



Queensland

Local Government (De-amalgamation Polls) Regulation 2013

Subordinate Legislation 2013 No. 15

made under the

Local Government Act 2009

State Penalties Enforcement Act 1999

Contents

		Page
Part 1	Preliminary	
1	Short title	5
2	Purpose	5
3	Definitions.	6
4	Meaning of affected part of the local government area	6
Part 2	De-amalgamation polls	
5	Questions for de-amalgamation polls.	6
6	Date of de-amalgamation polls.	7
7	Public notice of de-amalgamation polls	7
Part 3	Voters rolls	
8	Returning officer must compile voters roll	8
9	Requirements of voters roll.	9
10	Inspection of voters roll.	9
Part 4	Arrangements for de-amalgamation polls	
Division 1	De-amalgamation polls by ballot	
11	De-amalgamation poll by ballot	10
Division 2	Polling booths	
12	Kinds of polling booths	10
13	Polling booths—general	10

Contents

14	Provision of ordinary polling booths	11
15	Declaration of mobile polling booths	12
16	Declaration of early polling booths	13
17	Duty of person in charge of institution	13
18	Privacy for voters casting votes at polling booths.	14
19	Adjournment of de-amalgamation poll	14
Division 3	Ballot boxes, ballot papers and other documents	
20	Ballot boxes generally	14
21	Requirements of ballot papers	15
22	Distribution of ballot papers	15
Division 4	Observers	
23	Expressions of interest to be observers	17
24	Appointment of observers	17
25	Proof of identification	17
26	Powers of observers.	18
Division 5	Errors, omissions or delays	
27	Correction of errors, omissions or delays	18
Part 5	Voting	
Division 1	Who may vote	
28	Who may vote.	19
Division 2	Casting votes	
29	Ways in which to cast votes	19
30	Who must complete a declaration envelope.	20
31	Casting an ordinary vote or a pre-poll vote.	21
32	Casting a postal vote	22
33	Voting hours for polling booths	23
34	Particular responsibilities of returning officer when voters cast postal votes	24
35	Particular responsibilities of issuing officers when voters cast ordinary or pre-poll votes	24
Division 3	Special arrangements for particular voters	
36	Arrangements for voters at institutions	25
37	Arrangements for electoral visitor voting	26
38	Help for voters voting	28
Division 4	Distribution of ballot papers	
39	Applications to cast postal votes	28

40	Distribution of ballot papers to particular voters whose address has been omitted from a voters roll	30
Division 5	Recording a vote on ballot papers	
41	How voters must record a vote on a ballot paper	30
42	Replacement ballot papers	31
43	Formal and informal ballot papers	32
Part 6	Counting of votes	
Division 1	Processing declaration envelopes	
44	Preliminary processing of declaration envelopes—general	33
45	Procedure for processing declaration envelopes	33
Division 2	Preliminary counts	
46	Preliminary counting of ordinary votes	35
47	Objections by observers during preliminary count	37
Division 3	Official count	
48	Official counting of votes	37
49	Objections by observers during official count	39
50	Returning officer's duty after counting votes	39
Division 4	Notifying the results of de-amalgamation poll	
51	Notifying the results of de-amalgamation poll	40
52	Notice of final count of votes in de-amalgamation poll to Minister	40
53	Storage and disposal of material resulting from poll	41
54	Notice to voters whose ballot papers are not accepted	41
55	Notice to electoral commission of error in electoral roll	42
Part 7	Administration	
56	Returning officers	42
57	Presiding officers	42
58	Issuing officers	43
59	Membership of a political party ends particular appointments	43
60	Obligation to notify of membership of a political party	43
61	Returning officer may act through other officers	44
Part 8	Legal provisions	
62	Postal vote presumed valid until contrary proved	44
63	Ballot papers as evidence	45
64	Allegations of false or misleading information or document	45

Contents

Part 9	Enforcement	
Division 1	Information about failure to vote	
65	List of voters failing to vote	45
66	Notice about failure to vote	46
67	Recording response to notice	47
Division 2	Directions relating to conducting ballot	
68	Power to give direction relating to conduct of ballot	47
Division 3	Offences relating to conducting ballot	
69	Offences about ballot papers	48
70	Failure to post, fax or deliver documents for someone else	49
71	Secrecy of voting	49
72	Breaking seals on parcels	50
73	Duty of witness in signing declaration envelopes	50
Part 10	Miscellaneous	
74	Persons serving a sentence of imprisonment	50
75	Office of returning officer	51
76	Approved forms	51
Part 11	Amendment of State Penalties Enforcement Regulation 2000	
77	Regulation amended	51
78	Amendment of s 5 (Administering authority for particular nominated laws)	51
79	Amendment of s 5BA (Administering authority for City of Brisbane (Operations) Regulation 2010)	52
80	Insertion of new s 7B	52
	7B Administering authority for Local Government Act 2009	52
81	Amendment of sch 5 (Other legislation)	52
Schedule	Dictionary	54

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Local Government (De-amalgamation Polls) Regulation 2013*.

2 Purpose

The purpose of this regulation is to provide, for section 260B(5) of the Act, the requirements for conducting, by ballot, each of the following polls (each a ***de-amalgamation poll***)—

- (a) a poll about the implementation of a de-amalgamation of the Cairns Regional Council local government area to separate from that area the former Douglas Shire Council local government area to be governed by its own local government (the ***Douglas area de-amalgamation poll***);
- (b) a poll about the implementation of a de-amalgamation of the Rockhampton Regional Council local government area to separate from that area the former Livingstone Shire Council local government area to be governed by its own local government (the ***Livingstone area de-amalgamation poll***);
- (c) a poll about the implementation of a de-amalgamation of the Sunshine Coast Regional Council local government area to separate from that area the former Noosa Shire Council local government area to be governed by its own local government (the ***Noosa area de-amalgamation poll***);
- (d) a poll about the implementation of a de-amalgamation of the Tablelands Regional Council local government area to separate from that area the former Mareeba Shire Council local government area to be governed by its own local government (the ***Mareeba area de-amalgamation poll***).

[s 3]

3 Definitions

The dictionary in the schedule defines particular words used in this regulation.

4 Meaning of *affected part of the local government area*

The *affected part of the local government area*, for a de-amalgamation poll, is as follows—

- (a) for the Douglas area de-amalgamation poll—the former Douglas Shire Council local government area;
- (b) for the Livingstone area de-amalgamation poll—the former Livingstone Shire Council local government area;
- (c) for the Noosa area de-amalgamation poll—the former Noosa Shire Council local government area;
- (d) for the Mareeba area de-amalgamation poll—the former Mareeba Shire Council local government area.

Part 2 De-amalgamation polls

5 Questions for de-amalgamation polls

The question to be submitted to the voters in the affected part of the local government area for a de-amalgamation poll is as follows—

- (a) for the Douglas area de-amalgamation poll—“*Should a Douglas Shire Council be created by the de-amalgamation of the Cairns Regional Council local government area, with the costs to be met by the Douglas Shire Council?*”;
- (b) for the Livingstone area de-amalgamation poll—“*Should a Livingstone Shire Council be created by the de-amalgamation of the Rockhampton Regional*

Council local government area, with the costs to be met by the Livingstone Shire Council?”;

- (c) for the Noosa area de-amalgamation poll—*“Should a Noosa Shire Council be created by the de-amalgamation of the Sunshine Coast Regional Council local government area, with the costs to be met by the Noosa Shire Council?”;*
- (d) for the Mareeba area de-amalgamation poll—*“Should a Mareeba Shire Council be created by the de-amalgamation of the Tablelands Regional Council local government area, with the costs to be met by the Mareeba Shire Council?”.*

6 Date of de-amalgamation polls

- (1) Each de-amalgamation poll must be held on 9 March 2013.
- (2) However, the electoral commission may, by gazette notice, fix a later day as the polling day for a de-amalgamation poll if the day is likely to be affected by an emergency.
- (3) If the electoral commissioner fixes a later day for a de-amalgamation poll under subsection (2), the returning officer for the poll—
 - (a) may give any necessary directions to the voters about the procedures to be followed; and
 - (b) must publish a notice detailing the directions in a newspaper circulating generally in the affected part of the local government area.

7 Public notice of de-amalgamation polls

- (1) The electoral commission must give the public notice that each de-amalgamation poll will be conducted.
- (2) The notice for each de-amalgamation poll must—
 - (a) state—
 - (i) the polling day for the poll; and

[s 8]

- (ii) the question to be submitted to the voters in the poll; and
 - (iii) the affected part of the local government area for the poll and that voting at the poll is compulsory for the voters in that area; and
 - (iv) the location of all ordinary polling booths to be used for taking the ballot in the poll; and
 - (v) that the ordinary voting hours are from 8a.m. to 6p.m; and
- (b) be displayed in a conspicuous position at the office of the returning officer for the poll; and
- (c) be published in a newspaper circulating generally in the affected part of the local government area.
- (3) Display of a notice under subsection (2)(b) must—
 - (a) start as soon as practicable after the commencement of this regulation; and
 - (b) continue until the close of voting for the de-amalgamation poll.

Part 3 Voters rolls

8 Returning officer must compile voters roll

- (1) The returning officer for a de-amalgamation poll must compile a roll of persons entitled to vote at the poll (a ***voters roll***) as at 8 February 2013 (the ***cut-off day***).
- (2) The voters roll for a de-amalgamation poll must consist of the persons enrolled on an electoral roll for the affected part of the local government area for the poll.

9 Requirements of voters roll

- (1) A voters roll for a de-amalgamation poll must—
 - (a) show the names of all persons entitled to vote at the poll; and
 - (b) be in the form of the electoral roll used for elections of the Legislative Assembly.
- (2) The returning officer must not include in a voters roll a voter's address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll.

10 Inspection of voters roll

- (1) The electoral commission must ensure the most recent version of the voters roll for each de-amalgamation poll is available for inspection by members of the public at the commission's public office for the period—
 - (a) starting as soon as practicable after the cut-off day for the poll; and
 - (b) continuing until the result of the poll is declared.
- (2) The electoral commission may also make available, for inspection by any person, a copy of the most recent version of a voters roll at any place that the commission considers appropriate during the period mentioned in subsection (1).

Part 4 Arrangements for de-amalgamation polls

Division 1 De-amalgamation polls by ballot

11 De-amalgamation poll by ballot

A de-amalgamation poll must be conducted by ballot taken under this part.

Division 2 Polling booths

12 Kinds of polling booths

- (1) There are 3 kinds of polling booths—
 - (a) ordinary polling booths; and
 - (b) mobile polling booths; and
 - (c) early polling booths.
- (2) An *ordinary polling booth* is a building or other structure, or a part of a building or other structure, that a returning officer arranges to be available on polling day for a de-amalgamation poll to enable voters in general to vote.
- (3) A *mobile polling booth* is—
 - (a) all or part of an institution made available as a mobile polling booth under section 15(2); or
 - (b) all or part of a place made available as a mobile polling booth under section 15(4).
- (4) An *early polling booth* means a place arranged under section 16 as a polling booth for voters to cast a pre-poll vote.

13 Polling booths—general

- (1) The returning officer for a de-amalgamation poll—

-
- (a) may arrange for a polling booth within the affected part of the local government area to be used for the poll; and
 - (b) may arrange for 2 or more polling booths at a place within the affected part of the local government area if the number of voters likely to vote at the place is greater than could conveniently vote in 1 booth at the place; and
 - (c) must ensure that each polling booth is provided with enough ballot boxes, ballot papers and materials to enable voters to mark the ballot papers.
- (2) A place on or from which liquor may lawfully be sold can not be used as a polling booth.
- (3) However, a civic or cultural centre, community hall or similar place under a local government's control, may be used as a polling booth if—
- (a) the floor area for taking the ballot is designated in the polling notice; and
 - (b) the local government ensures that no liquor will be sold or supplied in that area during the taking of the ballot.

14 Provision of ordinary polling booths

- (1) For taking a ballot in a de-amalgamation poll, the returning officer must arrange for places, or parts of places, within the affected part of the local government area to be used on polling day as ordinary polling booths to enable voters in general to vote.
- (2) The returning officer may, only if it is necessary because of circumstances beyond the returning officer's control—
 - (a) arrange for an ordinary polling booth to be used less than 3 days before polling day; or
 - (b) cancel arrangements for the use of an ordinary polling booth less than 6 days before polling day.
- (3) If, after publication of the polling notice, the returning officer arranges for the use of an ordinary polling booth, the officer must also publish notice—

[s 15]

- (a) of the location of the booth; and
 - (b) that the ordinary voting hours of the booth are from 8a.m. to 6p.m.
- (4) If the returning officer cancels arrangements for the use of an ordinary polling booth, the officer must also publish notice of the cancellation.
- (5) The notice under subsection (3) or (4) is to be given in the way the returning officer considers is the best way to inform voters generally.

15 Declaration of mobile polling booths

- (1) Subsection (2) applies if the returning officer is satisfied the voters resident in an institution located in the affected part of the local government area for a de-amalgamation poll should be able to vote in the poll at the institution.
- (2) The returning officer may arrange for all or a part of the institution to be available as a mobile polling booth to enable voters resident in the institution to vote there in the poll.
- (3) Subsection (4) applies if the returning officer is satisfied a part of the affected part of the local government area does not have enough voters to justify the use of an ordinary polling booth.
- (4) The returning officer may arrange for any place in the part of the affected part of the local government area to be available as a mobile polling booth to enable voters in the part to vote in the de-amalgamation poll.
- (5) If the returning officer acts under subsection (2) or (4), the officer must—
 - (a) fix the times, during the period starting 11 days before the polling day and ending at 6p.m. on the polling day, when the mobile polling booth may be used for voting; and
 - (b) publish a notice, in the approved form, in a newspaper circulating generally in the affected part of the local government area—

- (i) declaring the place as a mobile polling booth for the de-amalgamation poll; and
 - (ii) stating the times at which votes may be cast at the booth.
- (6) On the declaration of a mobile polling booth, the voters resident in the institution or the voters resident in the part of the affected part of the local government area in which the mobile polling booth is situated, may vote at the booth during the times fixed for the booth under subsection (5).

16 Declaration of early polling booths

- (1) The returning officer must arrange at least 1 place, within the affected area of the local government and that the electoral commissioner considers appropriate, as a polling booth for a de-amalgamation poll to enable voters to cast a pre-poll vote.
- (2) Also, the returning officer must—
 - (a) fix the times, during the period starting 14 days before the polling day and ending at 6p.m. on the day immediately before polling day, when the polling booth may be used for voting; and
 - (b) publish a notice, in the approved form, in a newspaper circulating generally in the affected part of the local government area—
 - (i) declaring the place as a polling booth for the de-amalgamation poll to enable voters to cast a pre-poll vote; and
 - (ii) stating the times at which votes may be cast at the booth.

17 Duty of person in charge of institution

- (1) This section applies if the returning officer declares all or part of an institution as a mobile polling booth for a de-amalgamation poll.

[s 18]

- (2) The person in charge of the institution must allow voters resident in the institution and issuing officers to have access to the booth whenever votes may be cast at the booth.

18 Privacy for voters casting votes at polling booths

The returning officer must ensure that each polling booth for a de-amalgamation poll is provided with enough voting compartments, or other suitable facilities, to allow the casting of votes in private.

19 Adjournment of de-amalgamation poll

- (1) A returning officer may adjourn the conduct of a de-amalgamation poll at a polling booth if the taking of the poll is, or is likely to be, interrupted by an emergency.
- (2) The presiding officer for a polling booth may adjourn the conduct of a de-amalgamation poll at the polling booth if the taking of the poll is, or is likely to be, interrupted by an emergency.
- (3) If the conduct of a de-amalgamation poll is adjourned under subsection (1) or (2), the returning officer must fix a day (no later than 34 days after the day on which the poll is adjourned) for conducting the adjourned poll.
- (4) The returning officer must publish notice of the day fixed in a newspaper circulating generally in the affected part of the local government area.

Division 3 Ballot boxes, ballot papers and other documents

20 Ballot boxes generally

- (1) A ballot box used in a de-amalgamation poll must—

- (a) have an opening of a size adequate to allow folded ballot papers and declaration envelopes to be put in the box; and
 - (b) be under the scrutiny and effective control of an issuing officer.
- (2) Issuing officers and observers for the de-amalgamation poll may inspect a ballot box before the box is locked or sealed for receipt of ballot papers.

21 Requirements of ballot papers

A ballot paper must—

- (a) be in the approved form; and
- (b) show the question for the de-amalgamation poll; and
- (c) be of material that, when folded, effectively conceals the vote recorded on the ballot paper; and
- (d) be attached to a butt that—
 - (i) is not part of the ballot paper; and
 - (ii) is perforated to allow the ballot paper to be easily detached from the butt; and
 - (iii) is numbered in regular arithmetical sequence, starting with the numeral 1 and proceeding by intervals of one whole numeral, so that each butt for the affected area of the local government area for which the de-amalgamation poll is conducted has a unique number.

22 Distribution of ballot papers

- (1) The returning officer must ensure an adequate number of ballot papers is available at all polling booths for a de-amalgamation poll.
- (2) The returning officer must prepare a delivery note in triplicate for each parcel of ballot papers supplied by the returning officer to presiding officers at polling booths.

[s 22]

- (3) The delivery note must—
 - (a) be in the approved form; and
 - (b) show details of the number of ballot papers supplied; and
 - (c) show the range of numbers of the ballot papers; and
 - (d) include a form of acknowledgement of receipt of the ballot papers.
- (4) Two copies of the delivery note must be included in the parcel of ballot papers.
- (5) As soon as practicable after a presiding officer receives a parcel of ballot papers, the officer must—
 - (a) check the contents against the details shown in the delivery note; and
 - (b) complete the particulars prescribed by the delivery note; and
 - (c) sign the form of acknowledgement included in the delivery note.
- (6) If there is a discrepancy between the details shown in the delivery note and the contents of the parcel, the presiding officer must cause a countercheck to be made by—
 - (a) if an issuing officer is available—the issuing officer; or
 - (b) if an issuing officer is not available—a responsible person.
- (7) A discrepancy confirmed by a countercheck must be noted in the form of acknowledgement and the form must be signed by the presiding officer and the person who made the countercheck.
- (8) The presiding officer must return 1 copy of the delivery note to the returning officer and retain the other copy of the delivery note until it is given to the returning officer with the sealed parcels of ballot papers under section 46.

Division 4 Observers

23 Expressions of interest to be observers

- (1) The returning officer for a de-amalgamation poll may, by notice in the approved form, call for expressions of interest from persons who wish to be appointed as observers for the poll.
- (2) The notice must—
 - (a) state the day by which an expression of interest must be received by the returning officer (the *closing day*); and
 - (b) be displayed in a conspicuous position at the office of the returning officer; and
 - (c) be published in a newspaper circulating generally in the affected part of the local government area.
- (3) A person may make an expression of interest in being appointed as an observer for the de-amalgamation poll by giving the returning officer a notice in the approved form by the closing day stated in the notice.

24 Appointment of observers

- (1) The returning officer for a de-amalgamation poll may, in the approved form, appoint a person as an observer for the poll.
- (2) A person may be appointed as an observer for a de-amalgamation poll if the person—
 - (a) is an adult; and
 - (b) made an expression of interest under section 23(3).
- (3) The returning officer must appoint the number of observers for a de-amalgamation poll decided by the electoral commissioner.

25 Proof of identification

An observer must—

[s 26]

- (a) carry evidence of identification and of the person's appointment as an observer; and
- (b) on demand, produce the evidence to an issuing officer.

26 Powers of observers

- (1) An observer for a de-amalgamation poll is entitled to be present—
 - (a) in a polling booth to inspect ballot boxes at the booth before the boxes are locked or sealed for the receipt of ballot papers; and
 - (b) in a polling booth or other place to watch the examination of declaration envelopes and counting of votes.
- (2) An observer for a de-amalgamation poll may—
 - (a) object to an issuing officer's decision on a person's entitlement to vote at the poll; and
 - (b) object to the acceptance or rejection of a ballot paper by the returning officer or a presiding officer.

Division 5 Errors, omissions or delays

27 Correction of errors, omissions or delays

If there is an error, omission or delay in or relating to the preparation, issue, sending or return of any voters roll, ballot paper or other document relevant to the conduct of a de-amalgamation poll, it may be corrected by a gazette notice by the electoral commission setting out what is to be done.

Part 5 Voting

Division 1 Who may vote

28 Who may vote

- (1) The following persons are the only persons entitled to vote at a de-amalgamation poll—
 - (a) persons whose names are on the voters roll for the poll;
 - (b) persons whose names are not on the voters roll for the poll because of official error;
 - (c) persons who—
 - (i) are not enrolled on the electoral roll for the affected part of the local government area for the poll but are entitled to be enrolled on the electoral roll for the area; and
 - (ii) after the cut-off day for the poll and no later than 6p.m. on the day before the polling day, have given a notice to the electoral commission under the *Electoral Act 1992*, section 65.
- (2) A person is not entitled to vote—
 - (a) more than once at the same de-amalgamation poll; or
 - (b) at more than 1 de-amalgamation poll.
- (3) Also, a person who is serving a sentence of imprisonment is not entitled to vote at a de-amalgamation poll.

Division 2 Casting votes

29 Ways in which to cast votes

- (1) In a de-amalgamation poll, a voter may—

[s 30]

- (a) cast their vote at an ordinary or mobile polling booth on polling day (an *ordinary vote*); or
 - (b) cast their vote at an early polling booth before polling day (a *pre-poll vote*); or
 - (c) cast their vote using posted voting papers (a *postal vote*).
- (2) Any voter may cast an ordinary vote in a de-amalgamation poll.
- (3) Any voter may cast a pre-poll vote in a de-amalgamation poll.
- (4) A voter may only cast a postal vote in a de-amalgamation poll if—
 - (a) the voter will not be within 8km, by the nearest practicable route, from a polling booth during ordinary voting hours on polling day; or
 - (b) the voter will be working or travelling under conditions that prevent voting at a polling booth during ordinary voting hours on polling day; or
 - (c) the voter will be prevented from voting at a polling booth because of illness, disability or advanced pregnancy; or
 - (d) the voter will be prevented from voting at a polling booth because the voter is caring for a person who is ill, has a disability or is pregnant; or
 - (e) the voter will be prevented from voting at a polling booth for all, or most, of the ordinary voting hours on polling day because of membership of a religious order or because of religious beliefs.

30 Who must complete a declaration envelope

A voter must complete a declaration envelope for a de-amalgamation poll if—

- (a) the voter is casting a postal vote; or
- (b) the voter's name is not on the voters roll—
 - (i) apparently because of an official error; or

- (ii) because section 28(1)(c) applies to the voter; or
- (c) the voter appears, from a record apparently made in error, to have already voted in the poll; or
- (d) the voter is serving a sentence of imprisonment on the cut-off day for the poll, but is not serving a sentence of imprisonment on the polling day for the poll; or
- (e) the voter's address has been omitted from a voters roll—
 - (i) because of the *Electoral Act 1992*, section 58; or
 - (ii) under an arrangement under the *Electoral Act 1992*, section 62 because of the *Commonwealth Electoral Act 1918* (Cwlth), section 104; or
- (f) an issuing officer gives the voter a declaration envelope under section 35(5) because the issuing officer suspects, on reasonable grounds, that the voter is not entitled to vote at the de-amalgamation poll.

31 Casting an ordinary vote or a pre-poll vote

- (1) To cast an ordinary vote or a pre-poll vote in a de-amalgamation poll, a voter must follow, in order, each of subsections (2) to (7) that applies to the voter.
- (2) The voter must attend 1 of the following polling booths during voting hours for the booth—
 - (a) to cast an ordinary vote in a de-amalgamation poll—a polling booth in the affected part of the local government area for the poll; or
 - (b) to cast a pre-poll vote in a de-amalgamation poll—an early polling booth in the affected part of the local government area for the poll.
- (3) At the polling booth, the voter must give the voter's full name and address to an issuing officer at the booth.
- (4) The voter may be asked questions by the issuing officer in order for the issuing officer to decide the following—

[s 32]

- (a) whether the voter is entitled to vote at the de-amalgamation poll;
 - (b) whether the voter must complete a declaration envelope.
- (5) If the voter has a declaration envelope for the de-amalgamation poll but is not required to complete a declaration envelope when casting their vote, the voter must give the declaration envelope to the issuing officer at the booth.
- (6) If the voter must complete a declaration envelope when casting their vote, the voter must sign the appropriate declaration on the declaration envelope before an issuing officer and have the officer sign the envelope as witness.
- (7) On being given the ballot paper and declaration envelope (if any), the voter must, without delay—
- (a) go alone into an unoccupied voting compartment in the polling booth; and
 - (b) there, in private, record a vote on the ballot paper; and
 - (c) fold the ballot paper, concealing the vote, and—
 - (i) if the voter completed a declaration envelope—put the folded ballot paper in the envelope, seal the envelope and put the sealed envelope in the appropriate ballot box at the polling booth; or
 - (ii) otherwise—put the folded ballot paper in the appropriate ballot box at the polling booth; and
 - (d) leave the polling booth.

32 Casting a postal vote

- (1) To cast a postal vote in a de-amalgamation poll, a voter must follow, in order, each of subsections (2) to (5) that applies to the voter.

Note—

Only particular voters are entitled to cast a postal vote in a de-amalgamation poll. See section 29(4).

- (2) The voter must, under section 39, apply to the returning officer for a ballot paper and a declaration envelope with which to cast a postal vote.
- (3) After being given a ballot paper and a declaration envelope, the voter must, before 6p.m. on polling day—
 - (a) record a vote on the ballot paper; and
 - (b) fold the ballot paper, put it in the declaration envelope and seal the envelope.
- (4) The voter must sign the declaration on the declaration envelope in the presence of an adult, and have the adult sign the envelope as witness.

Note—

For the duty of a witness in signing declaration envelopes, see section 73.

- (5) The voter must put the sealed declaration envelope in the reply paid post envelope that accompanied the declaration envelope and post or give the envelope to the returning officer.

Note—

The ballot paper must be received by the returning officer no later than 10 days after the polling day. See section 43(3)(a).

33 Voting hours for polling booths

- (1) The voting hours for an ordinary polling booth are between 8a.m. and 6p.m. on polling day.
- (2) The voting hours for a mobile polling booth are the times fixed for the booth by the returning officer.
- (3) The voting hours for an early polling booth are the times, during the pre-polling period, notified by the returning officer under section 16(2).
- (4) If a voter is in a polling booth at the time of close of voting for the booth and for the purpose of casting a vote, the voter must be allowed to vote.
- (5) In this section—

[s 34]

pre-polling period, for a de-amalgamation poll, means the period—

- (a) starting no earlier than—
 - (i) 14 days before polling day; or
 - (ii) the longer period that the returning officer fixes and notifies in a newspaper circulating generally in the affected part of the local government area; and
- (b) ending no later than 6p.m. on the day before polling day.

34 Particular responsibilities of returning officer when voters cast postal votes

- (1) This section applies if the returning officer for a de-amalgamation poll receives a sealed declaration envelope under section 32(5).
- (2) The returning officer must put the sealed declaration envelope in the appropriate ballot box.

35 Particular responsibilities of issuing officers when voters cast ordinary or pre-poll votes

- (1) This section applies if a voter attends a polling booth, during voting hours for the booth, to cast an ordinary or pre-poll vote in a de-amalgamation poll.
- (2) An issuing officer at the polling booth must give the voter a ballot paper if—
 - (a) the voter gives the issuing officer the voter's full name and address; and
 - (b) the issuing officer is satisfied the voter is entitled to vote at the de-amalgamation poll.
- (3) The issuing officer may ask the voter questions to decide the following—
 - (a) whether the voter is entitled to vote at the de-amalgamation poll;
 - (b) whether the voter must complete a declaration envelope.

- (4) Subsection (5) applies if, because of the voter's answers to the questions under subsection (3)—
 - (a) the issuing officer suspects, on reasonable grounds, that the voter is not entitled to vote at the de-amalgamation poll; or
 - (b) the issuing officer is satisfied the voter must complete a declaration envelope.
- (5) The issuing officer must—
 - (a) inform the voter that the voter must complete a declaration envelope; and
 - (b) give the voter the declaration envelope to complete.
- (6) An issuing officer must—
 - (a) keep a record of the ballot papers and declaration envelopes given to voters under this section; and
 - (b) sign the record.

Division 3 Special arrangements for particular voters

36 Arrangements for voters at institutions

- (1) If a mobile polling booth is an institution or part of an institution, an issuing officer may visit voters resident in the institution to enable them to vote.
- (2) The electoral commission may direct that declaration envelopes be completed by voters voting under this section if, in the opinion of the electoral commission, the size of the voters roll for a de-amalgamation poll would be impracticable to be used in a portable way.
- (3) Before taking action under subsection (1), the issuing officer must inform the observers at the polling booth of the proposed action.

[s 37]

- (4) When visiting voters resident in an institution, the issuing officer must—
 - (a) take to the voter—
 - (i) a ballot paper and, if directed by the electoral commission, a declaration envelope; and
 - (ii) a ballot box; and
 - (iii) anything else necessary to enable the voter to vote; and
 - (b) allow any observer to accompany the issuing officer.
- (5) The issuing officer must ensure that, as far as practicable—
 - (a) if the electoral commission has directed that declaration envelopes be completed—the voter completes the declaration envelope when casting their vote, including signing the appropriate declaration on the declaration envelope before the issuing officer and having the officer sign the envelope as witness; and
 - (b) the voter, in private, records a vote on the ballot paper and folds the ballot paper, concealing the vote; and
 - (c) the voter puts the folded ballot paper—
 - (i) if the electoral commission has directed that declaration envelopes be completed—in the declaration envelope, seals the envelope and puts the sealed envelope in the ballot box; or
 - (ii) otherwise—in the ballot box.

37 Arrangements for electoral visitor voting

- (1) Each of the following voters is entitled to be an electoral visitor voter—
 - (a) a voter who, because of illness, disability or advanced pregnancy, will be prevented from voting at a polling booth;

- (b) a voter who, because the voter is caring for a person who is ill, has a disability or is pregnant, will be prevented from voting at a polling booth.
- (2) A voter who is entitled to be an electoral visitor voter may apply to the returning officer to vote as an electoral visitor voter.
- (3) The application must be in the approved form.
- (4) If the application is received no later than 6p.m. on the Wednesday before polling day, the returning officer must direct an issuing officer to visit the voter to enable the voter to vote.
- (5) As soon as practicable after the returning officer has directed an issuing officer to visit voters, the returning officer must inform each observer of—
 - (a) the place from which the issuing officer proposes to start making visits; and
 - (b) the time or times on the day or days when the issuing officer proposes to start making visits.
- (6) The issuing officer must visit a voter at a reasonable hour before 6p.m. on polling day.
- (7) When visiting a voter, the issuing officer must—
 - (a) take to the voter—
 - (i) a ballot paper; and
 - (ii) a ballot box; and
 - (iii) anything else necessary to enable the voter to vote; and
 - (b) be accompanied by any observer who wishes to accompany the issuing officer.
- (8) The issuing officer must ensure that, as far as practicable—
 - (a) the voter, in private, records a vote on the ballot paper and folds the ballot paper, concealing the vote; and
 - (b) the voter puts the folded ballot paper in the ballot box.

[s 38]

38 Help for voters voting

- (1) If a voter satisfies an issuing officer that the voter can not vote without help, the voter may be accompanied into an unoccupied voting compartment in a polling booth, or be otherwise helped, by someone chosen by the voter.
- (2) The person may help the voter in any of the following ways—
 - (a) if asked by the voter—reading the question for the de-amalgamation poll;
 - (b) acting as interpreter;
 - (c) explaining the ballot paper and the requirements of division 5 about its marking;
 - (d) marking, or helping to mark, the ballot paper in the way the voter wishes;
 - (e) folding the ballot paper and putting it into a ballot box or a declaration envelope;
 - (f) sealing a declaration envelope or putting it into a ballot box.
- (3) Subsections (1) and (2) apply to all types of voting.
- (4) This section applies despite section 31(7)(a) and (b).

Division 4 Distribution of ballot papers

39 Applications to cast postal votes

- (1) This section applies to an application made by a voter to the returning officer to cast a postal vote in a de-amalgamation poll.

Note—

Only particular voters are entitled to cast a postal vote in a de-amalgamation poll. See section 29(4).

- (2) The application—
 - (a) must be in the approved form signed by the voter; and

Note—

The signature of the voter on the application must match the signature on the declaration envelope completed by the voter when casting a postal vote. See section 43(3)(b).

- (b) must state the address to which the ballot paper and declaration envelope for the voter is to be posted, delivered or sent; and
 - (c) may be posted, faxed or given to the returning officer by any person; and
 - (d) must be received by the returning officer for the de-amalgamation poll no later than 6p.m. on the Wednesday before polling day.
- (3) Subsection (4) applies if—
 - (a) the application complies with subsection (2); and
 - (b) the returning officer is satisfied the applicant is a voter who is entitled to cast a postal vote in the de-amalgamation poll.
- (4) The returning officer must, as soon as practicable after receiving the application, give the applicant—
 - (a) a ballot paper and a declaration envelope; and
 - (b) written instructions on how to cast a postal vote.
- (5) The things given to a voter under subsection (4) must be accompanied by an unsealed reply paid post envelope addressed to the returning officer.
- (6) However, the unsealed envelope need not be reply paid post if it is to be sent to an address outside of Australia.
- (7) The returning officer must keep a record of the ballot papers and declaration envelopes posted to voters under this section.

[s 40]

40 Distribution of ballot papers to particular voters whose address has been omitted from a voters roll

- (1) As soon as practicable after the cut-off day for a de-amalgamation poll, the returning officer must post the following things to a voter mentioned in section 30(e)—
 - (a) a ballot paper;
 - (b) a declaration envelope;
 - (c) written instructions on how a vote may be cast;
 - (d) an unsealed reply paid post envelope addressed to the returning officer.
- (2) However, the unsealed envelope need not be reply paid post if it is to be posted to an address outside Australia.
- (3) The returning officer must keep a record of the ballot papers and declaration envelopes posted to voters under this section.

Division 5 Recording a vote on ballot papers

41 How voters must record a vote on a ballot paper

- (1) A voter records a vote on a ballot paper in the way mentioned in subsection (2) or (3).
- (2) If the voter wishes to vote yes to the question for the de-amalgamation poll (a ***YES vote***), the voter may—
 - (a) place a tick or write the word ‘YES’ in the square opposite the word ‘YES’ on the ballot paper; or
 - (b) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter votes yes to the question.
- (3) If the voter wishes to vote no to the question for the de-amalgamation poll (a ***NO vote***), the voter may—
 - (a) place a tick or write the word ‘NO’ in the square opposite the word ‘NO’ on the ballot paper; or

- (b) otherwise mark the ballot paper in a way that clearly and unambiguously indicates the voter votes no to the question.

42 Replacement ballot papers

- (1) If, while voting at a polling booth or voting under section 37, a ballot paper given to a voter is accidentally defaced or destroyed, an issuing officer must give the voter a replacement ballot paper.
- (2) However, before a replacement ballot paper can be given—
 - (a) the ballot paper it replaces (the *replaced ballot paper*) must not have been already put in a ballot box in use in the de-amalgamation poll; and
 - (b) if the replaced ballot paper has been accidentally defaced—the voter must give the defaced ballot paper to the issuing officer; and
 - (c) if the replaced ballot paper has been accidentally destroyed—the voter must give to the issuing officer, if practicable, the remains of the ballot paper; and
 - (d) the issuing officer must put the defaced ballot paper, or any remains of the destroyed ballot paper, in an envelope, seal the envelope and set it aside in the officer's custody.
- (3) If a ballot paper given to a voter under section 39 or 40 is lost in transit or is accidentally defaced or destroyed, the returning officer must, before 6p.m. on polling day, give the voter a replacement ballot paper and a declaration envelope.
- (4) However, before a replacement ballot paper can be given the voter must declare, in the approved form, before the issuing officer or an adult witness that—
 - (a) the ballot paper it replaces (also the *replaced ballot paper*) has not been received by the voter or has been accidentally defaced or destroyed; and
 - (b) the voter has not voted in the de-amalgamation poll.

[s 43]

- (5) The returning officer must record, in the approved form, the name and place of residence of each person to whom a replacement ballot paper is given under subsection (3).

43 Formal and informal ballot papers

- (1) A ballot paper has effect as recording a vote in a de-amalgamation poll only if the ballot paper—
 - (a) is completed in compliance with section 41; and
 - (b) does not contain any writing or mark (other than as permitted by this regulation) by which the voter can, in the returning officer's opinion, be identified; and
 - (c) has been put into a ballot box as required by this regulation.
- (2) Also, if the ballot paper is sealed in a declaration envelope, as required by this regulation, the envelope must have been signed, and the signature witnessed, as required by section 31(6) or 32(4).
- (3) Also, if the ballot paper is sealed in a declaration envelope as a postal vote—
 - (a) the ballot paper must be received by the returning officer no later than 10 days after polling day; and
 - (b) for a voter who made an application under section 39 to cast a postal vote in the de-amalgamation poll—the signature on the declaration envelope must match the voter's signature on the application.
- (4) A ballot paper that has effect to record a vote under this section is a formal ballot paper.
- (5) A ballot paper that has no effect to record a vote under this section is an informal ballot paper.

Part 6 Counting of votes

Division 1 Processing declaration envelopes

44 Preliminary processing of declaration envelopes—general

- (1) After 8a.m. on polling day, the returning officer may open all ballot boxes containing only sealed declaration envelopes and examine the envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.
- (2) As soon as practicable after 6p.m. on polling day, the returning officer may open all other ballot boxes containing sealed declaration envelopes and examine the envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.
- (3) As soon as practicable after receipt by the returning officer of a parcel of sealed declaration envelopes from a polling booth, the returning officer may open the parcel and examine the envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.

45 Procedure for processing declaration envelopes

- (1) The returning officer must—
 - (a) inform all observers of the times when, and the places where, declaration envelopes will be examined by the returning officer; and
 - (b) allow the observers to attend at the processing of declaration envelopes.
- (2) Subsection (3) applies if, on examining the declaration envelopes, the returning officer is satisfied—
 - (a) the declaration has been properly completed; and
 - (b) the envelope is sealed; and

[s 45]

- (c) the declarant on the envelope is entitled to cast a vote in the de-amalgamation poll.
- (3) The returning officer must—
 - (a) detach the voter's declaration from the envelope; and
 - (b) either—
 - (i) place a mark in ink against the declarant's name on the voters roll; or
 - (ii) if the voters roll is kept in an electronic form—record in a way approved by the returning officer that the declarant has voted; and
 - (c) place the envelope containing the ballot paper (the ***accepted envelope***) in a locked or sealed ballot box; and
 - (d) keep the accepted envelope in the ballot box until dealt with under subsection (4) and section 48.
- (4) The returning officer may take the accepted envelopes from the locked or sealed ballot box and remove the ballot papers from the envelopes, without unfolding them, or allowing anyone else to unfold them, and keep them in a locked or sealed ballot box until dealt with under section 48.
- (5) The returning officer must—
 - (a) put all ballot papers (not in declaration envelopes) that are in a ballot box opened under section 44(1) or (2) into a locked or sealed ballot box, without unfolding them, or allowing anyone else to unfold them; and
 - (b) keep them there until they are dealt with under section 48.
- (6) If a declaration envelope is rejected, the returning officer must set it aside in the officer's custody for separate identification.
- (7) The returning officer must seal up in separate parcels, and keep in the officer's custody for separate identification, all of the following—
 - (a) rejected declaration envelopes;

- (b) accepted envelopes from which ballot papers have been removed;
- (c) voter's declarations that have been removed from declaration envelopes.

Division 2 Preliminary counts

46 Preliminary counting of ordinary votes

- (1) The presiding officer of a polling booth must follow, in order, the procedures stated in subsections (3) to (11)—
 - (a) as soon as practicable after the end of ordinary voting hours for the polling booth; and
 - (b) at a place nominated by the officer; and
 - (c) in the presence of issuing officers and any observers who wish to attend.
- (2) However, the presiding officer may do anything required under subsections (3) to (10) through an issuing officer authorised by the presiding officer for that purpose.
- (3) Open all ballot boxes used at the polling booth.
- (4) Identify, and keep in a separate parcel, all declaration envelopes.
- (5) Examine all ballot papers that are not in declaration envelopes, and—
 - (a) identify, and keep in a separate parcel, all informal ballot papers; and
 - (b) count the number of YES votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and
 - (c) count the number of NO votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel.
- (6) Prepare a written statement, in the approved form, that—

[s 46]

- (a) states, in words and numerals, the number of YES votes and the number of NO votes; and
 - (b) states the number of declaration envelopes and informal ballot papers; and
 - (c) is signed by the presiding officer.
- (7) Seal up in separate parcels all formal and informal ballot papers, declaration envelopes and unused ballot papers.
- (8) Endorse on each parcel a description of its contents, and sign the endorsement.
- (9) Put the following into separate parcels and endorse on each parcel a description of its contents—
 - (a) the voters roll and all books and papers used by the presiding officer in the de-amalgamation poll with 1 copy of the statement prepared under subsection (6);
 - (b) all ballot papers or remains of ballot papers set aside under section 42(2)(d).
- (10) Endorse the following on each parcel, and sign each endorsement—
 - (a) the name of the de-amalgamation poll;
 - (b) the name of the polling booth from which the parcel has come.
- (11) The presiding officer must, as soon as practicable, give each of the following things to the returning officer or a person nominated by the returning officer—
 - (a) the parcels mentioned in subsections (4), (5), (7) and (9);
 - (b) a copy of the statement prepared under subsection (6), other than the copy mentioned in subsection (9)(a);
 - (c) a reconciliation statement, in the approved form, for all ballot papers given out at the polling booth and all votes put in ballot boxes at the booth.

47 Objections by observers during preliminary count

- (1) If, while a presiding officer is complying with section 46(5), an observer objects to the treatment of a particular ballot paper as informal, the officer must mark on the back of the ballot paper 'formal' or 'informal' according to whether the officer's decision is to treat the vote as formal or informal.
- (2) If, while a presiding officer is complying with section 46(5), an observer objects to the counting of a vote as a YES vote or as a NO vote, the officer must mark on the back of the relevant ballot paper 'yes' or 'no' according to whether the officer's decision is to count the vote as a YES vote or as a NO vote.

Division 3 Official count

48 Official counting of votes

- (1) The returning officer must follow, in order, the procedures stated in subsections (2) to (6)—
 - (a) as soon as practicable after close of voting for a de-amalgamation poll; and
 - (b) in the presence of the observers who have made themselves available for the purpose of observing the procedures.
- (2) The returning officer must work out from the statements of presiding officers under section 46(6) the number of YES votes and the number of NO votes cast in the de-amalgamation poll.
- (3) The returning officer must—
 - (a) open all sealed parcels of ballot papers either—
 - (i) given to the returning officer under section 46(11); or
 - (ii) sealed by the returning officer if the returning officer conducted the preliminary count under section 46; and

[s 48]

- (b) examine all ballot papers that are not in declaration envelopes and—
 - (i) count the number of YES votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and
 - (ii) count the number of NO votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel.
- (4) The returning officer must—
 - (a) open all other ballot boxes on hand; and
 - (b) open all accepted envelopes mentioned in section 45(3)(d) that have not yet been opened and remove the ballot papers; and
 - (c) identify, and keep in a separate parcel, all informal ballot papers; and
 - (d) examine all formal ballot papers and—
 - (i) count the number of YES votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel; and
 - (ii) count the number of NO votes marked on all formal ballot papers, and keep the ballot papers in a separate parcel.
- (5) The returning officer must add together—
 - (a) the number of YES votes counted under subsections (3)(b)(i) and (4)(d)(i); and
 - (b) the number of NO votes counted under subsections (3)(b)(ii) and (4)(d)(ii).
- (6) The returning officer must reapply subsections (4) and (5) as more declaration envelopes are received by the returning officer under section 32 after close of the voting.

49 Objections by observers during official count

- (1) If, while the returning officer is complying with section 48, an observer objects to the treatment of a particular ballot paper as informal, the officer must mark on the back of the ballot paper ‘formal’ or ‘informal’ according to whether the officer’s decision is to treat the ballot paper as formal or informal.
- (2) If, while the returning officer is complying with section 48, an observer objects to the counting of a vote as a YES vote or as a NO vote, the officer must mark on the back of the relevant ballot paper ‘yes’ or ‘no’ according to whether the officer’s decision is to count the vote as a YES vote or as a NO vote.

50 Returning officer’s duty after counting votes

When the result of the de-amalgamation poll is known, the returning officer must—

- (a) seal up in separate parcels all of the following—
 - (i) formal ballot papers;
 - (ii) informal ballot papers;
 - (iii) rejected declaration envelopes;
 - (iv) accepted envelopes from which ballot papers have been removed;
 - (v) voters’ declarations that have been removed from declaration envelopes;
 - (vi) defaced ballot papers;
 - (vii) remains of destroyed ballot papers;
 - (viii) unused ballot papers;
 - (ix) books and papers (other than the voters roll) of each presiding officer used in the de-amalgamation poll; and
- (b) endorse on each parcel a description of its contents and sign the endorsement.

[s 51]

Division 4 Notifying the results of de-amalgamation poll

51 Notifying the results of de-amalgamation poll

- (1) As soon as practicable after the result of a de-amalgamation poll is known, the electoral commission must, by notice in the approved form, declare the result of the poll.
- (2) The electoral commission must—
 - (a) give a copy of the notice to the Minister; and
 - (b) ensure the notice is displayed in a conspicuous position at the office of the returning officer; and
 - (c) publish the notice in a newspaper circulating generally in the affected part of the local government area.
- (3) The electoral commission must not delay complying with subsection (1) or (2) merely because some ballot papers have not been received by the returning officer, if it is clear the votes recorded on the ballot papers could not affect the result of the poll.

52 Notice of final count of votes in de-amalgamation poll to Minister

The electoral commission must give the Minister notice of the final number of YES votes and the final number of NO votes counted in a de-amalgamation poll as soon as practicable after—

- (a) all ballot papers used in the poll have been examined; and
- (b) all votes cast in the poll on ballot papers that appear to be formal have been counted.

53 Storage and disposal of material resulting from poll

- (1) As soon as practicable after the electoral commission gives notice of the final count of votes in a de-amalgamation poll under section 52, the electoral commission must—
 - (a) destroy all unused ballot papers; and
 - (b) seal up in packets all other parcels sealed up under section 50; and
 - (c) endorse the following on each packet and sign the endorsement—
 - (i) a description of its contents;
 - (ii) the name of the poll;
 - (iii) the polling day.
- (2) The electoral commission must keep the packets in safe custody until the next quadrennial election.
- (3) At the end of the period under subsection (2), the electoral commission must—
 - (a) destroy all ballot papers contained in the packets; and
 - (b) dispose of the other contents of the packets in the way the commission considers appropriate.

54 Notice to voters whose ballot papers are not accepted

- (1) This section applies if—
 - (a) in a de-amalgamation poll, a person casts a vote in the poll and completes a declaration envelope for the vote; and
 - (b) the person's ballot paper is not accepted for counting under section 45 because the returning officer is not satisfied that the declarant on the declaration envelope is entitled to cast a vote in the poll.
- (2) As soon as practicable after the de-amalgamation poll, the electoral commission must send a notice in the approved form

[s 55]

to the person advising the person why the ballot paper was not accepted for counting.

55 Notice to electoral commission of error in electoral roll

As soon as practicable after a de-amalgamation poll, the returning officer must give to the electoral commission notice of the names and addresses of all persons permitted to vote at the poll whose names are not on the voters roll, apparently because of official error, if the error relates to the keeping of an electoral roll under the *Electoral Act 1992*.

Part 7 Administration

56 Returning officers

- (1) The returning officer is responsible for the proper conduct of a de-amalgamation poll.
- (2) The electoral commission may appoint a person as the returning officer for a de-amalgamation poll unless the person is—
 - (a) a minor; or
 - (b) a member of a political party; or
 - (c) the chief executive officer or an employee of the relevant local government.
- (3) A returning officer must comply with a direction given by the electoral commission if it would be consistent with this regulation to do so.

57 Presiding officers

- (1) A presiding officer at a polling booth is responsible for the proper conduct of voting at the polling booth and for carrying

out the other duties for a de-amalgamation poll that are required by the returning officer.

- (2) The returning officer—
 - (a) may be the presiding officer at a polling booth; and
 - (b) must appoint an adult as presiding officer at each polling booth other than the booth at which the returning officer is the presiding officer.
- (3) If a person can not act as presiding officer at a polling booth, the returning officer, or someone else with the returning officer's approval, may appoint an adult as presiding officer at the booth while the person can not act.
- (4) An appointment under subsection (2) or (3) must be in the approved form.

58 Issuing officers

An *issuing officer* is a member of the electoral commission's staff who is responsible for—

- (a) giving ballot papers and declaration envelopes to voters; and
- (b) performing the other duties for a de-amalgamation poll that are required by the returning officer.

59 Membership of a political party ends particular appointments

- (1) A person's appointment as a returning officer ends if the person becomes a member of a political party.
- (2) Subsection (1) does not limit the ways in which a person's appointment as a returning officer may end.

60 Obligation to notify of membership of a political party

A returning officer must immediately notify the electoral commission if the officer becomes a member of a political party, unless the person has a reasonable excuse.

[s 61]

Maximum penalty—40 penalty units.

61 Returning officer may act through other officers

- (1) This section applies if—
- (a) the returning officer may, under this regulation, do a thing; and
 - (b) the returning officer authorises a presiding officer or issuing officer to do the thing; and
 - (c) the presiding officer or issuing officer does the thing.
- (2) The thing is taken to have been done by the returning officer.

Examples—

- 1 For a de-amalgamation poll, if the returning officer authorises a presiding officer to carry out the functions of the returning officer under section 48, and the presiding officer carries out the functions, the returning officer is taken to have carried out the functions.
- 2 Under section 32, declaration envelopes are to be posted or given to the returning officer. For a de-amalgamation poll, the returning officer could authorise an issuing officer to receive declaration envelopes, to remove the declaration envelopes containing the ballot papers from the return address envelopes and place the declaration envelopes in a ballot box.

Part 8 Legal provisions

62 Postal vote presumed valid until contrary proved

If a declaration envelope and ballot paper to which section 32 applies is received by a returning officer by post, it must be presumed that section 32(3) to (5) has been complied with in relation to the declaration on the envelope until the contrary is proved.

63 Ballot papers as evidence

In a proceeding, a ballot paper apparently used at a de-amalgamation poll and identified by evidence as 1 of the ballot papers held by the electoral commission under section 53(2) is evidence of the vote cast in the poll as recorded on the ballot paper.

64 Allegations of false or misleading information or document

In a proceeding for an offence against this regulation defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state the information or document was, without specifying which, ‘false or misleading’.

Part 9 Enforcement

Division 1 Information about failure to vote

65 List of voters failing to vote

- (1) The electoral commission must, for each de-amalgamation poll, make a list of the names and addresses, and the numbers shown on the voters roll, of all—
 - (a) voters who have not been given ballot papers for the poll; and
 - (b) postal voters who have not given their ballot papers to the returning officer.
- (2) The list is to be held by the electoral commission.

[s 66]

66 Notice about failure to vote

- (1) As soon as practicable after the conclusion of a de-amalgamation poll the electoral commission must—
 - (a) send a notice to each voter shown on the list made under section 65; and
 - (b) record on the list, against the voter's name, the fact that the notice has been given.
- (2) The notice under subsection (1)(a) must—
 - (a) be sent to the voter's address shown on the list; and
 - (b) show the voter's full name and address and number on the voters roll; and
 - (c) state that—
 - (i) the voter appears to have failed to vote at the de-amalgamation poll; and
 - (ii) it is an offence to fail, without a valid and sufficient reason, to vote at a poll; and
 - (d) require the voter to—
 - (i) state, in the approved form included in or with the notice—
 - (A) the way in which, or the place at which, the voter voted; or
 - (B) the reason for failing to vote; and
 - (ii) sign the form and post or give it to the electoral commission so it is received by the appropriate day.
- (3) A voter for a de-amalgamation poll must not—
 - (a) fail to comply with the requirements of a notice given to the voter under subsection (1); or
 - (b) when complying with the requirements of the notice, make a statement the voter knows to be false or misleading in a material particular.

Maximum penalty—1 penalty unit.

- (4) A voter is taken to have complied with the notice's requirements if—
 - (a) the voter is absent, or unable, because of physical incapacity, to comply with the requirements of the notice; and
 - (b) another voter who has personal knowledge of the facts complies with the requirements and in doing so also has his or her signature on the form witnessed.

67 Recording response to notice

The electoral commission must record against the name of a voter who is given a notice under section 66 on the list made under section 65 whether the voter—

- (a) has complied with the requirements of the notice under section 66(2)(d); and
- (b) had a valid and sufficient reason for failing to vote at the de-amalgamation poll.

Division 2 Directions relating to conducting ballot

68 Power to give direction relating to conduct of ballot

- (1) This section applies if a returning officer or a presiding officer reasonably suspects a person is or has been obstructing—
 - (a) a voter in the free exercise or performance of a right or responsibility under this regulation; or
 - (b) any proceeding being conducted for a de-amalgamation poll; or
 - (c) an electoral officer or an observer in the performance of a function under this regulation.
- (2) For the purpose of ensuring a de-amalgamation poll is conducted in compliance with this regulation, the returning

[s 69]

officer or presiding officer may give the person any direction that is—

- (a) in the officer's opinion, necessary to ensure the peaceable and orderly taking of the ballot in a de-amalgamation poll; and
 - (b) reasonable in the circumstances.
- (3) When giving a direction under subsection (2), the returning officer or presiding officer must warn the person it is an offence not to comply with the direction unless the person has a reasonable excuse.
- (4) A person must comply with a direction given by a returning officer or presiding officer under subsection (2) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Division 3 Offences relating to conducting ballot

69 Offences about ballot papers

- (1) A person must not—
- (a) wilfully fail to comply with section 31, 32, 36 or 37; or
 - (b) take a ballot paper out of a polling booth other than in compliance with this regulation; or
 - (c) place in a ballot box a ballot paper that has not been—
 - (i) given to a voter under this regulation; or
 - (ii) marked by the voter.

Maximum penalty—20 penalty units.

- (2) A person must not, without lawful excuse, obtain possession of or have in the person's possession—
- (a) a ballot paper that has been marked by anyone else; or

- (b) a declaration envelope that has been signed by anyone else.

Maximum penalty—20 penalty units.

70 Failure to post, fax or deliver documents for someone else

- (1) If a person is given, for delivery or posting to the returning officer, an application by another person to cast a postal vote, the person must promptly deliver or post it to the returning officer.

Maximum penalty—20 penalty units.

- (2) If a person is given, for delivery or posting to the returning officer, a declaration envelope that appears to be completed, the person must give or post it to the returning officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

71 Secrecy of voting

- (1) A person must not examine a ballot paper used in a de-amalgamation poll to find out how a voter has voted unless required by a court or authorised under this regulation to do so.

Maximum penalty—20 penalty units.

- (2) If, in performing a function for a de-amalgamation poll, a person has found out how a voter has voted, the person must not disclose, or assist in disclosing, that fact, unless the person is required by law to make the disclosure.

Maximum penalty—20 penalty units.

- (3) An electoral officer or observer must not make a mark, memorandum or note on a voters roll or any other list of voters or otherwise—

- (a) that indicates how a voter has voted; or

[s 72]

- (b) that would enable the officer or observer to know or remember how a voter has voted.

Maximum penalty—10 penalty units.

72 Breaking seals on parcels

A person must not wilfully open or break the seal of a parcel or packet sealed under this regulation unless the person is authorised under this regulation or ordered by a court to open or break the seal.

Maximum penalty—20 penalty units.

73 Duty of witness in signing declaration envelopes

A person (the *witness*) must not sign a declaration envelope as a witness under section 32 unless—

- (a) the witness is satisfied of the identity of the voter who signs the declaration before the witness; and
- (b) the witness has seen the voter sign the declaration; and
- (c) either—
 - (i) the witness knows that the declaration made by the voter is true; or
 - (ii) the witness is satisfied that the declaration is true because of inquiries of the voter or otherwise.

Maximum penalty—20 penalty units.

Part 10 Miscellaneous

74 Persons serving a sentence of imprisonment

For this regulation, a person is serving a sentence of imprisonment only if—

- (a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and
- (b) the detention is attributable to the sentence of imprisonment concerned.

75 Office of returning officer

- (1) A returning officer must keep premises for use as a public office for a de-amalgamation poll.
- (2) The electoral commission must publish notice of the address of the public office in a newspaper circulating generally in the affected part of the local government area for each de-amalgamation poll.

76 Approved forms

The electoral commissioner may approve forms for use under this regulation.

Part 11 Amendment of State Penalties Enforcement Regulation 2000

77 Regulation amended

This part amends the *State Penalties Enforcement Regulation 2000*.

78 Amendment of s 5 (Administering authority for particular nominated laws)

- (1) Section 5(2), definition *nominated law*, paragraph (b)—
omit, insert—
‘(b) the *City of Brisbane Regulation 2012*, section 48;’.

[s 79]

- (2) Section 5(2), definition *nominated law*—
insert—
‘(ga) the *Local Government Act 2009*, section 260C;’.

79 Amendment of s 5BA (Administering authority for City of Brisbane (Operations) Regulation 2010)

- (1) Section 5BA, heading, ‘City of Brisbane (Operations) Regulation 2010’—
omit, insert—
‘**City of Brisbane Regulation 2012**’.
- (2) Section 5BA, ‘a provision of the *City of Brisbane (Operations) Regulation 2010*’—
omit, insert—
‘the *City of Brisbane Regulation 2012*, section 48’.

80 Insertion of new s 7B

After section 7AC—
insert—

‘7B Administering authority for Local Government Act 2009

‘The administering authority for an infringement notice offence that is an offence against the *Local Government Act 2009*, section 260C, or an infringement notice about the offence, is the Electoral Commission of Queensland.’.

81 Amendment of sch 5 (Other legislation)

- (1) Schedule 5, entry for *City of Brisbane (Operations) Regulation 2010*—
omit.
- (2) Schedule 5—
insert—

‘City of Brisbane Regulation 2012

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 48.....	2

Authorised person for service of infringement notices—an authorised person appointed under the *City of Brisbane Act 2010*, section 199’.

(3) Schedule 5—

insert—

‘Local Government Act 2009

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 260C	1

Authorised person for service of infringement notices—the electoral commissioner under the *Electoral Act 1992*’.

Schedule Dictionary

section 3

2008 local government election means the election of councillors for local governments that was held in 2008.

affected part of the local government area, for a de-amalgamation poll, see section 4.

approved form means a form approved by the electoral commission under section 76.

cut-off day, for a de-amalgamation poll, see section 8(1).

de-amalgamation poll see section 2.

declaration envelope means an envelope—

- (a) on which there is a form of declaration that is to be made by a voter; and
- (b) in which the voter's ballot paper is to be sealed.

Douglas area de-amalgamation poll see section 2(a).

early polling booth see section 12(4).

electoral officer means the returning officer, an issuing officer or the presiding officer for a polling booth.

electoral paper means a ballot paper or declaration envelope.

electoral roll means an electoral roll kept under the *Electoral Act 1992*, section 58.

emergency means—

- (a) a storm, tempest, flood, fire or a similar happening; or
- (b) a riot or open violence.

formal, in relation to a vote, means the vote is recorded on a formal ballot paper.

formal ballot paper means a ballot paper that is a formal ballot paper under section 43(4).

former Douglas Shire Council local government area means the part of the Cairns Regional Council local government area that, immediately before the 2008 local government elections, was the Douglas Shire Council local government area under the repealed *Local Government (Areas) Regulation 2005*.

former Livingstone Shire Council local government area means the part of the Rockhampton Regional Council local government area that, immediately before the 2008 local government elections, was the Livingstone Shire Council local government area under the repealed *Local Government (Areas) Regulation 2005*.

former Mareeba Shire Council local government area means the part of the Tablelands Regional Council local government area that, immediately before the 2008 local government elections, was the Mareeba Shire Council local government area under the repealed *Local Government (Areas) Regulation 2005*.

former Noosa Shire Council local government area means the part of the Sunshine Coast Regional Council local government area that, immediately before the 2008 local government elections, was the Noosa Shire Council local government area under the repealed *Local Government (Areas) Regulation 2005*.

informal, in relation to a vote, means the vote is recorded on an informal ballot paper.

informal ballot paper means a ballot paper that is an informal ballot paper under section 43(5).

institution means any of the following—

- (a) a hospital;
- (b) a convalescent home;
- (c) a nursing home;
- (d) a home for the aged;
- (e) a hostel for the aged or infirm.

issuing officer see section 58.

Livingstone area de-amalgamation poll see section 2(b).

Mareeba area de-amalgamation poll see section 2(d).

mobile polling booth see section 12(3).

Noosa area de-amalgamation poll see section 2(c).

NO vote see section 41(3).

obstruct includes hinder and attempt to obstruct.

ordinary polling booth see section 12(2).

ordinary vote see section 29(1)(a).

ordinary voting hours means the hours between 8a.m. and 6p.m. on a day.

place includes a vehicle.

polling booth means—

- (a) an ordinary polling booth; or
- (b) a mobile polling booth; or
- (c) an early polling booth.

polling day, for a de-amalgamation poll. means the day—

- (a) mentioned in section 6(1); or
- (b) fixed by a notice under section 6(2); or
- (c) fixed by a notice under section 19.

polling notice means the public notice given by the electoral commission, under section 7, that a de-amalgamation poll will be conducted.

postal vote see section 29(1)(c).

postal voter means a voter who casts a postal vote in a de-amalgamation poll.

pre-poll vote see section 29(1)(b).

presiding officer, for a polling booth, means the person who, under section 57, is the presiding officer at the polling booth.

relevant local government, for a de-amalgamation poll about the implementation of a de-amalgamation of a local government area, means the local government for the area.

relevant local government area, for a de-amalgamation poll about the implementation of a de-amalgamation of a local government area, means the local government area.

returning officer, for a de-amalgamation poll, means a person appointed under section 56 as returning officer for the poll.

voter, for a de-amalgamation poll, means a person entitled to vote in the poll under section 28.

voters roll, for a de-amalgamation poll, see section 8(1).

voting hours, for a mobile polling booth, means the hours when voters may enter the booth to vote at a de-amalgamation poll.

YES vote see section 41(2).

ENDNOTES

- 1 Made by the Governor in Council on 7 February 2013.
- 2 Notified in the gazette on 8 February 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Local Government, Community Recovery and Resilience.

© State of Queensland 2013

Authorised by the Parliamentary Counsel