .	103
	301	Registration . . . . .	103
	302	Decision to refuse application . . . . .	104
	303	Obligation to notify commission of change to details . . . . .	104
	304	Cancellation of registration . . . . .	105
	Division 12A Records to be kept		
	305	Definitions for division . . . . .	106

Contents

---

	305AA	Meaning of prescribed matter . . . . .	106
	305AB	Records to be kept by election participants . . . . .	108
	305AC	Records to be kept by agents of participants in elections . . . . .	108
	305A	Records to be kept about advertisements or other election matter . . . . .	109
	305B	Records to be kept by broadcaster or publisher . . . . .	110
	305C	Requirements for records . . . . .	110
	305D	Record must be kept for 5 years . . . . .	110
	305E	Division does not limit other record-keeping provisions	111
	Division 12B	Registers to be kept	
	305F	Register of non-monetary gifts . . . . .	111
	305G	Register of members and affiliates of registered political parties . . . . .	112
44		Insertion of new ss 306A and 306B . . . . .	113
	306A	Registered political party must notify endorsement of candidate . . . . .	113
	306B	Agent's obligation to ensure compliance . . . . .	114
45		Amendment of s 307 (Offences) . . . . .	116
46		Insertion of new ss 307AA and 307AB . . . . .	116
	307AA	Starting proceeding for particular offences . . . . .	116
	307AB	Liability for political donation or electoral expenditure offences committed by unincorporated body . . . . .	117
47		Amendment of s 307B (Schemes to circumvent prohibition on particular political donations) . . . . .	119
48		Amendment of s 308 (Recovery of payments) . . . . .	119
49		Omission of s 309 (Records to be kept) . . . . .	120
49A		Amendment of s 310 (Audit certificates) . . . . .	120
49B		Amendment of s 311 (Auditor to give notice of contravention) . .	120
50		Amendment of s 316 (Publishing of returns) . . . . .	120
50A		Insertion of new pt 11, div 13A . . . . .	121
	Division 13A	Audits	
	319A	Commission may appoint auditor . . . . .	121
	319B	Participant in election must assist appointed auditor	122
	319C	Audit report . . . . .	123
50B		Amendment of s 321 (Appointment and qualifications) . . . . .	123
50C		Amendment of s 384 (Evidentiary provisions) . . . . .	124



51	Insertion of new ss 388A and 388B . . . . .	124
	388A Particular information may be made available for public inspection . . . . .	124
	388B Commission must not publish information about political party membership . . . . .	125
52	Insertion of new pt 13, div 11 . . . . .	126
	Division 11 Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020	
	436 Definitions for division . . . . .	126
	437 Application of new s 201 to particular gifts . . . . .	127
	438 Appointment of agent . . . . .	127
	439 Candidates for 2020 election . . . . .	127
	440 State campaign accounts . . . . .	128
	440A Amounts that may be paid into State campaign accounts . . . . .	129
	441 Election funding for 2020 election . . . . .	130
	442 Existing entitlements to policy development payments for 2020–2021 financial year . . . . .	130
	443 Commencement of caps on political donations . . . . .	131
	444 Electoral expenditure for 2020 election—caps . . . . .	132
	445 Records required to be kept by election participants . . . . .	133
	445A Register of non-monetary gifts—application of requirement related to political donations . . . . .	134
	446 Electoral expenditure for 2020 election—disclosure . . . . .	134
	447 Returns by associated entities . . . . .	134
	448 Existing records . . . . .	134
53	Insertion of new sch 1 . . . . .	134
	Schedule 1 Dictionary . . . . .	134
<b>Part 1A</b>	<b>Amendment of Electoral and Other Legislation Amendment Act 2019</b>	
53A	Act amended . . . . .	135
53B	Amendment of s 2 (Commencement) . . . . .	135
<b>Part 2</b>	<b>Amendment of Electoral Regulation 2013</b>	
54	Regulation amended . . . . .	135
55	Insertion of new s 11A . . . . .	135
	11A Prescribed details for application for registration of third party for an election—Act, s 299 . . . . .	136

<b>Part 3</b>	<b>Other amendments</b>	
56	Acts amended .....	136
<b>Chapter 3</b>	<b>Amendments relating to signage and other matters for State elections</b>	
57	Act amended .....	136
58	Insertion of new pt 10, div 2A .....	137
	Division 2A      Offences relating to signage at polling booths	
	Subdivision 1    Interpretation	
	185A      Definitions for division .....	137
	185B      Meaning of election sign .....	138
	185C      Meaning of restricted signage area for pre-poll polling booth or ordinary polling booth .....	139
	185D      Meaning of designated entrance to grounds .....	140
	185E      Meaning of primary election for a pre-poll voting office or ordinary polling booth .....	141
	Subdivision 2    Offences	
	185F      Displaying election signs at pre-poll voting office or ordinary polling booth .....	142
	185G      Maximum number of signs that may be displayed ..	143
	185H      Setting up to display election signs at ordinary polling booth .....	144
58A	Insertion of new pt 12B .....	145
	Part 12B          2020 general election	
	392K      Purpose of part .....	146
	392L      Application of part .....	146
	392M      Definitions for part .....	146
	392N      Cut-off days .....	147
	392O      Procedure for voting .....	147
	392P      Pre-poll ordinary voting .....	148
	392Q      Making a declaration vote using posted voting papers	148
	392R      Electoral visitor voting .....	148
	392S      Electronically assisted voting .....	149
	392T      Distribution or display of how-to-vote cards or other election material .....	150
	392U      Directions about candidates or scrutineers at particular places .....	151
	392V      Direction about movement of candidates or scrutineers	152
	392W      Counting of votes .....	153

	392X	Restriction on directions . . . . .	154
	392Y	Regulation about 2020 general election . . . . .	154
	392Z	Matters about regulation under this part . . . . .	155
	392ZA	Expiry . . . . .	156
58B		Insertion of new s 449 . . . . .	156
	449	Application of offences relating to signage at polling booths to pending elections . . . . .	156
59		Amendment of sch 1 (Dictionary) . . . . .	156
<b>Chapter 4</b>		<b>Amendments relating to dishonest conduct of Ministers</b>	
<b>Part 1</b>		<b>Amendment of Integrity Act 2009</b>	
60		Act amended . . . . .	157
61		Amendment of long title . . . . .	157
62		Insertion of new ch 3A . . . . .	158
	Chapter 3A	Managing conflicts of interest	
	Part 1	Ministers	
	40A	Conflicts of interest . . . . .	158
	40B	Proceeding for offence against s 40A . . . . .	159
	40C	Use of information for investigation or prosecution . . . . .	160
	Part 2	Statutory office holders	
63		Omission of ch 4A, hdg (Declaration of interests by statutory office holders) . . . . .	161
64		Amendment of s 72B (Definition for ch 4A) . . . . .	161
65		Relocation and renumbering of ss 72B–72D . . . . .	161
66		Amendment of s 85 (Annual reports of integrity commissioner) . . . . .	162
67		Insertion of new ch 8, div 3 . . . . .	162
	Division 3	Provision for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020	
	102	Application of s 40A to existing conflicts . . . . .	162
68		Amendment of sch 1 (Statutory office holders for section 72C) . . . . .	162
69		Amendment of sch 2 (Dictionary) . . . . .	163
<b>Part 2</b>		<b>Amendment of Parliament of Queensland Act 2001</b>	
70		Act amended . . . . .	163
71		Amendment of s 47 (Other proceedings) . . . . .	163
72		Amendment of s 69B (Statement of interests) . . . . .	163
73		Insertion of new ss 69D–69F . . . . .	164
	69D	Dishonest disclosure or non-disclosure of interests . . . . .	164

Contents

---

	69E	Proceeding for offence against s 69D . . . . .	164
	69F	Use of evidence or information for investigation or prosecution . . . . .	166
<b>Chapter 5</b>		<b>Amendments relating to dishonest conduct of councillors and other local government matters</b>	
<b>Part 1</b>		<b>Amendment of City of Brisbane Act 2010</b>	
74		Act amended . . . . .	167
75		Amendment of s 4 (Local government principles underpin this Act) . . . . .	167
76		Amendment of s 14 (Responsibilities of councillors) . . . . .	167
77		Amendment of s 160 (When a councillor’s term ends) . . . . .	167
78		Amendment s 170 (Giving directions to council staff) . . . . .	168
79		Insertion of new s 171A . . . . .	169
	171A	Guidelines about provision of administrative support to councillors . . . . .	169
80		Omission of ss 173A and 173B . . . . .	169
81		Replacement of ch 6, pt 2, div 5A (Dealing with councillors’ personal interests in council matters) . . . . .	169
		Division 5A Councillors’ conflicts of interest	
		Subdivision 1 Preliminary	
	177A	Purpose of division . . . . .	170
	177B	When does a person participate in a decision . . . . .	170
	177C	Personal interests in ordinary business matters of council . . . . .	171
		Subdivision 2 Prescribed conflicts of interest	
	177D	When councillor has prescribed conflict of interest—particular gifts or loans . . . . .	172
	177E	When councillor has prescribed conflict of interest—sponsored travel or accommodation benefits . . . . .	174
	177F	When councillor has prescribed conflict of interest—other . . . . .	176
	177G	Who is a close associate of a councillor . . . . .	177
	177H	Councillor must not participate in decisions . . . . .	178
	177I	Obligation of councillor with prescribed conflict of interest . . . . .	178
	177J	Dealing with prescribed conflict of interest at a meeting . . . . .	180
		Subdivision 3 Declarable conflicts of interest	
	177K	What is a declarable conflict of interest . . . . .	180
	177L	Interests that are not declarable conflicts of interest . . . . .	181

	177M	Who is a related party of a councillor . . . . .	183
	177N	Obligation of councillor with declarable conflict of interest . . . . .	184
	177O	Procedure if meeting informed of councillor’s personal interests . . . . .	186
	177P	Procedure if councillor has declarable conflict of interest	186
	177Q	Decisions of eligible councillors . . . . .	188
	Subdivision 4 Other matters		
	177R	Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest . . . . .	189
	177S	Minister’s approval for councillor to participate or be present to decide matter . . . . .	190
	177T	Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest . . . . .	190
	177U	Obligation of councillor if conflict of interest reported under s 177T . . . . .	191
	177V	Offence to take retaliatory action . . . . .	192
	177W	Councillor with prescribed conflict of interest or declarable conflict of interest must not influence others . . . . .	193
	177X	Records about prescribed conflicts of interest or declarable conflicts of interest—meetings . . . . .	194
82		Amendment of ch 6, pt 4 hdg (Council employees) . . . . .	195
83		Amendment of s 192 (Appointing senior contract employees) . .	195
84		Amendment of s 193 (Appointing other council employees) . . . .	196
85		Insertion of new ch 6, pt 4, div 2A . . . . .	196
	Division 2A Councillor advisors		
	194A	Appointment and functions of councillor advisors . . . . .	196
	194B	When appointment ends . . . . .	197
	194C	Regulation may prescribe particular matters relating to councillor advisors . . . . .	198
86		Amendment of s 196 (Improper conduct by council employees)	199
87		Amendment of s 197 (Use of information by council employees)	200
88		Amendment of s 198 (Annual report must detail remuneration) .	201
89		Insertion of new ch 6, pt 4A . . . . .	201
	Part 4A Obligations of councillors and councillor advisors		
	198A	Obligation of councillor or councillor advisor to inform chief executive officer of particulars of interests at start of term or on appointment . . . . .	202

Contents

	198B	Obligation of councillor or councillor advisor to correct register of interests . . . . .	203
	198C	Obligation of councillor or councillor advisor to inform chief executive officer annually about register of interests . . . . .	204
	198D	Dishonest conduct of councillor or councillor advisor . . . . .	205
	198E	Proceeding for offence against s 198D . . . . .	206
	198F	Prohibited conduct by councillor or councillor advisor in possession of inside information . . . . .	208
90		Amendment of s 215 (False or misleading information) . . . . .	209
91		Insertion of new ch 8, pt 11 . . . . .	210
	Part 11	Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020	
	294	Existing senior contract employees . . . . .	210
	295	Proceedings for repealed integrity offences . . . . .	211
	296	Continuation of Minister's approval for councillor to participate or be present to decide matter . . . . .	212
	297	Remuneration commission's recommendation not required for initial regulation . . . . .	212
	298	Application of s 198A for councillors . . . . .	212
92		Amendment of sch 1 (Serious integrity offences and integrity offences) . . . . .	212
93		Amendment of sch 2 (Dictionary) . . . . .	213
	<b>Part 2</b>	<b>Amendment of Local Government Act 2009</b>	
94		Act amended . . . . .	215
95		Amendment of s 4 (Local government principles underpin this Act) . . . . .	216
96		Amendment of s 12 (Responsibilities of councillors) . . . . .	216
96A		Amendment of s 104 (Financial management systems) . . . . .	216
97		Amendment of s 123 (Suspending or dissolving a local government) . . . . .	216
98		Amendment of s 124 (Interim administrator acts for the councillors temporarily) . . . . .	217
99		Insertion of new s 124A . . . . .	217
	124A	Minister may appoint acting interim administrator . . . . .	217
100		Amendment of s 150C (Definitions for chapter) . . . . .	218
101		Amendment of s 150L (What is misconduct) . . . . .	218
102		Amendment of s 150R (Local government official must notify assessor about particular conduct) . . . . .	218
103		Amendment of s 150AY (Functions of investigators) . . . . .	219

103A	Insertion of new s 150DSA . . . . .	219
	150DSA Protection and immunity for members in performing particular functions . . . . .	219
104	Insertion of new ch 5B . . . . .	219
	Chapter 5B Councillors' conflicts of interest	
	Part 1 Preliminary	
	150ED Purpose of chapter . . . . .	220
	150EE When does a person participate in a decision . . . . .	220
	150EF Personal interests in ordinary business matters of a local government . . . . .	220
	Part 2 Prescribed conflicts of interest	
	150EG When councillor has prescribed conflict of interest—particular gifts or loans . . . . .	222
	150EH When councillor has prescribed conflict of interest—sponsored travel or accommodation benefits . . . . .	224
	150EI When councillor has prescribed conflict of interest—other . . . . .	226
	150EJ Who is a close associate of a councillor . . . . .	227
	150EK Councillor must not participate in decisions . . . . .	228
	150EL Obligation of councillor with prescribed conflict of interest . . . . .	228
	150EM Dealing with prescribed conflict of interest at a meeting	229
	Part 3 Declarable conflicts of interest	
	150EN What is a declarable conflict of interest . . . . .	230
	150EO Interests that are not declarable conflicts of interest . . . . .	230
	150EP Who is a related party of a councillor . . . . .	233
	150EQ Obligation of councillor with declarable conflict of interest . . . . .	233
	150ER Procedure if meeting informed of councillor's personal interests . . . . .	236
	150ES Procedure if councillor has declarable conflict of interest	236
	150ET Decisions of eligible councillors . . . . .	237
	Part 4 Other matters	
	150EU Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest . . . . .	238
	150EV Minister's approval for councillor to participate or be present to decide matter . . . . .	239

Contents

---

	150EW	Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest . . . . .	240
	150EX	Obligation of councillor if conflict of interest reported under s 150EW . . . . .	241
	150EY	Offence to take retaliatory action . . . . .	242
	150EZ	Councillor with prescribed conflict of interest or declarable conflict of interest must not influence others . . . . .	242
	150FA	Records about prescribed conflicts of interest or declarable conflicts of interest—meetings . . . . .	243
105		Amendment of s 160 (When a councillor’s term ends) . . . . .	245
106		Amendment of s 161 (What this division is about) . . . . .	245
107		Amendment of s 163 (When a vacancy in an office must be filled)	246
108		Omission of s 164 (Filling a vacancy in the office of mayor) . . . .	246
109		Replacement of s 166 (Filling a vacancy in the office of another councillor) . . . . .	246
	166	Filling vacancy in office of mayor or other councillor . . . . .	247
	166A	Filling vacancies during beginning of local government’s term . . . . .	247
	166B	Filling vacancies during final part of local government’s term . . . . .	249
110		Amendment of s 170 (Giving directions to local government staff)	251
111		Insertion of new s 170AA . . . . .	251
	170AA	Guidelines about provision of administrative support to councillors . . . . .	252
112		Omission of ss 171A and 171B . . . . .	252
113		Omission of ch 6, pt 2, div 5A (Dealing with councillors’ personal interests in local government matters) . . . . .	252
113A		Amendment of s 177 (Functions) . . . . .	253
113B		Amendment of s 181 (Qualifications to be commissioner) . . . . .	253
114		Amendment of ch 6, pt 5 hdg (Local government employees) . . . . .	253
115		Insertion of new ch 6, pt 5, div 2A . . . . .	253
		Division 2A Councillor advisors	
	197A	Appointment and functions of councillor advisors . . . . .	254
	197B	When appointment ends . . . . .	255
	197C	Minister to make councillor advisor code of conduct . . . . .	256
	197D	Regulation may prescribe particular matters relating to councillor advisors . . . . .	256
116		Amendment of s 199 (Improper conduct by local government employees) . . . . .	257



117	Amendment of s 200 (Use of information by local government employees) . . . . .	258
118	Amendment of s 201 (Annual report must detail remuneration) .	259
119	Insertion of new ch 6, pt 5A . . . . .	260
	Part 5A                    Obligations of councillors and councillor advisors	
	201A      Obligation of councillor or councillor advisor to inform chief executive officer of particulars of interests at start of term or on appointment . . . . .	260
	201B      Obligation of councillor or councillor advisor to correct register of interests . . . . .	261
	201C      Obligation of councillor or councillor advisor to inform chief executive officer annually about register of interests	262
	201D      Dishonest conduct of councillor or councillor advisor	263
	201E      Proceeding for offence against s 201D . . . . .	264
	201F      Prohibited conduct by councillor or councillor advisor in possession of inside information . . . . .	266
120	Amendment of s 207 (End of appointment of interim management)	267
121	Amendment of s 234 (False or misleading information) . . . . .	268
121A	Amendment of s 235 (Administrators who act honestly and without negligence are protected from liability) . . . . .	268
122	Amendment of s 242 (Proceedings for indictable offences) . . . .	268
122A	Amendment of s 247 (Local government references in this Act) .	268
123	Insertion of new ch 9, pt 15 . . . . .	269
	Part 15                    Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020	
	332A      Existing vacancies in office of mayor or other councillor	269
	333      Proceedings for repealed integrity offences . . . . .	269
	334      Continuation of Minister's approval for councillor to participate or be present to decide matter . . . . .	270
	335      Remuneration commission's recommendation not required for initial regulation . . . . .	271
	336      Application of s 201A for councillors . . . . .	271
124	Amendment of sch 1 (Serious integrity offences and integrity offences) . . . . .	271
125	Amendment of sch 4 (Dictionary) . . . . .	272
<b>Part 3</b>	<b>Amendment of Local Government Electoral Act 2011</b>	
126	Act amended . . . . .	274
127	Amendment of s 43 (Register of group agents) . . . . .	274

Contents

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128	Amendment of s 86 (Formal and informal ballot papers—optional-preferential voting) . . . . .	274
129	Amendment of s 92 (Preliminary counting of ordinary votes) . . .	274
130	Amendment of s 105 (Arrangements for fresh election) . . . . .	274
131	Insertion of new s 112B . . . . .	275
	112B      Responsibility for compliance in absence of agent . .	275
132	Amendment of s 124 (Expenditure return—candidate, groups of candidates or registered political party) . . . . .	276
133	Amendment of s 125 (Summary expenditure return—candidate, group of candidates or registered political party) . . . . .	276
134	Amendment of s 130B (Electoral commission must give reminder notice about requirement for return) . . . . .	276
<b>Schedule 1</b>	<b>Consequential or minor amendments</b> . . . . .	<b>278</b>
	Electoral Act 1992 . . . . .	278
	Local Government Electoral Act 2011 . . . . .	281
	Referendums Act 1997 . . . . .	281

## The Parliament of Queensland enacts—

# Chapter 1 Preliminary

## 1 Short title

This Act may be cited as the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*.

## 2 Commencement

- (1) Chapter 2 commences as follows—
  - (a) part 1A commences on assent;
  - (b) section 22, to the extent it inserts new part 11, division 5, commences on 1 January 2022;
  - (c) the following provisions commence on 1 July 2022—
    - (i) sections 19, 20 and 21;
    - (ii) section 22, to the extent it is not in force under paragraph (b);
  - (d) the remaining provisions of chapter 2, and schedule 1, commence on 1 August 2020, immediately after the commencement of the provisions of the *Electoral and Other Legislation Amendment Act 2019* that, under section 2 of that Act, commence on 1 August 2020.
- (2) Chapter 3 commences as follows—
  - (a) sections 57 and 58A commence on assent;
  - (b) the remaining provisions of chapter 3 commence on 1 August 2020.
- (3) Chapter 4 commences on a day to be fixed by proclamation.
- (4) Chapter 5 commences as follows—

- (a) the following provisions commence on assent—
  - (i) section 74;
  - (ii) section 77;
  - (iii) section 94;
  - (iv) sections 97 to 99;
  - (v) section 102;
  - (vi) section 103A;
  - (vii) section 105;
  - (viii) section 113B;
  - (ix) section 120;
  - (x) section 121A;
  - (xi) part 3;
- (b) the remaining provisions of chapter 5 commence on 12 October 2020.

## **Chapter 2            Amendments relating to funding and expenditure for State elections**

### **Part 1                Amendment of Electoral Act 1992**

#### **3            Act amended**

This part amends the *Electoral Act 1992*.

*Note—*

See also the amendments in chapter 3 and schedule 1.

#### 4 Amendment of s 2 (Definitions)

- (1) Section 2, definitions *2013–2014 financial year*, *associated entity*, *disposition of property*, *journal*, *political donation*, *registered*, *relevant election*, *source* and *special reporting period*—

*omit.*

- (2) Section 2—

*insert—*

***6-month period***, for part 11, see section 197.

***associated entity***—

- (a) of a registered political party—see section 204(2) and (3); or
- (b) of a candidate in an election—see section 204A(2), (3) and (4).

***bank account*** means an account with a financial institution.

***bank statement***, for part 11, see section 197.

***campaign purpose***, for incurring electoral expenditure, for part 11, see section 199A.

***capped expenditure period***, for an election, for part 11, division 9, see section 280.

***consideration***, for part 11, see section 197.

***convicted*** means found guilty, or having a plea of guilty accepted by a court, whether or not a conviction is recorded.

***CPI*** means the all groups consumer price index for Brisbane published by the Australian Bureau of Statistics.

***donation cap***, for a registered political party or candidate in an election, for part 11, see section 252.

***donation cap period***, for a registered political

party or candidate in an election, for part 11, see section 247.

***donor statement***, for part 11, see section 251.

***election material***, for part 11, see section 197.

***electoral purpose*** means a purpose that relates to an election.

***extraordinary general election*** see the *Constitution of Queensland 2001*, section 19A.

***gifted***, for an amount of electoral expenditure incurred, for part 11, see section 200B.

***independent candidate***, for an election, for part 11, see section 197.

***independent member***, for a 6-month period, for part 11, division 5, see section 240(2).

***normal polling day***, for a general election, see the *Constitution of Queensland 2001*, section 19B(1).

***participant***, in an election—

- (a) for part 11, generally—see section 197A; or
- (b) for part 11, division 12A—see section 305.

***political donation***—

- (a) for part 11 generally—see section 250; or
- (b) for part 11, division 8, subdivision 4—see section 274.

***prescribed matter***, for part 11, division 12A, see section 305AA.

***registered***, for a third party in relation to an election, for part 11, see section 197.

***register of third parties***, for part 11, see section 197.

***source***, for part 11—

- (a) of a gift—see section 205A(1); or

(b) of a loan—see section 205A(2).

*sponsorship arrangement*, for part 11, see section 200A.

*State campaign account*, of a participant in an election, for part 11, see section 215.

(3) Section 2, definition *candidate*, paragraph (b)—

*omit, insert—*

(b) for part 11, includes—

(i) an elected member; and

(ii) an individual, other than an elected member, who has announced, or otherwise publicly indicated, the individual's intention to be a candidate in the election; and

(iii) an individual, other than an elected member, who has otherwise indicated the individual's intention to be a candidate in the election, including, for example, by accepting a gift made to the individual for an electoral purpose.

(4) Section 2, definition *electoral expenditure*, 'section 197'—

*omit, insert—*

section 199

(5) Section 2, definition *gift threshold amount*, ' , for the amount or value of a gift or loan,'—

*omit.*

(5A) Section 2, definition *third party*, ' , for part 11,'—

*omit.*

(6) Section 2, 'In this Act—'—

*omit, insert—*

The dictionary in schedule 1 defines particular words used in this Act.

(7) Section 2, all definitions—

*relocate* to schedule 1, as inserted by this Act.

## **5 Amendment of s 89 (Deposit to accompany nomination)**

Section 89(5)(c), ‘6%’—

*omit, insert—*

4%

## **6 Insertion of new s 91A**

After section 91—

*insert—*

### **91A Withdrawal of endorsement of candidate**

- (1) This section applies if—
  - (a) a registered political party nominates a person as a candidate for an election under section 88(1)(a); and
  - (b) before the election, the party withdraws the party’s endorsement of the person as a candidate for the election.

*Note—*

See section 306A for the requirement for a registered political party to notify the commission about—

- (a) the party’s endorsement or proposed endorsement of a person as a candidate for an election; or
  - (b) changes to the endorsement or proposed endorsement.
- (2) The registered officer of the registered political party must notify the commission, in the approved form, of the withdrawal of the endorsement.  
Maximum penalty—40 penalty units.
- (3) If the notification is given to the commission before noon on the cut-off day for the nomination of candidates, the nomination of the person is of



no effect.

- (4) If the notification is given to the commission after noon on the cut-off day for the nomination of candidates, a ballot paper is taken to comply with section 102 even if the name, or an abbreviation of the name, of the registered political party is printed adjacent to the candidate's name on the ballot paper.
- (5) As soon as practicable after the commission receives the notification, the commission must give the candidate a notice that states—
  - (a) the contents of the notification; and
  - (b) when the commission received the notification; and
  - (c) if subsection (3) or (4) applies in relation to the notification—the effect of the subsection.

## 7 Amendment of s 197 (Definitions)

- (1) Section 197, definitions *2013–2014 financial year*, *associated entity*, *electoral expenditure*, *journal*, *political donation*, *registered*, *relevant election*, *source* and *special reporting period*—

*omit.*

- (2) Section 197—

*insert—*

***6-month period*** means the following periods in a year—

- (a) 1 January to 30 June;
- (b) 1 July to 31 December.

***associated entity***—

- (a) of a registered political party—see section 204(2) and (3); or

- (b) of a candidate in an election—see section 204A(2), (3) and (4).

**bank statement**, for an account with a financial institution—

- (a) means a written record issued by the financial institution of all of the transactions carried out in relation to the account during a stated period; and
- (b) includes a written record of the transactions printed from an online banking facility provided by the financial institution.

**campaign purpose**, for incurring electoral expenditure, see section 199A.

**capped expenditure period**, for an election, see section 280.

**consideration** means consideration in money or money's worth.

**donation cap**, for a registered political party or candidate in an election, see section 252.

**donation cap period**, for a registered political party or candidate in an election, see section 247.

**donor statement** see section 251.

**election material** means material produced as a result of incurring electoral expenditure, including, for example, an advertisement.

**electoral expenditure** see section 199.

**gifted**, for an amount of electoral expenditure incurred, see section 200B.

**independent candidate**, for an election—

- (a) means a candidate nominated for the election under section 88(1)(b); and
- (b) includes a candidate if—

- (i) the candidate was nominated for the election by a registered political party under section 88(1)(a); and
- (ii) before the polling day for the election, the party gives the commission notice under section 91A about the withdrawal of the party's endorsement of the person as a candidate.

***independent member***, for a 6-month period, see section 240(2).

***participant***, in an election—

- (a) generally—see section 197A; or
- (b) for division 12A—see section 305.

***political donation***—

- (a) generally—see section 250; or
- (b) for division 8, subdivision 4—see section 274.

***prescribed matter***, for division 12A, see section 305AA.

***registered***, for a third party in relation to an election, means the third party is registered for the election under division 12.

***register of third parties***, for an election, means the register kept under section 298(1) for the election.

***source***—

- (a) of a gift—see section 205A(1); or
- (b) of a loan—see section 205A(2).

***sponsorship arrangement*** see section 200A.

***State campaign account***, of a participant in an election, see section 215.

- (3) Section 197, definition *disposition of property*—

*relocate* to schedule 1, as inserted by this Act.

- (4) Section 197, definition *loan*, after ‘other than by’—  
*insert—*

a financial institution or

## 8 Insertion of new s 197A

After section 197—

*insert—*

### 197A Meaning of *participant* in an election

- (1) For this part, each of the following is a *participant* in an election—

- (a) a candidate in the election;
- (b) a registered political party;
- (c) a registered third party for the election under division 12;
- (d) a third party that is not registered for the election that incurs electoral expenditure for the election.

- (2) Subsection (3) applies if—

- (a) a person becomes a candidate in an election for subsection (1)(a) because the person indicates the person’s intention to become a candidate in the election by incurring electoral expenditure; or

*Note—*

See section 2, definition *candidate*, paragraph (b)(iii).

- (b) a third party becomes a third party to which subsection (1)(d) applies for an election by incurring electoral expenditure for the election.

- (3) Despite section 281, the person or third party

incurs the electoral expenditure when the person or third party enters a transaction to incur the expenditure, regardless of when—

- (a) the amount of the expenditure is invoiced or paid; or
  - (b) the obligation to pay for the expenditure arises; or
  - (c) the goods or services for which the expenditure is incurred are supplied or provided.
- (4) In this part, a reference to an election participant in a provision about an election is a reference to a participant in the election.

## 9 Insertion of new ss 199 and 199A

After section 198—

*insert—*

### **199 Meaning of *electoral expenditure***

- (1) ***Electoral expenditure*** means expenditure of a kind mentioned in subsection (2) incurred for a campaign purpose.
- (2) For subsection (1), the kind of expenditure is—
  - (a) expenditure for designing, producing, printing, broadcasting or publishing material for an election, including, for example—
    - (i) an advertisement for broadcast on radio or television, at a cinema, or using the internet, email or SMS; and
    - (ii) material for publication in newspapers or magazines, on billboards, or as brochures, flyers, signs, how-to-vote cards or information sheets; and

- (iii) material for distribution in letters; or
  - (b) expenditure for the cost of distributing material for an election, including, for example, the cost of postage, sending SMS messages or couriers; or
  - (c) expenditure for carrying out an opinion poll or research; or
  - (d) expenditure for contracted services related to an activity mentioned in paragraph (a), (b) or (c), including, for example, fees for consultants or the provision of data; or
  - (e) expenditure of another kind prescribed by regulation to be a kind of electoral expenditure.
- (3) For subsection (2)(a) and (b), it does not matter whether section 181 applies to the material.
- (4) However, *electoral expenditure* does not include—
- (a) expenditure incurred substantially for or related to the election of—
    - (i) members of the Parliament of another State or the Commonwealth; or
    - (ii) councillors (however described) of a local government of the State or another State; or
  - (b) expenditure on factual advertising about a matter that relates mainly to the administration of a registered political party, including, for example, a meeting of a branch, division or committee of the party—
    - (i) for an organisational purpose; or
    - (ii) to select a candidate to nominate for election; or

- (c) expenditure incurred employing staff for a campaign purpose; or
  - (d) expenditure of a kind prescribed by regulation not to be a kind of electoral expenditure.
- (5) Expenditure incurred by a third party is ***electoral expenditure*** if the dominant purpose for which the expenditure is incurred is a campaign purpose.
- (6) However, expenditure incurred by a third party is not ***electoral expenditure*** if the dominant purpose for which the expenditure is incurred is another purpose, even if the expenditure is also incurred for, or achieves, a campaign purpose.

*Example of other purposes for incurring expenditure—*

to educate or raise awareness about an issue of public policy

- (7) Also, ***electoral expenditure*** incurred by or for an elected member does not include expenditure of a kind for which the member is entitled to receive an allowance or entitlement.
- (8) In this section—  
***allowance or entitlement***, for an elected member, means—
- (a) an allowance or entitlement the member is entitled to under the *Queensland Independent Remuneration Tribunal Act 2013*, section 54; or
  - (b) accommodation, services or other entitlements mentioned in the *Queensland Independent Remuneration Tribunal Act 2013* supplied or paid to the member.

### **199A Meaning of *campaign purpose***

- (1) Expenditure is incurred for a ***campaign purpose*** if the expenditure is incurred to—

- (a) promote or oppose a political party in relation to an election; or
  - (b) promote or oppose the election of a candidate; or
  - (c) otherwise influence voting at an election.
- (2) Without limiting subsection (1), expenditure is incurred for a purpose mentioned in subsection (1)(a), (b) or (c) if material produced as a result of the expenditure does any of the following in relation to an election—
- (a) expressly promotes or opposes—
    - (i) political parties or candidates who advocate, or do not advocate, a particular policy or issue; or
    - (ii) political parties or candidates who have, or do not have, a particular position on a policy or issue; or
    - (iii) candidates who express a particular opinion;
  - (b) expressly or impliedly comments—
    - (i) about a political party, elected member or candidate in the election; or
    - (ii) in relation to an electoral district;
  - (c) expresses a particular position on a policy, issue or opinion—
    - (i) if the position is publicly associated with a political party or candidate; and
    - (ii) whether or not, in expressing the position, the party or candidate is mentioned.



**10 Amendment of s 200 (Meaning of *fundraising contribution*)**

Section 200—

*insert—*

- (4) A *fundraising contribution* does not include an amount that relates to the venture or function that is paid under a sponsorship arrangement.

**11 Insertion of new ss 200A and 200B**

After section 200—

*insert—*

**200A Meaning of *sponsorship arrangement***

- (1) A *sponsorship arrangement*, between a person (the *sponsor*) and a registered political party, means an arrangement—
- (a) that establishes a relationship of sponsorship, approval or association between the sponsor and the party, whether or not for commercial gain; or
  - (b) that confers a right on the sponsor to associate the sponsor, or the sponsor's goods or services, with—
    - (i) the party; or
    - (ii) a fundraising or other venture or event; or
    - (iii) a program or event associated with a venture or event mentioned in subparagraph (ii).
- (2) It does not matter whether or not the sponsor is entitled, under the arrangement—
- (a) to be acknowledged as a sponsor; or
  - (b) to advertising or marketing rights; or

- (c) to supply the sponsor's goods or services; or
- (d) to another benefit, including, for example, entry to a particular event or function.

### **200B Meaning of *gifted* for electoral expenditure**

- (1) An amount of electoral expenditure incurred by a person is *gifted* to a participant in an election if—
  - (a) the expenditure benefits the participant; and
  - (b) any of the following applies—
    - (i) the expenditure is incurred with the participant's authority or consent;
    - (ii) the participant accepts election material resulting from the expenditure;
    - (iii) another circumstance prescribed by regulation happens in relation to the expenditure; and
  - (c) the person does not, within 7 days after the circumstances mentioned in paragraphs (a) and (b) happen—
    - (i) receive consideration, or adequate consideration, from the participant incurring the expenditure; or
    - (ii) invoice the participant for payment of the amount.
- (2) If an amount of electoral expenditure mentioned in subsection (1) (the *total amount*) is incurred under an arrangement between 2 or more election participants, the amount gifted to any 1 of the participants is the amount equal to the total amount divided by the number of participants who are parties to the arrangement.
- (3) A gift of electoral expenditure is made when subsection (1) applies to the expenditure,

regardless of when the expenditure is incurred.

*Notes—*

- 1 See section 280A in relation to a participant in an election being taken to have incurred electoral expenditure gifted to the election participant.
- 2 See also section 281A in relation to electoral expenditure incurred by a participant in an election that benefits another election participant.

## 12 Replacement of s 201 (Meaning of *gift*)

Section 201—

*omit, insert—*

### 201 Meaning of *gift*

- (1) A *gift* made by a person to another person is the disposition of property, or provision of a service, by the person to the other person, for no consideration or inadequate consideration.
- (2) Also, a *gift* includes—
  - (a) an amount of electoral expenditure a person gifted to a participant in an election; and
  - (b) an amount, other than the amount of a loan, paid to or for the benefit of, or an amount of electoral expenditure gifted to, a registered political party by—
    - (i) if the party is a part of another entity— a federal or interstate branch or division of the other entity; or
    - (ii) a related political party of the party; and
  - (c) in relation to a loan made by a person to another person—
    - (i) an amount of uncharged interest on the loan; or

- (ii) an amount forgiven on the loan; and
  - (d) the part of a fundraising contribution made by a person to another person that exceeds \$200; and
  - (e) an amount paid, or service provided, by a person to a registered political party under a sponsorship arrangement.
- (3) A *gift* does not include—
  - (a) the disposition of property under a will; or
  - (b) a fundraising contribution of \$200 or less, or the first \$200 of a fundraising contribution that exceeds \$200; or
  - (c) the following amounts paid to a political party—
    - (i) an amount for a person’s subscription for membership of the party;
    - (ii) an amount for a person’s affiliation with the party, other than an amount paid under a sponsorship arrangement mentioned in subsection (2)(e);
    - (iii) an amount that is a compulsory levy imposed on elected members by the party under its constitution; or
  - (d) an amount transferred to an individual from funds the individual holds jointly with the individual’s spouse; or
  - (e) the provision of voluntary labour; or
  - (f) the incidental or ancillary use of—
    - (i) a volunteer’s vehicle or equipment; or
    - (ii) a vehicle or equipment that is ordinarily available for the personal use of a volunteer.
- (4) A reference in this part to a gift does not include a

gift made by a person to an individual (the **recipient**) if, when the gift is made—

- (a) it is made in a private capacity for the recipient's personal use; and
  - (b) the recipient does not intend to use the gift for an electoral purpose.
- (5) However, if a gift, or part of a gift, mentioned in subsection (4) is used for an electoral purpose—
- (a) the gift, or that part of the gift, is a gift for this section; and
  - (b) the recipient is taken to accept the gift, or that part of the gift, at the time it is used for an electoral purpose.
- (6) If the recipient is an elected member, a reference in subsection (4) or (5) to using a gift for an **electoral purpose** includes using the gift for the recipient's duties as an elected member.
- (7) In this section—

**official cash rate** means the Reserve Bank of Australia's cash rate target.

**uncharged interest**, on a loan, means an amount that would have been payable on the loan if—

- (a) for a loan made on terms requiring the payment of interest at less than the official cash rate plus 3% a year—the loan had been made on terms requiring the payment of interest at least at the official cash rate plus 3% a year; or
- (b) for a loan for which interest payable is waived—the interest payable had not been waived; or
- (c) for a loan for which interest payments are not capitalised—the interest payments were capitalised.

### 13 Insertion of new ss 201B and 201C

After section 201A—

*insert—*

#### **201B Meaning of *value* of gift**

- (1) The *value* of a gift is the amount stated in, or worked out under, this section.
- (2) The value of a gift of money is the amount of money given.
- (3) The value of a gift of property other than money is—
  - (a) the market value of the property; or
  - (b) if a regulation prescribes principles for deciding the value of the property—the value decided in accordance with the principles.
- (4) The value of a gift of the provision of a service is—
  - (a) the amount that would reasonably be charged for providing the service if the service were provided on a commercial basis; or
  - (b) if a regulation prescribes principles for deciding the amount that would reasonably be charged for the service—the amount decided in accordance with the principles.
- (5) The value of a gift of an amount of electoral expenditure incurred is the amount of the expenditure.
- (6) The value of a gift that is a fundraising contribution is the gross amount of the contribution, regardless of the value of anything received in consideration for the contribution.
- (7) The value of a gift provided by a person to a

registered political party under a sponsorship arrangement is worked out—

- (a) as the amount paid, or value of the service provided, under the arrangement; and

*Note—*

See subsection (4) for working out the value of a service provided.

- (b) regardless of the value of the goods, services or other benefits provided to the person under the arrangement.

- (8) The value of a gift of an amount of uncharged interest on a loan is—

- (a) the amount of interest that would have been payable on the loan if interest on the loan were calculated—

- (i) annually, as simple interest; and
  - (ii) at the official cash rate for the day the loan was made plus 3% a year;

less—

- (b) any amount of interest paid on the loan.

- (9) The value of a gift of an amount forgiven on a loan is the total amount the debtor is no longer required to pay under the loan because the amount has been forgiven, including, for example, amounts of principal, interest, fees or other charges, whether or not—

- (a) the loan is legally enforceable; and
- (b) the forgiveness of the amount is legally enforceable.

- (10) If consideration is given for a gift made, other than a gift mentioned in subsection (6) or (7), the value of the gift is reduced by the amount or value of the consideration given.

(11) In this section—

*official cash rate* means the Reserve Bank of Australia's cash rate target.

*uncharged interest*, on a loan, see section 201(7).

### **201C Application to unincorporated body**

In this part—

- (a) a reference to a gift or loan made, expenditure incurred or something else done by a person includes a reference to a gift or loan made, expenditure incurred or other thing done by a person acting—
  - (i) on behalf of an unincorporated body; and
  - (ii) under the body's actual or apparent authority; and
- (b) a reference to a gift or loan made to a person includes a reference to the gift or loan being made for the benefit of the members of an unincorporated body.

## **14 Amendment of s 203 (Electoral committee to be treated as part of candidate)**

- (1) Section 203, 'electorate'—

*omit, insert—*

electoral district

- (2) Section 203(1), 'and 4'—

*omit, insert—*

, 4, 6 and 9



## 15 Insertion of new ss 204 and 204A

After section 203—

*insert—*

### **204 Associated entity to be treated as part of registered political party**

- (1) If a registered political party has an associated entity, divisions 3, 4, 6 and 9 apply as if—
  - (a) the party and the associated entity together constituted the party; and
  - (b) a reference to the party included a reference to the associated entity; and
  - (c) a gift or loan made to or for the benefit of, or received by, the associated entity were a gift or loan made to or for the benefit of, or received by, the party; and
  - (d) the State campaign account of the party were the State campaign account of the associated entity; and
  - (e) electoral expenditure incurred by or for the associated entity were incurred by or for the party.
- (2) An entity is an *associated entity* of a registered political party if the entity—
  - (a) is controlled by the party or a group of endorsed candidates of the party; or
  - (b) operates wholly, or to a significant extent, for the benefit of the party or a group of endorsed candidates of the party; or
  - (c) operates for the dominant purpose of—
    - (i) promoting the party in elections; or
    - (ii) promoting a group of endorsed candidates of the party in an election.
- (3) However, an *associated entity* of a registered

political party does not include—

- (a) a candidate endorsed by the party for an election; or
  - (b) another political party that is a related political party of the party; or
  - (c) if the party is part of another entity—a federal or interstate branch or division of the other entity.
- (4) In this section—
- group of endorsed candidates*, of a registered political party, means 2 or more candidates endorsed by the party for an election.

#### **204A Associated entity to be treated as part of candidate in election**

- (1) If a candidate in an election has an associated entity, divisions 3, 4, 6 and 9 apply as if—
  - (a) the associated entity and the candidate together constituted the candidate; and
  - (b) a reference to the candidate included a reference to the associated entity; and
  - (c) a gift or loan made to or for the benefit of, or received by, the associated entity were a gift or loan made to or for the benefit of, or received by, the candidate; and
  - (d) the State campaign account of the candidate were the State campaign account of the associated entity; and
  - (e) electoral expenditure incurred by or for the associated entity were incurred by or for the candidate.
- (2) An entity is an *associated entity* of a candidate in an election if the entity—

- (a) is controlled by the candidate in relation to the election; or
  - (b) operates wholly, or to a significant extent, for the benefit of the candidate in relation to the election; or
  - (c) operates for the dominant purpose of promoting the candidate in the election.
- (3) However, an *associated entity* of a candidate in an election does not include an entity if—
- (a) the entity is an associated entity of a registered political party under section 204 because it—
    - (i) is controlled by a group of endorsed candidates of the party; or
    - (ii) operates wholly or to a significant extent for the benefit of a group of endorsed candidates of the party; or
    - (iii) operates for the dominant purpose of promoting a group of endorsed candidates of the party; and
  - (b) the candidate is 1 of the candidates in the group of endorsed candidates of the party.
- (4) Also, an *associated entity* of a candidate does not include an electoral committee mentioned in section 203.
- (5) In this section—
- group of endorsed candidates*, of a registered political party, see section 204(4).

## 16 Insertion of new pt 11, div 1A

Part 11—

*insert—*

## **Division 1A      Provisions about the source of indirect gifts and loans**

### **205A Who is the *source* of an indirect gift or loan**

- (1) An entity is the *source* of a gift (the *ultimate gift*) made to another entity (the *ultimate recipient*) if—
  - (a) the entity makes a gift or loan (the *first gift or loan*) to a person (the *first recipient*); and
  - (b) the entity's main purpose in making the first gift or loan is to enable (directly or indirectly) the first recipient, or another person, to make the ultimate gift to the ultimate recipient; and
  - (c) the first recipient, or another person, makes the ultimate gift to the ultimate recipient; and
  - (d) the first gift or loan enabled (directly or indirectly) the first recipient, or another person, to make the ultimate gift to the ultimate recipient.
- (2) An entity is the *source* of a loan (the *ultimate loan*) made to another entity (the *ultimate recipient*) if—
  - (a) the entity makes a gift or loan (the *first gift or loan*) to a person (the *first recipient*); and
  - (b) the entity's main purpose in making the first gift or loan is to enable (directly or indirectly) the first recipient, or another person, to make the ultimate loan to the ultimate recipient; and

- 
- (c) the first recipient, or another person, makes the ultimate loan to the ultimate recipient; and
  - (d) the first gift or loan enabled (directly or indirectly) the first recipient, or another person, to make the ultimate loan to the ultimate recipient.
- (3) For this part, when the ultimate gift or ultimate loan is made to the ultimate recipient, the gift or loan is taken—
- (a) not to have been made to, or accepted by, the first recipient; and
  - (b) to have been made to, and accepted by, the ultimate recipient.

## **17 Replacement of pt 11, div 2 (Agents)**

Part 11, division 2—

*omit, insert—*

### **Division 2      Agents**

#### **206 Agent of registered political party**

A registered political party must appoint a person to be the agent of the party for this part.

#### **207 Agent of candidate**

- (1) A candidate in an election may appoint a person to be the agent of the candidate, for this part, for the election.
- (2) During any period for which no appointment is in force under subsection (1), the candidate is taken to be the candidate's own agent for this part.
- (3) A person's appointment under subsection (1)

continues until the person's obligations as the candidate's agent for the election end, unless the appointment ends earlier under section 212.

*Note—*

A person's obligations as a candidate's agent under this part may end after the election to which the appointment relates, whether or not the candidate is elected at the election.

### **208 Agent of registered third party**

- (1) A registered third party for an election who is not an individual must appoint an agent, for this part, for the election.
- (2) A registered third party for an election who is an individual may appoint a person to be the third party's agent, for this part, for the election.
- (3) During any period for which no appointment is in force under subsection (2), the third party is taken to be the third party's own agent for this part.
- (4) A person's appointment under subsection (1) continues until the person's obligations as the registered third party's agent for the election end, unless the appointment ends earlier under section 212.

*Note—*

A person's obligations as a registered third party's agent under this part may end after the election for which the third party is registered under division 12.

### **209 Agent of unregistered third party**

- (1) A third party that is not registered for an election may appoint a person to be the third party's agent, for this part, for the election.
- (2) If the third party is an individual, the third party is taken to be the third party's own agent for this part

during any period for which no appointment is in force under subsection (1).

- (3) A person's appointment under subsection (1) continues until the person's obligations as the third party's agent for the election end, unless the appointment ends earlier under section 212.

*Note—*

A person's obligations as a third party's agent under this part may end after the election to which the appointment relates.

## **210 Requirements for registration**

- (1) The appointment of a person as an agent has no effect unless—
- (a) the person is an adult; and
  - (b) the person has—
    - (i) consented to the appointment in writing; and
    - (ii) signed a declaration that the person is eligible for appointment.
  - (c) the commission is given written notice of the appointment that—
    - (i) states the person's name and address; and
    - (ii) includes or is accompanied by the consent and declaration mentioned in paragraph (b).
- (2) A person is not eligible to be appointed, or to hold office, as an agent for this part if the person has been convicted of an offence against this part.

## **211 Register of agents**

- (1) The commission must keep a register called the

register of agents.

- (2) The register of agents must include the name and address of each person appointed as the agent of a registered political party, candidate or third party for this part.
- (3) An entry in the register of agents about a person appointed as the agent of a registered political party, candidate or third party, for this part, is evidence that the person is the agent of the party, candidate or third party.

## **212 Registration of agent**

- (1) The appointment of a person as an agent—
  - (a) takes effect when the person's name is entered in the register of agents; and
  - (b) ends when—
    - (i) the person resigns the person's appointment as agent; or
    - (ii) the entity that appointed the person revokes the person's appointment; or
    - (iii) the person dies; or
    - (iv) the person is convicted of an offence against this part.
- (2) A person's name must not be removed from the register of agents unless—
  - (a) the person gives the commission written notice that the person has resigned the person's appointment as agent; or
  - (b) the entity that appointed the person gives the commission written notice that the person's appointment has been revoked; or
  - (c) the person dies; or



- (d) the person is convicted of an offence against this part; or
  - (e) if the entity that appointed the person is a registered political party or registered third party—the entity’s registration is cancelled.
- (3) If a person’s appointment as the agent of an entity ends, the entity must, within 28 days after the person’s appointment ends, give the commission—
- (a) written notice that states—
    - (i) the person’s appointment has ended; and
    - (ii) the day the appointment ended; and
    - (iii) the reason the appointment ended; and
  - (b) if the entity is required to have an agent under this part—written notice under section 210 of the appointment of another person as the entity’s agent.

### **213 Responsibility for action in absence of agent**

- (1) This section applies if—
  - (a) this part imposes an obligation on the agent of—
    - (i) a registered political party; or
    - (ii) a third party who is not an individual, whether or not the third party is registered under division 12; and
  - (b) the entity does not have an agent for this part.
- (2) Each member of the executive committee (however described) of the entity is responsible for the obligation as if this part applied to the member of the committee.

## **Division 3      Managing political donations and electoral expenditure**

### **Subdivision 1   Preliminary**

#### **214 Application of division**

This division applies to each of the following participants in an election—

- (a) a candidate in the election;
- (b) a registered political party;
- (c) a third party registered for the election;
- (d) another third party if, under section 297, the third party is required to be registered for the election.

### **Subdivision 2   State campaign accounts**

#### **215 Requirement to keep State campaign account**

- (1) The agent of a participant in an election must take all reasonable steps to ensure the participant keeps a separate bank account for the election until each obligation mentioned in subsection (2) that applies to the participant or the participant's agent for the election ends.

Maximum penalty—200 penalty units.

- (2) For subsection (1), the obligations are each obligation under this part that relates to—
  - (a) a political donation made during a donation cap period for the election; or

- (b) electoral expenditure incurred by the election participant; or
  - (c) repayment of a loan that is paid into the participant's State campaign account; or
  - (d) if a political donation of property other than money is made during a donation cap period for the election—the disposal of the property.
- (3) The bank account mentioned in subsection (1) is the election participant's *State campaign account*.

### **216 Payments into State campaign account**

- (1) A person must not pay an amount into the State campaign account of a registered political party or candidate if the person knows, or ought reasonably to know, the amount is not an amount that may be paid into the account under subsection (2).

Maximum penalty—200 penalty units.

- (2) An amount may be paid into the State campaign account of a registered political party or candidate if the amount is—
- (a) an amount of election funding paid to the party or candidate under division 4; or
  - (b) a political donation of money made to, or for the benefit of, the party or candidate, other than a political donation made or received in contravention of division 6 or 8; or
  - (c) an amount received for the disposal of a political donation of property, other than a political donation made or received in contravention of division 6; or

- (d) for the State campaign account of a candidate—an amount contributed by the candidate from the candidate’s own funds or funds held jointly with the candidate’s spouse (other than an amount given to the spouse by a prohibited donor); or
- (e) the amount of a loan to the party or candidate, other than a loan received in contravention of division 8, subdivision 3; or
- (f) an amount that is a return on an investment, or an amount redeemed from an investment, made by the party or candidate if the amount invested was paid from the account; or

*Note—*

See section 218 for the requirement to pay amounts relating to an investment into a State campaign account.

- (g) an amount received by the party or candidate—
  - (i) as a disposition of money by will; or
  - (ii) for the disposal of other property received by the recipient as a disposition by will; or
- (h) a fundraising contribution, other than to the extent the contribution or amount is a political donation; or
- (i) for the State campaign account of a registered political party—
  - (i) an amount of \$500 or less, in total, paid by a person during a calendar year for—
    - (A) the person’s subscription for membership of the party payable during that year; or

- 
- (B) the person's affiliation with the party payable during that year, other than to the extent the amount is paid under a sponsorship arrangement; or
- (ii) an amount paid to the party as a compulsory levy imposed on elected members under the party's constitution; or
- (j) if the party or candidate kept a State campaign account for another election and the amounts paid into that account complied with this section—an amount paid from the other State campaign account.
- (3) A person does not commit an offence against subsection (1) if the person or another person, on becoming aware an amount was paid into a State campaign account in contravention of that subsection, takes all reasonable steps to ensure the amount is withdrawn from the account within 5 business days after becoming aware.
- (4) In this section—  
*disposition*, by will, see the *Succession Act 1981*, section 5.  
*prohibited donor* see section 273(1).

## **217 Requirements for loan amounts paid into State campaign account**

- (1) This section applies if—
- (a) an election participant is a registered political party or candidate; and
- (b) the amount of a loan made to the participant is paid into the participant's State campaign account.
- (2) A person must not pay an amount payable under

the loan unless the person pays the amount from the election participant's State campaign account.

Maximum penalty—200 penalty units.

- (3) If the election participant, or a person acting with the participant's authority, becomes aware an amount is a non-donation loan amount, the participant or person must ensure an amount equal to the non-donation loan amount is withdrawn from the participant's State campaign account within 5 business days after becoming aware.

Maximum penalty—200 penalty units.

- (4) A person does not commit an offence against subsection (2) or (3) if the person has a reasonable excuse.

- (5) In this section—

*amount payable*, under a loan, includes—

- (a) an amount of the principal or interest payable on the loan; and  
(b) a fee, duty or other charge payable for the loan.

*non-donation loan amount* means an amount forgiven on a loan, to the extent the amount is not a political donation.

*Note*—

See section 250(1) for the requirement for an amount to be accompanied by a donor statement to be a political donation.

## **218 Return on investment must be paid into State campaign account**

- (1) This section applies if—
- (a) an election participant is a registered political party or candidate; and

- 
- (b) an amount paid from the participant's State campaign account was invested or reinvested; and
  - (c) the participant, or a person acting with the participant's authority, receives an amount as a return on the investment; and
  - (d) the participant or person knows, ought reasonably to know or becomes aware that the amount is a return on the investment.
- (2) The election participant or person must ensure the amount received is paid into the participant's State campaign account within 5 business days after the participant or person—
- (a) receives the amount; or
  - (b) becomes aware that amount is a return on the investment.

Maximum penalty—200 penalty units.

- (3) A person does not commit an offence against subsection (2) if the person—
- (a) reinvests the amount; or
  - (b) has a reasonable excuse.

- (4) In this section—

*return*, on an amount invested, includes an amount received for the redemption of the investment or part of the investment.

### **Subdivision 3 Managing political donations**

#### **219 Political donations of money must be paid into State campaign account**

- (1) This section applies if a political donation of

money is made to, or for the benefit of, a registered political party or candidate in an election.

- (2) A person who receives the donor statement that accompanies the political donation must ensure the donation is paid into the State campaign account of the party or candidate within 5 business days after receiving the donor statement.

*Note—*

See section 250(1) for the requirement for a political donation to be accompanied by a donor statement.

Maximum penalty—200 penalty units.

- (3) A person does not commit an offence against subsection (2) if the person has a reasonable excuse.

## **220 Requirement to keep records about political donations of other property**

- (1) This section applies if a political donation of property other than money is made to, or for the benefit of, a registered political party or candidate in an election.
- (2) The party or candidate, or a person acting with the authority of the party or candidate, must ensure a record about the political donation that complies with subsection (3) is kept for at least 5 years after the property is disposed of.

Maximum penalty—20 penalty units.

- (3) A record about the political donation must include the following information—
- (a) a description of the donation;
  - (b) the day the donation was received;
  - (c) the value of the donation;



- (d) the name and address of the person who made the donation;
  - (e) if the property has been disposed of—
    - (i) the day of the disposal; and
    - (ii) the amount received for the disposal.
- (4) A person does not commit an offence against subsection (2) if the person has a reasonable excuse.

## **221 Proceeds from disposal of political donation of other property**

- (1) This section applies if—
- (a) a registered political party or candidate in an election receives a political donation of property other than money; and
  - (b) the property is disposed of.
- (2) A person who receives an amount for the disposal of the property must ensure the amount is paid into the State campaign account of the party or candidate within 5 business days after the amount is received.

Maximum penalty—200 penalty units.

- (3) A person does not commit an offence against subsection (2) if the person has a reasonable excuse.

## **Subdivision 4 Managing payment of electoral expenditure**

### **221A Electoral expenditure must be paid from State campaign account**

- (1) If a person knows, or ought reasonably to know,

that an amount to be paid is for electoral expenditure incurred by or for an election participant, the person must ensure the amount is paid from the participant's State campaign account.

Maximum penalty—200 penalty units.

- (2) A person does not commit an offence against subsection (1) if the amount is reimbursed from the participant's State campaign account within 6 weeks after the amount was paid.

## **Subdivision 5 General**

### **221B Notice of State campaign account**

- (1) This section applies if an entity becomes a participant in an election, including because any of the following events happens—
- (a) a political party is registered under part 6;
  - (b) a person becomes a candidate in an election;
  - (c) a third party—
    - (i) is registered for an election; or
    - (ii) incurs electoral expenditure for an election to the extent it becomes a third party that is required, under section 297, to be registered for the election.
- (2) The agent of the election participant must give the commission a notice, in the approved form, about the participant's State campaign account for the election within 5 business days after the entity becomes a participant in the election, unless the agent has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) If a required detail of an election participant's

State campaign account changes, the agent of the participant must give the commission a notice about the change, in the approved form, within 5 business days after the change happens, unless the agent has a reasonable excuse.

Maximum penalty—20 penalty units.

(4) In this section—

*required detail*, of a State campaign account, means a detail about the account required to be stated in the approved form mentioned in subsection (2).

## 18 Amendment of s 222 (Interpretation)

Section 222(1)—

*omit, insert—*

- (1) For this division, electoral expenditure is taken to have been incurred for an election—
  - (a) if the expenditure is incurred for a campaign purpose that relates to the election; and
  - (b) whether or not the expenditure is incurred during the capped expenditure period for the election.

## 19 Amendment of s 223 (Entitlement to election funding—registered political parties)

Section 223(1), ‘6%’—

*omit, insert—*

4%

## 20 Amendment of s 224 (Entitlement to election funding—candidates)

Section 224(1), ‘6%’—

*omit, insert—*

4%

## **21 Amendment of s 225 (Election funding amount)**

Section 225(1)(a)—

*omit, insert—*

- (a) for the financial year that starts on 1 July 2022—
  - (i) if the entity entitled to the funding is a registered political party—\$6.00; or
  - (ii) if the entity entitled to the funding is a candidate—\$3.00; or

## **22 Replacement of pt 11, div 5 (Policy development payments)**

Part 11, division 5—

*omit, insert—*

### **Division 5 Policy development payments**

#### **239 Entitlement to policy development payment—registered political party**

- (1) A registered political party (an *eligible registered political party*) is entitled to a policy development payment for a 6-month period if—
  - (a) the political party was a registered political party on—
    - (i) the polling day for the most recent general election; and
    - (ii) the last day of the period; and
  - (b) the commission is satisfied—

- (i) at least 1 elected member was a candidate endorsed by the political party for the election; and
  - (ii) during the election period for the election, the elected member claimed to be a candidate endorsed by the political party; and
  - (iii) the elected member, or another elected member, is a member of the political party on the last day of the 6-month period.
- (2) This section does not apply if the registered political party has given the commission written notice that the party does not wish to receive policy development payments and has not withdrawn the notice in writing.

#### **240 Entitlement to policy development payment— independent member**

- (1) An elected member is entitled to a policy development payment for a 6-month period if the commission is satisfied the member is an independent member on the last day of the 6-month period.
- (2) An *independent member* is an elected member who—
  - (a) was an independent candidate in the most recent general election; and
  - (b) is not a member of a registered political party.
- (3) This section does not apply if the independent member has given the commission written notice that the member does not wish to receive policy development payments and has not withdrawn the notice in writing.

## 241 Amount of policy development payment

- (1) The amount of policy development payment for a 6-month period, for an eligible registered political party or independent member, is the amount worked out using the following formula—

$$A \times \frac{B}{C}$$

where—

**A** means the amount prescribed under a regulation for this definition.

**B**, for a 6-month period, means the combined vote and seat ratio for the registered political party or independent member worked out under subsection (2) for the period.

**C**, for a 6-month period, means the sum of the combined vote and seat ratios for each eligible registered political party and independent member worked out under subsection (2) for the period.

- (2) The *combined vote and seat ratio* for an eligible registered political party or independent member, for a 6-month period, is the sum of—
- (a) the vote ratio for the party or independent member for the period under section 242; and
  - (b) the seat ratio for the party or independent member for the period under section 243.

## 242 Meaning of *vote ratio* for eligible registered political party or independent member

- (1) The *vote ratio* for an eligible registered political party for a 6-month period is—

- (a) the total number of formal first preference votes given in the most recent general election to each candidate who—
    - (i) was endorsed for the election by the political party; and
    - (ii) polled at least 4% of the total number of formal first preference votes given in the candidate's electoral district;divided by—
  - (b) the total number of relevant first preference votes at that general election.
- (2) The *vote ratio* for an independent member for a 6-month period is—
- (a) the total number of formal first preference votes given to the member in the most recent general election;
- divided by—
- (b) the total number of relevant first preference votes at that general election.
- (3) Each of the following votes is a *relevant first preference vote* at a general election—
- (a) a formal first preference vote given to each candidate in the election who—
    - (i) was endorsed for the election by a registered political party; and
    - (ii) polled at least 4% of the total number of formal first preference votes given in the candidate's electoral district;
  - (b) a formal first preference vote given to an independent candidate in the election who was elected.
- (4) A vote is *given in a candidate's electoral district* if the vote is given to—

- (a) the candidate; or
- (b) another candidate for election in the same electoral district in which the candidate is a candidate for election.

### **243 Meaning of *seat ratio* for eligible registered political party or independent member**

- (1) The *seat ratio* for an eligible registered political party for a 6-month period is the number of eligible seats held by the party worked out under subsection (2), divided by 93.

*Note—*

There are 93 electoral districts in the State—see section 34.

- (2) For subsection (1), the number of eligible seats held by an eligible registered political party for a 6-month period is the number of elected members who, at the most recent general election, were candidates endorsed by the political party.
- (3) The *seat ratio* for an independent member for a 6-month period is 1 divided by 93.

### **244 Payment of policy development payment**

- (1) After the end of a 6-month period, the commission must decide—
  - (a) for each registered political party—whether the party is entitled to a policy development payment for the period under section 239; and
  - (b) for each elected member who is not a member of a registered political party on the last day of the period—whether the member is entitled to a policy development payment for the period under section 240; and



- (c) the amount of the policy development payment to which each eligible registered political party and independent member is entitled under section 241 for the period.
- (2) The commission must, after deciding the matters mentioned in subsection (1) for the 6-month period—
  - (a) give each registered political party a notice that states the commission’s decisions under subsection (1)(a) and (c) for the party; and
  - (b) for each elected member to whom subsection (1)(b) applies—give the member a notice that states the commission’s decisions under subsection (1)(b) and (c) for the member; and
  - (c) pay the policy development payment for the 6-month period to each eligible registered political party and independent member within 1 month after the end of the period.
- (3) However, if a general election is held during a 6-month period and the writ for the election is not returned by the end of the period, the commission must pay a policy development payment for the period within 1 month after the day on which the writ for the election is returned.
- (4) For this division, a person who is elected at a general election is taken to have been elected on the day after the Legislative Assembly was last dissolved before the election was held.

#### **245 Application for reconsideration of decision about policy development payment**

- (1) This section applies if the commission gives a registered political party or elected member a notice about a decision made by the commission under section 244(1)(a), (b) or (c).

- (2) The agent of the registered political party or elected member may apply to the commission for reconsideration of the decision.
- (3) The application must—
  - (a) be in the approved form; and
  - (b) state the reasons for the application; and
  - (c) be made within 1 month after the notice is given.
- (4) On receiving an application, the commission must reconsider the decision and decide to—
  - (a) affirm or vary the decision; or
  - (b) set aside the decision and make a substitute decision.
- (5) The commission must give the agent a notice that states the decision on the reconsideration and the reasons for the decision.

#### **246 Recalculation of policy development payment**

- (1) This section applies if the commission varies a decision, or makes a substitute decision, for a 6-month period under section 245.
- (2) The commission must recalculate the amount of the policy development payment to which each eligible registered political party and independent member is entitled for the 6-month period under section 241.
- (3) The difference between the policy development payment paid to a registered political party or elected member for a 6-month period and the amount calculated under subsection (2) is—
  - (a) if the amount paid is less than the recalculated amount—an underpayment; or

- (b) if the amount paid is more than the recalculated amount—an overpayment.
- (4) The commission must pay the amount of an underpayment to a registered political party or elected member as soon as practicable after the recalculation under subsection (2).
- (5) The amount of an overpayment is payable by a registered political party or elected member to the State and may be recovered as a debt due to the State.
- (6) The commission must give each registered political party and elected member given a notice for the 6-month period under section 244(2) a further notice that states—
  - (a) the commission’s decision on the reconsideration and the reasons for the decision; and
  - (b) the result of the commission’s recalculation under subsection (2); and
  - (c) if the result of the recalculation is an overpayment—
    - (i) that the party or member must repay the amount of the overpayment to the State; and
    - (ii) the commission may recover the amount as a debt due to the State.

## **Division 6                      Political donations and    caps on political donations**

### **Subdivision 1   Preliminary**

### **247 Meaning of *donation cap period***

- (1) The *donation cap period* for a candidate in an election (the *current election*) is the period that—
  - (a) starts—
    - (i) if the candidate was a candidate in a by-election held after the last general election—30 days after the polling day for the last by-election in which the candidate was a candidate; or
    - (ii) otherwise—30 days after the polling day for the last general election; and
  - (b) ends 30 days after the polling day for the current election.
- (2) The *donation cap period* for a registered political party is each period that—
  - (a) starts 30 days after the polling day for a general election; and
  - (b) ends 30 days after the polling day for the next general election.

## **Subdivision 2 Political donations and donation caps**

### **250 Meaning of *political donation***

- (1) A gift or loan is a *political donation* if the gift or loan is—
  - (a) made to, or for the benefit of, a registered political party or candidate in an election; and
  - (b) accompanied by a donor statement.
- (2) However, an amount of electoral expenditure gifted to a registered political party or candidate

in an election is a *political donation* whether or not the gift is accompanied by a donor statement.

- (3) This section applies to a gift or loan made by a person even if the person was outside Queensland when the person made the gift or loan.
- (4) In this division, a reference to a political donation made to a registered political party or candidate in an election includes a political donation made to another person if the donation is made for the benefit of the party or candidate.
- (5) In this section—  
*loan* means a loan made for no consideration or inadequate consideration.

### **251 Meaning of *donor statement***

- (1) A *donor statement* about a gift or loan is a statement about the gift or loan that complies with this section.
- (2) A donor statement about a gift or loan must—
  - (a) be in writing; and
  - (b) be made by the donor of the gift or loan; and
  - (c) name the election participant (the *recipient*) to whom, or for the benefit of whom, the gift or loan is made; and
  - (d) state that the gift or loan is made with the intention that it is used for an electoral purpose; and
  - (e) state the relevant particulars of the donor of the gift or loan; and
  - (f) be given to the recipient with the gift or loan, or within 14 days after the gift or loan is made.
- (3) For subsection (2)(c), if section 205A applies to

the gift or loan, the recipient is the ultimate recipient of the ultimate gift or loan under that section.

(4) In this section—

*donor*, of a gift or loan, means—

- (a) if section 205A applies to the gift or loan—  
the person who made the first gift or loan under that section; or
- (b) otherwise—the person who made the gift or loan.

### **252 Amount of *donation cap***

- (1) The *donation cap* for a registered political party is \$4,000.
- (2) The *donation cap* for a candidate in an election is \$6,000.
- (3) However, if the amount of a donation cap for a registered political party or candidate in an election has been adjusted under section 253, the *donation cap* for a registered political party or candidate is the amount most recently published as the donation cap by the commission under section 253(3).

### **253 Adjustment of donation cap**

- (1) The amount of the donation cap for a registered political party or candidate in an election is adjusted 30 days after the polling day for each general election (the *recent general election*) to the greater of the following amounts—
  - (a) the amount worked out under subsection (2);
  - (b) the amount of the donation cap immediately before it is adjusted under this section.

- (2) The amount is worked out using the following formula—

$$A \times \frac{B}{C}$$

where—

**A** means the amount of the donation cap immediately before it is adjusted under this section.

**B** means the CPI number published for the last quarter that ended before the polling day for the recent general election.

**C** means the CPI number published for the last quarter that ended before the polling day for the previous general election.

- (3) The commission must publish the amount of the donation cap for a registered political party or candidate in an election on its website as soon as practicable after the amount is adjusted under this section.

- (4) In this section—

***previous general election*** means the general election last held before the recent election.

***quarter*** means the following periods in a year—

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September;
- (d) 1 October to 31 December.

### **Subdivision 3 Caps on political donations**

## **254 Caps on political donations made to registered political party**

A person must not, during a donation cap period for a registered political party, make a political donation to, or for the benefit of, the party if the amount or value of the donation exceeds the party's donation cap—

- (a) by itself; or
- (b) when added to the other political donations made by the person to, or for the benefit of, the party during the donation cap period.

*Note—*

Section 257 provides for circumstances in which a person does not commit an offence against this section.

Maximum penalty—200 penalty units.

## **255 Caps on political donations made to candidates**

A person must not, during a donation cap period for an election, make a political donation to, or for the benefit of, a candidate in the election if the amount or value of the donation exceeds the candidate's donation cap—

- (a) by itself; or
- (b) when added to the other political donations made by the person to, or for the benefit of, the candidate during the donation cap period; or
- (c) if the candidate is endorsed by a registered political party for the election—when added to the other political donations made, during the donation cap period, by the person to, or for the benefit of—
  - (i) the candidate; and



- (ii) each other candidate who, when the political donation was made to or for the candidate's benefit, was endorsed by the same party.

*Note—*

Section 257 provides for circumstances in which a person does not commit an offence against this section.

Maximum penalty—200 penalty units.

### **257 Exceptions to ss 254 and 255**

- (1) A person does not commit an offence against section 254 or 255 if, within 6 weeks after the person makes the donation—
  - (a) the person asks the recipient, in writing, to refund or return the donation, or the amount by which the amount or value of the donation exceeds a donation cap mentioned in that section, to the person; or
  - (b) the donation, or the amount by which the amount or value of the donation exceeds a donation cap mentioned in that section, is refunded or returned to the person.
- (2) Sections 254 and 255 do not apply in relation to a political donation if, when it was made, it was a gift to which section 201(4) applied, whether or not it is used for an electoral purpose mentioned in that section.
- (3) In this section—

*recipient* means the entity to whom, or for the benefit of whom, the political donation was made.

### **258 Requirement to notify donor about offence to exceed political donation cap**

- (1) This section applies if a person (the *donor*) makes

a political donation to, or for the benefit of—

- (a) a registered political party; or
  - (b) a candidate in an election; or
  - (c) an associated entity of a registered political party or candidate in an election.
- (2) The party, candidate or associated entity, or a person acting with the authority of the party, candidate or associated entity, must, within 14 days after receiving the donation, give the donor a receipt that—
- (a) states the names of the party, candidate or associated entity, and the donor; and
  - (b) acknowledges the receipt of the donation from the donor; and
  - (c) includes a statement, in the approved form, that summarises the circumstances in which it is an offence, under sections 254 and 255, for a person to make a political donation to, or for the benefit of—
    - (i) a registered political party; or
    - (ii) a candidate in an election; and
  - (d) for a receipt for a political donation made to, or for the benefit of, an associated entity—
    - (i) states the name of the registered political party or candidate of which it is an associated entity; and
    - (ii) includes a statement, in the approved form, that summarises the effect of sections 204 and 204A in relation to the circumstances mentioned in paragraph (c).

Maximum penalty—20 penalty units.

- (3) A person does not commit an offence against

subsection (2) if the person has a reasonable excuse.

- (4) This section applies despite sections 204 and 204A.

### **259 Cap on political donations to registered political parties or candidates that may be accepted**

- (1) This section applies if a person (the *donor*) makes a political donation to, or for the benefit of, a registered political party or candidate in an election during a donation cap period.
- (2) The registered political party or candidate, or a person acting with the authority of the party or candidate, must not accept the political donation if—
- (a) the amount or value of the donation, by itself, exceeds the donation cap of the party or candidate; or
- (b) both of the following apply—
- (i) the amount or value of the donation exceeds the donation cap of the party or candidate when added to the other political donations made by the same donor to, or for the benefit of, the party or candidate during the donation cap period;
- (ii) the person knows, or ought reasonably to know, the donation would exceed the cap in that way.

Maximum penalty—200 penalty units.

- (3) For subsection (2), a political donation of gifted electoral expenditure is accepted when the expenditure is incurred.
- (4) A person does not commit an offence against

subsection (2) if, within 6 weeks after the donation is made, the donation, or the amount by which the amount or value of the donation exceeds the donation cap mentioned in that subsection, is refunded or returned to the donor.

### **259A Recovery of unlawful political donations**

- (1) If a person accepts a political donation in contravention of section 259, the amount by which the amount or value of the donation exceeds a donation cap mentioned in that section is payable to the State.
- (2) The amount may be recovered by the State as a debt due to the State from—
  - (a) if the recipient is a registered political party that is not a corporation—the party’s agent; or
  - (b) if the recipient is a candidate—the candidate or the candidate’s agent; or
  - (c) otherwise—the recipient.
- (3) The imposition of liability to pay an amount to the State under this section—
  - (a) is not a punishment or sentence for an offence against section 259 or any other offence; and
  - (b) is not a matter to which a court may have regard in sentencing an offender for an offence against section 259 or any other offence.
- (4) In this section—

***recipient*** means the entity to whom, or for the benefit of whom, the unlawful donation was made.

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**23 Replacement of s 260A (Who is the *source* of a gift or loan)**

Section 260A—

*omit, insert—*

**260A How division applies to gift for personal use used for electoral purpose**

- (1) This section applies in relation to a gift, to the extent section 201(5) applies to the gift.

*Note—*

Section 201(5) deals with a gift made in a private capacity for the recipient's personal use if the gift, or part of the gift, is later used for an electoral purpose.

- (2) The person who made the gift is not required to comply with a requirement under this division to give the commission a return about the gift.
- (3) A return about the gift given under this division by a person who received the gift must state—
- (a) that, when the gift was made—
    - (i) it was made in a private capacity for the recipient's private use; and
    - (ii) the recipient did not intend to use the gift for an electoral purpose; and
  - (b) the gift was used for the electoral purpose; and
  - (c) the day on which the gift was used for the electoral purpose.
- (4) In this section—  
*electoral purpose* see section 201(6).

**24 Relocation and renumbering of s 260B (Donor must disclose source of gift or loan)**

Section 260B—

*relocate* to part 11, division 1A, as inserted by this Act, and *renumber* as section 205B.

## **24A Amendment of s 261 (Disclosure by candidates of gifts)**

Section 261(1)—

*insert—*

*Notes—*

- 1 Section 204A does not apply to an associated entity of a candidate in an election for this division.
- 2 See section 294 for the requirement for a return about a gift received by an associated entity of a candidate to be given to the commission.

## **25 Amendment of s 262 (Loans to candidates)**

(1) Section 262(1), ‘, other than an exempt loan, with a value’—

*omit, insert—*

of an amount

(1A) Section 262(1)—

*insert—*

*Notes—*

- 1 Section 204A does not apply to an associated entity of a candidate in an election for this division.
- 2 See section 294 for the requirement for a return about a loan received by an associated entity of a candidate to be given to the commission.

(2) Section 262(3)(a), ‘, other than exempt loans,’—

*omit.*

(3) Section 262(5)—

*omit.*

**26 Amendment of s 263 (Disclosure of gifts by third parties that incur expenditure for political purposes)**

(1) Section 263, heading—

*omit, insert—*

**263 Disclosure by third party of gifts used for expenditure for political purposes**

(2) Section 263(2), ‘stating the relevant details of any’—

*omit, insert—*

about a

(3) Section 263(2), from ‘period that’—

*omit, insert—*

period if—

- (a) the value of the gift is equal to or more than the gift threshold amount; and
- (b) the third party uses the gift, or part of the gift with a value equal to or more than the gift threshold amount—
  - (i) to incur expenditure for a political purpose; or
  - (ii) to reimburse the third party for expenditure incurred for a political purpose.

(4) Section 263(3), after paragraph (a)—

*insert—*

(aa) state—

- (i) the value of the gift; and
- (ii) when the gift was made; and
- (iii) the relevant particulars of the person who gave the gift; and

(5) Section 263(3)(aa) and (b)—

*renumber* as section 263(3)(b) and (c).

(6) Section 263—

*insert*—

(4) For this section, expenditure is incurred for a political purpose if the expenditure incurred is—

- (a) electoral expenditure; or
- (b) a gift made to, or for the benefit of, a political party or candidate in an election; or
- (c) a gift made to, or for the benefit of, another person to enable the other person, or someone else, to use all or part of the gift for a purpose mentioned in paragraph (a) or (b).

(7) Section 263(5)—

*omit*.

(8) Section 263(6)—

*renumber* as section 263(5).

## **27 Amendment of s 265 (Gifts to political parties)**

(1) Section 265(7)—

*omit*.

(2) Section 265(8), ‘(including subsection (7)(d))’—

*omit*.

(3) Section 265(12) to (15)—

*omit, insert*—

- (12) If a registered political party receives a gift from an entity for which a return is required under this section, the party must, as soon as practicable after receiving the gift, give the entity a notice that states the entity is required to give the commission a return about the gift under this section.



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Maximum penalty—20 penalty units.

**28 Omission of pt 11, div 7, sdiv 3 (Disclosure of large gifts)**

Part 11, division 7, subdivision 3—

*omit.*

**29 Replacement of pt 11, div 8, sdiv 3 (Loans from entities other than financial institutions)**

Part 11, division 8, subdivision 3—

*omit, insert—*

**Subdivision 3 Records to be kept about loans**

**272 Requirement to keep record about loan received**

- (1) This section applies if a loan of an amount that equals or exceeds the gift threshold amount is received—
  - (a) by or for a registered political party; or
  - (b) by or for an associated entity of a registered political party; or
  - (c) by or for a candidate in an election during the disclosure period for the election.
- (2) The following person must keep a record that complies with subsection (3) about the loan—
  - (a) for a loan received by or for a registered political party—the agent of the party;
  - (b) for a loan received by or for an associated entity of a registered political party—the financial controller of the entity;

- (c) for a loan received by or for a candidate in an election—the agent of the candidate.
- (3) The record about the loan must include—
  - (a) the amount of the loan; and
  - (b) the terms and conditions of the loan; and
  - (c) if the loan was received from a registered industrial organisation—
    - (i) the name of the organisation; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the organisation; and
  - (d) the relevant particulars of the entity that made the loan; and
  - (e) if the entity that made the loan is not the source of the loan—the relevant particulars of the entity that is the source of the loan.
- (4) If a person contravenes subsection (2) in relation to a loan—
  - (a) the receipt of the loan is taken to have been unlawful; and
  - (b) the amount of the loan is payable by the person to the State.
- (5) The amount may be recovered by the State as a debt due to the State from—
  - (a) for a loan received by or for a registered political party that is not a corporation—the agent of the party; or
  - (b) for a loan received by or for an associated entity of a registered political party that is not a corporation—the financial controller of the entity; or

- (c) for a loan received by or for a candidate in an election—the candidate or the agent of the candidate; or
- (d) otherwise—the entity that received the loan or for whose benefit the loan was received.

### **30 Amendment of s 274 (Meaning of *political donation*)**

- (1) Section 274(1)(a)(ii)—  
*omit.*
- (2) Section 274(1)(a)(iii)—  
*renumber* as section 274(1)(a)(ii).
- (3) Section 274(1)(c), ‘other than a financial institution’—  
*omit.*
- (4) Section 274(2) and (3)—  
*omit.*
- (5) Section 274(4), ‘section 201(4)(a) and (b)’—  
*omit, insert—*  
section 201(3)(b)
- (6) Section 274(5), ‘section 201(4)(d)’—  
*omit, insert—*  
section 201(3)(c)
- (7) Section 274(4) and (5)—  
*renumber* as section 274(2) and (3).

### **31 Insertion of new pt 11, div 9**

Part 11—

*insert—*

#### **Division 9**

#### **Caps on electoral expenditure**

## Subdivision 1 Preliminary

### 280 Meaning of *capped expenditure period*

- (1) The *capped expenditure period*, for an election, starts—
  - (a) for an ordinary general election—on the first business day after the last Saturday in the preceding March; or
  - (b) for an extraordinary general election—
    - (i) if the capped expenditure period for an ordinary general election has started under paragraph (a)—the day that capped expenditure period started; or
    - (ii) otherwise—the day the writ for the election is issued; or
  - (c) for a by-election—the day the writ for the election is issued.
- (2) The *capped expenditure period*, for an election, ends at 6p.m. on the later of—
  - (a) the polling day for the election; or
  - (b) if the poll at a polling booth for an election is adjourned under section 99B(3) or 100(1)—the day the adjourned poll is held.
- (3) Subsection (2)(b) applies despite section 100(6).
- (4) In this section—

*preceding March*, in relation to an ordinary general election, means the March that occurs in the same calendar year as the normal polling day for the general election.

### **280A Election participant is taken to have incurred gifted electoral expenditure**

- (1) If electoral expenditure incurred by a person is gifted to a participant in an election, the election participant is taken to have incurred the electoral expenditure.

*Note—*

Section 200B provides for when electoral expenditure incurred by a person is gifted to a participant in an election.

- (2) Section 281 applies for determining when gifted electoral expenditure is incurred.

### **281 When electoral expenditure is incurred**

- (1) For this part, electoral expenditure is incurred when the goods or services for which the expenditure is incurred are supplied or provided, regardless of when the amount of the expenditure is invoiced or paid.
- (2) Without limiting subsection (1)—
  - (a) expenditure on advertising is incurred when the advertisement is broadcast or published; and
  - (b) expenditure on the production and distribution of election material is incurred when the material is distributed; and
  - (c) expenditure of another kind is incurred at the time prescribed by regulation.
- (3) Subsection (4) applies if—
  - (a) electoral expenditure is incurred to obtain goods; and
  - (b) the goods are obtained for the dominant purpose of being used for a campaign

- purpose in relation to 1 or more elections;  
and
- (c) the goods are supplied before the capped expenditure period starts.
- (4) Despite subsection (1), the electoral expenditure is taken to have been incurred when the goods are first used for a campaign purpose during a capped expenditure period, regardless of when the amount of the expenditure is invoiced or paid.
- (5) For this section, the electoral expenditure incurred to obtain goods includes electoral expenditure incurred to design, produce, print or distribute the goods.

### **281A Electoral expenditure incurred for another election participant**

- (1) This section applies if a participant in an election (the *first election participant*) incurs electoral expenditure that benefits another election participant (the *recipient*).
- (2) For this division, if the first election participant gifts the electoral expenditure to the recipient, the electoral expenditure is incurred by the first election participant.
- (3) However, for this division, the recipient is taken to have incurred the electoral expenditure if—
  - (a) any of the following apply—
    - (i) the expenditure is incurred with the recipient's authority or consent;
    - (ii) the recipient accepts election material that results from the expenditure;
    - (iii) another circumstance prescribed by regulation happens in relation to the expenditure being incurred; and

- (b) the first election participant invoices the recipient for payment for the amount of the expenditure.
- (4) Section 281 applies for determining when the election expenditure is incurred.

### **281B When electoral expenditure of registered political party or third party relates to an electoral district**

- (1) Electoral expenditure incurred by a registered political party or a third party relates to an election for an electoral district if the expenditure is for advertising or other election material for the election that—
  - (a) is communicated to electors in the electoral district; and
  - (b) is not mainly communicated to electors outside the electoral district.
- (2) However, electoral expenditure mentioned in subsection (1) does not relate to an electoral district if the expenditure is for carrying out an opinion poll or research.

## **Subdivision 2 Amount of expenditure caps for election participants**

### **281C Amount of expenditure cap—registered political party and endorsed candidate**

- (1) The *expenditure cap*, for a general election, for a registered political party is—
  - (a) generally—the amount that is \$92,000 multiplied by the number of electoral

districts for which the party has endorsed a candidate in the election; and

- (b) for an electoral district—\$92,000.
- (2) The *expenditure cap*, for a general election, for a candidate endorsed by a registered political party for an electoral district in the election is—
- (a) if 2 or more candidates are endorsed concurrently by the party for the electoral district—the amount that is \$58,000 divided by the number of candidates concurrently endorsed; or
  - (b) otherwise—\$58,000.
- (3) The *expenditure cap*, for a by-election, for a candidate endorsed by a registered political party is—
- (a) if 2 or more candidates are endorsed concurrently by the party for the by-election—the amount that is \$87,000 divided by the number of candidates concurrently endorsed; or
  - (b) otherwise—\$87,000.
- (4) However, if the amount of an expenditure cap mentioned in subsection (1), (2) or (3) has been adjusted under section 281F, the *expenditure cap* for a registered political party or candidate endorsed by a registered political party, for an election, is the amount most recently published as the expenditure cap by the commission under section 281F(3).

### **281D Amount of expenditure cap—*independent candidate***

- (1) The *expenditure cap* for an independent candidate for a general election or by-election is \$87,000.



- (2) However, if the amount of the expenditure cap mentioned in subsection (1) has been adjusted under section 281F, then the *expenditure cap* for an independent candidate, for a general election or by-election, is the amount most recently published as the expenditure cap by the commission under section 281F(3).

### **281E Amount of expenditure cap—registered third party**

- (1) The *expenditure cap* for a registered third party for a general election is—
  - (a) generally—\$1m; and
  - (b) for an electoral district—\$87,000.
- (2) The *expenditure cap* for a registered third party for a by-election is \$87,000.
- (3) However, if the amount of the expenditure cap mentioned in subsection (1) or (2) has been adjusted under section 281F, then the *expenditure cap* for a registered third party, for an election, is the amount most recently published as the expenditure cap by the commission under section 281F(3).

### **281F Adjustment of expenditure caps for election participants**

- (1) The amount of an election participant's expenditure cap for an election—
  - (a) is adjusted under this section 30 days after the polling day for a general election (the *recent general election*); and
  - (b) as adjusted under this section applies for each election that is held until the amount is next adjusted under this section.

- (2) The election participant's expenditure cap is adjusted to the amount worked out using the following formula—

$$A \times \frac{B}{C}$$

where—

**A** means the amount of the expenditure cap immediately before it is adjusted under this section.

**B** means the CPI number published for the last quarter that ended before the polling day for the recent general election.

**C** means the CPI number for the last quarter that ended before the polling day for the previous general election.

- (3) The commission must publish the amount of an election participant's expenditure cap as adjusted under this section on its website as soon as practicable after it is adjusted.

- (4) In this section—

**previous general election** means the general election that was last held before the recent general election.

**quarter** means the following periods in a year—

- (a) 1 January to 31 March;
- (b) 1 April to 30 June;
- (c) 1 July to 30 September;
- (d) 1 October to 31 December.

### **Subdivision 3 Caps on electoral expenditure**

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### **281G Cap on electoral expenditure during capped expenditure period**

- (1) A participant in an election, or a person acting with the participant's authority, must not incur electoral expenditure during the capped expenditure period for the election if—
  - (a) the amount of the expenditure, by itself, exceeds the participant's expenditure cap; or
  - (b) both of the following apply—
    - (i) the amount of the expenditure exceeds the participant's expenditure cap when added to other electoral expenditure incurred by the participant or with the participant's authority during the capped expenditure period;
    - (ii) the participant or person knows, or ought reasonably to know, the amount would exceed the cap in that way.

Maximum penalty—1,500 penalty units or 10 years imprisonment.

- (2) If an expenditure cap mentioned in subsection (1) relates to an electoral district, a reference in that subsection to electoral expenditure is a reference to electoral expenditure for the electoral district.
- (3) An offence against subsection (1) is a crime.

### **281H Electoral expenditure of unregistered third party restricted to \$6,000**

- (1) This section applies to a third party that is not registered for an election.
- (2) The third party, or a person acting with the third party's authority, must not incur electoral expenditure during the capped expenditure period for the election if—

- (a) the amount of the expenditure, by itself, exceeds \$6,000; or
- (b) both of the following apply—
  - (i) the amount of the expenditure exceeds \$6,000 when added to other electoral expenditure incurred by the third party or with the third party's authority during the capped expenditure period;
  - (ii) the third party or person knows, or ought reasonably to know, the amount would exceed the cap in that way.

Maximum penalty—the greater of the following amounts—

- (a) the amount that is equal to twice the amount by which the electoral expenditure exceeded \$6,000;
- (b) 200 penalty units.

### **281I Expenditure cap exceeded because of aggregation of electoral expenditure**

- (1) A participant in an election, or a person acting with the participant's authority, who incurs electoral expenditure does not commit an offence against section 281G in relation to the expenditure if—
  - (a) the expenditure exceeds the participant's expenditure cap because it is added to aggregated expenditure; and
  - (b) the person did not know, and could not reasonably have known, about the aggregated expenditure.
- (2) In this section—

*aggregated expenditure*, for an election participant, means electoral expenditure that is

taken to have been incurred for the election participant under subdivision 4 even though the expenditure was incurred by another election participant.

### **281J Recovery of unlawful electoral expenditure**

- (1) If a person incurs unlawful electoral expenditure, the amount that is twice the amount of the unlawful electoral expenditure is payable to the State.
- (2) The amount may be recovered by the State as a debt due to the State from—
  - (a) if the person is a registered political party that is not a corporation—the party’s agent; or
  - (b) if the person is a candidate—the candidate or the candidate’s agent; or
  - (c) if the person is a third party that is not a corporation—the third party’s agent; or
  - (d) otherwise—the person.
- (3) The imposition of liability to pay an amount to the State under this section—
  - (a) is not a punishment or sentence for an offence against section 281G or 281H or any other offence; and
  - (b) is not a matter to which a court may have regard in sentencing an offender for an offence against section 281G or 281H or any other offence.
- (4) In this section—

***unlawful electoral expenditure*** means electoral expenditure incurred in contravention of section 281G or 281H, to the extent the expenditure exceeds the expenditure cap mentioned in that

section.

## **Subdivision 4 Aggregation of electoral expenditure**

### **281K Electoral expenditure incurred by elected members not contesting election**

- (1) This section applies if an elected member who is a member of a registered political party—
  - (a) announces or otherwise publicly indicates the member's intention not to be a candidate in an election before the cut-off day for nomination of candidates for the election; or
  - (b) does not become a candidate for an election when the names of the persons properly nominated for election for each electoral district are displayed under section 93.
- (2) For section 281G, electoral expenditure incurred by or for the elected member during the capped expenditure period for the election is taken to have been incurred by or for the registered political party.

### **281L Electoral expenditure for candidate endorsed by registered political party for by-election**

- (1) This section applies if a registered political party endorses a candidate for a by-election.
- (2) For section 281G, electoral expenditure incurred by or for the registered political party during the expenditure cap period for the by-election is taken to have been incurred by or for the candidate.

**32 Amendment of pt 11, div 10, hdg (Disclosure of expenditure)**

Part 11, division 10, heading, after ‘Disclosure of’—  
*insert—*

**electoral**

**33 Omission of ss 282 and 282A**

Sections 282 and 282A—  
*omit.*

**34 Replacement of s 283 (Returns of electoral expenditure)**

Section 283—  
*omit, insert—*

**283 Returns of electoral expenditure**

- (1) Within 15 weeks after the polling day for an election, the agent of the following election participants must give the commission a return, in the approved form, about the electoral expenditure incurred for the election by the participant, or a person acting with the participant’s authority—
  - (a) a registered political party;
  - (b) a candidate in the election;
  - (c) an associated entity of a registered political party or candidate in the election;
  - (d) a registered third party for the election;
  - (e) another third party if, under section 297, the third party is required to be registered for the election.
- (2) The return must state the following details about each item of electoral expenditure incurred for the

election—

- (a) the name and business address of the person who supplied the goods or services to which the expenditure relates;
  - (b) a description of the goods or services;
  - (c) the amount of the expenditure;
  - (d) when the expenditure was incurred.
- (3) Also, the return must be accompanied by a copy of each bank statement for the election participant's State campaign account—
- (a) for the period that—
    - (i) starts when the capped expenditure period for the election starts; and
    - (ii) ends on the day before the return is given to commission; and
  - (b) for an earlier period that includes a transaction related to an item of electoral expenditure incurred for the election.
- (4) For subsection (2), a reference to electoral expenditure incurred by or for an electoral participant includes electoral expenditure that is taken to have been incurred by the participant under section 281K or 281L.
- (5) If no electoral expenditure was incurred for the election by or for the election participant, a return given to the commission under subsection (1) must state that fact.
- (6) For this section, it does not matter whether electoral expenditure for an election is incurred during the capped expenditure period for the election.
- (7) For this section—



- (a) a reference to a participant in an election includes a reference to an associated entity of a registered political party or candidate in the election; and
- (b) a reference to the agent of a participant in an election includes a reference to the financial controller of an associated entity of a party or candidate.

### **35 Amendment of s 284 (Returns by broadcasters)**

(1) Section 284, before subsection (1)—

*insert—*

(1A) This section applies to a broadcaster—

- (a) who broadcasts an advertisement relating to an election—
  - (i) with the authority of a participant in the election; and
  - (ii) during the capped expenditure period for the election; and
- (b) even if the broadcaster is outside Queensland when the advertisement is broadcast.

(2) Section 284(1), from ‘If an election’ to ‘the end of’—

*omit, insert—*

The broadcaster must, within

(3) Section 284(2)—

*omit.*

(4) Section 284(3), ‘subsection (1)’—

*omit, insert—*

subsection (2)

(5) Section 284(6), ‘In subsections (4) and (5)’—

*omit, insert—*

In this section

- (6) Section 284(1A) and (1)—

*renumber* as section 284(1) and (2).

### **36 Amendment of s 285 (Returns by publishers)**

- (1) Section 285, before subsection (1)—

*insert—*

(1A) This section applies to the publisher of a journal—

(a) who publishes an advertisement relating to an election—

(i) with the authority of a participant in the election; and

(ii) during the capped expenditure period for the election; and

(b) even if the publisher is outside Queensland when the advertisement is published.

- (2) Section 285(1), from ‘If an election’ to ‘the end of’—

*omit, insert—*

The publisher must, within

- (3) Section 285(2)—

*omit.*

- (4) Section 285(1A) and (1)—

*renumber* as section 285(1) and (2).

- (5) Section 285(3) and (4), ‘subsection (1)’—

*omit, insert—*

subsection (2)

- (6) Section 285—

---

*insert—*

(5) In this section—

***journal*** means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

### **37 Omission of s 286 (Nil returns)**

Section 286—

*omit.*

### **38 Amendment of s 290 (Returns by registered political parties)**

(1) Section 290(1), ‘, or received before the commencement,’—

*omit.*

(2) Section 290(1)(a) and (2)(b)(i), ‘amount or’—

*omit.*

(3) Section 290(1)(b), from ‘, other than’ to ‘the loan is’—

*omit, insert—*

of an amount

(3A) Section 290(1)—

*insert—*

*Notes—*

- 1 Section 204 does not apply to an associated entity of a registered political party for this division.
- 2 See section 294 for the requirement for a return about a gift or loan received by an associated entity of a registered political party to be given to the commission.

(4) Section 290(2)(b)—

*insert—*

- (iii) if the entity is not the source of the gift—the relevant particulars of the entity that is the source of the gift; and

(5) Section 290—

*insert—*

- (5) A return under subsection (4) must be accompanied by a copy of each bank statement for the registered political party’s State campaign account that relates to any part of the reporting period.

### **39 Amendment of s 291 (Amounts received)**

(1) Section 291(1), from ‘For a return’ to ‘political party’—

*omit, insert—*

For a return for a registered political party under section 290(4), or a return for an associated entity under section 294(4), if the sum of all amounts received

(2) Section 291(3), from ‘are the amount’—

*omit, insert—*

are—

- (a) the amount of the sum; and
- (b) if the sum received was a gift—
  - (i) the relevant particulars of the entity that gave the sum; and
  - (ii) if the entity is not the source of the sum—the relevant particulars of the entity that is the source of the sum; and
- (c) if the sum received was a loan—
  - (i) if the sum was borrowed from a financial institution—the name of the

financial institution from which the sum was borrowed; or

- (ii) otherwise—the information required to be kept under section 272(3) about the loan.

#### **40 Amendment of s 292 (Amounts paid)**

Section 292(1), from ‘For a return’ to ‘political party’—  
*omit, insert—*

For a return for a registered political party under section 290(4), or a return for an associated entity under section 294(4), if the sum of all amounts paid

#### **41 Amendment of s 293 (Outstanding amounts)**

Section 293, from ‘For a return’ to ‘political party’—  
*omit, insert—*

For a return for a registered political party under section 290(4), or a return for an associated entity under section 294(4), if the sum of all outstanding debts

#### **42 Replacement of s 294 (Returns by associated entities)**

Section 294—  
*omit, insert—*

##### **294 Returns by associated entity of registered political party or candidate**

- (1) The financial controller of an entity must give the commission a return about a gift or loan if—
  - (a) the entity receives the gift or loan—
    - (i) during a reporting period; and

- (ii) when the entity is an associated entity of a registered political party or candidate in an election; and
  - (b) the value of the gift or amount of the loan is equal to or more than the gift threshold amount.
- (2) The return must—
  - (a) be in the approved form; and
  - (b) for a return about a gift—state the following—
    - (i) the value of the gift;
    - (ii) the relevant particulars of the entity that made the gift;
    - (iii) if the entity is not the source of the gift—the relevant particulars of the entity that is the source of the gift; and
  - (c) for a return about a loan—state the information required to be kept under section 272(3) about the loan; and
  - (d) be given to the commission by the day, or the time, not more than 8 weeks after the end of the reporting period in which the gift or loan was received, prescribed by regulation.
- (3) For subsection (1)—
  - (a) 2 or more gifts made during a reporting period by the same entity to the associated entity are taken to be 1 gift; and
  - (b) 2 or more loans made during a reporting period by the same entity to the associated entity are taken to be 1 loan.
- (4) Also, if an entity was an associated entity of a registered political party or candidate in an election at any time during a reporting period, the

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financial controller of the entity must, within 8 weeks after the end of a reporting period, give the commission a return, in the approved form, that states—

- (a) the total amount received by or for the associated entity from all other entities during the reporting period; and
- (b) the total amount paid by or for the associated entity to all other entities during the reporting period; and
- (c) if the entity is an associated entity of a registered political party or candidate in an election at the end of the reporting period, the total amount outstanding at the end of the reporting period of all debts incurred by or for the entity to all other entities.

*Note—*

Additional information may be required to be included in the return under section 291, 292 or 293.

- (5) A reference in subsection (4)(a) or (b) to an amount received or paid does not include an amount received or paid when the entity was not an associated entity of a registered political party or candidate in an election.

## **43 Insertion of new pt 11, divs 12–12B**

Part 11—

*insert—*

### **Division 12 Registration of third parties**

#### **297 Requirement for registration**

- (1) A third party must be registered for an election under this part if the electoral expenditure

incurred by, or with the authority of, the third party during the capped expenditure period for the election exceeds \$6,000.

- (2) To remove any doubt, it is declared that a third party does not commit an offence against this Act or another Act only because the person fails to register for an election under subsection (1).

*Note—*

A third party that is not registered for an election commits an offence if it incurs electoral expenditure of more than \$6,000 during the capped expenditure period for the election. See section 281H.

## **298 Register of third parties**

- (1) The commission must, for each election, keep a register of the third parties registered for the election under this part.
- (2) A register kept under subsection (1)—
  - (a) is called the register of third parties for the election for which the register is kept; and
  - (b) must be kept up to date; and
  - (c) may be kept in the way and form the commission considers appropriate.
- (3) The commission must publish a register of third parties for an election on the commission's website.

*Note—*

See section 388A for restrictions that apply to information published by the commission.

## **299 Application for registration**

- (1) A third party that intends to incur electoral expenditure for an election may apply to the commission for registration for the election.



*Note—*

See sections 281E and 281H, which provide for different caps for the amount of electoral expenditure that may be incurred by registered third parties and third parties that are not registered under this division.

- (2) The application must—
  - (a) be in the approved form; and
  - (b) include the details prescribed by regulation for the application; and
  - (c) if the third party is not an individual—be accompanied by an appointment of an individual as the third party’s agent under division 2; and
  - (d) be made to the commission before the polling day for the election.

### **300 Deciding application**

- (1) As soon as practicable after receiving a third party’s application under section 299 (the *application*), the commission must decide to approve or refuse the application.
- (2) The commission must refuse the application if it was not made before the day required under section 299(2)(d).
- (3) Otherwise, the commission may refuse the application only if it is incomplete or incorrect.

### **301 Registration**

- (1) This section applies if the commission decides to approve the application.
- (2) As soon as practicable after making the decision, the commission must—

- (a) enter the details about the third party stated in the application in the register of third parties kept for the election; and
- (b) give the third party written notice that the third party has been registered for the election.

### **302 Decision to refuse application**

- (1) If the commission decides to refuse the application, the commission must give the third party written notice of the decision as soon as practicable after making the decision.
- (2) The notice must state—
  - (a) the commission has decided to refuse the application for registration; and
  - (b) the reason for the refusal; and
  - (c) if the reason for the refusal is the application is incomplete or incorrect—that the third party may—
    - (i) amend the application in the way stated in the notice; and
    - (ii) resubmit the application to the commission within 30 days after receiving the notice.
- (3) An application that is amended and resubmitted to the commission under subsection (2)(c) is taken to have been made on the day the original application was made.

### **303 Obligation to notify commission of change to details**

- (1) If a relevant detail about a registered third party changes, the agent of the third party must give the commission notice, in the approved form, about

the change within 30 days after the change happens.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence against subsection (1) if the person has a reasonable excuse.
- (3) In this section—  
*relevant detail*, about a registered third party, means—
  - (a) a detail about the third party stated in the party's application for registration for an election; or
  - (b) if a detail mentioned in paragraph (a) has been the subject of a notice under subsection (1)—the changed detail as stated in the notice.

### **304 Cancellation of registration**

- (1) The agent of a third party may ask the commission, in writing, to cancel the third party's registration for an election.
- (2) The commission must cancel the third party's registration for the election if the commission is satisfied that the obligations that apply to the third party for the election under this part have ended.
- (3) If the commission cancels the registration, the commission must—
  - (a) record the cancellation and the day of the cancellation in the register; and
  - (b) give the third party notice about the cancellation.
- (4) The cancellation takes effect on—
  - (a) the day the third party receives the notice; or

- (b) a later day stated in the notice.
- (5) If the commission refuses to cancel the registration, the commission must give the third party a notice that states the commission's decision and reasons for the decision.

## **Division 12A Records to be kept**

### **305 Definitions for division**

*participant*, in an election, includes an associated entity of a registered political party or candidate in an election.

*prescribed matter*, in relation to a participant in an election, see section 305AA.

### **305AA Meaning of *prescribed matter***

- (1) Each of the following is a *prescribed matter* in relation to a participant in an election, other than a third party—
  - (a) a political donation made to, or for the benefit of, the participant;
  - (b) a gift or loan that is not a political donation made to, or for the benefit of, the participant;
  - (c) a gift, loan or political donation made by the election participant to another participant in the election;
  - (d) electoral expenditure incurred by the election participant or with the participant's authority;
  - (e) without limiting paragraph (a), (b), (c) or (d), a return given, or required to be given, by or for the election participant under

- 
- division 7, 10 or 11 and the matters required to be stated in the return;
- (f) for a registered third party or candidate in the election—
    - (i) a claim made by the party or candidate under division 4 and the matters required to be stated in the claim; or
    - (ii) an amount of policy development funding paid to the party or candidate under division 5; or
    - (iii) an application for reconsideration of a decision made under section 245; or
    - (iv) an amount paid into or from the party's or candidate's State campaign account;
  - (g) another matter prescribed by regulation to be a prescribed matter in relation to the election participant.
- (2) Also, each of the following is a *prescribed matter* in relation to a third party for an election—
- (a) a gift made to, or for the benefit of, the third party about which the third party is required to give the commission a return under section 263;
  - (b) electoral expenditure incurred by the third party, or with the third party's authority, during the capped expenditure period for the election;
  - (c) without limiting paragraph (a) or (b), a return given, or required to be given, by or for the third party under division 7 or 10 and the matters required to be stated in the return;
  - (d) for a registered third party for the election—  
an amount paid from the third party's State campaign account;

- (e) another matter prescribed by regulation to be a prescribed matter in relation to a third party for the election.

### **305AB Records to be kept by election participants**

- (1) A participant in an election must make, or ensure a person authorised by the participant makes, a record about each prescribed matter that—
  - (a) includes the information necessary to demonstrate, to the greatest extent practicable, the election participant complied with this part in relation to the prescribed matter; and
  - (b) without limiting paragraph (a), includes the information prescribed by regulation to be information to be included in the record; and
  - (c) complies with section 305C.

Maximum penalty—20 penalty units.

- (2) For subsection (1), it does not matter whether or not a return about a prescribed matter is required to be given to the commission under this part.

### **305AC Records to be kept by agents of participants in elections**

The agent of a participant in an election must make a record about the agent's compliance with section 306B that—

- (a) includes the information necessary to demonstrate, to the greatest extent practicable, each step taken by the agent to comply with section 306B; and
- (b) without limiting paragraph (a), includes the information prescribed by regulation to be information to be included in the record; and

(c) complies with section 305C.

Maximum penalty—20 penalty units.

### **305A Records to be kept about advertisements or other election matter**

(1) This section applies if—

- (a) electoral expenditure was incurred to print, publish or broadcast an advertisement or other election material; and
- (b) a person is required to give the commission a return about the expenditure under section 283.

(2) The person must make a record, that complies with subsection (3) and section 305C, about the printing, publishing or broadcast of the advertisement or other election material.

Maximum penalty—20 penalty units.

(3) The record must—

- (a) be accompanied by a copy of the advertisement or other material; and
- (b) contain—
  - (i) a description of the audience to which the advertisement or other material was distributed, published or broadcast; and
  - (ii) other details about the advertisement or other material, or its distribution, publication or broadcast, required by regulation; and
  - (iii) if the distribution, publication or broadcast relates to the election for an electoral district—the name of the electoral district.

### **305B Records to be kept by broadcaster or publisher**

- (1) This section applies to—
  - (a) a broadcaster who is required to give the commission a return under section 284; or
  - (b) a publisher who is required to give the commission a return under section 285.
- (2) The broadcaster or publisher must make a record, that complies with section 305C, about the return and the matters required to be stated in the return.

Maximum penalty—20 penalty units.

### **305C Requirements for records**

A record under section 305AB or 305AC must—

- (a) be in English; and
- (b) be accurate; and
- (c) be made in—
  - (i) paper or electronic form; or
  - (ii) another form approved by the commission by notice published on the commission's website; and
- (d) be made in a way that allows it to be—
  - (i) conveniently and properly investigated or examined by an authorised officer under this part; and
  - (ii) readily given, under this part, to an auditor appointed to conduct an audit under section 319A.

### **305D Record must be kept for 5 years**

- (1) This section applies to—



- (a) a person who makes a record that the person is required to make under this division; and
  - (b) for a record made by or for a participant in an election under this division—a person to whom the record is transferred, by or with the authority of the participant, in the ordinary course of the participant’s business or administration.
- (2) The person must keep the record, unless the person has a reasonable excuse—
- (a) for 5 years after the day the record is made; and
  - (b) in a way that allows the record to be—
    - (i) conveniently and properly investigated or examined by an authorised officer under this part; and
    - (ii) readily given, under this part, to an auditor appointed to conduct an audit under section 319A.

Maximum penalty—20 penalty units.

### **305E Division does not limit other record-keeping provisions**

This division does not limit another provision of this Act about making or keeping a record.

## **Division 12B Registers to be kept**

### **305F Register of non-monetary gifts**

- (1) A participant in an election must keep an up-to-date register, that complies with this section, of non-monetary gifts.

Maximum penalty—20 penalty units.

- (2) The register must contain a record about each non-monetary gift made to, or for the benefit of, the election participant that—
  - (a) includes the particulars prescribed by regulation; and
  - (b) for a register kept by an election participant other than a third party—states whether the gift was a political donation made or received in contravention of section 259.
- (3) Subsection (2) applies to a non-monetary gift made to, or for the benefit of, a third party only if the third party is required to give the commission a return about the gift under section 263.
- (4) In this section—

***non-monetary gift*** means a gift of property other than money.

***participant***, in an election, includes an associated entity of a registered political party or candidate in an election.

### **305G Register of members and affiliates of registered political parties**

- (1) A registered political party must keep an up-to-date register, that complies with this section, of subscribed members and affiliates.

Maximum penalty—20 penalty units.
- (2) The register must contain a record that includes the particulars prescribed by regulation about each person who is—
  - (a) a subscribed member of the registered political party; or
  - (b) a current affiliate of the party.
- (3) A person is a ***current affiliate*** of a registered political party if—

- 
- (a) the person has paid an amount to the party for a period of affiliation with the party, other than as a subscribed member; and
  - (b) the period of affiliation has not ended.

#### **44 Insertion of new ss 306A and 306B**

After section 306—

*insert—*

##### **306A Registered political party must notify endorsement of candidate**

- (1) This section applies to a registered political party if any of the following events happens—
  - (a) the party endorses a person to be a candidate in an election;
  - (b) the party proposes to endorse a person to be a candidate in an election by—
    - (i) publicly announcing the party's intention to endorse the person as a candidate for the election; or
    - (ii) starting to incur electoral expenditure for the benefit of the person as a candidate for the election;
  - (c) if the party notifies the commission under this section about the endorsement or proposed endorsement of a person to be a candidate in an election—the party's endorsement or proposed endorsement of the person changes before the polling day for the election;
  - (d) an elected member stops being a member of the party.
- (2) The registered officer of the registered political party must notify the commission, in the approved form, about the event within 7 days after the event

happens.

Maximum penalty—40 penalty units.

- (3) As soon as practicable after the commission receives the notification, the commission must give the candidate or member a notice that states—
  - (a) the contents of the notification; and
  - (b) when the commission received the notification.
- (4) If a change mentioned in subsection (1)(c) is the withdrawal of the registered political party's endorsement of a person as a candidate for an election, a notice given by the party under section 91A about the withdrawal is taken to be a notice given about the change under this section.

*Note—*

Section 91A requires a registered political party to notify the commission about the withdrawal of the party's endorsement of a candidate nominated by the party for election.

### **306B Agent's obligation to ensure compliance**

- (1) The agent of a participant in an election must take all reasonable steps to—
  - (a) inform the participant, and each person the participant authorises to act for the participant under divisions 3, 4, 6 and 9, about the obligations that apply to the participant and person under divisions 3, 4, 6 and 9; and
  - (b) establish and maintain appropriate systems to support the participant and person to comply with the obligations.

Maximum penalty—100 penalty units.

- (2) If a registered political party or candidate in an election has an associated entity, the agent of the party or candidate must take all reasonable steps to—
- (a) inform the associated entity, and each person the associated entity authorises to act for it under divisions 3, 4, 6 and 9, about the obligations that apply to the associated entity and person under divisions 3, 4, 6 and 9; and
  - (b) establish and maintain appropriate systems to support the associated entity and person to comply with the obligations.

Maximum penalty—100 penalty units.

- (3) In deciding whether steps taken by the agent of an election participant to do a thing mentioned in subsection (1) or (2) are reasonable, a court must consider—
- (a) for a participant that is a registered political party or third party or an associated entity of a registered political party or candidate—
    - (i) the number of members and employees of the political party, third party or associated entity; and
    - (ii) the number of people authorised to act for the political party, candidate or associated entity; and
  - (b) the amount or value of the political donations received by or for the benefit of the participant and an associated entity of the participant; and
  - (c) the amount of electoral expenditure incurred, or expected to be incurred, by the participant and an associated entity of the participant.

- (4) A reference in subsection (2) or (3) to an associated entity of a candidate in an election includes a reference to an electoral committee mentioned in section 203(1) that is associated with the candidate under that section.

#### **45 Amendment of s 307 (Offences)**

- (1) Section 307(2), from ‘who’ to ‘is guilty’—

*omit, insert—*

who gives a return that the person is required to give under division 7, 10 or 11 that is incomplete is guilty

- (2) Section 307(12) to (14)—

*omit.*

#### **46 Insertion of new ss 307AA and 307AB**

After section 307—

*insert—*

##### **307AA Starting proceeding for particular offences**

A proceeding for an offence against any of the following provisions must start within 4 years after the offence was allegedly committed—

- section 215
- section 216(1)
- section 217(2) or (3)
- section 218
- section 219
- section 221
- section 221A
- section 254

- section 255
- section 258
- section 259
- section 270(1)
- section 281G
- section 281H
- section 305
- section 305A
- section 305B
- section 305D
- section 306B
- section 307(1), (2), (2A), (3), (4), (5), (9), (10) or (11)
- section 307AB.

**307AB Liability for political donation or electoral expenditure offences committed by unincorporated body**

- (1) A liable person of an unincorporated body commits an offence if—
- (a) a gift or political donation is made or accepted by, or electoral expenditure is incurred by—
    - (i) the unincorporated body; or
    - (ii) a person acting on behalf of the unincorporated body; and
  - (b) making or accepting the gift or political donation, or incurring the electoral expenditure, is an offence against a deemed liability provision; and
  - (c) the liable person—

- (i) authorised or permitted the conduct constituting the offence; or
- (ii) was, directly or indirectly, knowingly concerned in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the deemed liability provision by an individual.

- (2) This section does not affect the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is a liable person of an unincorporated body, for an offence against a deemed liability provision.

- (3) In this section—

***deemed liability provision*** means any of the following provisions—

- section 254
- section 255
- section 259
- section 270(1)
- section 281G
- section 281H.

***liable person***, for an unincorporated body, means—

- (a) for a registered political party—
  - (i) the registered officer of the party; or
  - (ii) the secretary of the party; or
  - (iii) the agent of the party; or
- (b) for an associated entity—the financial controller of the associated entity; or



- (c) for a third party—an officer, member or agent (however described) of the third party.

**47 Amendment of s 307B (Schemes to circumvent prohibition on particular political donations)**

- (1) Section 307B, heading, after ‘donations’—

*insert—*

**or electoral expenditure**

- (2) Section 307B(1), from ‘circumvent’ to ‘donations.’—

*omit, insert—*

circumvent—

- (a) a prohibition under division 8, subdivision 4 about political donations; or
- (b) an offence against this part related to making or accepting political donations or incurring electoral expenditure.

**48 Amendment of s 308 (Recovery of payments)**

- (1) Section 308(1), ‘section 236(3), 271(6) or 276’—

*omit, insert—*

this Act

- (2) Section 308—

*insert—*

- (3) The commission may deduct an amount payable by a person to the State under this Act from another amount payable by the commission to the person under this Act, including, for example—
- (a) an amount of election funding payable to the person under division 4; or
- (b) a policy development payment payable to the person under division 5.

**49 Omission of s 309 (Records to be kept)**

Section 309—

*omit.*

**49A Amendment of s 310 (Audit certificates)**

(1) Section 310(1)—

*omit, insert—*

(1) This section applies if a person is required to give the commission—

(a) a return about electoral expenditure incurred by a registered political party under section 283; or

(b) a return about amounts received, paid and outstanding under section 290(4) or 294(4).

(2) Section 310(2)(a), from ‘accounts and documents’ to ‘directly or indirectly’—

*omit, insert—*

records related

**49B Amendment of s 311 (Auditor to give notice of contravention)**

(1) Section 311(1), ‘for this part’—

*omit, insert—*

mentioned in section 310(2)

(2) Section 311(1), ‘by a registered political party or candidate’—

*omit.*

**50 Amendment of s 316 (Publishing of returns)**

(1) Section 316(3)—

*insert—*

- (c) details of an election participant's State campaign account;
  - (d) information prescribed by regulation as information not to be published.
- (2) Section 316—
- insert—*
- (5) The commission must not publish a copy, or part of a copy, of a bank statement that accompanied a return mentioned in subsection (1).

## **50A Insertion of new pt 11, div 13A**

Part 11—

*insert—*

### **Division 13A Audits**

#### **319A Commission may appoint auditor**

- (1) The commission may, by instrument, appoint an auditor to conduct an audit of a participant in an election under this division.
- (2) An auditor may be appointed to audit any of the following matters—
  - (a) a claim for election funding made under division 4 by a participant in an election;
  - (b) a return given to the commission under division 7, 10 or 11 by a participant in an election;
  - (c) the State campaign account of a participant in an election;
  - (d) the compliance of a participant in an election with this part generally.
- (3) The commission may appoint an auditor to

conduct an audit whether or not the commission suspects the election participant has contravened a provision of this part.

### **319B Participant in election must assist appointed auditor**

- (1) This section applies if an auditor is appointed under section 319A to conduct an audit of a participant in an election.
- (2) The election participant must give the auditor the assistance the auditor reasonably requires to conduct the audit.

Maximum penalty—200 penalty units.

- (3) Without limiting subsection (2), the election participant must give the auditor—
  - (a) full and free access, at all reasonable times, to all accounts, records and documents reasonably required by the auditor that—
    - (i) are owned by, or in the custody or under the control of, the election participant; and
    - (ii) relate, directly or indirectly, to a matter being audited; and
  - (b) other information, or an explanation, the auditor reasonably requires about a matter being audited.
- (4) For subsection (3), a matter being audited includes—
  - (a) for an audit about a claim for election funding under division 4—a matter required to be stated in the claim; or
  - (b) for an audit about a return given under division 7, 10 or 11—a matter required to be stated in the return; or

- (c) for an audit of a State campaign account—a transaction on the State campaign account carried out, or required to be carried out, under this part.
- (5) In this section—
- reasonably requires* means requires on grounds that are reasonable in the circumstances.

### **319C Audit report**

- (1) An auditor who conducts an audit of a participant in an election under this division must prepare a report about the audit.
- (2) The report—
  - (a) must state whether, in the appointed auditor’s opinion—
    - (i) the matters audited were truthful and accurate; and
    - (ii) the election participant has, or may have, contravened a provision of this part; and
  - (b) may suggest ways the practices or systems the election participant uses to manage its financial affairs may be improved to assist the participant’s compliance with this part.
- (3) The auditor must give a copy of the report to—
  - (a) the commission; and
  - (b) the election participant.

### **50B Amendment of s 321 (Appointment and qualifications)**

Section 321(1)—

*insert—*

- (ba) other persons who are auditors;

## **50C Amendment of s 384 (Evidentiary provisions)**

- (1) Section 384(2) and (3), ‘or an authorised officer’—

*omit, insert—*

, an authorised officer or an appointed auditor

- (2) Section 384—

*insert—*

- (5) In this section—

***appointed auditor*** means an auditor appointed under section 319A to conduct an audit of a participant in an election.

## **51 Insertion of new ss 388A and 388B**

After section 388—

*insert—*

### **388A Particular information may be made available for public inspection**

- (1) This section applies if the commission—
- is required to keep a register under this Act; or
  - receives a form under section 88 nominating a person as a candidate for an election; or
  - receives a notice under section 306A from a registered political party about the party’s endorsement, or proposed endorsement, of a person as a candidate for an election.
- (2) The commission may make information from the register, form or notice available for public inspection, including, for example, by publishing the information on the commission’s website.
- (3) However, the commission must not make restricted information available for public inspection under subsection (2).

(4) The following information is *restricted information*—

- (a) if the commission is informed that an individual identified in the document is a silent elector or enrolled on the electoral roll of the Commonwealth or another State with status equivalent or similar to a silent elector—the address of the individual;
- (b) the street address of another individual (but not the individual’s suburb, town, city or other locality, or State);
- (c) an individual’s date of birth;
- (d) an individual’s contact details, including, for example, a telephone number or email address, unless the individual has consented to the contact details being made public;
- (e) the details of a bank account of an entity, including a State campaign account kept under section 215.

(5) In this section—

*information*, from a register, form or notice, includes—

- (a) a copy of—
  - (i) a document included in the register; or
  - (ii) the form or notice; and
- (b) personal information about an individual.

*personal information* see the *Information Privacy Act 2009*, section 12.

### **388B Commission must not publish information about political party membership**

- (1) The commission must not publish, or otherwise make available for public inspection, information

about the membership of a political party.

- (2) For subsection (1), it does not matter how the information came to be in the possession or control of the commission.

## 52 Insertion of new pt 13, div 11

Part 13—

*insert—*

### **Division 11 Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

#### **436 Definitions for division**

In this division—

**2020 election** means—

- (a) the 2020 general election; or
- (b) a by-election held after the commencement and before the general election mentioned in paragraph (a).

**2020 general election** means the general election to be held, or held, in 2020.

**amended**, for a provision of this Act, means the provision as in force after the commencement.

**amending Act** means the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*.

**new**, for a provision of this Act, means the provision as inserted into this Act by the



amending Act.

*previous*, for a provision of this Act, means the provision as in force from time to time before the commencement.

#### **437 Application of new s 201 to particular gifts**

- (1) An amount forgiven on a loan mentioned in new section 201(2)(c)(ii) is a gift if the amount is forgiven after the commencement, even if the loan was made before the commencement.
- (2) An amount or service mentioned in new section 201(2)(e) is a gift if the amount was paid, or service was provided, under a sponsorship arrangement after the commencement, even if the sponsorship arrangement was entered into before the commencement.
- (3) New section 201(5) does not apply to a gift, or part of a gift, mentioned in new section 201(4) that was made before the commencement.

#### **438 Appointment of agent**

- (1) This section applies to the appointment of a person as the agent of a registered political party or a candidate in an election under part 11, division 2 as in force immediately before the commencement.
- (2) The appointment is not affected by the amendment of this Act by the amending Act.

#### **439 Candidates for 2020 election**

An individual who has announced or otherwise indicated the individual's intention to be a candidate in a 2020 election is a candidate even if the announcement or indication occurred before

the commencement.

*Note—*

See schedule 1, amended definition *candidate*, paragraph (b)(ii) or (iii).

#### **440 State campaign accounts**

- (1) This section applies to an entity if, under new section 197A, the entity—
  - (a) is a participant in a 2020 election on the commencement; or
  - (b) becomes a participant in a 2020 election after the commencement; or
  - (c) is a participant in another election (a ***pre-July 2022 election***) held—
    - (i) after the 2020 general election; and
    - (ii) before 1 July 2022.
- (2) If the election participant is a registered political party or a candidate mentioned in subsection (1)(a), the agent of the party or candidate must notify the commission of the details of the party's State campaign account for the 2020 election within 14 days after the commencement, unless the agent has a reasonable excuse.

Maximum penalty—20 penalty units.
- (3) New sections 214, 215, 221A and 221B apply to the election participant for a 2020 election or pre-July 2022 election.
- (4) Otherwise, new part 11, division 3 does not apply to the election participant for a 2020 election or pre-July 2022 election.

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### **440A Amounts that may be paid into State campaign accounts**

- (1) This section applies in relation to—
  - (a) an entity that, immediately before the start date, is a registered political party; and
  - (b) an entity that—
    - (i) immediately before 1 August 2020, was an associated entity of a registered political party; and
    - (ii) is, and has continued to be since 1 August 2020, an associated entity of a registered political party.
- (2) Despite new section 216, the following amounts may be paid into a State campaign account of the registered political party—
  - (a) for the party—
    - (i) money held by the party on the start date; and
    - (ii) proceeds from the disposal of property, or a return on an investment, held by the party before the start date; and
    - (iii) if, after the start date, the party used the proceeds or return on investment mentioned in subparagraph (ii) to purchase property or make an investment—proceeds from the disposal of the property or a return on the investment;
  - (b) for the associated entity of the party—
    - (i) money held by the associated entity of the party before 1 August 2020; and
    - (ii) proceeds from the disposal of property, or a return on an investment, held by

the associated entity of the party before 1 August 2020; and

- (iii) if, after 1 August 2020, the associated entity of the party used the proceeds or return on investment mentioned in subparagraph (ii) to purchase property or make an investment—proceeds from the disposal of the property or a return on the investment.

- (3) In this section—

*start date* means the later of the following days—

- (a) 1 July 2022;
- (b) if a general election is held during June 2022—the day that is 30 days after the polling day for the election.

#### **441 Election funding for 2020 election**

For a claim for election funding that relates to a 2020 election—

- (a) despite new section 281, new section 199 applies to expenditure incurred before the commencement as if the expenditure were incurred after the commencement; and
- (b) previous section 222 continues to apply as if the amending Act had not been enacted.

#### **442 Existing entitlements to policy development payments for 2020–2021 financial year**

- (1) This section applies if, under previous part 11, division 5, a registered political party was entitled to a policy development payment for the 2020–2021 financial year.
- (2) Previous part 11, division 5 continues to apply as if the amending Act had not been enacted in

relation to the instalment of the policy development payment that would have been payable to the registered political party on or before 31 January 2022.

- (3) Without limiting subsection (2)—
- (a) the commission must pay the instalment to the registered political party on or before 31 January 2022; and
  - (b) the agent of a registered political party may apply to the commission under previous section 242 for the commission to reconsider a decision mentioned in that section in relation to the instalment; and
  - (c) if an application mentioned in paragraph (b) is made—previous sections 243 and 244 apply for the application.
- (4) Despite the *Acts Interpretation Act 1954*, section 20, the registered political party is no longer entitled, under previous part 11, division 5, to be paid—
- (a) the instalment of the policy development payment for the 2020–2021 financial year that would have been payable to the party on or before 31 July 2022; or
  - (b) a policy development payment for the financial year that starts on 1 July 2021.
- (5) In this section—
- 2020–2021 financial year** means the financial year that starts on 1 July 2020.

#### **443 Commencement of caps on political donations**

- (1) Subsection (2) applies for a candidate in—
- (a) the first general election to be held after 1 July 2022; or

- (b) a by-election held after 1 July 2022 and before the general election mentioned in paragraph (a).
- (2) Despite section 247, the donation cap period for the candidate for the election—
  - (a) starts on the latest of the following days—
    - (i) 1 July 2022;
    - (ii) if a general election is held during June 2022—the day that is 30 days after the polling day for the general election;
    - (iii) if the candidate is a candidate in a by-election held during June 2022—the day that is 30 days after the polling day for the by-election; and
  - (b) ends 30 days after the polling day for the election.
- (3) Despite section 247, the first donation cap period for a registered political party—
  - (a) starts on the later of the following days—
    - (i) 1 July 2022;
    - (ii) if a general election is held during June 2022—the day that is 30 days after the polling day for the general election; and
  - (b) ends 30 days after the polling day for the next general election.

#### **444 Electoral expenditure for 2020 election—caps**

- (1) Despite new section 280, the capped expenditure period for the 2020 general election starts on 1 August 2020.
- (2) New section 199 applies to expenditure incurred before the commencement as if the expenditure

were incurred after the commencement.

- (3) New section 281 applies to electoral expenditure, whether the expenditure was incurred before or after the commencement.
- (4) However, new section 281 does not apply to electoral expenditure incurred to obtain goods that are first used for a campaign purpose during the capped expenditure period for the 2020 general election unless a contract for the supply of the goods was entered into on or after 17 June 2020.
- (5) New section 281A applies to electoral expenditure incurred for a campaign purpose for the 2020 general election, whether or not an event mentioned in new section 281A(3) happened before or after the commencement.

#### **445 Records required to be kept by election participants**

- (1) For new part 11, division 12A, until the start date—
  - (a) an amount paid into the State campaign account of a registered political party or candidate in an election is taken not to be a prescribed matter for the party or candidate; and
  - (b) a political donation does not include a political donation within the meaning of new section 250.
- (2) In this section—

**start date** means the latest of the following days—

  - (a) 1 July 2022;
  - (b) if a general election is held during June 2022—the day that is 30 days after the polling day for the election;

- (c) for a candidate in a by-election held during June 2022—the day that is 30 days after the polling day for the by-election.

#### **445A Register of non-monetary gifts—application of requirement related to political donations**

The requirement mentioned in new section 305F(2)(b) does not apply to a registered political party or candidate in an election until the first donation cap period for the party or candidate starts under section 443.

#### **446 Electoral expenditure for 2020 election—disclosure**

New section 283 does not apply in relation to electoral expenditure incurred for a 2020 election before the commencement.

#### **447 Returns by associated entities**

New section 294 does not apply to a loan made to an associated entity before the commencement.

#### **448 Existing records**

Previous section 309 continues to apply to a record that, immediately before the commencement, was required to be kept under that section as if the amending Act had not been enacted.

### **53 Insertion of new sch 1**

After part 13—

*insert—*

## **Schedule 1 Dictionary**



section 2

## **Part 1A**                      **Amendment of Electoral and Other Legislation Amendment Act 2019**

### **53A Act amended**

This part amends the *Electoral and Other Legislation Amendment Act 2019*.

### **53B Amendment of s 2 (Commencement)**

(1) Section 2, ‘This Act’—

*omit, insert—*

Subject to subsection (2), this Act

(2) Section 2—

*insert—*

(2) The provisions of this Act that are not in force commence on 1 August 2020.

## **Part 2**                      **Amendment of Electoral Regulation 2013**

### **54 Regulation amended**

This part amends the *Electoral Regulation 2013*.

### **55 Insertion of new s 11A**

After section 11—

*insert—*

### **11A Prescribed details for application for registration of third party for an election—Act, s 299**

For section 299(2)(b) of the Act, the following details are prescribed—

- (a) the election to which the application relates;
- (b) in relation to the third party—
  - (i) if the third party is an individual—
    - (A) date of birth; and
    - (B) address as shown on the electoral roll; and
  - (ii) if the third party is not an individual—  
ABN or ACN; and
  - (iii) business address; and
  - (iv) telephone number and email address.

## **Part 3 Other amendments**

### **56 Acts amended**

Schedule 1 amends the Acts it mentions.

## **Chapter 3 Amendments relating to signage and other matters for State elections**

### **57 Act amended**

This chapter amends the *Electoral Act 1992*.

*Note—*

See also the amendments in chapter 2, part 1 and schedule 1.

## 58 Insertion of new pt 10, div 2A

Part 10—

*insert—*

### **Division 2A      Offences relating to                                  signage at polling booths**

#### **Subdivision 1   Interpretation**

##### **185A Definitions for division**

In this division—

***designated area***, for a pre-poll voting office or ordinary polling booth, means the following areas—

- (a) the area within 100m of the building within which the voting compartments for the voting office or polling booth are located;
- (b) if the building is located in grounds—the area within 100m of each designated entrance to the grounds.

***designated entrance***, to grounds on which a pre-poll voting office or ordinary polling booth is located, see section 185D.

***election sign*** see section 185B.

***grounds*** means land that has a boundary fence or another structure or feature to mark the boundary of the land.

***official sign*** means a sign for an election prepared by, or with the authority of, the commission.

*primary election*, for a pre-poll voting office or ordinary polling booth, see section 185E.

*restricted signage area*, for a pre-poll voting office or ordinary polling booth, see section 185C.

### **185B Meaning of *election sign***

- (1) An *election sign* is a sign, including a continuous sign, that—
  - (a) contains anything that could—
    - (i) influence an elector in relation to voting at an election; or
    - (ii) otherwise affect the result of an election; or
  - (b) is the colour or colours that are ordinarily associated with a registered political party; or

*Example—*

streamers in the colours that are ordinarily associated with a registered political party

  - (c) is prescribed by regulation to be an election sign.
- (2) However, none of the following things that contain something, or are of a colour, mentioned in subsection (1)(a) or (b) is an *election sign*—
  - (a) an official sign;
  - (b) an item of clothing being worn by a person;
  - (c) an umbrella or portable shade structure;
  - (d) a small thing, including, for example, a lapel pin, a badge, a hat, a pen or pencil, or a sticker;
  - (e) another thing prescribed by regulation.
- (3) In this section—

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*continuous sign* means a sign comprised of a length of flexible material, including, for example—

- (a) a continuous piece of flexible material; or
- (b) 1 or more pieces of flexible material joined into a continuous piece; or
- (c) bunting; or
- (d) streamers.

### **185C Meaning of *restricted signage area* for pre-poll polling booth or ordinary polling booth**

- (1) The *restricted signage area* for a pre-poll voting office or ordinary polling booth is—
  - (a) the building, or part of the building, in which the voting compartments for the voting office or polling booth are, or are to be, located (the *polling premises*); and
  - (b) the area within 100m of the polling premises; and
  - (c) if the polling premises are located in grounds and the commission has designated entrances to the grounds under section 185D—
    - (i) the area in the grounds; and
    - (ii) the area on a boundary fence or another structure or feature that marks the boundary of the grounds; and
    - (iii) the area within 100m of each designated entrance to the grounds.
- (2) However, the *restricted signage area* for a pre-poll voting office or ordinary polling booth does not include premises in the area mentioned in subsection (1)(b) or (c) that are—

- (a) used as a residence; or
  - (b) used by a candidate in the election or registered political party as an office; or
  - (c) other premises lawfully occupied—
    - (i) by a person other than the commission, a candidate in the election or a registered political party; and
    - (ii) for a purpose that is not related to the polling premises being used for the election.
- (3) If the polling premises are located in grounds, or are part of larger premises, the reference to other premises in subsection (2)(c)—
- (a) includes premises located in the same grounds as the polling premises, or that are part of the same larger premises as the polling premises, that are lawfully occupied—
    - (i) by a person other than the owner of the grounds or larger premises; and
    - (ii) under an arrangement with the owner of the grounds or larger premises; and
  - (b) does not include any part of the same grounds, or same larger premises, that are not occupied in the way mentioned in paragraph (a).

### **185D Meaning of *designated entrance* to grounds**

- (1) A *designated entrance* to grounds on which a pre-poll voting office or ordinary polling booth is located is an entrance to the grounds—
- (a) designated by the commission for this section; and

- (b) indicated by an official sign displayed at the entrance.
- (2) In deciding whether to designate an entrance to grounds for a pre-poll voting office or ordinary polling booth under subsection (1), the commission must consider—
  - (a) the routes that electors will use to access the voting office or polling booth, including paths, hallways and doorways; and
  - (b) the need to ensure unobstructed access to the voting office or polling booth for electors.

### **185E Meaning of *primary election* for a pre-poll voting office or ordinary polling booth**

- (1) A *primary election* for a pre-poll voting office or ordinary polling booth is—
  - (a) the election for the electoral district in which the voting office or polling booth is located; or
  - (b) if the commission has made a declaration under subsection (2) about the election for another electoral district—the election for the other electoral district.
- (2) The commission may declare that the election for an electoral district being conducted at the pre-poll voting office or ordinary polling booth, other than the electoral district in which the voting office or polling booth is located, is a primary election being conducted at the voting office or polling booth.
- (3) The commission must publish a declaration made under subsection (2) in the ways the commission considers appropriate, including, for example—
  - (a) on the commission’s website; or

- (b) by displaying an official sign at the pre-poll voting office or ordinary polling booth to which the declaration relates.

## **Subdivision 2 Offences**

### **185F Displaying election signs at pre-poll voting office or ordinary polling booth**

- (1) A person must not display an election sign in the restricted signage area of a pre-poll voting office or ordinary polling booth during voting hours unless the display of the sign is permitted under subsection (2).

Maximum penalty—10 penalty units.

- (2) The display of an election sign is permitted if the sign is—
  - (a) displayed in a designated area at the pre-poll voting office or ordinary polling booth; and
  - (b) displayed by or for—
    - (i) a candidate in a primary election being conducted at the voting office or polling booth; or
    - (ii) a registered political party that has endorsed a candidate in a primary election being conducted at the voting office or polling booth; or
    - (iii) a third party; and
  - (c) 1 of the maximum number of signs that, under section 185G, may be displayed in each designated area by or for the candidate, political party or third party.
- (3) For subsection (2), a sign displayed by an associated entity of a registered political party or



candidate in an election is taken to be displayed for the party or candidate.

- (4) If a member of the commission's staff considers a sign is displayed in contravention of subsection (1), the staff member may remove the sign.

### **185G Maximum number of signs that may be displayed**

- (1) For section 185F(2)(c), the maximum number of election signs that may be displayed by or for a candidate in an election, registered political party or third party is—
- (a) 2 small signs in each designated area at a pre-poll voting office; and
  - (b) in each designated area at an ordinary polling booth—
    - (i) for signs displayed by or for a candidate or political party—6 signs, comprised only of large signs (a maximum of 4) and small signs; or
    - (ii) for signs displayed by or for a third party—4 signs, comprised only of large signs (a maximum of 2) and small signs.
- (2) However—
- (a) a candidate endorsed for election by a registered political party may display the maximum number of signs mentioned in subsection (1) less the number of signs displayed by or for the party; and
  - (b) a registered political party that has endorsed a candidate for election may display the maximum number of signs mentioned in subsection (1) less the number of signs displayed by or for the candidate.

- (3) For this section, an A-frame sign is taken to be 1 sign—
- (a) even though a sign may be displayed on each side of the A-frame sign; and
  - (b) whether the same election sign, or different election signs, are displayed on the 2 sides of the A-frame sign.
- (4) In this section—
- large sign** means a sign that is no larger than 1,830mm by 1,220mm.
- small sign** means a sign that is no larger than 900mm by 600mm.

### **185H Setting up to display election signs at ordinary polling booth**

- (1) This section applies—
- (a) for a place used as a pre-poll voting office and an ordinary polling booth for an election—during the period that—
    - (i) starts when pre-poll voting for the election ends at the pre-poll voting office; and
    - (ii) ends at 5a.m. on the polling day for the election.
  - (b) for another ordinary polling booth for the election—during the period that—
    - (i) starts when the election period starts; and
    - (ii) ends at 5a.m. on the polling day for the election.
- (2) A person must not do any of the following in the restricted signage area of an ordinary polling booth—

- (a) display an election sign;
- (b) set up a table, chair, umbrella, portable shade structure or other thing to be used for a purpose related to the election.

Maximum penalty—10 penalty units.

- (3) If a member of the commission’s staff considers a sign is displayed, or another thing is situated, in contravention of subsection (2), the staff member may remove the sign or other thing.
- (4) For subsection (1)(a)(i), pre-poll voting for an election ends at a pre-poll voting office when the voting hours end for the pre-poll voting office on the last day electors are allowed to make a vote for the election at the pre-poll voting office before the polling day for the election.
- (5) In this section—  
*restricted signage area*, for an ordinary polling booth located in grounds—
  - (a) includes—
    - (i) the area in the grounds; and
    - (ii) the area on a boundary fence or another structure or feature that marks the boundary of the grounds; but
  - (b) does not include the area mentioned in section 185C(1)(c).

## **58A Insertion of new pt 12B**

After part 12A—

*insert—*

### **Part 12B                    2020 general election**

### **392K Purpose of part**

- (1) The purpose of this part is to facilitate the holding of the 2020 general election in a way that helps minimise serious risks to the health and safety of persons caused by the COVID-19 emergency.
- (2) In this section—

***COVID-19 emergency*** means—

- (a) the declared public health emergency under the *Public Health Act 2005*, section 319(2) for COVID-19 declared on 29 January 2020 as extended and further extended under that Act; or
- (b) another declared public health emergency under the *Public Health Act 2005*, section 319(2) for COVID-19.

### **392L Application of part**

This part applies—

- (a) in relation to the 2020 general election; and
- (b) despite any other provision of this Act about the holding of a general election.

### **392M Definitions for part**

In this part—

***2020 general election*** means the next ordinary general election to be held after the commencement.

***postal vote*** means a declaration vote made by an elector, using a ballot paper and declaration envelope sent to the elector, and posted or sent to the commission or a returning officer.

### **392N Cut-off days**

- (1) This section applies in relation to the writ for the 2020 general election.
- (2) The cut-off day for electoral rolls stated in the writ may be a day earlier than the day stated in section 84(1)(b).
- (3) The cut-off day for the nomination of candidates stated in the writ may be a day earlier than the day stated in section 84(1)(c).

### **392O Procedure for voting**

- (1) A regulation may declare that, despite section 107, any of the following electors must vote in the 2020 general election by postal vote—
  - (a) all electors;
  - (b) electors in a stated electoral district;
  - (c) electors of a stated class;
  - (d) electors in a stated electoral district of a stated class.
- (2) The regulation may—
  - (a) provide for the commission posting, delivering or otherwise sending a ballot paper and declaration envelope to each elector to whom the declaration applies; and
  - (b) permit electors to whom the declaration applies to vote in the 2020 general election other than by postal vote, including, for example—
    - (i) by making an electronically assisted vote; or
    - (ii) voting in another stated way approved by the commission.
- (3) A regulation made under this section applies in

relation to voting in the 2020 general election despite any other provision of this part.

### **392P Pre-poll ordinary voting**

An elector may make a pre-poll ordinary vote for the 2020 general election, by following the procedures set out in section 112, during the period—

- (a) beginning 12 days before the polling day for the election; and
- (b) ending at 6p.m. on the day before the polling day for the election.

### **392Q Making a declaration vote using posted voting papers**

- (1) The commission may, by notice published on the commission's website, fix a time and day by which an elector may make a postal vote request under section 119 for the 2020 general election that—
  - (a) is earlier or later than the time and day mentioned in section 119(2)(b); but
  - (b) before the polling day for the election.
- (2) For the 2020 general election, section 119 applies as if a reference in section 119(2)(b) to 7p.m. on the day that is 12 days before the polling day for the election were a reference to the time and day fixed under subsection (1).

### **392R Electoral visitor voting**

- (1) This section applies if the commission is satisfied, for the 2020 general election, that it would pose a risk to the health and safety of an issuing officer to visit, under section 120—

- (a) a particular elector who has given a request to vote as an electoral visitor voter under section 120; or
  - (b) any elector; or
  - (c) electors in a particular electoral district or of a particular class.
- (2) The commission or a returning officer may direct issuing officers not to visit the particular elector, any elector or electors in the particular electoral district or of the particular class.
  - (3) Section 120 applies to issuing officers subject to the direction.
  - (4) The commission or returning officer must, to the extent practicable, have an issuing officer make alternative arrangements to enable an elector affected by the direction to vote in the 2020 general election.

### **392S Electronically assisted voting**

- (1) This section applies if the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to allow electors of a class not mentioned in section 121A to make an electronically assisted vote in the 2020 general election.
- (2) The commission may, by notice published on the commission's website, declare that electors of the class may make an electronically assisted vote in the 2020 general election.
- (3) An elector of a class declared under subsection (2) may make an electronically assisted vote in the 2020 general election.
- (4) For the 2020 general election, the commission's procedures under section 121B apply in relation to electors of a class declared under subsection

- (2).
- (5) The commission may make procedures about electors making electronically assisted votes in the 2020 general election.
- (6) The procedures—
  - (a) must be published on the commission’s website; and
  - (b) take effect when they are published on the commission’s website.
- (7) If the commission makes procedures under subsection (5)—
  - (a) the procedures apply in relation to electors who may make an electronically assisted vote for the election under section 121A or subsection (3); and
  - (b) if there is any inconsistency between the procedures under subsection (5) and the procedures under section 121B, the procedures under subsection (5) prevail to the extent of the inconsistency; and
  - (c) for the 2020 general election, a reference in this Act or another document to procedures approved under section 121B(3) is taken to include a reference to the procedures in effect under subsection (6).

### **392T Distribution or display of how-to-vote cards or other election material**

- (1) This section applies if the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to regulate, limit or prohibit the distribution or display of how-to-vote cards or other election material at a polling booth for the 2020 general election.
- (2) The commission may give a direction—



- (a) about how, where or when how-to-vote cards may be distributed or displayed at a polling booth for the 2020 general election; or
  - (b) prohibiting the distribution or display of how-to-vote cards or other election material at a polling booth for the 2020 general election; or
  - (c) prohibiting a person from canvassing for votes in or near polling booths; or
  - (d) permitting the display of political statements at a place mentioned in section 190(1).
- (3) The direction must be published on the commission's website.
- (4) A person must not contravene the direction, unless the person has a reasonable excuse.
- Maximum penalty—10 penalty units.
- (5) Section 190 does not apply to the display of a political statement permitted under the direction.

### **392U Directions about candidates or scrutineers at particular places**

- (1) The commission may give a direction for the 2020 general election—
- (a) regulating the number of scrutineers each candidate may have at a polling booth or another place where a scrutineer is entitled to be present under this Act; or
  - (b) prohibiting a candidate or scrutineer from being present at a polling booth or another place whether the candidate or scrutineer would otherwise be entitled to be present under this Act.

*Example of another place—*

a place where votes for the 2020 general election are to be counted

*Example of a direction that may be given under paragraph (b)—*

a direction prohibiting a scrutineer from accompanying an issuing officer under section 109

- (2) However, the commission may give a direction under subsection (1) only if the commission is satisfied that, having regard to the purpose of this part, it would be in the public interest to give the direction.
- (3) The direction must be published on the commission's website.
- (4) A person must not contravene the direction, unless the person has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (5) The direction applies despite section 104 or any other provision of this Act that allows a candidate or scrutineer to be present at a polling booth or another place.
- (6) Section 189(d) does not apply to the extent a scrutineer is prevented from entering a polling place under the direction.

### **392V Direction about movement of candidates or scrutineers**

- (1) A returning officer or member of the commissioner's staff in charge of a polling booth may give a direction for the 2020 general election under this section if satisfied that, having regard to the purpose of this part, it would be in the public interest to give the direction.
- (2) The direction may be given to a candidate or scrutineer at a place (a *relevant place*) that is a

polling booth or another place at which the candidate or scrutineer is entitled to be present under this Act.

- (3) The direction may be about—
  - (a) the movement of a candidate or scrutineer at a relevant place; or
  - (b) an area in a relevant place in which the candidate or scrutineer may or may not be; or
  - (c) the maximum number of scrutineers who may be in a particular area in a relevant place.
- (4) A candidate or scrutineer must comply with the direction, unless the candidate or scrutineer has a reasonable excuse.

Maximum penalty—20 penalty units.

- (5) A candidate or scrutineer does not commit an offence against subsection (4) unless the person giving the direction has warned the candidate or scrutineer that it is an offence not to comply with the direction unless the candidate or scrutineer has a reasonable excuse.

### **392W Counting of votes**

- (1) A returning officer may direct a member of the commission's staff to carry out the counting of votes for the 2020 general election at a stated place.
- (2) Votes may be counted at the place stated in the direction, despite any procedures approved under section 130A or any other provision of this Act relating to the counting of votes at a polling booth or another place.
- (3) A returning officer may arrange for the counting

of votes for the 2020 general election to be filmed by a member of the commission's staff.

### **392X Restriction on directions**

- (1) This section applies in relation to a provision of this part authorising the commission, a returning officer or a member of the commission's staff to give a direction.
- (2) The commission, returning officer or member must not give a direction under the provision—
  - (a) of a kind prescribed by regulation under section 392Y as a kind of direction that may not be given under the provision; or
  - (b) in circumstances prescribed by regulation under section 392Y as circumstances in which a direction may not be given under the provision.

### **392Y Regulation about 2020 general election**

A regulation may make provision about a matter to facilitate the holding of the 2020 general election in the way stated in section 392K, including, for example, by providing for any of the following—

- (a) a matter about voting in the election by postal vote other than as provided under section 392O, including—
  - (i) permitting electors of a class not mentioned in section 119(1) to make a postal vote; and
  - (ii) the availability and distribution of how-to-vote cards for electors making postal votes;

- (b) the commission, a returning officer or a member of the commission's staff who has a stated function in relation to the election to give a direction about any matter necessary to facilitate the holding of the election in the way stated in section 392K;
- (c) a matter about directions that may be given under a provision of this part or the regulation, including—
  - (i) a kind of direction that may not be given under the provision; and
  - (ii) circumstances in which a direction may not be given under the provision;
- (d) the commission to make procedures for the application of a provision of this part or the regulation for the 2020 general election.

### **392Z Matters about regulation under this part**

- (1) This section applies to a regulation made under this part.
- (2) The regulation may—
  - (a) prescribe an offence against the regulation and fix a maximum penalty of 20 penalty units for the offence; and
  - (b) other than for an offence mentioned in paragraph (a), have retrospective operation to a day not earlier than the commencement; and
  - (c) be inconsistent with this Act, including, for example, by modifying the application of part 7 in relation to the 2020 general election, to the extent necessary to achieve the purpose of this part.
- (3) The Minister may recommend to the Governor in

Council the making of a regulation under this part only if the Minister is satisfied the regulation is necessary to achieve the purpose of this part.

- (4) Also, the Minister must consult with the commission before recommending to the Governor in Council the making of a regulation under section 392O.
- (5) The regulation must declare that it is made under this part.

### **392ZA Expiry**

This part, and each regulation made under this part, expire 1 year after the name of each candidate elected in the 2020 general election is published in the gazette under section 132(2).

## **58B Insertion of new s 449**

Part 13, division 11, as inserted by this Act—

*insert—*

### **449 Application of offences relating to signage at polling booths to pending elections**

New part 10, division 2A does not apply in relation to a polling booth for an election if the writ for the election was issued before 1 August 2020.

## **59 Amendment of sch 1 (Dictionary)**

Schedule 1, as inserted by this Act—

*insert—*

***designated entrance***, to grounds on which a pre-poll voting office or ordinary polling booth is located, for part 10, division 2A, see section 185D.

*election sign*, for part 10, division 2A, see section 185B.

*grounds*, for part 10, division 2A, see section 185A.

*official sign*, for part 10, division 2A, see section 185A.

*primary election*, for a pre-poll voting office or ordinary polling booth, for part 10, division 2A, see section 185E.

*restricted signage area*, for a pre-poll voting office or ordinary polling booth, for part 10, division 2A, see section 185C.

## Chapter 4      Amendments relating to dishonest conduct of Ministers

### Part 1            Amendment of Integrity Act 2009

#### 60      Act amended

This part amends the *Integrity Act 2009*.

#### 61      Amendment of long title

Long title, after ‘issues’—

*insert*—

**, to ensure Ministers and others appropriately  
manage conflicts of interest,**

## 62 Insertion of new ch 3A

After chapter 3—

*insert—*

# Chapter 3A Managing conflicts of interest

## Part 1 Ministers

### 40A Conflicts of interest

- (1) This section applies if a Minister has an interest that conflicts or may conflict with the discharge of the Minister's responsibilities.
- (2) The Minister must not, with intent to dishonestly obtain a benefit for the Minister or another person, or to dishonestly cause a detriment to another person, fail to disclose the nature of the interest and conflict to—
  - (a) for a conflict relating to a matter being considered by Cabinet—Cabinet or, for a Minister other than the Premier, Cabinet or the Premier; or
  - (b) for a conflict relating to a matter being considered by a committee of Cabinet—the committee or Cabinet or, for a Minister other than the Premier, the committee, Cabinet or the Premier; or
  - (c) otherwise—Cabinet or, for a Minister other than the Premier, Cabinet or the Premier.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) In this section—

*benefit* includes property, advantage, service,



entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

***detriment***, caused to a person, includes detriment caused to a person's property.

#### **40B Proceeding for offence against s 40A**

- (1) An offence against section 40A is a misdemeanour.
- (2) A proceeding for an offence against section 40A may be started only with the written consent of the director of public prosecutions.
- (3) A proceeding for an offence against section 40A may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 40A summarily if the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

- (5) If subsection (4) applies—
  - (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and

- (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 40A—
- (a) must be constituted by a magistrate; and
  - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.
- (7) In this section—
- director of public prosecutions* means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

#### **40C Use of information for investigation or prosecution**

- (1) This section applies to information about a person given to the integrity commissioner under this Act, including, for example—
- (a) information given in a request for advice under chapter 3, part 2; and
  - (b) information given in a meeting under chapter 3, part 3.
- (2) The information may be—
- (a) recorded, used and disclosed for the purpose of the investigation or prosecution of an offence against section 40A; and

- (b) given in a proceeding against a person for an offence against section 40A to the extent necessary to prosecute the person for the offence.
- (3) Subsection (2) applies despite—
  - (a) section 24; and
  - (b) any other law, rule or practice to the contrary.

## **Part 2                      Statutory office holders**

### **63            Omission of ch 4A, hdg (Declaration of interests by statutory office holders)**

Chapter 4A, heading—

*omit.*

### **64            Amendment of s 72B (Definition for ch 4A)**

- (1) Section 72B, heading, ‘ch 4A’—

*omit, insert—*

**part**

- (2) Section 72B, ‘chapter’—

*omit, insert—*

part

### **65            Relocation and renumbering of ss 72B–72D**

Sections 72B to 72D—

*relocate* to chapter 3A, part 2 as inserted by this Act, and *renumber* as sections 40D to 40F.

**66 Amendment of s 85 (Annual reports of integrity commissioner)**

Section 85(2)(a) and (4)(a), ‘72C’—

*omit, insert—*

40E

**67 Insertion of new ch 8, div 3**

Chapter 8—

*insert—*

**Division 3 Provision for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

**102 Application of s 40A to existing conflicts**

- (1) This section applies if, on the commencement, a Minister has an interest that conflicts or may conflict with the discharge of the Minister’s responsibilities.
- (2) Section 40A applies in relation to the interest and the conflict.
- (3) However, the Minister does not contravene section 40A for a failure to disclose the interest or the conflict within the first month after the commencement.

**68 Amendment of sch 1 (Statutory office holders for section 72C)**

(1) Schedule 1, heading, ‘72C’—

*omit, insert—*

**40E**

- (2) Schedule 1, authorising provision, ‘72C(1)(a)’—  
*omit, insert—*  
40E(1)(a)

**69 Amendment of sch 2 (Dictionary)**

- Schedule 2, definition *relevant Minister*, ‘72B’—  
*omit, insert—*  
40D

**Part 2 Amendment of Parliament of Queensland Act 2001**

**70 Act amended**

This part amends the *Parliament of Queensland Act 2001*.

**71 Amendment of s 47 (Other proceedings)**

- (1) Section 47(1), ‘another Act’—  
*omit, insert—*  
an Act

- (2) Section 47, ‘other’—  
*omit.*

**72 Amendment of s 69B (Statement of interests)**

- (1) Section 69B(1), notes, note 2, after ‘section 37.’—  
*insert—*

See also sections 69D and 47.

- (2) Section 69B(2), note, after ‘section 37.’—

*insert—*

See also sections 69D and 47.

- (3) Section 69B(4), note, after ‘section 37.’—

*insert—*

See also sections 69D and 47.

### 73 Insertion of new ss 69D–69F

After section 69C—

*insert—*

#### **69D Dishonest disclosure or non-disclosure of interests**

- (1) A Minister must not, with intent to dishonestly obtain a benefit for the Minister or another person, or to dishonestly cause a detriment to another person, contravene section 69B(1), (2) or (4).

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) In this section—

*benefit* includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

*detriment*, caused to a person, includes detriment caused to a person’s property.

#### **69E Proceeding for offence against s 69D**

- (1) An offence against section 69D is a misdemeanour.
- (2) A proceeding for an offence against section 69D may be started only with the written consent of the director of public prosecutions.

- (3) A proceeding for an offence against section 69D may be taken, at the election of the prosecution—
- (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 69D summarily if the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

- (5) If subsection (4) applies—
- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and
  - (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 69D—
- (a) must be constituted by a magistrate; and
  - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.

(7) In this section—

*director of public prosecutions* means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

### **69F Use of evidence or information for investigation or prosecution**

(1) This section applies to the following—

- (a) evidence of anything said or done during proceedings in the Assembly;
- (b) any information given to the registrar under this part.

(2) The evidence or information may be—

- (a) recorded, used and disclosed for the purpose of the investigation or prosecution of an offence against section 69D; and
- (b) given in a proceeding against a person for an offence against section 69D to the extent necessary to prosecute the person for the offence.

(3) Subsection (2) applies despite—

- (a) sections 8 and 36; and
- (b) any other law, rule or practice to the contrary.



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## **Chapter 5      Amendments relating to dishonest conduct of councillors and other local government matters**

### **Part 1              Amendment of City of Brisbane Act 2010**

#### **74      Act amended**

This part amends the *City of Brisbane Act 2010*.

#### **75      Amendment of s 4 (Local government principles underpin this Act)**

Section 4(2)(e), ‘and council employees’—

*omit, insert—*

, council employees and councillor advisors

#### **76      Amendment of s 14 (Responsibilities of councillors)**

Section 14(4)(h), from ‘contract’—

*omit, insert—*

executive employees of the council under section  
170.

#### **77      Amendment of s 160 (When a councillor’s term ends)**

Section 160(b), after ‘regulation’—

*insert—*

under section 160AA

## **78 Amendment s 170 (Giving directions to council staff)**

(1) Section 170(1), ‘contract’—

*omit, insert—*

executive

(2) Section 170(2)—

*omit, insert—*

(2) However, a direction under subsection (1)—

(a) must not be given if it is inconsistent with a resolution, or a document adopted by resolution, of the council; and

(b) must not be given to the chief executive officer if it relates to—

(i) the appointment of a council employee under section 193(3); or

(ii) disciplinary action by the chief executive officer in relation to a council employee under section 194 or a councillor advisor; and

(c) must not be given to the chief executive officer or a senior executive employee if it would result in the chief executive officer or senior executive employee contravening a provision of an Act.

(3) No councillor, including the mayor, may give a direction to any other council employee except in accordance with guidelines made under section 171A about the provision of administrative support to councillors.

*Note—*

Contravention of subsection (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor under that Act. See the Local Government Act, sections 150L(1)(c)(v), 150AQ and 150AR.

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**79 Insertion of new s 171A**

After section 171—

*insert—*

**171A Guidelines about provision of administrative support to councillors**

- (1) The chief executive officer may make guidelines about the provision of administrative support by council employees to a councillor.
- (2) The guidelines must include—
  - (a) when a councillor may be provided with administrative support by a council employee; and
  - (b) how and when a councillor may give a direction to a council employee in relation to the provision of administrative support; and
  - (c) a requirement that a councillor may give a direction to a council employee only if the direction relates directly to administrative support to be provided by the council employee to the councillor under the guidelines.
- (3) A direction purportedly given by a councillor to a council employee is of no effect if the direction does not comply with the guidelines.

**80 Omission of ss 173A and 173B**

Sections 173A and 173B—

*omit.*

**81 Replacement of ch 6, pt 2, div 5A (Dealing with councillors' personal interests in council matters)**

Chapter 6, part 2, division 5A—

*omit, insert—*

## **Division 5A      Councillors' conflicts of interest**

### **Subdivision 1   Preliminary**

#### **177A Purpose of division**

The purpose of this division is to ensure that if a councillor has a personal interest in a matter, the council deals with the matter in an accountable and transparent way that meets community expectations.

#### **177B When does a person participate in a decision**

Without limiting when a person participates in a decision, in this division, a reference to a councillor or other person participating in a decision includes a reference to the councillor or other person—

- (aa) if the councillor or other person is wholly or partly responsible for making the decision—  
considering or discussing the matter to which the decision relates before the decision is made; and
- (a) considering, discussing or voting on the decision in a council meeting; and
- (b) considering or making the decision under—
  - (i) an Act; or
  - (ii) a delegation; or
  - (iii) another authority.

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### **177C Personal interests in ordinary business matters of council**

- (1) This division does not apply in relation to a conflict of interest in a matter if the matter—
  - (a) is solely, or relates solely to, the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the council; or
  - (b) is solely, or relates solely to—
    - (i) making a planning scheme that applies to the whole of Brisbane; or
    - (ii) amending a planning scheme, if the amendment applies to the whole of Brisbane; or
  - (c) is solely, or relates solely to, a resolution required for the adoption or amendment of a budget for the council; or
  - (d) is solely, or relates solely to—
    - (i) the remuneration or reimbursement of expenses of councillors or members of a committee of the council; or
    - (ii) the provision of superannuation entitlements or insurance for councillors; or
    - (iii) a matter of interest to the councillor solely as a candidate for election or appointment as mayor, deputy mayor, councillor or member of a committee of the council.
- (2) Also, this division does not apply in relation to a councillor's conflict of interest in a matter relating to a corporation or association that arises solely because of a nomination or appointment of the councillor by the council to be a member of the board of the corporation or association.

- (2A) In addition, this division does not apply in relation to a councillor's conflict of interest in a matter if the councillor, close associate or related party of the councillor, or the donor mentioned in section 177D(1)(a) or 177E(1)(a) stands to gain a benefit or suffer a loss in relation to the matter that is no greater than the benefit or loss that a significant proportion of persons in Brisbane stand to gain or lose.
- (3) However, if a councillor decides to voluntarily comply with this division in relation to personal interests of the councillor in the matter—
- (a) the personal interests are taken to be a declarable conflict of interest; and
  - (b) this division applies as if eligible councillors had, under section 177O(2), decided the councillor has a declarable conflict of interest in the matter.

*Note—*

See section 177P for requirements for dealing with a conflict of interest mentioned in this subsection.

## **Subdivision 2 Prescribed conflicts of interest**

### **177D When councillor has *prescribed conflict of interest*—particular gifts or loans**

- (1) A councillor has a *prescribed conflict of interest* in a matter if—
- (a) a gift or loan is given by an entity (the *donor*) that has an interest in the matter in a circumstance mentioned in subsection (2); and
  - (b) the gift or loan is given during the relevant term for the councillor; and

- (c) all gifts, loans or sponsored travel or accommodation benefits under section 177E given by the donor to the councillor, or a close associate of the councillor, during the councillor's relevant term total \$2,000 or more.
- (2) For subsection (1)(a), the circumstances are—
- (a) where—
    - (i) the donor gives the gift or loan to the councillor; and
    - (ii) the gift or loan is required to be the subject of a return under the *Local Government Electoral Act 2011*, part 6; or
  - (b) where—
    - (i) the donor gives the gift or loan to a group of candidates for an election when the councillor is a member of the group, or a political party that endorses the councillor for an election; and
    - (ii) the councillor is a candidate in the election; and
    - (iii) the gift or loan is required to be the subject of a return under the *Local Government Electoral Act 2011*, part 6 or the Electoral Act, part 11, division 11; or
  - (c) where the donor gives a gift to the councillor, or a close associate of the councillor, other than in a circumstance mentioned in paragraph (a) or (b).
- (2A) Subsection (3) applies for gifts or loans given by a donor—
- (a) to a group of candidates when the councillor is a member of the group; or

- (b) to a political party that endorses the councillor.
- (3) For working out the total gifts or loans given by the donor for subsection (1)(c), the amount of each gift or loan given to the group or political party must first be divided by—
  - (a) for a group of candidates for an election—the total number of candidates in the group stated in the record of the membership of the group under the *Local Government Electoral Act 2011*, section 41; or
  - (b) for a political party endorsing the candidate for an election—the total number of candidates endorsed by the political party in Queensland on the nomination day for the election under the *Local Government Electoral Act 2011*.

**177E When councillor has *prescribed conflict of interest*—sponsored travel or accommodation benefits**

- (1) A councillor has a *prescribed conflict of interest* in a matter if—
  - (a) a sponsored travel or accommodation benefit is given by an entity (the *donor*) that has an interest in the matter to—
    - (i) the councillor; or
    - (ii) a close associate of the councillor; and
  - (b) the sponsored travel or accommodation benefit is given—
    - (i) during the relevant term for the councillor; and
    - (ii) while the councillor holds office as councillor; and



(c) all gifts, loans or sponsored travel or accommodation benefits given by the donor to the councillor or close associate during the councillor's relevant term total \$2,000 or more.

(1A) Section 177D(2A) and (3) applies for working out the total gifts or loans given by the donor for subsection (1)(c).

(2) In this section—

***employment-related or upgraded***, in relation to a person's travel or accommodation, means—

(a) the travel or accommodation is paid for by the State or a local government; or

(b) the travel or accommodation—

(i) is undertaken or used by the person in the course of the person's employment; and

(ii) is contributed to, whether financially or non-financially, by the person's employer; or

(c) if the person is a director of a corporation—the travel or accommodation—

(i) is undertaken or used by the person in the course of carrying out the person's duties as a director; and

(ii) is contributed to, whether financially or non-financially, by the corporation; or

(d) if the travel is airline travel—an upgrade to the travel is given by the provider of the travel for no charge; or

*Example—*

a free air travel upgrade to business class

- (e) an upgrade to the accommodation is given by the provider of the accommodation for no charge.

*Example—*

a free accommodation upgrade to a larger room

***sponsored travel or accommodation benefit***, received by a person, means travel or accommodation undertaken or used by the person, other than employment-related or upgraded travel or accommodation, if—

- (a) another entity contributes, whether financially or non-financially, to the cost of the travel or accommodation; and
- (b) the other entity is not the person's spouse, other family member or friend.

### **177F When councillor has *prescribed conflict of interest—other***

A councillor has a ***prescribed conflict of interest*** in a matter if—

- (a) the matter is or relates to a contract between the council and the councillor, or a close associate of the councillor, for—
  - (i) the supply of goods or services to the council; or
  - (ii) the lease or sale of assets by the council; or
- (aa) a person who is being considered for appointment as chief executive officer is a close associate of the councillor and the matter is or relates to the appointment of the person; or
- (b) the chief executive officer is a close associate of the councillor and the matter is

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or relates to the appointment, discipline, termination, remuneration or other employment conditions of the chief executive officer; or

- (c) the matter is or relates to an application made to the council for the grant of a licence, permit, registration or approval or consideration of another matter under a local government related law, if—
- (i) the application was made to the council by the councillor or a close associate of the councillor; or
  - (ii) the councillor or a close associate of the councillor makes or has made a written submission to the council in relation to the application before it is or was decided.

### **177G Who is a *close associate* of a councillor**

- (1) A person is a *close associate* of a councillor if the person is any of the following in relation to the councillor—
- (a) a spouse;
  - (b) a parent, child or sibling;
  - (c) a partner in a partnership;
  - (d) an employer, other than a government entity;
  - (e) an entity, other than a government entity, for which the councillor is an executive officer or board member;
  - (f) an entity in which the councillor or a person mentioned in any of paragraphs (a) to (e) for the councillor has an interest, other than an interest of less than 5% in an entity that is a

listed corporation under the Corporations Act, section 9.

- (2) However, a parent, child or sibling is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's or sibling's involvement in the matter.

### **177H Councillor must not participate in decisions**

- (1) If a councillor has a prescribed conflict of interest in a matter, the councillor must not participate in a decision relating to the matter.

*Note—*

Contravention of this section is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

- (2) However, the councillor does not contravene subsection (1) by participating in a decision under an approval given under section 177S.

### **177I Obligation of councillor with prescribed conflict of interest**

- (1) This section applies to a councillor if—
  - (a) the councillor may participate, or is participating, in a decision about a matter; and
  - (b) the councillor becomes aware the councillor has a prescribed conflict of interest in the matter.
- (2) If the councillor first becomes aware the councillor has the prescribed conflict of interest in the matter at a council meeting, the councillor

must immediately inform the meeting of the prescribed conflict of interest, including the particulars stated in subsection (4).

- (3) If subsection (2) does not apply, the councillor must—
- (a) as soon as practicable, give the chief executive officer written notice of the prescribed conflict of interest, including the particulars stated in subsection (4); and
  - (b) give notice of the prescribed conflict of interest, including the particulars stated in subsection (4), at—
    - (i) the next meeting of the council; or
    - (ii) if the matter is to be considered and decided at a meeting of a committee of the council—the next meeting of the committee.

*Note—*

Contravention of subsection (2) or (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

- (4) For subsections (2) and (3), the particulars for the prescribed conflict of interest are the following—
- (a) for a gift, loan or contract—the value of the gift, loan or contract;
  - (b) for an application for which a submission has been made—the matters the subject of the application and submission;
  - (c) the name of any entity, other than the councillor, that has an interest in the matter;

- (d) the nature of the councillor's relationship with the entity mentioned in paragraph (c);
- (e) details of the councillor's, and any other entity's, interest in the matter.

### **177J Dealing with prescribed conflict of interest at a meeting**

- (1) This section applies if a councillor gives a notice at, or informs, a meeting of the councillor's prescribed conflict of interest in a matter.
- (2) The councillor must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) However, the councillor does not contravene subsection (2) by participating in a decision or being present under an approval given under section 177S.

## **Subdivision 3 Declarable conflicts of interest**

### **177K What is a *declarable conflict of interest***

Subject to section 177L, a councillor has a *declarable conflict of interest* in a matter if—

- (a) the councillor has, or could reasonably be presumed to have, a conflict between the councillor's personal interests, or the personal interests of a related party of the councillor, and the public interest; and
- (b) because of the conflict, the councillor's participation in a decision about the matter

might lead to a decision that is contrary to the public interest.

### **177L Interests that are not declarable conflicts of interest**

- (1) A councillor who has a conflict of interest in a matter does not have a *declarable conflict of interest* in the matter if—
- (a) the conflict of interest is a prescribed conflict of interest in the matter; or
  - (b) the conflict of interest arises solely because—
    - (i) the councillor undertakes an engagement in the capacity of councillor for a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or
    - (ii) the councillor, or a related party of the councillor, is a member or patron of a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or
    - (iii) the councillor, or a related party of the councillor, is a member of a political party; or
    - (iv) the councillor, or a related party of the councillor, has an interest in an educational facility or provider of a child care service as a student or former student, or a parent or grandparent of a student, of the facility or service; or

- (c) the conflict of interest arises solely because of the religious beliefs of the councillor or a related party of the councillor; or
  - (e) the conflict of interest arises solely because the councillor, or a related party of the councillor, receives a gift, loan or sponsored travel or accommodation benefit from an entity, if—
    - (i) the gift, loan or benefit is given in circumstances that would constitute a prescribed conflict of interest under section 177D or 177E if the total gifts, loans and benefits given by the entity totalled \$2,000 or more; and
    - (ii) the total gifts, loans and benefits given by the entity to the councillor or related party total less than \$500 during the councillor's relevant term; or
  - (f) the conflict of interest relates to the appointment, discipline, termination, remuneration or other employment conditions of a councillor advisor for the councillor, if the conflict of interest arises solely because the councillor advisor is a related party, other than a close associate, of the councillor.
- (2) For subsection (1)(e), for assessing whether the receipt of a gift, loan or sponsored travel or accommodation benefit in particular circumstances by a councillor or a related party of a councillor constitutes a declarable conflict of interest, a reference in section 177D or 177E to a close associate of a councillor is taken to be a reference to a related party of the councillor.
- (2A) Section 177D(2A) and (3) applies for working out, under subsection (1)(e)(ii), the total gifts, loans and sponsored travel or accommodation



benefits given by the entity as if a reference in that section to a donor were a reference to the entity.

(3) In this section—

***patron***, of a community group, sporting club or similar organisation, means a person who, under a formal arrangement, provides public support to the group, club or organisation as its ambassador or representative.

***sponsored travel or accommodation benefit*** see section 177E.

### **177M Who is a *related party* of a councillor**

- (1) A person is a ***related party*** of a councillor if the person is any of the following in relation to the councillor—
- (a) an entity in which the councillor, or a person mentioned in paragraph (b), (c) or (d), has an interest;
  - (b) a close associate of the councillor, other than an entity mentioned in section 177G(1)(f);
  - (c) a parent, child or sibling of the councillor's spouse;
  - (d) a person who has a close personal relationship with the councillor.
- (2) However, a parent, child or sibling of the councillor's spouse, or a person who has a close personal relationship with the councillor, is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's, sibling's or person's involvement in the matter.

### **177N Obligation of councillor with declarable conflict of interest**

- (1) This section applies to a councillor if—
  - (a) the councillor may participate, or is participating, in a decision about a matter; and
  - (b) the councillor becomes aware the councillor has a declarable conflict of interest in the matter.
- (2) If the councillor first becomes aware the councillor has the declarable conflict of interest at a council meeting, the councillor—
  - (a) must stop participating, and must not further participate, in a decision relating to the matter; and
  - (b) must immediately inform the meeting of the declarable conflict of interest, including the particulars stated in subsection (4).
- (3) If subsection (2) does not apply, the councillor—
  - (a) must stop participating, and must not further participate, in a decision relating to the matter; and
  - (b) as soon as practicable, must give the chief executive officer notice of the councillor's declarable conflict of interest in the matter, including the particulars stated in subsection (4); and
  - (c) must give notice of the declarable conflict of interest, including the particulars stated in subsection (4), at—
    - (i) the next meeting of the council; or
    - (ii) if the matter is to be considered and decided at a meeting of a committee of

the council—the next meeting of the committee.

*Note—*

Contravention of subsection (2) or (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

- (4) For subsections (2) and (3), the particulars for the declarable conflict of interest are the following—
- (a) the nature of the declarable conflict of interest;
  - (b) if the declarable conflict of interest arises because of the councillor’s relationship with a related party—
    - (i) the name of the related party; and
    - (ii) the nature of the relationship of the related party to the councillor; and
    - (iii) the nature of the related party’s interests in the matter;
  - (c) if the councillor’s or related party’s personal interests arise because of the receipt of a gift or loan from another person—
    - (i) the name of the other person; and
    - (ii) the nature of the relationship of the other person to the councillor or related party; and
    - (iii) the nature of the other person’s interests in the matter; and
    - (iv) the value of the gift or loan, and the date the gift was given or loan was made.
- (5) A councillor does not contravene subsection

(2)(a) or (3)(a) if—

- (a) the councillor has otherwise complied with this section; and
- (b) either—
  - (i) a decision has been made under section 177P(3)(a)(i) or (b)(i) that the councillor may participate in the decision despite having a declarable conflict of interest in the matter; or
  - (ii) the councillor is participating in the decision under an approval given under section 177S.

### **177O Procedure if meeting informed of councillor's personal interests**

- (1) This section applies if a council meeting is informed that a councillor has personal interests in a matter by a person other than the councillor.
- (2) The eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.

### **177P Procedure if councillor has declarable conflict of interest**

- (1) This section applies if a councillor has a declarable conflict of interest in a matter as notified at a meeting under section 177N(2) or (3) or decided by eligible councillors at a meeting under section 177O(2).
- (2) However, this section does not apply in relation to a decision about the matter if the councillor who has the declarable conflict of interest voluntarily decides not to participate in the decision.
- (3) The eligible councillors at the meeting must, by

resolution, decide—

- (a) for a matter that would, other than for the councillor's declarable conflict of interest, have been decided by the councillor under an Act, delegation or other authority, whether the councillor—
    - (i) may participate in the decision despite the councillor's conflict of interest; or
    - (ii) must not participate in the decision, and must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the eligible councillors discuss and vote on the matter; or
  - (b) for another matter, whether the councillor—
    - (i) may participate in a decision about the matter at the meeting, including by voting on the matter; or
    - (ii) must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the eligible councillors discuss and vote on the matter.
- (4) The eligible councillors may impose conditions on the councillor under a decision mentioned in subsection (3)(a)(i) or (b)(i).

*Example—*

The eligible councillors may decide that the councillor may participate in a decision about the matter by discussing it at the meeting under subsection (3)(b)(i), but may impose the condition that the councillor must leave the place at which the meeting is being held while the matter is voted on.

- (5) The councillor must comply with—

- (a) a decision under subsection (3)(a)(ii) or (b)(ii); or
- (b) any conditions imposed on a decision under subsection (4).

Maximum penalty—100 penalty units or 1 year's imprisonment.

- (6) However, the councillor does not contravene subsection (5) by participating in a decision or being present under an approval given under section 177S.

### **177Q Decisions of eligible councillors**

- (1) A decision by eligible councillors may be made under section 177O or 177P, other than in relation to a matter mentioned in section 177R, even if—
  - (a) the number of eligible councillors is less than a majority; or
  - (b) the eligible councillors do not form a quorum for the meeting.
- (2) The councillor who is the subject of the decision may remain at the meeting while the decision is made, but can not vote or otherwise participate in the making of the decision, other than by answering a question put to the councillor necessary to assist the eligible councillors to make the decision.
- (3) If the eligible councillors can not make a decision under section 177O or 177P, the eligible councillors are taken to have decided under section 177P(3)(a)(ii) or (b)(ii) that the councillor must leave, and stay away from, the place where the meeting is being held while the eligible councillors discuss and vote on the matter.
- (4) A decision about a councillor under section 177O or 177P for a matter applies in relation to the

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councillor for participating in the decision, and all subsequent decisions, about the matter.

## **Subdivision 4 Other matters**

### **177R Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest**

- (1) This section applies in relation to a meeting if—
  - (a) a matter in which 1 or more councillors have a prescribed conflict of interest or declarable conflict of interest is to be decided at the meeting; and
  - (b) there is less than a quorum remaining at the meeting after any of the councillors mentioned in paragraph (a) leave, and stay away from, the place where the meeting is being held.
- (2) The council must do 1 of the following—
  - (a) delegate deciding the matter under section 238, unless the matter can not be delegated under that section;
  - (b) decide, by resolution, to defer the matter to a later meeting;
  - (c) decide, by resolution, not to decide the matter and take no further action in relation to the matter.
- (3) The council must not delegate deciding the matter to an entity if the entity, or a majority of its members, have personal interests that are, or are equivalent in nature to, a prescribed conflict of interest or declarable conflict of interest in the matter.
- (4) A councillor does not contravene section

177H(1), 177J(2), 177N(2)(a) or (3)(a) or 177P(5) by participating in a decision, or being present while the matter is discussed and voted on, for the purpose of delegating the matter or making a decision under subsection (2)(b) or (c).

### **177S Minister's approval for councillor to participate or be present to decide matter**

- (1) The Minister may, by signed notice given to a councillor, approve the councillor participating in deciding a matter in a meeting, including being present while the matter is discussed and voted on, if—
  - (a) the matter could not otherwise be decided at the meeting because of a circumstance mentioned in section 177R(1); and
  - (b) deciding the matter can not be delegated under section 238.
- (2) The Minister may give the approval subject to the conditions stated in the notice.

### **177T Duty to report another councillor's prescribed conflict of interest or declarable conflict of interest**

- (1) This section applies if a councillor reasonably believes or reasonably suspects—
  - (a) another councillor who has a prescribed conflict of interest in a matter is participating in a decision in contravention of section 177H(1); or
  - (b) another councillor who has a declarable conflict of interest in a matter is participating in a decision in contravention of section 177N(2)(a) or (3)(a).
- (2) The councillor who has the belief or suspicion



must—

- (a) if the belief or suspicion arises in a council meeting—immediately inform the person who is presiding at the meeting about the belief or suspicion; or
  - (b) otherwise—as soon as practicable, inform the chief executive officer of the belief or suspicion.
- (3) The councillor must also inform the person presiding, or the chief executive officer, of the facts and circumstances forming the basis of the belief or suspicion.

*Note—*

Contravention of subsection (2) or (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(v) of that Act.

### **177U Obligation of councillor if conflict of interest reported under s 177T**

- (1) If, under section 177T, a councillor (the *informing councillor*) informs the person presiding at a council meeting of a belief or suspicion about another councillor (the *relevant councillor*), the relevant councillor must do 1 of the following—
- (a) if the relevant councillor has a prescribed conflict of interest—comply with section 177I(2);
  - (b) if the relevant councillor has a declarable conflict of interest—comply with section 177N(2);
  - (c) if the relevant councillor considers there is no prescribed conflict of interest or declarable conflict of interest—inform the

meeting of the relevant councillor's belief, including reasons for the belief.

- (2) If subsection (1)(c) applies—
  - (a) the informing councillor must inform the meeting about the particulars of the informing councillor's belief or suspicion; and
  - (b) the eligible councillors at the meeting must decide whether or not the relevant councillor has a prescribed conflict of interest or declarable conflict of interest in the matter.
- (3) If the eligible councillors at the meeting decide the relevant councillor has a prescribed conflict of interest in the matter, section 177J is taken to apply to the relevant councillor for the matter.
- (4) If the eligible councillors decide the relevant councillor has a declarable conflict of interest in the matter, sections 177N(2) and 177P are taken to apply in relation to the relevant councillor for the matter.

### **177V Offence to take retaliatory action**

A person must not, because a councillor complied with section 177T—

- (a) prejudice, or threaten to prejudice, the safety or career of the councillor or another person; or
- (b) intimidate or harass, or threaten to intimidate or harass, the councillor or another person; or
- (c) take any action that is, or is likely to be, detrimental to the councillor or another person.

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Maximum penalty—167 penalty units or 2 years imprisonment.

**177W Councillor with prescribed conflict of interest or declarable conflict of interest must not influence others**

- (1) This section applies to a councillor who has a prescribed conflict of interest or declarable conflict of interest in a matter.
- (2) The councillor must not direct, influence, attempt to influence, or discuss the matter with, another person who is participating in a decision of the council relating to the matter.

*Note—*

Contravention of this section is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

- (3) A councillor does not contravene subsection (2) solely by participating in a decision relating to the matter, including by voting on the matter, if the participation is—
  - (a) permitted under a decision mentioned in section 177P(3)(a)(i) or (b)(i); or
  - (b) approved under section 177S.
- (4) A councillor does not contravene subsection (2) solely because the councillor gives the chief executive officer the following information in compliance with this division—
  - (a) factual information about a matter;
  - (b) information that is required to be given to the council about a matter, including in an

application, to enable the council to decide the matter.

**177X Records about prescribed conflicts of interest or declarable conflicts of interest—meetings**

- (1) Subsection (2) applies if a councillor gives notice to, or informs, a council meeting that the councillor, or another councillor, has a prescribed conflict of interest or declarable conflict of interest in a matter.
- (2) The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation—
  - (a) the names of the councillor and any other councillor who may have a prescribed conflict of interest or declarable conflict of interest;
  - (b) the particulars of the prescribed conflict of interest or declarable conflict of interest;
  - (c) if section 177U applies—
    - (i) the action the councillor takes under section 177U(1); and
    - (ii) any decision made by the eligible councillors under section 177U(2);
  - (d) whether the councillor participated in deciding the matter, or was present for deciding the matter, under an approval under section 177S;
  - (e) for a matter to which the prescribed conflict of interest or declarable conflict of interest relates—the name of each eligible councillor who voted on the matter, and how each eligible councillor voted.

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- (3) Subsection (4) applies if the councillor has a declarable conflict of interest.
  - (4) In addition to the information mentioned in subsection (2), the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation—
    - (a) for a decision under section 177O(2)—the name of each eligible councillor who voted in relation to whether the councillor has a declarable conflict of interest, and how each eligible councillor voted;
    - (b) for a decision under section 177P—
      - (i) the decision, and reasons for the decision; and
      - (ii) the name of each eligible councillor who voted on the decision, and how each eligible councillor voted.

**82 Amendment of ch 6, pt 4 hdg (Council employees)**

Chapter 6, part 4, heading, after ‘employees’—

*insert—*

**, councillor advisors etc.**

**83 Amendment of s 192 (Appointing senior contract employees)**

(1) Section 192, heading, ‘contract’—

*omit, insert—*

**executive**

(2) Section 192(1) and (2), ‘contract’—

*omit, insert—*

**executive**

(3) Section 192(3) and (4)—

*omit.*

**84 Amendment of s 193 (Appointing other council employees)**

Section 193(3), ‘contract’—

*omit, insert—*

executive

**85 Insertion of new ch 6, pt 4, div 2A**

Chapter 6, part 4—

*insert—*

**Division 2A Councillor advisors**

**194A Appointment and functions of councillor advisors**

(1) A councillor may appoint 1 or more appropriately qualified persons (each a *councillor advisor*) to assist the councillor in performing responsibilities under this Act.

*Examples of assistance—*

administrative support, coordinating media activities, event management functions, policy development, office management

(2) However, the councillor must not—

(a) appoint a close associate of the councillor as a councillor advisor; or

(b) appoint more than the number of councillor advisors prescribed under section 194C(1)(a).

(3) If the councillor appoints a councillor advisor, the

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councillor advisor must enter into a written contract of employment with the council.

- (4) The contract of employment must provide for—
- (a) the councillor advisor's conditions of employment, including remuneration, leave and superannuation entitlements; and
  - (b) the councillor advisor's functions and key responsibilities; and
  - (c) a requirement that the councillor advisor comply with the councillor advisor code of conduct made by the Minister under the Local Government Act, section 197C; and
  - (d) when disciplinary action may be taken, and the types of disciplinary action that may be taken, against the councillor advisor.
- (5) The councillor advisor's functions and responsibilities can not include—
- (a) carrying out or assisting in an activity relating to a councillor's campaign for re-election; or

*Note—*

A person who is appointed as a councillor advisor may carry out or assist in an activity mentioned in paragraph (a) other than in the person's capacity as a councillor advisor.

- (b) directing a council employee.
- (6) The councillor who appointed the councillor advisor may give a direction to the councillor advisor.

### **194B When appointment ends**

- (1) A councillor advisor's appointment automatically ends on the day the councillor advisor is convicted of an offence against any of the

following provisions—

- (a) section 197(2) or (4);
  - (b) section 198D;
  - (c) section 198F(2) or (3);
  - (d) section 215(1).
- (2) Also, a councillor advisor's appointment automatically ends 2 weeks after the day either of the following happens—
- (a) the term of the councillor who appointed the councillor advisor ends;
  - (b) the councillor who appointed the councillor advisor is suspended.

#### **194C Regulation may prescribe particular matters relating to councillor advisors**

- (1) A regulation may—
- (a) prescribe the maximum number of councillor advisors each councillor may appoint; and
  - (b) limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment.
- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1)(a), the Minister must ask the remuneration commission for its recommendation about the proposed regulation.
- (3) The Minister must have regard to the recommendation of the remuneration commission in recommending the making of the regulation to the Governor in Council.
- (4) The maximum number of councillor advisors prescribed under subsection (1)(a)—



- (a) is the number of full-time equivalent councillor advisors a councillor may appoint; and
- (b) does not prevent a councillor appointing more than 1 part-time councillor advisor to perform the role of 1 full-time councillor advisor.

(5) In this section—

*remuneration commission* see the Local Government Act, section 176.

## 86 **Amendment of s 196 (Improper conduct by council employees)**

(1) Section 196(1) and (2)—

*omit, insert—*

(1) This section applies to the following persons—

- (a) a council employee;
- (b) a contractor of the council;
- (c) another type of person prescribed by regulation.

(2) Section 196(3), from ‘A council’ to ‘a council employee’—

*omit, insert—*

The person must not ask for, or accept, a fee or other benefit for doing something as a person mentioned in subsection (1)(a), (b) or (c)

(3) Section 196(4), ‘subsection (3)’—

*omit, insert—*

subsection (2)

(4) Section 196(5), ‘A council employee’—

*omit, insert—*

The person

(5) Section 196(5), penalty, ‘for subsection (5)’—

*omit.*

(6) Section 196(3) to (5)—

*renumber* as section 196(2) to (4).

## **87 Amendment of s 197 (Use of information by council employees)**

(1) Section 197, heading, after ‘employees’—

*insert*—

### **and councillor advisors**

(2) Section 197(1) and (2)—

*omit, insert*—

(1) This section applies to a person who is, or has been, any of the following—

(a) a council employee;

(b) a councillor advisor;

(c) a contractor of the council;

(d) another type of person prescribed by regulation.

(3) Section 197(3), from ‘A person’ to ‘employee to’—

*omit, insert*—

The person must not use information acquired as a person mentioned in subsection (1)(a), (b), (c) or (d) to

(4) Section 197(4), ‘Subsection (3)’—

*omit, insert*—

Subsection (2)

(5) Section 197(5), ‘A person who is, or has been, a council employee’—

*omit, insert—*

The person

- (6) Section 197(5), penalty, ‘for subsection (5)’—

*omit.*

- (7) Section 197(3) to (5)—

*renumber* as section 197(2) to (4).

**88 Amendment of s 198 (Annual report must detail remuneration)**

- (1) Section 198, heading, ‘remuneration’—

*omit, insert—*

**particular information about council  
employees and councillor advisors**

- (2) Section 198(1)(a), ‘(in the year to which the annual report relates)’—

*omit, insert—*

for the year

- (3) Section 198(1)—

*insert—*

(c) for each councillor—

- (i) the number of councillor advisors appointed by the councillor for the year; and
- (ii) the total remuneration payable to all councillor advisors appointed by the councillor for the year.

**89 Insertion of new ch 6, pt 4A**

Chapter 6—

*insert—*

## Part 4A                      Obligations of    councillors and    councillor advisors

### 198A Obligation of councillor or councillor advisor to inform chief executive officer of particulars of interests at start of term or on appointment

- (1) This section applies if—
  - (a) a councillor, at the start of the councillor's term, has an interest that must, under a regulation, be recorded in a register of interests for the councillor or a person who is related to the councillor; or
  - (b) a councillor advisor, when the advisor is appointed, has an interest that must, under a regulation, be recorded in a register of interests for the advisor or a person who is related to the advisor.
- (2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation within 30 days after the day the councillor's term starts or the advisor is appointed.

*Note—*

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

- (3) A person is *related* to a councillor if—
  - (a) the person is the councillor's spouse; or

- (b) the person is totally or substantially dependent on the councillor and—
  - (i) the person is the councillor’s child; or
  - (ii) the person’s affairs are so closely connected with the affairs of the councillor that a benefit derived by the person, or a substantial part of it, could pass to the councillor.
- (4) A person is *related* to a councillor advisor if—
  - (a) the person is the advisor’s spouse; or
  - (b) the person is totally or substantially dependent on the advisor and—
    - (i) the person is the advisor’s child; or
    - (ii) the person’s affairs are so closely connected with the affairs of the advisor that a benefit derived by the person, or a substantial part of it, could pass to the advisor.

**198B Obligation of councillor or councillor advisor to correct register of interests**

- (1) This section applies if—
  - (a) a councillor or councillor advisor, or a person who is related to the councillor or councillor advisor, acquires an interest that must be, but is not, recorded in a register of interests under a regulation; or
  - (b) there is a change to the particulars required to be included in a register of interests under a regulation for—
    - (i) a councillor or councillor advisor; or
    - (ii) a person who is related to the councillor or advisor.

- (2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation for the new interest or the change to the particulars within 30 days after the interest is acquired or the change happens.

*Note—*

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

### **198C Obligation of councillor or councillor advisor to inform chief executive officer annually about register of interests**

Each councillor and councillor advisor must, within 30 days after the end of each financial year, inform the chief executive officer, in the approved form, of the following—

- (a) if the councillor or councillor advisor, or a person related to the councillor or councillor advisor, has acquired an interest that must be, but is not, recorded in a register of interests under a regulation—the particulars of the interest that must be recorded in the register of interests under a regulation;
- (b) if there has been a change to the particulars required to be included in a register of interests under a regulation for the councillor or councillor advisor, or a person who is related to the councillor or advisor—the change to the particulars;

- (c) if paragraphs (a) and (b) do not apply—that there has been no interest acquired or change to the particulars for an interest.

*Note—*

Contravention of this section by a councillor is misconduct under the Local Government Act that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(v) of that Act. Also, this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

### **198D Dishonest conduct of councillor or councillor advisor**

- (1) A person who is a councillor or councillor advisor must not contravene a relevant integrity provision with intent to—
- (a) dishonestly obtain a benefit for the person or someone else; or
  - (b) dishonestly cause a detriment to someone else.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) In this section—

*benefit* includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

*detriment*, caused to a person, includes detriment caused to the person's property.

*relevant integrity provision—*

- (a) for a councillor, means each of the following provisions—
  - (i) section 177H;

- (ii) section 177I;
  - (iii) section 177N;
  - (iv) section 177W;
  - (v) section 198A;
  - (vi) section 198B;
  - (vii) section 198C;
  - (viii) section 215, if the information mentioned in that section is given under section 198A, 198B or 198C; or
- (b) for a councillor advisor, means each of the following provisions—
- (i) section 198A;
  - (ii) section 198B;
  - (iii) section 198C;
  - (iv) section 215, if the information mentioned in that section is given under section 198A, 198B or 198C.

### **198E Proceeding for offence against s 198D**

- (1) An offence against section 198D is a misdemeanour.
- (2) A proceeding for an offence against section 198D may be started only with the written consent of the director of public prosecutions.
- (3) A proceeding for an offence against section 198D may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 198D summarily if the



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magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

- (5) If subsection (4) applies—
- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and
  - (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 198D—
- (a) must be constituted by a magistrate; and
  - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.
- (7) In this section—

***director of public prosecutions*** means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

### **198F Prohibited conduct by councillor or councillor advisor in possession of inside information**

- (1) This section applies to a person (the *insider*) who is, or has been, a councillor or councillor advisor if the insider—
  - (a) acquired inside information as a councillor or councillor advisor; and
  - (b) knows, or ought reasonably to know, the inside information is not generally available to the public.

- (2) The insider must not cause the purchase or sale of an asset if knowledge of the inside information would be likely to influence a reasonable person in deciding whether or not to buy or sell the asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

- (3) The insider must not cause the inside information to be provided to another person the insider knows, or ought reasonably to know, may use the information in deciding whether or not to buy or sell an asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

- (4) In this section—

*cause*, in relation to an action, includes the following—

- (a) carry out the action;
- (b) instigate the action;
- (c) direct, or otherwise influence, another person to carry out or instigate the action.

*corporate entity* means a corporation owned by the council.

*inside information* means information about any

of the following—

- (a) the operations or finances of the council (including any business activity of the council) or any of its corporate entities;
- (b) a proposed policy of the council, including proposed changes to an existing policy;
- (c) a contract entered into, or proposed to be entered into, by the council or any of its corporate entities;
- (d) a tender process being conducted by or for the council or any of its corporate entities;
- (e) a decision, or proposed decision, of the council or any of its committees;
- (f) the exercise of a power, under a local government related law, by the council, a councillor or a council employee;
- (g) the exercise of a power, under an Act, by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the council, any of its corporate entities or land or infrastructure within Brisbane;
- (h) any legal or financial advice created for the council, any of its committees or any of its corporate entities.

## **90 Amendment of s 215 (False or misleading information)**

Section 215(1), after the penalty—

*insert—*

*Note—*

In certain circumstances this section is a relevant integrity provision for the offence against section 198D—see section 198D(2), definition *relevant integrity provision*.

## 91 Insertion of new ch 8, pt 11

Chapter 8—

*insert—*

### **Part 11**

## **Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

### **294 Existing senior contract employees**

- (1) Subsection (2) applies to a person who, immediately before the commencement, was a senior contract employee of the council if the person—
  - (a) reported directly to the chief executive officer; and
  - (b) held a position that would ordinarily be considered to be a senior position in the council's corporate structure.
- (2) On the commencement—
  - (a) the person's contract and conditions of employment continue; and
  - (b) the person is taken to have been appointed by the council as a senior executive employee under section 192.
- (3) Subsection (4) applies to a person who, immediately before the commencement, was a senior contract employee of the council other than a person mentioned in subsection (1).
- (4) On the commencement—

- (a) the person's contract and conditions of employment continue; and
- (b) the person is taken to have been appointed by the chief executive officer as a council employee under section 193; and
- (c) section 193(4) does not apply in relation to the person's employment.

### **295 Proceedings for repealed integrity offences**

- (1) This section applies in relation to an offence against a repealed integrity offence provision committed by a person before the commencement.
- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*, sections 80 and 81 had not commenced.
- (3) From the commencement, an offence against a repealed integrity offence provision continues, despite the repeal of the provision, to be—
  - (a) an integrity offence for section 153(5); and
  - (b) a disqualifying offence for section 153(6).
- (4) In this section—

***repealed integrity offence provision*** means the following provisions as in force from time to time before the commencement—

  - (a) section 173A(2) and (3);
  - (b) section 173B(2);
  - (c) section 177C(2);

- (d) section 177E(2) and (5);
- (e) section 177H;
- (f) section 177I(2) and (3).

### **296 Continuation of Minister's approval for councillor to participate or be present to decide matter**

- (1) This section applies to a notice given before the commencement by the Minister to a councillor under section 177F, if the notice is in force immediately before the commencement.
- (2) The notice is taken to be a notice given to the councillor under section 177S.

### **297 Remuneration commission's recommendation not required for initial regulation**

Section 194C(2) and (3) does not apply to the regulation first made after the commencement under section 194C(1)(a).

### **298 Application of s 198A for councillors**

- (1) This section applies if, on the commencement, a councillor has an interest mentioned in section 198A(1).
- (2) Despite section 198A(2), the councillor must comply with section 198A in relation to the interest within 30 days after the commencement.

## **92 Amendment of sch 1 (Serious integrity offences and integrity offences)**

- (1) Schedule 1, part 1, before entry for Criminal Code—  
*insert—*

**This Act**

- 198D Dishonest conduct of councillor or councillor advisor
- (2) Schedule 1, part 2, under heading ‘This Act’, entries for sections 173A(2) or (3), 173B(2), 177C(2), 177E(2) or (5), 177H and 177I(2) or (3)—  
*omit.*
- (3) Schedule 1, part 2, under heading ‘This Act’—  
*insert—*
- 177J(2) Dealing with prescribed conflict of interest at a meeting
- 177V Offence to take retaliatory action
- 198F(2) or (3) Prohibited conduct by councillor or councillor advisor in possession of inside information

**93 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *senior contract employee*—  
*omit.*
- (2) Schedule 2, definitions *conflict of interest, material personal interest, ordinary business matter, perceived conflict of interest* and *real conflict of interest*—  
*omit.*
- (3) Schedule 2—  
*insert—*

***senior executive employee*** means an employee of the council—

- (a) who reports directly to the chief executive officer; and

- (b) whose position ordinarily would be considered to be a senior position in the council's corporate structure.

(4) Schedule 2—

*insert—*

***close associate***, of a councillor, see section 177G.

***councillor advisor*** see section 194A(1).

***council meeting*** means a meeting of—

- (a) the council; or
- (b) a committee of the council.

***declarable conflict of interest*** see sections 177K and 177L.

***eligible councillor***, for a matter at a council meeting, means a councillor at the meeting who does not have a prescribed conflict of interest or declarable conflict of interest in the matter.

***executive officer***, of an entity, means—

- (a) if the entity has a board or management committee—each member of the board or committee; or
- (b) each person, by whatever name called, who is concerned, or takes part, in the management of the entity.

***gift*** includes—

- (a) a gift under the *Local Government Electoral Act 2011*, section 107; and
- (b) a gift that is required, under a regulation, to be recorded in a register of interests.

***group of candidates*** see the *Local Government Electoral Act 2011*, schedule 2.

***interest*** means a financial or other interest.



**loan** includes—

- (a) a loan under the *Local Government Electoral Act 2011*, section 106; and
- (b) a loan that is required, under a regulation, to be recorded in a register of interests.

**prescribed conflict of interest** see section 177D, 177E or 177F.

**related**, for chapter 6, part 4A—

- (a) to a councillor—see section 198A(3); or
- (b) to a councillor advisor—see section 198A(4).

**related party**, of a councillor, see section 177M.

**relevant term**, for a councillor, means the councillor's current term of office and the period—

- (a) starting on the day after the conclusion of the quadrennial election held before the most recent quadrennial election; and
  - (b) ending on the day immediately before the councillor's current term of office started.
- (5) Schedule 2, definition *council employee*, paragraph (b), 'contract'—

*omit, insert*—

executive

## Part 2

## Amendment of Local Government Act 2009

### 94 Act amended

This part amends the *Local Government Act 2009*.

**95 Amendment of s 4 (Local government principles underpin this Act)**

Section 4(2)(e), ‘and local government employees’—

*omit, insert—*

, local government employees and councillor advisors

**96 Amendment of s 12 (Responsibilities of councillors)**

Section 12(4)(c)—

*omit, insert—*

(c) directing the chief executive officer of the local government under section 170;

**96A Amendment of s 104 (Financial management systems)**

Section 104(5)(a)(i), ‘5-year’—

*omit.*

**97 Amendment of s 123 (Suspending or dissolving a local government)**

(1) Section 123(3)(b), from ‘conclusion of’—

*omit, insert—*

earlier of—

(i) the conclusion of a fresh election of councillors to be held on a stated date; or

(ii) the conclusion of the next quadrennial election.

(2) Section 123(6)—

*omit.*

**98 Amendment of s 124 (Interim administrator acts for the councillors temporarily)**

Section 124(6), from ‘for the costs’—

*omit, insert—*

for the costs and expenses of—

- (a) the interim administrator; and
- (b) an advisory committee mentioned in subsection (10); and
- (c) a committee appointed for the interim administrator under chapter 6, part 7.

**99 Insertion of new s 124A**

After section 124—

*insert—*

**124A Minister may appoint acting interim administrator**

- (1) This section applies if—
  - (a) an interim administrator is appointed to act in place of the councillors of a local government; and
  - (b) during the interim administrator’s term—
    - (i) there is a vacancy in the office of the interim administrator; or
    - (ii) the interim administrator is absent or can not perform the duties of interim administrator.
- (2) The Minister may appoint a person to act as the interim administrator.
- (3) Subject to any regulation made under section 124 for the interim administrator, the powers and responsibilities of the acting interim administrator may be limited by the Minister under the acting

interim administrator's instrument of appointment.

- (4) The person can not be appointed for more than 6 months in a 12-month period.
- (5) The Minister must publish, by gazette notice, the name of the acting interim administrator.

### **100 Amendment of s 150C (Definitions for chapter)**

Section 150C, definition *local government meeting*—  
*omit.*

### **101 Amendment of s 150L (What is *misconduct*)**

- (1) Section 150L(1)(c)(iv)—

*omit, insert—*

(iv) section 150R(2), 150EK, 150EL, 150EQ, 150EW, 150EZ, 170(3), 171(3), 201A, 201B or 201C;

- (2) Section 150L(1)(c)(v)—

*omit, insert—*

(v) the *City of Brisbane Act 2010*, section 170(3), 173(3), 177H, 177I, 177N, 177T, 177W, 198A, 198B or 198C.

### **102 Amendment of s 150R (Local government official must notify assessor about particular conduct)**

Section 150R(2)—

*insert—*

*Note—*

Contravention of subsection (2) by a councillor is misconduct that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv).

### **103 Amendment of s 150AY (Functions of investigators)**

(1) Section 150AY(b), second dot point—

*omit, insert—*

- section 150EM(2), 150ES(5), 150EY, 171(1), 201D or 201F(2) or (3)

(2) Section 150AY(b), fourth dot point—

*omit, insert—*

- the *City of Brisbane Act 2010*, section 173(1), 177J(2), 177P(5), 177V, 198D or 198F(2) or (3)

### **103A Insertion of new s 150DSA**

After section 150DS—

*insert—*

#### **150DSA Protection and immunity for members in performing particular functions**

In performing a function of the conduct tribunal under chapter 5A, part 3, division 6 or chapter 7, part 1, a member of the tribunal has the same protection and immunity as a Supreme Court judge performing a judicial function.

### **104 Insertion of new ch 5B**

After chapter 5A—

*insert—*

## **Chapter 5B Councillors' conflicts of interest**

### **Part 1**

### **Preliminary**

### **150ED Purpose of chapter**

The purpose of this chapter is to ensure that if a councillor has a personal interest in a matter, the local government deals with the matter in an accountable and transparent way that meets community expectations.

### **150EE When does a person participate in a decision**

Without limiting when a person participates in a decision, in this chapter, a reference to a councillor of a local government, or other person, participating in a decision includes a reference to the councillor or other person—

- (aa) if the councillor or other person is wholly or partly responsible for making the decision— considering or discussing the matter to which the decision relates before the decision is made; and
- (a) considering, discussing or voting on the decision in a local government meeting; and
- (b) considering or making the decision under—
  - (i) an Act; or
  - (ii) a delegation; or
  - (iii) another authority.

### **150EF Personal interests in ordinary business matters of a local government**

- (1) This chapter does not apply in relation to a conflict of interest in a matter if the matter—
  - (a) is solely, or relates solely to, the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the local government; or

- (b) is solely, or relates solely to—
  - (i) making a planning scheme that applies to the whole of the local government area; or
  - (ii) amending a planning scheme, if the amendment applies to the whole of the local government area; or
- (c) is solely, or relates solely to, a resolution required for the adoption or amendment of a budget for the local government; or
- (d) is solely, or relates solely to—
  - (i) the remuneration or reimbursement of expenses of councillors or members of a committee of the local government; or
  - (ii) the provision of superannuation entitlements or insurance for councillors; or
  - (iii) a matter of interest to the councillor solely as a candidate for election or appointment as mayor, deputy mayor, councillor or member of a committee of the local government.
- (2) Also, this chapter does not apply in relation to a councillor's conflict of interest in a matter relating to a corporation or association that arises solely because of a nomination or appointment of the councillor by the local government to be a member of the board of the corporation or association.
- (2A) In addition, this chapter does not apply in relation to a councillor's conflict of interest in a matter if the councillor, close associate or related party of the councillor, or the donor mentioned in section 150EG(1)(a) or 150EH(1)(a) stands to gain a benefit or suffer a loss in relation to the matter that

is no greater than the benefit or loss that a significant proportion of persons in the local government area stand to gain or lose.

- (3) However, if a councillor decides to voluntarily comply with this chapter in relation to personal interests of the councillor in the matter—
- (a) the personal interests are taken to be a declarable conflict of interest; and
  - (b) this chapter applies as if eligible councillors had, under section 150ER(2), decided the councillor has a declarable conflict of interest in the matter.

*Note—*

See section 150ES for requirements for dealing with a conflict of interest mentioned in this subsection.

## Part 2 Prescribed conflicts of interest

### 150EG When councillor has *prescribed conflict of interest*—particular gifts or loans

- (1) A councillor has a *prescribed conflict of interest* in a matter if—
- (a) a gift or loan is given by an entity (the *donor*) that has an interest in the matter in a circumstance mentioned in subsection (2); and
  - (b) the gift or loan is given during the relevant term for the councillor; and
  - (c) all gifts, loans or sponsored travel or accommodation benefits under section 150EH given by the donor to the councillor, or a close associate of the councillor, during



the councillor's relevant term total \$2,000 or more.

(2) For subsection (1)(a), the circumstances are—

(a) where—

(i) the donor gives the gift or loan to the councillor; and

(ii) the gift or loan is required to be the subject of a return under the Local Government Electoral Act, part 6; or

(b) where—

(i) the donor gives the gift or loan to a group of candidates for an election when the councillor is a member of the group, or a political party that endorses the councillor for an election; and

(ii) the councillor is a candidate in the election; and

(iii) the gift or loan is required to be the subject of a return under the Local Government Electoral Act, part 6 or the Electoral Act, part 11, division 11; or

(c) where the donor gives a gift to the councillor, or a close associate of the councillor, other than in a circumstance mentioned in paragraph (a) or (b).

(2A) Subsection (3) applies for gifts or loans given by a donor—

(a) to a group of candidates when the councillor is a member of the group; or

(b) to a political party that endorses the councillor.

(3) For working out the total gifts or loans given by the donor for subsection (1)(a), the amount of each gift or loan given to the group or political

party must first be divided by—

- (a) for a group of candidates for an election—the total number of candidates in the group stated in the record of the membership of the group under the *Local Government Electoral Act 2011*, section 41; or
- (b) for a political party endorsing the candidate for an election—the total number of candidates endorsed by the political party in Queensland on the nomination day for the election under the *Local Government Electoral Act 2011*.

**150EH When councillor has *prescribed conflict of interest*—sponsored travel or accommodation benefits**

- (1) A councillor has a *prescribed conflict of interest* in a matter if—
  - (a) a sponsored travel or accommodation benefit is given by an entity (the *donor*) that has an interest in the matter to—
    - (i) the councillor; or
    - (ii) a close associate of the councillor; and
  - (b) the sponsored travel or accommodation benefit is given—
    - (i) during the relevant term for the councillor; and
    - (ii) while the councillor holds office as councillor; and
  - (c) all gifts, loans or sponsored travel or accommodation benefits given by the donor to the councillor or close associate during the councillor's relevant term total \$2,000 or more.

(1A) Section 150EG(2A) and (3) applies for working out the total gifts or loans given by the donor for subsection (1)(c).

(2) In this section—

***employment-related or upgraded***, in relation to a person's travel or accommodation, means—

(a) the travel or accommodation is paid for by the State or a local government; or

(b) the travel or accommodation—

(i) is undertaken or used by the person in the course of the person's employment; and

(ii) is contributed to, whether financially or non-financially, by the person's employer; or

(c) if the person is a director of a corporation—the travel or accommodation—

(i) is undertaken or used by the person in the course of carrying out the person's duties as a director; and

(ii) is contributed to, whether financially or non-financially, by the corporation; or

(d) if the travel is airline travel—an upgrade to the travel is given by the provider of the travel for no charge; or

*Example—*

a free air travel upgrade to business class

(e) an upgrade to the accommodation is given by the provider of the accommodation for no charge.

*Example—*

a free accommodation upgrade to a larger room

***sponsored travel or accommodation benefit***,

received by a person, means travel or accommodation undertaken or used by the person, other than employment-related or upgraded travel or accommodation, if—

- (a) another entity contributes, whether financially or non-financially, to the cost of the travel or accommodation; and
- (b) the other entity is not the person's spouse, other family member or friend.

### **150EI When councillor has *prescribed conflict of interest—other***

A councillor has a *prescribed conflict of interest* in a matter if—

- (a) the matter is or relates to a contract between the local government and the councillor, or a close associate of the councillor, for—
  - (i) the supply of goods or services to the local government; or
  - (ii) the lease or sale of assets by the local government; or
- (aa) a person who is being considered for appointment as the chief executive officer of the local government is a close associate of the councillor and the matter is or relates to the appointment of the person; or
- (b) the chief executive officer is a close associate of the councillor and the matter is or relates to the appointment, discipline, termination, remuneration or other employment conditions of the chief executive officer; or
- (c) the matter is or relates to an application made to the local government for the grant of a licence, permit, registration or approval

or consideration of another matter under a Local Government Act, if—

- (i) the application was made to the local government by the councillor or a close associate of the councillor; or
- (ii) the councillor or a close associate of the councillor makes or has made a written submission to the local government in relation to the application before it is or was decided.

### **150EJ Who is a *close associate* of a councillor**

- (1) A person is a *close associate* of a councillor if the person is any of the following in relation to the councillor—
  - (a) a spouse;
  - (b) a parent, child or sibling;
  - (c) a partner in a partnership;
  - (d) an employer, other than a government entity;
  - (e) an entity, other than a government entity, for which the councillor is an executive officer or board member;
  - (f) an entity in which the councillor or a person mentioned in any of paragraphs (a) to (e) for the councillor has an interest, other than an interest of less than 5% in an entity that is a listed corporation under the Corporations Act, section 9.
- (2) However, a parent, child or sibling is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's or sibling's involvement in the matter.

### **150EK Councillor must not participate in decisions**

- (1) If a councillor has a prescribed conflict of interest in a matter, the councillor must not participate in a decision relating to the matter.

*Note—*

Contravention of this section is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

- (2) However, the councillor does not contravene subsection (1) by participating in the decision under an approval given under section 150EV.

### **150EL Obligation of councillor with prescribed conflict of interest**

- (1) This section applies to a councillor if—
  - (a) the councillor may participate, or is participating, in a decision about a matter; and
  - (b) the councillor becomes aware the councillor has a prescribed conflict of interest in the matter.
- (2) If the councillor first becomes aware the councillor has the prescribed conflict of interest in the matter at a local government meeting, the councillor must immediately inform the meeting of the prescribed conflict of interest, including the particulars stated in subsection (4).
- (3) If subsection (2) does not apply, the councillor must—
  - (a) as soon as practicable, give the chief executive officer written notice of the prescribed conflict of interest, including the particulars stated in subsection (4); and

- (b) give notice of the prescribed conflict of interest, including the particulars stated in subsection (4), at—
  - (i) the next meeting of the local government; or
  - (ii) if the matter is to be considered and decided at a meeting of a committee of the local government—the next meeting of the committee.

*Note—*

Contravention of subsection (2) or (3) is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

- (4) For subsections (2) and (3), the particulars for the prescribed conflict of interest are the following—
  - (a) for a gift, loan or contract—the value of the gift, loan or contract;
  - (b) for an application for which a submission has been made—the matters the subject of the application and submission;
  - (c) the name of any entity, other than the councillor, that has an interest in the matter;
  - (d) the nature of the councillor's relationship with the entity mentioned in paragraph (c);
  - (e) details of the councillor's, and any other entity's, interest in the matter.

### **150EM Dealing with prescribed conflict of interest at a meeting**

- (1) This section applies if a councillor gives a notice at, or informs, a meeting of the councillor's prescribed conflict of interest in a matter.

- (2) The councillor must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) However, the councillor does not contravene subsection (2) by participating in a decision or being present under an approval given under section 150EV.

## **Part 3                      Declarable conflicts of interest**

### **150EN What is a *declarable conflict of interest***

Subject to section 150EO, a councillor has a *declarable conflict of interest* in a matter if—

- (a) the councillor has, or could reasonably be presumed to have, a conflict between the councillor's personal interests, or the personal interests of a related party of the councillor, and the public interest; and
- (b) because of the conflict, the councillor's participation in a decision about the matter might lead to a decision that is contrary to the public interest.

### **150EO Interests that are not declarable conflicts of interest**

- (1) A councillor who has a conflict of interest in a matter does not have a *declarable conflict of interest* in the matter if—
- (a) the conflict of interest is a prescribed conflict of interest in the matter; or



- (b) the conflict of interest arises solely because—
  - (i) the councillor undertakes an engagement in the capacity of councillor for a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or
  - (ii) the councillor, or a related party of the councillor, is a member or patron of a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation; or
  - (iii) the councillor, or a related party of the councillor, is a member of a political party; or
  - (iv) the councillor, or a related party of the councillor, has an interest in an educational facility or provider of a child care service as a student or former student, or a parent or grandparent of a student, of the facility or service; or
- (c) the conflict of interest arises solely because of the religious beliefs of the councillor or a related party of the councillor; or
- (e) the conflict of interest arises solely because the councillor, or a related party of the councillor, receives a gift, loan or sponsored travel or accommodation benefit from an entity, if—
  - (i) the gift, loan or benefit is given in circumstances that would constitute a prescribed conflict of interest under section 150EG or 150EH if the total

- gifts, loans and benefits given by the entity totalled \$2,000 or more; and
- (ii) the total gifts, loans and benefits given by the entity to the councillor or related party total less than \$500 during the councillor's relevant term; or
- (f) the conflict of interest relates to the appointment, discipline, termination, remuneration or other employment conditions of a councillor advisor for the councillor, if the conflict of interest arises solely because the councillor advisor is a related party, other than a close associate, of the councillor.
- (2) For subsection (1)(e), for assessing whether the receipt of a gift, loan or sponsored travel or accommodation benefit in particular circumstances by a councillor or a related party of a councillor constitutes a declarable conflict of interest, a reference in section 150EG or 150EH to a close associate of a councillor is taken to be a reference to a related party of the councillor.
- (2A) Section 150EG(2A) and (3) applies for working out, under subsection (1)(e)(ii), the total gifts, loans and benefits given by the entity as if a reference in that section to a donor were a reference to the entity.
- (3) In this section—
- patron***, of a community group, sporting club or similar organisation, means a person who, under a formal arrangement, provides public support to the group, club or organisation as its ambassador or representative.
- sponsored travel or accommodation benefit*** see section 150EH.

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### **150EP Who is a *related party* of a councillor**

- (1) A person is a *related party* of a councillor if the person is any of the following in relation to the councillor—
  - (a) an entity in which the councillor, or a person mentioned in paragraph (b), (c) or (d), has an interest;
  - (b) a close associate of the councillor, other than an entity mentioned in section 150EJ(1)(f);
  - (c) a parent, child or sibling of the councillor's spouse;
  - (d) a person who has a close personal relationship with the councillor.
- (2) However, a parent, child or sibling of the councillor's spouse, or a person who has a close personal relationship with the councillor, is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's, sibling's or person's involvement in the matter.

### **150EQ Obligation of councillor with declarable conflict of interest**

- (1) This section applies to a councillor if—
  - (a) the councillor may participate, or is participating, in a decision about a matter; and
  - (b) the councillor becomes aware the councillor has a declarable conflict of interest in the matter.
- (2) If the councillor first becomes aware the councillor has the declarable conflict of interest at a local government meeting, the councillor—

- (a) must stop participating, and must not further participate, in a decision relating to the matter; and
  - (b) must immediately inform the meeting of the declarable conflict of interest, including the particulars stated in subsection (4).
- (3) If subsection (2) does not apply, the councillor—
- (a) must stop participating, and must not further participate, in a decision relating to the matter; and
  - (b) as soon as practicable, must give the chief executive officer notice of the councillor's declarable conflict of interest in the matter, including the particulars stated in subsection (4); and
  - (c) must give notice of the declarable conflict of interest, including the particulars stated in subsection (4), at—
    - (i) the next meeting of the local government; or
    - (ii) if the matter is to be considered and decided at a meeting of a committee of the local government—the next meeting of the committee.

*Note—*

Contravention of subsection (2) or (3) is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

- (4) For subsections (2) and (3), the particulars for the declarable conflict of interest are the following—
- (a) the nature of the declarable conflict of interest;

- (b) if the declarable conflict of interest arises because of the councillor's relationship with a related party—
  - (i) the name of the related party; and
  - (ii) the nature of the relationship of the related party to the councillor; and
  - (iii) the nature of the related party's interests in the matter;
- (c) if the councillor's or related party's personal interests arise because of the receipt of a gift or loan from another person—
  - (i) the name of the other person; and
  - (ii) the nature of the relationship of the other person to the councillor or related party; and
  - (iii) the nature of the other person's interests in the matter; and
  - (iv) the value of the gift or loan, and the date the gift was given or loan was made.
- (5) A councillor does not contravene subsection (2)(a) or (3)(a) if—
  - (a) the councillor has otherwise complied with this section; and
  - (b) either—
    - (i) a decision has been made under section 150ES(3)(a)(i) or (b)(i) that the councillor may participate in the decision despite having a declarable conflict of interest in the matter; or
    - (ii) the councillor is participating in the decision under an approval given under section 150EV.

### **150ER Procedure if meeting informed of councillor's personal interests**

- (1) This section applies if a local government meeting is informed that a councillor has personal interests in a matter by a person other than the councillor.
- (2) The eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.

### **150ES Procedure if councillor has declarable conflict of interest**

- (1) This section applies if a councillor has a declarable conflict of interest in a matter as notified at a meeting under section 150EQ(2) or (3) or decided by eligible councillors at a meeting under section 150ER(2).
- (2) However, this section does not apply in relation to a decision about the matter if the councillor who has the declarable conflict of interest voluntarily decides not to participate in the decision.
- (3) The eligible councillors at the meeting must, by resolution, decide—
  - (a) for a matter that would, other than for the councillor's declarable conflict of interest, have been decided by the councillor under an Act, delegation or other authority, whether the councillor—
    - (i) may participate in the decision despite the councillor's conflict of interest; or
    - (ii) must not participate in the decision, and must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the eligible councillors discuss and vote on the matter; or

- 
- (b) for another matter, whether the councillor—
- (i) may participate in a decision about the matter at the meeting, including by voting on the matter; or
  - (ii) must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the eligible councillors discuss and vote on the matter.
- (4) The eligible councillors may impose conditions on the councillor under a decision mentioned in subsection (3)(a)(i) or (b)(i).

*Example—*

The eligible councillors may decide that the councillor may participate in a decision about the matter by discussing it at the meeting under subsection (3)(b)(i), but may impose the condition that the councillor must leave the place at which the meeting is being held while the matter is voted on.

- (5) The councillor must comply with—
- (a) a decision under subsection (3)(a)(ii) or (b)(ii); or
  - (b) any conditions imposed on a decision under subsection (4).

Maximum penalty—100 penalty units or 1 year's imprisonment.

- (6) However, the councillor does not contravene subsection (5) by participating in a decision or being present under an approval given under section 150EV.

### **150ET Decisions of eligible councillors**

- (1) A decision by eligible councillors may be made under section 150ER or 150ES, other than in

relation to a matter mentioned in section 150EU, even if—

- (a) the number of eligible councillors is less than a majority; or
  - (b) the eligible councillors do not form a quorum for the meeting.
- (2) The councillor who is the subject of the decision may remain at the meeting while the decision is made, but can not vote or otherwise participate in the making of the decision, other than by answering a question put to the councillor necessary to assist the eligible councillors to make the decision.
- (3) If the eligible councillors can not make a decision under section 150ER or 150ES, the eligible councillors are taken to have decided under section 150ES(3)(a)(ii) or (b)(ii) that the councillor must leave, and stay away from, the place where the meeting is being held while the eligible councillors discuss and vote on the matter.
- (4) A decision about a councillor under section 150ER or 150ES for a matter applies in relation to the councillor for participating in the decision, and all subsequent decisions, about the matter.

## Part 4 Other matters

### **150EU Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest**

- (1) This section applies in relation to a meeting if—
- (a) a matter in which 1 or more councillors have a prescribed conflict of interest or declarable



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- conflict of interest is to be decided at the meeting; and
- (b) there is less than a quorum remaining at the meeting after any of the councillors mentioned in paragraph (a) leave, and stay away from, the place where the meeting is being held.
- (2) The local government must do 1 of the following—
    - (a) delegate deciding the matter under section 257, unless the matter can not be delegated under that section;
    - (b) decide, by resolution, to defer the matter to a later meeting;
    - (c) decide, by resolution, not to decide the matter and take no further action in relation to the matter.
  - (3) The local government must not delegate deciding the matter to an entity if the entity, or a majority of its members, have personal interests that are, or are equivalent in nature to, a prescribed conflict of interest or declarable conflict of interest in the matter.
  - (4) A councillor does not contravene section 150EK(1), 150EM(2), 150EQ(2)(a) or (3)(a) or 150ES(5) by participating in a decision, or being present while the matter is discussed and voted on, for the purpose of delegating the matter or making a decision under subsection (2)(b) or (c).

### **150EV Minister's approval for councillor to participate or be present to decide matter**

- (1) The Minister may, by signed notice given to a councillor, approve the councillor participating in deciding a matter in a meeting, including being

present while the matter is discussed and voted on, if—

- (a) the matter could not otherwise be decided at the meeting because of a circumstance mentioned in section 150EU(1); and
  - (b) deciding the matter can not be delegated under section 257.
- (2) The Minister may give the approval subject to the conditions stated in the notice.

**150EW Duty to report another councillor's prescribed conflict of interest or declarable conflict of interest**

- (1) This section applies if a councillor reasonably believes or reasonably suspects—
  - (a) another councillor who has a prescribed conflict of interest in a matter is participating in a decision in contravention of section 150EK(1); or
  - (b) another councillor who has a declarable conflict of interest in a matter is participating in a decision in contravention of section 150EQ(2)(a) or (3)(a).
- (2) The councillor who has the belief or suspicion must—
  - (a) if the belief or suspicion arises in a local government meeting—immediately inform the person who is presiding at the meeting about the belief or suspicion; or
  - (b) otherwise—as soon as practicable, inform the chief executive officer of the belief or suspicion.
- (3) The councillor must also inform the person presiding, or the chief executive officer, of the facts and circumstances forming the basis of the

belief or suspicion.

*Note—*

Contravention of subsection (2) or (3) is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv).

### **150EX Obligation of councillor if conflict of interest reported under s 150EW**

- (1) If, under section 150EW, a councillor (the *informing councillor*) informs the person presiding at a local government meeting of a belief or suspicion about another councillor (the *relevant councillor*), the relevant councillor must do 1 of the following—
  - (a) if the relevant councillor has a prescribed conflict of interest—comply with section 150EL(2);
  - (b) if the relevant councillor has a declarable conflict of interest—comply with section 150EQ(2);
  - (c) if the relevant councillor considers there is no prescribed conflict of interest or declarable conflict of interest—inform the meeting of the relevant councillor’s belief, including reasons for the belief.
- (2) If subsection (1)(c) applies—
  - (a) the informing councillor must inform the meeting about the particulars of the informing councillor’s belief or suspicion; and
  - (b) the eligible councillors at the meeting must decide whether or not the relevant councillor has a prescribed conflict of interest or declarable conflict of interest in the matter.

- (3) If the eligible councillors at the meeting decide the relevant councillor has a prescribed conflict of interest in the matter, section 150EM is taken to apply to the relevant councillor for the matter.
- (4) If the eligible councillors decide the relevant councillor has a declarable conflict of interest in the matter, sections 150EQ(2) and 150ES are taken to apply in relation to the relevant councillor for the matter.

### **150EY Offence to take retaliatory action**

A person must not, because a councillor complied with section 150EW—

- (a) prejudice, or threaten to prejudice, the safety or career of the councillor or another person; or
- (b) intimidate or harass, or threaten to intimidate or harass, the councillor or another person; or
- (c) take any action that is, or is likely to be, detrimental to the councillor or another person.

Maximum penalty—167 penalty units or 2 years imprisonment.

### **150EZ Councillor with prescribed conflict of interest or declarable conflict of interest must not influence others**

- (1) This section applies to a councillor of a local government who has a prescribed conflict of interest or declarable conflict of interest in a matter.
- (2) The councillor must not direct, influence, attempt to influence, or discuss the matter with, another person who is participating in a decision of the

local government relating to the matter.

*Note—*

Contravention of this section is misconduct that could result in disciplinary action being taken against a councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

- (3) A councillor does not contravene subsection (2) solely by participating in a decision relating to the matter, including by voting on the matter, if the participation is—
  - (a) permitted under a decision mentioned in section 150ES(3)(a)(i) or (b)(i); or
  - (b) approved under section 150EV.
- (4) A councillor does not contravene subsection (2) solely because the councillor gives the chief executive officer the following information in compliance with this chapter—
  - (a) factual information about a matter;
  - (b) information that is required to be given to the local government about a matter, including in an application, to enable the local government to decide the matter.

### **150FA Records about prescribed conflicts of interest or declarable conflicts of interest—meetings**

- (1) Subsection (2) applies if a councillor gives notice to, or informs, a local government meeting that the councillor, or another councillor, has a prescribed conflict of interest or declarable conflict of interest in a matter.
- (2) The following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way

prescribed by regulation—

- (a) the name of the councillor and any other councillor who may have a prescribed conflict of interest or declarable conflict of interest;
  - (b) the particulars of the prescribed conflict of interest or declarable conflict of interest;
  - (c) if section 150EX applies—
    - (i) the action the councillor takes under section 150EX(1); and
    - (ii) any decision made by the eligible councillors under section 150EX(2);
  - (d) whether the councillor participated in deciding the matter, or was present for deciding the matter, under an approval under section 150EV;
  - (e) for a matter to which the prescribed conflict of interest or declarable conflict of interest relates—the name of each eligible councillor who voted on the matter, and how each eligible councillor voted.
- (3) Subsection (4) applies if the councillor has a declarable conflict of interest.
- (4) In addition to the information mentioned in subsection (2), the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation—
- (a) for a decision under section 150ER(2)—the name of each eligible councillor who voted in relation to whether the councillor has a declarable conflict of interest, and how each eligible councillor voted;
  - (b) for a decision under section 150ES—

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- (i) the decision and reasons for the decision; and
  - (ii) the name of each eligible councillor who voted on the decision, and how each eligible councillor voted.

### 105 Amendment of s 160 (When a councillor's term ends)

Section 160(b), after 'regulation'—

*insert—*

under section 160A

### 106 Amendment of s 161 (What this division is about)

(1) Section 161(2)—

*omit, insert—*

- (2) The way in which a vacancy is to be filled depends on whether the office becomes vacant during the beginning, middle or end of the local government's term.

(2) Section 161(4) and (5)—

*omit, insert—*

- (4) The *middle* of the local government's term is the period of 24 months that—
  - (a) starts on the first anniversary of the last quadrennial elections; and
  - (b) ends on the day before the third anniversary of the last quadrennial elections.
- (5) The *final part* of the local government's term is the period that—
  - (a) starts on the third anniversary of the last quadrennial elections; and

- (b) ends on the day before the next quadrennial elections are held.

**107 Amendment of s 163 (When a vacancy in an office must be filled)**

- (1) Section 163(2), ‘office becomes vacant 6 months’—

*omit, insert—*

office, other than a mayor’s office, becomes vacant 3 months

- (2) Section 163—

*insert—*

(2A) If a mayor’s office becomes vacant before quadrennial elections are required to be held, the local government must fill the vacant office.

- (3) Section 163(3), ‘12 weeks’—

*omit, insert—*

2 months

- (4) Section 163(5), ‘office becomes vacant within 6 months’—

*omit, insert—*

office, other than a mayor’s office, becomes vacant within 3 months

**108 Omission of s 164 (Filling a vacancy in the office of mayor)**

Section 164—

*omit.*

**109 Replacement of s 166 (Filling a vacancy in the office of another councillor)**

Section 166—



*omit, insert—*

### **166 Filling vacancy in office of mayor or other councillor**

A vacancy in the office of a mayor or other councillor must be filled by—

- (a) if the vacancy is to be filled during the beginning of the local government's term— following the procedure under section 166A; or
- (b) if the vacancy is to be filled during the middle of the local government's term— a by-election; or
- (c) if the vacancy is to be filled during the final part of the local government's term— following the procedure under section 166B.

### **166A Filling vacancies during beginning of local government's term**

- (1) This section applies if a local government is to fill a vacant office of a mayor or other councillor (each the *former councillor*) during the beginning of the local government's term.
- (2) The chief executive officer must ask the electoral commission to comply with subsection (3).
- (3) The electoral commission must—
  - (a) give a vacancy notice to the runner-up who is first in the order of priority; and
  - (b) if consent is not given by the runner-up on or before the deadline, give a vacancy notice to the runner-up who is next in the order of priority; and
  - (c) if consent is not given by the runner-up who is next in the order of priority on or before the deadline, repeat the step mentioned in

paragraph (b) until a runner-up consents to the appointment on or before the deadline for the runner-up.

- (4) If a runner-up consents to the appointment on or before the deadline for the runner-up—
  - (a) the electoral commission must notify the chief executive officer that the runner-up has consented; and
  - (b) the local government must fill the vacant office by appointing the runner-up.
- (5) If there are no runners-up remaining, the vacant office must be filled by a by-election.
- (6) The electoral commission may agree to extend the day and time stated in a vacancy notice if the electoral commission considers it reasonable to do so in the circumstances.
- (7) For deciding the order of priority, if 2 or more runners-up in a quadrennial election have an equal number of votes—
  - (a) the electoral commission must, in the presence of 2 witnesses, follow the process stated in the Local Government Electoral Act, section 98(7)(a) to (g) and (8) for the runners-up; and
  - (b) the runner-up whose name is recorded as mentioned in section 98(7)(g) of that Act is taken to be higher in the order of priority; and
  - (c) the process mentioned in paragraph (a) must be repeated until the order of priority for each runner-up has been decided.
- (8) The electoral commission must allow each runner-up mentioned in subsection (7), or their representative, to be present for the process mentioned in that subsection.

(9) In this section—

***deadline***, in relation to a runner-up giving consent, means—

- (a) the day and time stated in a vacancy notice given to the runner-up; or
- (b) if the day and time is extended under subsection (6)—day and time as extended.

***order of priority***, for runners-up in a quadrennial election, means the order of runners-up ranked according to the number of votes received by each runner-up in the election, starting with the runner-up who received the highest number of votes in the election.

***runner-up***, for a vacant office of a mayor or other councillor, means a person who was a candidate for the office in the last quadrennial election, other than—

- (a) the former mayor or other councillor; or
- (b) a person who holds office as a councillor or mayor when the office becomes vacant.

***vacancy notice***, in relation to a runner-up, means a notice stating—

- (a) that the office of a former mayor or other councillor is vacant; and
- (b) if the runner-up is qualified to be a councillor, the runner-up may consent to being appointed to the vacant office; and
- (c) the day and time by which consent must be given to the electoral commission.

### **166B Filling vacancies during final part of local government's term**

- (1) This section applies if a local government is to fill a vacant office of a mayor or another councillor

- during the final part of a local government's term.
- (2) The vacant office must be filled by the local government appointing, by resolution—
    - (a) if the former councillor was the mayor—another councillor to the office; or
    - (b) otherwise—a person who is—
      - (i) qualified to be a councillor; and
      - (ii) if the former councillor was elected or appointed to office as a political party's nominee—the political party's nominee.
  - (3) For subsection (2)(b), if the person who is to be appointed must be a political party's nominee, the chief executive officer must request the political party to advise the full name and address of its nominee.
  - (4) The request must be made by a notice given to the political party's registered officer within 14 days after the office becomes vacant.
  - (5) For subsection (2)(b), if the person who is to be appointed need not be a political party's nominee, the chief executive officer must, within 14 days after the office becomes vacant, invite nominations—
    - (a) from any person who is qualified to be a councillor, by notice published—
      - (i) on the local government's website; and
      - (ii) in other ways the chief executive officer considers appropriate; and
    - (b) from each person who was a candidate for the office of the former councillor at the most recent quadrennial election, by notice.
  - (6) If the chief executive officer receives any nominations from qualified persons or candidates,

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the local government must fill the vacant office by appointing 1 of those persons or candidates.

## **110 Amendment of s 170 (Giving directions to local government staff)**

(1) Section 170(2)—

*omit, insert—*

(2) However, a direction under subsection (1) must not be given if—

- (a) it is inconsistent with a resolution, or a document adopted by resolution, of the local government; or
- (b) it relates to the appointment of a local government employee under section 196(3); or
- (c) it relates to disciplinary action by the chief executive officer in relation to a local government employee under section 197 or a councillor advisor; or
- (d) it would result in the chief executive officer contravening a provision of an Act.

(2) Section 170(3), after ‘employee’—

*insert—*

, except in accordance with guidelines made under section 170AA about the provision of administrative support to councillors

## **111 Insertion of new s 170AA**

After section 170A—

*insert—*

### **170AA Guidelines about provision of administrative support to councillors**

- (1) The chief executive officer of a local government may make guidelines about the provision of administrative support by local government employees to a councillor.
- (2) The guidelines must include—
  - (a) when a councillor may be provided with administrative support by a local government employee; and
  - (b) how and when a councillor may give a direction to a local government employee in relation to the provision of administrative support; and
  - (c) a requirement that a councillor may give a direction to a local government employee only if the direction relates directly to administrative support to be provided by the local government employee to the councillor under the guidelines.
- (3) A direction purportedly given by a councillor to a local government employee is of no effect if the direction does not comply with the guidelines.

### **112 Omission of ss 171A and 171B**

Sections 171A and 171B—

*omit.*

### **113 Omission of ch 6, pt 2, div 5A (Dealing with councillors' personal interests in local government matters)**

Chapter 6, part 2, division 5A—

*omit.*

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### **113A Amendment of s 177 (Functions)**

Section 177(d)—

*omit, insert—*

- (d) to consider and make recommendations to the Minister about the following matters relating to councillor advisors—
  - (i) whether or not to prescribe a local government under section 197D(1)(a);
  - (ii) the number of councillor advisors each councillor of a local government may appoint;
  - (iii) the number of councillor advisors a councillor of the council under the *City of Brisbane Act 2010* may appoint; and
- (e) another function relating to the remuneration of councillors directed, in writing, by the Minister.

### **113B Amendment of s 181 (Qualifications to be commissioner)**

Section 181(2)(i)—

*omit.*

### **114 Amendment of ch 6, pt 5 hdg (Local government employees)**

Chapter 6, part 5, heading, after ‘employees’—

*insert—*

**, councillor advisors etc.**

### **115 Insertion of new ch 6, pt 5, div 2A**

Chapter 6, part 5—

*insert—*

## Division 2A Councillor advisors

### 197A Appointment and functions of councillor advisors

- (1) A local government prescribed under section 197D(1)(a) may, by resolution, allow a councillor to appoint 1 or more appropriately qualified persons (each a *councillor advisor*) to assist the councillor in performing responsibilities under this Act.

*Examples of assistance—*

administrative support, coordinating media activities, event management functions, policy development, office management

- (1A) The resolution must state the number of councillor advisors, up to the maximum prescribed under section 197D(1)(b) for the local government, that the councillor may appoint.
- (2) However, the councillor must not appoint a close associate of the councillor as a councillor advisor.
- (3) If the councillor appoints a councillor advisor, the councillor advisor must enter into a written contract of employment with the local government.
- (4) The contract of employment must provide for—
  - (a) the councillor advisor's conditions of employment, including remuneration, leave and superannuation entitlements; and
  - (b) the councillor advisor's functions and key responsibilities; and
  - (c) a requirement that the councillor advisor comply with the councillor advisor code of conduct made by the Minister under section 197C; and



- (d) when disciplinary action may be taken, and the types of disciplinary action that may be taken, against the councillor advisor.
  - (5) The councillor advisor's functions and responsibilities can not include—
    - (a) carrying out or assisting in an activity relating to a councillor's campaign for re-election; or
- Note—*
- A person who is appointed as a councillor advisor may carry out or assist in an activity mentioned in paragraph (a) other than in the person's capacity as a councillor advisor.
- (b) directing a local government employee.
  - (6) The councillor who appointed the councillor advisor may give a direction to the councillor advisor.

### **197B When appointment ends**

- (1) A councillor advisor's appointment automatically ends on the day the councillor advisor is convicted of an offence against any of the following provisions—
  - (a) section 200(2) or (4);
  - (b) section 201D;
  - (c) section 201F(2) or (3);
  - (d) section 234(1).
- (2) Also, a councillor advisor's appointment automatically ends 2 weeks after the day either of the following happens—
  - (a) the term of the councillor who appointed the councillor advisor ends;

- (b) the councillor who appointed the councillor advisor is suspended.

### **197C Minister to make councillor advisor code of conduct**

- (1) The Minister must make a councillor advisor code of conduct that sets out standards of behaviour for councillor advisors in performing their functions for a local government or the council under this Act or the *City of Brisbane Act 2010*.
- (2) The councillor advisor code of conduct—
  - (a) must be consistent with the local government principles; and
  - (b) may contain anything the Minister considers necessary for, or incidental to, the standards of behaviour.
- (3) The approved councillor advisor code of conduct must be published on the department's website.

### **197D Regulation may prescribe particular matters relating to councillor advisors**

- (1) A regulation may—
  - (a) prescribe a local government as a local government to which section 197A(1) applies; and
  - (b) prescribe the maximum number of councillor advisors each councillor may appoint; and
  - (c) limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment.
- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1)(a) or (b), the Minister must ask the remuneration

commission for its recommendation about the proposed regulation.

- (3) The Minister must have regard to the recommendation of the remuneration commission in recommending the making of the regulation to the Governor in Council.
- (4) The maximum number of councillor advisors prescribed under subsection (1)(b)—
  - (a) is the number of full-time equivalent councillor advisors a councillor may appoint; and
  - (b) does not prevent a councillor appointing more than 1 part-time councillor advisor to perform the role of 1 full-time councillor advisor.

## **116 Amendment of s 199 (Improper conduct by local government employees)**

- (1) Section 199(1) and (2)—

*omit, insert—*

- (1) This section applies to the following persons—
  - (a) a local government employee;
  - (b) a contractor of the local government;
  - (c) another type of person prescribed by regulation.

- (2) Section 199(3), from ‘A local government’ to ‘a local government employee’—

*omit, insert—*

The person must not ask for, or accept, a fee or other benefit for doing something as a person mentioned in subsection (1)(a), (b) or (c)

- (3) Section 199(4), ‘subsection (3)’—

*omit, insert—*

subsection (2)

- (4) Section 199(5), ‘A local government employee’—

*omit, insert—*

The person

- (5) Section 199(3) to (5)—

*renumber* as section 199(2) to (4).

### **117 Amendment of s 200 (Use of information by local government employees)**

- (1) Section 200, heading, after ‘employees’—

*insert—*

**and councillor advisors**

- (2) Section 200(1) and (2)—

*omit, insert—*

- (1) This section applies to a person who is, or has been, any of the following—

- (a) a local government employee;
- (b) a councillor advisor;
- (c) a contractor of the local government;
- (d) another type of person prescribed by regulation.

- (3) Section 200(3), from ‘A person’ to ‘employee to’—

*omit, insert—*

The person must not use information acquired as a person mentioned in subsection (1)(a), (b), (c) or (d) to

- (4) Section 200(4), ‘Subsection (3)’—

*omit, insert—*

Subsection (2)

- (5) Section 200(5), ‘A person who is, or has been, a local government employee’—

*omit, insert—*

The person

- (6) Section 200(3) to (5)—

*renumber* as section 200(2) to (4).

**118 Amendment of s 201 (Annual report must detail remuneration)**

- (1) Section 201, heading, ‘remuneration’—

*omit, insert—*

**particular information about local government employees and councillor advisors**

- (2) Section 201(1)(a), ‘(in the year to which the annual report relates)’—

*omit, insert—*

for the year

- (3) Section 201(1)—

*insert—*

(c) if the local government has resolved to allow a councillor to appoint councillor advisors—for each councillor—

(i) the number of councillor advisors appointed by the councillor for the year; and

(ii) the total remuneration payable to all councillor advisors appointed by the councillor for the year.

## 119 Insertion of new ch 6, pt 5A

Chapter 6—

*insert—*

### **Part 5A                      Obligations of councillors and councillor advisors**

#### **201A Obligation of councillor or councillor advisor to inform chief executive officer of particulars of interests at start of term or on appointment**

- (1) This section applies if—
  - (a) a councillor, at the start of the councillor’s term, has an interest that must, under a regulation, be recorded in a register of interests for the councillor or a person who is related to the councillor; or
  - (b) a councillor advisor, when the advisor is appointed, has an interest that must, under a regulation, be recorded in a register of interests for the advisor or a person who is related to the advisor.
- (2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation within 30 days after the day the councillor’s term starts or the advisor is appointed.

*Note—*

Contravention of this section by a councillor is misconduct that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

- (3) A person is *related* to a councillor if—

- (a) the person is the councillor's spouse; or
  - (b) the person is totally or substantially dependent on the councillor and—
    - (i) the person is the councillor's child; or
    - (ii) the person's affairs are so closely connected with the affairs of the councillor that a benefit derived by the person, or a substantial part of it, could pass to the councillor.
- (4) A person is *related* to a councillor advisor if—
- (a) the person is the advisor's spouse; or
  - (b) the person is totally or substantially dependent on the advisor and—
    - (i) the person is the advisor's child; or
    - (ii) the person's affairs are so closely connected with the affairs of the advisor that a benefit derived by the person, or a substantial part of it, could pass to the advisor.

### **201B Obligation of councillor or councillor advisor to correct register of interests**

- (1) This section applies if—
- (a) a councillor or councillor advisor, or a person who is related to the councillor or councillor advisor, acquires an interest that must be, but is not, recorded in a register of interests under a regulation; or
  - (b) there is a change to the particulars required to be included in a register of interests under a regulation for—
    - (i) a councillor or councillor advisor; or

- (ii) a person who is related to the councillor or advisor.
- (2) The councillor or councillor advisor must, in the approved form, inform the chief executive officer of the particulars required to be included in a register of interests under a regulation for the new interest or the change to the particulars within 30 days after the interest is acquired or the change happens.

*Note—*

Contravention of this section by a councillor is misconduct that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

### **201C Obligation of councillor or councillor advisor to inform chief executive officer annually about register of interests**

Each councillor and councillor advisor must, within 30 days after the end of each financial year, inform the chief executive officer, in the approved form, of the following—

- (a) if the councillor or councillor advisor, or a person related to the councillor or councillor advisor, has acquired an interest that must be, but is not, recorded in a register of interests under a regulation—the particulars of the interest that must be recorded in the register of interests under a regulation;
- (b) if there has been a change to the particulars required to be included in a register of interests under a regulation for the councillor or councillor advisor, or a person who is related to the councillor or advisor—the change to the particulars;



- (c) if paragraphs (a) and (b) do not apply—that there has been no interest acquired or change to the particulars for an interest.

*Note—*

Contravention of this section by a councillor is misconduct that could result in disciplinary action being taken against the councillor—see section 150L(1)(c)(iv). Also, this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

### **201D Dishonest conduct of councillor or councillor advisor**

- (1) A person who is a councillor or councillor advisor must not contravene a relevant integrity provision with intent to—
- (a) dishonestly obtain a benefit for the person or someone else; or
  - (b) dishonestly cause a detriment to someone else.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) In this section—

***benefit*** includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

***detriment***, caused to a person, includes detriment caused to the person's property.

***relevant integrity provision***—

- (a) for a councillor, means each of the following provisions—
  - (i) section 150EK;

- (ii) section 150EL;
  - (iii) section 150EQ;
  - (iv) section 150EZ;
  - (v) section 201A;
  - (vi) section 201B;
  - (vii) section 201C;
  - (viii) section 234, if the information mentioned in that section is given under section 201A, 201B or 201C; or
- (b) for a councillor advisor, means each of the following provisions—
- (i) section 201A;
  - (ii) section 201B;
  - (iii) section 201C;
  - (iv) section 234, if the information mentioned in that section is given under section 201A, 201B or 201C.

### **201E Proceeding for offence against s 201D**

- (1) An offence against section 201D is a misdemeanour.
- (2) A proceeding for an offence against section 201D may be started only with the written consent of the director of public prosecutions.
- (3) A proceeding for an offence against section 201D may be taken, at the election of the prosecution—
  - (a) by way of summary proceeding under the *Justices Act 1886*; or
  - (b) on indictment.
- (4) However, a magistrate must not hear an indictable offence against section 201D summarily if the

magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

*Note—*

For examples of exceptional circumstances, see the examples stated in the Criminal Code, section 552D(2).

- (5) If subsection (4) applies—
- (a) the court must stop treating the proceeding as a proceeding to hear and decide the charge summarily; and
  - (b) the proceeding for the charge must be conducted as a committal proceeding; and
  - (c) a plea of the defendant at the start of the hearing must be disregarded; and
  - (d) the evidence already heard by the court is taken to be evidence in the committal proceeding; and
  - (e) the *Justices Act 1886*, section 104 must be complied with for the committal proceeding.
- (6) A Magistrates Court that summarily deals with a charge of an offence against section 201D—
- (a) must be constituted by a magistrate; and
  - (b) has jurisdiction despite the time that has elapsed from the time when the matter of complaint of the charge arose.
- (7) In this section—

***director of public prosecutions*** means the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1984*.

### **201F Prohibited conduct by councillor or councillor advisor in possession of inside information**

- (1) This section applies to a person (the *insider*) who is, or has been, a councillor or councillor advisor if the insider—
  - (a) acquired inside information as a councillor or councillor advisor; and
  - (b) knows, or ought reasonably to know, the inside information is not generally available to the public.

- (2) The insider must not cause the purchase or sale of an asset if knowledge of the inside information would be likely to influence a reasonable person in deciding whether or not to buy or sell the asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

- (3) The insider must not cause the inside information to be provided to another person the insider knows, or ought reasonably to know, may use the information in deciding whether or not to buy or sell an asset.

Maximum penalty—1,000 penalty units or 2 years imprisonment.

- (4) In this section—

*cause*, in relation to an action, includes the following—

- (a) carry out the action;
- (b) instigate the action;
- (c) direct, or otherwise influence, another person to carry out or instigate the action.

*corporate entity* means a corporation owned by the local government.

*inside information*, in relation to a local

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government, means information about any of the following—

- (a) the operations or finances of the local government (including any business activity of the local government) or any of its corporate entities;
- (b) a proposed policy of the local government, including proposed changes to an existing policy;
- (c) a contract entered into, or proposed to be entered into, by the local government or any of its corporate entities;
- (d) a tender process being conducted by or for the local government or any of its corporate entities;
- (e) a decision, or proposed decision, of the local government or any of its committees;
- (f) the exercise of a power, under a Local Government Act, by the local government, a councillor or a local government employee;
- (g) the exercise of a power, under an Act, by the State, a Minister, a statutory body or an employee of the State or statutory body, that affects the local government, any of its corporate entities or land or infrastructure within the local government's area;
- (h) any legal or financial advice created for the local government, any of its committees or any of its corporate entities.

## **120 Amendment of s 207 (End of appointment of interim management)**

Section 207(c)—

*omit, insert—*

- (c) at the conclusion of the earlier of—
  - (i) a fresh election of the councillors of the local government; or
  - (ii) the next quadrennial election.

## **121 Amendment of s 234 (False or misleading information)**

Section 234(1), after the penalty—

*insert—*

*Note—*

In certain circumstances this section is a relevant integrity provision for the offence against section 201D—see section 201D(2), definition *relevant integrity provision*.

## **121A Amendment of s 235 (Administrators who act honestly and without negligence are protected from liability)**

Section 235(8), ‘another law or Act’—

*omit, insert—*

this Act or another Act or law

## **122 Amendment of s 242 (Proceedings for indictable offences)**

Section 242—

*insert—*

- (4) This section does not apply to a charge of an indictable offence against section 201D.

## **122A Amendment of s 247 (Local government references in this Act)**

Section 247(1), after paragraph (a)—

*insert—*

- (aa) a reference to a councillor advisor is a reference to a councillor advisor appointed by the mayor or another councillor of the local government; and

## 123 Insertion of new ch 9, pt 15

Chapter 9—

*insert—*

### **Part 15**

## **Transitional provisions for Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020**

### **332A Existing vacancies in office of mayor or other councillor**

- (1) This section applies if—
- (a) before the commencement, the office of a mayor or other councillor became vacant; and
  - (b) on the commencement, the vacancy has not been filled.
- (2) Chapter 6, part 2, division 3 applies in relation to filling the vacancy as if the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*, had not commenced.

### **333 Proceedings for repealed integrity offences**

- (1) This section applies in relation to an offence

against a repealed integrity offence provision committed by a person before the commencement.

- (2) Without limiting the *Acts Interpretation Act 1954*, section 20, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020*, sections 112 and 113 had not commenced.
- (3) From the commencement, an offence against a repealed integrity offence provision continues, despite the repeal of the provision, to be—
  - (a) an integrity offence for section 153(5); and
  - (b) a disqualifying offence for section 153(6).
- (4) In this section—

***repealed integrity offence provision*** means the following provisions as in force from time to time before the commencement—

  - (a) section 171A(2) and (3);
  - (b) section 171B(2);
  - (c) section 175C(2);
  - (d) section 175E(2) and (5);
  - (e) section 175H;
  - (f) section 175I(2) and (3).

### **334 Continuation of Minister’s approval for councillor to participate or be present to decide matter**

- (1) This section applies to a notice given before the commencement by the Minister to a councillor under section 175F, if the notice is in force



immediately before the commencement.

- (2) The notice is taken to be a notice given to the councillor under section 150EV.

### **335 Remuneration commission's recommendation not required for initial regulation**

Section 197D(2) and (3) does not apply to the regulation first made after the commencement under section 197D(1)(a) or (b).

### **336 Application of s 201A for councillors**

- (1) This section applies if, on the commencement, a councillor has an interest mentioned in section 201A(1).
- (2) Despite section 201A(2), the councillor must comply with section 201A in relation to the interest within 30 days after the commencement.

## **124 Amendment of sch 1 (Serious integrity offences and integrity offences)**

- (1) Schedule 1, part 1, before entry for Criminal Code—  
*insert—*

### **This Act**

201D Dishonest conduct of councillor or councillor advisor

- (2) Schedule 1, part 2, under heading 'This Act', entries for sections 171A(2) or (3), 171B(2), 175C(2), 175E(2) or (5), 175H and 175I(2) or (3)—  
*omit.*
- (3) Schedule 1, part 2, under heading 'This Act'—  
*insert—*

150EM(2)	Dealing with prescribed conflict of interest at a meeting
150EY	Offence to take retaliatory action
201F	Prohibited conduct by councillor or councillor advisor in possession of inside information

## 125 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *conflict of interest*, *local government meeting*, *material personal interest*, *ordinary business matter*, *perceived conflict of interest* and *real conflict of interest*—  
*omit.*

(2) Schedule 4—  
*insert—*

*close associate*, of a councillor, see section 150EJ.

*councillor advisor* see section 197A(1).

*declarable conflict of interest* see sections 150EN and 150EO.

*eligible councillor*, for a matter at a local government meeting, means a councillor at the meeting who does not have a prescribed conflict of interest or declarable conflict of interest in the matter.

*executive officer*, of an entity, means—

- (a) if the entity has a board or management committee—each member of the board or committee; or
- (b) each person, by whatever name called, who is concerned, or takes part, in the management of the entity.

**gift** includes—

- (a) a gift under the Local Government Electoral Act, section 107; and
- (b) a gift that is required, under a regulation, to be recorded in a register of interests.

**group of candidates** see the Local Government Electoral Act, schedule 2.

**interest** means a financial or other interest.

**loan** includes—

- (a) a loan under the Local Government Electoral Act, section 106; and
- (b) a loan that is required, under a regulation, to be recorded in a register of interests.

**local government meeting** means a meeting of—

- (a) a local government; or
- (b) a committee of a local government.

**prescribed conflict of interest** see section 150EG, 150EH or 150EI.

**related**, for chapter 6, part 5A—

- (a) to a councillor—see section 201A(3); or
- (b) to a councillor advisor—see section 201A(4).

**related party**, of a councillor, see section 150EP.

**relevant term**, for a councillor, means the councillor's current term of office, and the period—

- (a) starting on the day after the conclusion of the quadrennial election held before the most recent quadrennial election; and
- (b) ending on the day immediately before the councillor's current term of office started.

## Part 3 **Amendment of Local Government Electoral Act 2011**

### 126 **Act amended**

This part amends the *Local Government Electoral Act 2011*.

### 127 **Amendment of s 43 (Register of group agents)**

Section 43(5)—

*omit.*

### 128 **Amendment of s 86 (Formal and informal ballot papers—optional-preferential voting)**

Section 86(3), from ‘as required by this Act’—

*omit, insert—*

the envelope must have been signed, and the signature witnessed, as required under this part.

### 129 **Amendment of s 92 (Preliminary counting of ordinary votes)**

Section 92(11), ‘The’—

*omit, insert—*

If the presiding officer is a person other than the returning officer, the

### 130 **Amendment of s 105 (Arrangements for fresh election)**

Section 105(1)—

*omit, insert—*

(1) This section applies if—

(a) the Governor in Council gives effect to a recommendation by the Minister to dissolve

a local government under the *Local Government Act 2009*, section 123(3)(b)(i);  
or

*Note—*

The dissolution does not take effect until it is ratified by the Legislative Assembly under the *Constitution of Queensland 2001*, section 75(2).

- (b) a fresh election is required under a regulation implementing a recommendation of the change commission under the *Local Government Act 2009*, chapter 2, part 3.

### 131 Insertion of new s 112B

After section 112A—

*insert—*

#### **112B Responsibility for compliance in absence of agent**

- (1) This section applies if this Act imposes an obligation on the agent of a registered political party or group of candidates.
- (2) If a registered political party does not have an agent for a period, each member of the executive committee of the party (however described) is responsible for compliance with the obligation during the period, as if the obligation were imposed on the member of the committee.
- (3) If no agent is recorded for a group of candidates in the register of group agents under section 43 for a period, each member of the group is responsible for compliance with the obligation during the period, as if the obligation were imposed on the member.

**132 Amendment of s 124 (Expenditure return—candidate, groups of candidates or registered political party)**

Section 124(5)—

*omit.*

**133 Amendment of s 125 (Summary expenditure return—candidate, group of candidates or registered political party)**

Section 125—

*insert—*

(7) In this section—

*bank statement*, for an account with a financial institution, means a written record issued by the financial institution of all of the transactions carried out in relation to the account during a stated period.

**134 Amendment of s 130B (Electoral commission must give reminder notice about requirement for return)**

(1) Section 130B(1)(a), ‘return under division 3 or 4’—

*omit, insert—*

summary return

(2) Section 130B(2)(a), ‘return’—

*omit, insert—*

summary return

(3) Section 130B(2)(b), ‘of this division’—

*omit.*

(4) Section 130B(2)(c)(vi) to (x)—

*omit, insert—*

(vi) section 125;

(vii) section 125A;

(viii) section 195;

(ix) section 197.

(5) Section 130B(4)—

*insert—*

***summary return*** means a return required to be given under the following provisions—

(a) section 117(4);

(b) section 118(4);

(c) section 118A(4);

(d) section 120(7);

(e) section 125(2);

(f) section 125A(4).

## Schedule 1      Consequential or minor amendments

section 56

### Electoral Act 1992

**1      Section 35(5)—**

*omit.*

**2      Section 183(12), definition *required number*,  
'electorate'—**

*omit, insert—*

electoral district

**3      Section 186(7), 'voter'—**

*omit, insert—*

elector

**4      Section 186—**

*insert—*

(9) In this section—

*Antarctic elector* see the Commonwealth Electoral Act, section 246(1).

**5      Section 201A, ' , for the amount or value of a gift or  
loan,'—**

*omit.*



- 6 Section 225(5)—**  
*omit.*
- 7 Section 227(1), after ‘registered’—**  
*insert—*  
political
- 8 Part 11, division 7, heading, after ‘gifts’—**  
*insert—*  
and particular loans
- 9 Part 11, division 7, subdivision 2, heading, ‘of gifts generally’—**  
*omit.*
- 10 Section 261(1), ‘, other than an exempt gift,’—**  
*omit, insert—*  
that has a value
- 11 Section 261(3)(a), ‘, other than exempt gifts,’—**  
*omit.*
- 12 Section 261(5)—**  
*omit.*
- 13 Section 265(9)(b), after ‘(the enabling gift)’—**  
*insert—*  
that has a value

**14 Section 267(4)—**

*omit.*

**15 Section 271(3)—**

*omit.*

**16 Section 271(4) to (6)—**

*renumber* as section 271(3) to (5).

**17 Section 310(1)(c), ‘, 265 or 266B’—**

*omit, insert—*

or 265

**18 Section 385(2), ‘section 307(14)’—**

*omit, insert—*

section 307AA

**19 Schedule 1, as inserted by this Act, definitions *Antarctic elector, Commonwealth electoral roll and illegal election practice*—**

*omit.*

**20 Amendment of various provisions**

Each of the following provisions is amended by omitting ‘amount or’—

- section 260(3)
- section 261
- section 264
- section 265
- section 270(2)

- section 271
- section 289(3).

## Local Government Electoral Act 2011

**1 Schedule 2, definitions *registered officer* and *registered political party*, ‘section 2’—**

*omit, insert—*

schedule 1

## Referendums Act 1997

**1 Section 32C(6), definition *political party*, ‘section 2’—**

*omit, insert—*

schedule 1

**2 Schedule 3, definitions *cut-off day for electoral rolls*, *institution* and *issuing officer*, ‘section 2’—**

*omit, insert—*

schedule 1

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