



Queensland

Electoral (By-elections Before Next General Election) Regulation 2020

Subordinate Legislation 2020 No. 43

made under the

Electoral Act 1992

State Penalties Enforcement Act 1999

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Part 1 **Preliminary**

1 **Short title**

This regulation may be cited as the *Electoral (By-elections Before Next General Election) Regulation 2020*.

2 **Commencement**

Section 15 commences on 19 March 2021.

3 **Making of regulation—Act, s 392J**

(1) This regulation is made under section 392J of the Act.

Note—

Under section 392J(3) of the Act, this regulation expires on 19 March 2021.

(2) Part 3 is also made under the *State Penalties Enforcement Act 1999*.

Part 2 **Matters relating to by-elections**

Division 1 **Preliminary**

4 **Application of part**

This part applies in relation to a by-election held before the next general election is held after 19 March 2020.

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Division 2 Offences relating to signage at polling booths

5 Definitions for division

In this division—

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.

election sign see section 6.

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.

6 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.

Example—

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

-
- (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.

7 **Setting up to display election signs at ordinary polling booth**

- (1) This section applies during the period that—
- (a) starts when the election period for a by-election starts or the commencement of this section, whichever is later; and
 - (b) ends at 5a.m. on the polling day for the by-election.
- (2) A person must not do any of the following in the area around 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) The *area around an ordinary polling booth* is the area—
- (a) within 100m of the building in which the voting compartments for an ordinary polling booth are to be located; and
 - (b) if the building is located in grounds—
 - (i) in the grounds; and
 - (ii) on a boundary fence or another structure or feature that marks the boundary of the grounds; and

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- (iii) within 100m of any entrance to the grounds.
- (4) However, the *area around an ordinary polling booth* does not include—
 - (a) a residence; or
 - (b) premises that—
 - (i) are lawfully occupied by a person, other than the commission, for a purpose that is not related to a voting office or polling booth being used for the by-election; and
 - (ii) are not premises in which the voting compartments for an ordinary polling booth are to be located; or
 - (c) premises used by a candidate in the by-election or a registered political party as an office.
- (5) 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.

Division 3 Other matters

8 Directions about candidates or scrutineers at particular places

- (1) For the purpose of part 12A of the Act, the commission may give a direction—
 - (a) regulating the number of scrutineers each candidate may have at a polling booth or other place where a scrutineer is entitled to be present under the Act; or
 - (b) prohibiting a candidate or scrutineer from being present at a polling booth or other place where the candidate or scrutineer would otherwise be entitled to be present under the Act.

Example—

A direction may prohibit a scrutineer from accompanying an issuing officer under section 109 of the Act.

- (2) The direction must be published on the commission's website.
- (3) A person must not contravene the direction unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) The direction applies despite section 104 of the Act or another provision of the Act that allows a candidate or scrutineer to be present at a polling booth or other place.
- (5) Section 189(d) of the Act does not apply to the extent a scrutineer is prevented from entering a polling place under the direction.

9 Directions about movement of candidates or scrutineers

- (1) For the purpose of part 12A of the Act, a returning officer or a member of the commission's staff in charge of a polling booth may give a direction under this section.
- (2) The direction may be given to a candidate or scrutineer at a place (a *relevant place*) that is a polling booth or other place at which the candidate or scrutineer is entitled to be present under the Act.
- (3) The direction may be about—
 - (a) the movement of a candidate or scrutineer at a relevant place; or
 - (b) an area, within 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 of 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.

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- (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.

10 Procedures for electronically assisted voting

- (1) The commission may make procedures under section 121B of the Act about how an elector may make an electronically assisted vote for a by-election.
- (2) The procedures must state that they are made under this section.
- (3) Section 121B(3)(a) and (b) of the Act do not apply in relation to the procedures.
- (4) The procedures take effect when they are published on the commission's website.
- (5) A reference in the Act or another document to a procedure approved under section 121B(3) of the Act is taken to include a procedure made under this section.

11 Counting of votes—location

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

12 Counting of votes—filming

A returning officer may arrange for the counting of votes to be filmed by a member of the commission's staff.

Part 3 **Amendment of State Penalties Enforcement Regulation 2014**

13 **Regulation amended**

This part amends the *State Penalties Enforcement Regulation 2014*.

14 **Amendment of sch 1 (Infringement notice offences and fines for nominated laws)**

Schedule 1—

insert—

Electoral (By-elections Before Next General Election) Regulation 2020

	Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 7(2)		5
s 8(3)		2
s 9(4)		2

Administering authority for an infringement notice offence that is an offence against a provision of the *Electoral (By-elections Before Next General Election) Regulation 2020*, or an infringement notice about the offence—
Electoral Commission of Queensland

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

[s 15]

15 Amendment of sch 1 (Infringement notice offences and fines for nominated laws)

Schedule 1, entry for the *Electoral (By-elections Before Next General Election) Regulation 2020*—

omit.

ENDNOTES

- 1 Made by the Governor in Council on 26 March 2020.
- 2 Notified on the Queensland legislation website on 27 March 2020.
- 3 The administering agency is the Department of Justice and Attorney-General.

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