

Queensland



**ELECTORAL AND OTHER
ACTS AMENDMENT BILL 2002**

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ELECTORAL AND OTHER ACTS AMENDMENT BILL 2002

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2002

A BILL

FOR

An Act to amend the *Electoral Act 1992*, and for other purposes

The Parliament of Queensland enacts— 1

PART 1—PRELIMINARY 2

Clause 1 Short title 3

This Act may be cited as the *Electoral and Other Acts Amendment Act 2002*. 4
5

Clause 2 Commencement 6

(1) Sections 28, 54(2) and 58 commence on 6 June 2002. 7

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation. 8
9

PART 2—ELECTORAL ACT 1992 10

Clause 3 Act amended in pt 2 11

This part amends the *Electoral Act 1992*. 12

Clause 4 Insertion of new s 2 13

Part 1— 14

insert— 15

‘2 Note in text 16

‘A note in the text of this Act is part of the Act.’. 17

Clause 5 Amendment of s 3 (Definitions) 18

(1) Section 3— 19

insert— 20

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‘ “broadcast” includes televisive.	1
“broadcaster” means—	2
(a) the Australian Broadcasting Corporation established under the <i>Australian Broadcasting Corporation Act 1983</i> (Cwlth); or	3 4
(b) the Special Broadcasting Service Corporation established under the <i>Special Broadcasting Service Act 1991</i> (Cwlth), section 5; or	5 6
(c) the holder of a licence under the <i>Broadcasting Services Act 1992</i> (Cwlth); or	7 8
(d) the provider of a broadcasting service under a class licence under the <i>Broadcasting Services Act 1992</i> (Cwlth).	9 10
“complying constitution” see section 73A.	11
“disqualifying electoral offence” means an offence, of which an offender is convicted after the commencement of the <i>Electoral and Other Acts Amendment Act 2002</i> , section 5—	12 13 14
(a) that relates to—	15
(i) an election of a member of an Australian Parliament; or	16
(ii) an election to the office of chairperson, mayor, president, councillor or member of a local government, or to an equivalent office in another State; or	17 18 19
(iii) a referendum conducted under a law of the State, another State or the Commonwealth; or	20 21
(iv) the enrolment of a person on an electoral roll; and	22
(b) for which the penalty imposed included a sentence of imprisonment, other than a sentence of imprisonment for non-payment of a fine, restitution or other amount.	23 24 25
“distribute” a how-to-vote card—	26
(a) includes make the card available to other persons; but	27
(b) does not include merely display the card.	28
<i>Examples—</i>	29
1. A person “distributes” how-to-vote cards if the person hands the cards to other persons or leaves them at a place for other persons to take away.	30 31
2. A person does not “distribute” how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.	32 33
“how-to-vote card” means a card, handbill or pamphlet that—	34

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- (a) is or includes— 1
- (i) a representation of a ballot paper or part of a ballot paper; or 2
- (ii) something apparently intended to represent a ballot paper or 3
part of a ballot paper; or 4
- (b) lists the names of any or all of the candidates for an election with 5
a number indicating an order of voting preference against the 6
names of any or all of the candidates; or 7
- (c) otherwise directs or encourages the casting of preference votes, 8
other than first preference votes, in a particular way. 9

“preselection ballot”— 10

- (a) means the process, or that part of the process, of selecting a 11
candidate to be endorsed by a political party for an election, or an 12
election for a local government, in which a member of the party 13
votes in a ballot in his or her capacity as a member of the party, 14
rather than as a member of a committee (however called) of the 15
party, for the candidate; and 16
- (b) includes matters preparatory to the ballot and the scrutiny and 17
counting of votes in the ballot. 18

Example— 19

If the selection of a candidate involves a poll of the party members and the 20
endorsement of the poll result by a party committee, only the poll is a 21
preselection ballot.’ 22

(2) Section 3, definition **“political party”**, ‘or activity, or 1 of whose 23
objects or activities’— 24

omit, insert— 25

‘, or 1 of whose objects’. 26

Clause 6 Amendment of s 8 (Functions and powers of commission) 27

(1) Section 8(1)(e) to (h)— 28

renumber as section 8(1)(g) to (j). 29

(2) Section 8(1)— 30

insert— 31

	‘(e) implement strategies to encourage persons, particularly those belonging to groups with traditionally low enrolment rates, to enrol as electors; and	1 2 3
	(f) implement strategies to maintain the integrity of the electoral rolls; and’.	4 5
	(3) Section 8(2), ‘(g)’—	6
	<i>omit, insert—</i>	7
	‘(i)’.	8
Clause 7	Insertion of new s 33A	9
	Part 2, division 3—	10
	<i>insert—</i>	11
	‘33A Confidentiality of information	12
	‘A person who is involved in the administration of this Act who gains information because of the person’s involvement in the administration must not disclose the information to anyone else other than—	13 14 15
	(a) for the purposes of this Act; or	16
	(b) under the authority of another Act; or	17
	(c) in a proceeding before a court in which the information is relevant to the issue before the court.	18 19
	Maximum penalty—40 penalty units or 18 months imprisonment.’.	20
Clause 8	Amendment of s 58 (Commission to keep electoral rolls)	21
	Section 58—	22
	<i>insert—</i>	23
	‘(6) For the purposes of this Act, the commission may ask a government entity prescribed under a regulation to give the commission information of the kind mentioned in subsection (3)(a) to (c) as shown in any records kept by the entity.	24 25 26 27
	<i>Example—</i>	28
	The commission may ask a local government for the names of all ratepayers living in a particular local government area.	29 30

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‘(7) The entity must give the commission the information as soon as practicable after receiving the request.

‘(8) The chief executive officer of the entity may, before giving the information, require payment of a fee decided by the chief executive officer that reasonably reflects the cost of extracting the information from the entity’s records.

‘(9) The entity need not give the information about a person if the entity reasonably suspects that disclosing the information would be likely to endanger the person’s safety.

‘(10) Subsection (7) has effect despite the provisions of any other Act that would otherwise permit or require the entity to refuse the commission’s request.

‘(11) In this section—
“government entity” includes—
 (a) a local government; and
 (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office or other entity established for a State government purpose; and
 (c) a part of an entity mentioned in paragraph (b);
 but does not include the police service or the Crime and Misconduct Commission.’.

Clause 9 Amendment of s 64 (Entitlement to enrolment)

(1) Section 64(4)—

renumber as section 64(5).

(2) Section 64—

insert—

‘(4) Also, a member of the Legislative Assembly may be enrolled for an electoral district (the **“other district”**) other than the district that the member represents (the **“member’s district”**) if, because of an electoral redistribution, the other district contains at least half of the electors who were enrolled for the member’s district when the commission calculated the average number of enrolled electors for electoral districts for section 45(1).’.

Clause 10	Amendment of s 73 (Refusal of registration)	1
	(1) Section 73(5)—	2
	<i>renumber</i> as section 73(6).	3
	(2) Section 73—	4
	<i>insert</i> —	5
	‘(5) The commission must refuse to register a political party if the party’s constitution is not a complying constitution. ¹ ’.	6 7
Clause 11	Insertion of new s 73A	8
	After section 73—	9
	<i>insert</i> —	10
	‘73A Complying constitution	11
	‘(1) A political party’s constitution is a “complying constitution” if it contains the following—	12 13
	(a) the party’s objects, 1 of which must be the promotion of the election to the Legislative Assembly of a candidate or candidates endorsed by it or by a body or organisation of which it forms a part;	14 15 16 17
	(b) the procedure for amending the constitution;	18
	(c) the rules for membership of the party, which must include the following rules—	19 20
	(i) a rule stating the procedure for accepting a person as a member;	21 22
	(ii) a rule stating the procedure for ending a person’s membership;	23 24
	(iii) a rule prohibiting a person from becoming a member of the party if the person has been convicted of a disqualifying electoral offence within 10 years before the person applies to become a member;	25 26 27 28

1 See section 73A (Complying constitution)

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(iv) a rule prohibiting a person from continuing as a member of the party if the person is convicted of a disqualifying electoral offence;	1 2 3
(d) a statement about how the party manages its internal affairs, including a statement about—	4 5
(i) the party structure; and	6
(ii) the process for dispute resolution;	7
(e) the rules for selecting—	8
(i) a person to hold an office in the party; and	9
(ii) a candidate to be endorsed by the party for an election or an election for a local government;	10 11
(f) a rule requiring that a preselection ballot must satisfy the general principles of free and democratic elections.	12 13
‘(2) The general principles of free and democratic elections as applied to a preselection ballot are as follows—	14 15
(a) only members of the party who are electors may vote;	16
(b) only members of the party who are eligible to vote in the ballot under the party’s constitution may vote;	17 18
(c) each member has only 1 vote;	19
(d) voting must be done by secret ballot;	20
(e) a member must not be improperly influenced in voting;	21
(f) a member’s ballot paper must be counted if the member’s intention is clear;	22 23
(g) members’ votes must be accurately counted;	24
(h) each person who is seeking selection may be present personally, or may be represented by another person, at the ballot and for the scrutiny, and counting, of votes.’	25 26 27
Clause 12 Amendment of s 75 (Cancellation of registration)	28
Section 75(2)—	29
<i>insert—</i>	30
‘(e) the party’s constitution is not a complying constitution; or	31

- (f) the party's registered officer has failed to comply with section 76A(1) or (2),² including, for example, by giving false or misleading information under the provision.'

Clause 13 Insertion of new s 76A

Part 5—

insert—

'76A Party constitution

'(1) The registered officer of a registered political party must, within 7 days after each report date, notify the commission in the approved form whether or not an amendment has been made to the party's constitution since the last report date.

'(2) If an amendment has been made, the registered officer must also give the commission—

- (a) a copy of the amended constitution; and
- (b) a summary of the amendments.

'(3) In this section—

"report date" means 31 March, 30 June, 30 September and 31 December in each year.

Note—

See section 75(2)(f) for the effect of noncompliance with subsection (1) or (2).'

Clause 14 Amendment of s 85 (Deposit to accompany nomination)

(1) Section 85(3)—

omit, insert—

'(3) If the candidate dies before the writ is returned, the deposit must be returned to—

- (a) if the deposit was paid by someone other than the candidate—the other person; or
- (b) otherwise—the candidate's personal representative.'

² Section 76A (Party constitution)

	(2) Section 85(4), ‘to the candidate’—	1
	<i>omit, insert—</i>	2
	‘to the person who paid the deposit, or someone else with the person’s written authority.’	3 4
Clause 15	Amendment of s 94 (Kinds of polling booths)	5
	(1) Section 94—	6
	<i>insert—</i>	7
	‘(4A) The commission may require an issuing officer visiting an institution declared under subsection (4) to present how-to-vote cards to electors at the institution and present the cards in a particular way.	8 9 10
	<i>Example—</i>	11
	The commission may require an issuing officer to give how-to-vote cards to electors at a declared institution or to paste the cards on a manila folder and show it to the electors.	12 13
	‘(4B) The issuing officer must comply with the requirement.’	14
	(2) Section 94—	15
	<i>insert—</i>	16
	‘(7) The commission, a returning officer or an issuing officer may change the arrangements made under subsection (6) at any time.	17 18
	‘(8) If the arrangements are changed, the commission, returning officer or issuing officer must take the steps that are practical and appropriate to give public notice of the changed arrangements.	19 20 21
	‘(9) The result of the election is not invalidated only because an issuing officer failed to visit a mobile polling booth as arranged.’	22 23
Clause 16	Amendment of s 105 (Who may make a declaration vote)	24
	(1) Section 105(2)—	25
	<i>insert—</i>	26
	‘(g) an elector who a doctor has certified, in writing, is so physically incapacitated as to be incapable of signing the elector’s name.’	27 28
	(2) Section 105(3)(a)—	29
	<i>omit, insert—</i>	30

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- ‘(a) an elector whose name is included in the register of special postal voters because of a written application that satisfies the commission that—
- (i) the elector’s address, as shown on an electoral roll immediately before the commencement of this paragraph, is more than 15 km but not more than 20 km, by the nearest practicable route, from a polling booth; or
 - (ii) the elector’s address is more than 20 km, by the nearest practicable route, from a polling booth; or
 - (iii) the elector is entitled to be enrolled as a general postal voter under the Commonwealth Electoral Act, section 184A(2)(d) to (h);’.

(3) Section 105(5), ‘later than 2’—

omit, insert—

‘less than 18 months but not more than 3’.

(4) Section 105—

insert—

‘(6) To do so, the commissioner must require each elector whose name is included in the register of special postal voters because of a circumstance mentioned in subsection (3)(a)(i) or (ii) to advise, in the approved form, whether the elector still lives at the address shown on the electoral roll.

‘(7) As part of the review, the commission must do a random check of approved forms given to the commission under subsection (6) to decide whether the signature on each approved form checked is the same as the signature on the approved form’s corresponding application for enrolment.’.

Clause 17 Insertion of new pt 8A

After section 148G—

insert—

**‘PART 8A—COMMISSION OVERSIGHT OF
PRESELECTION BALLOTS**

‘148H Model procedures for preselection ballots

‘The commission must give a copy of the model procedures for the conduct of a preselection ballot, prescribed under a regulation, (the “**model procedures**”) to the registered officer of each registered political party.

‘148I Notice of preselection ballots to commission

‘(1) The registered officer must give the commission at least 7 days written notice of when voting in a preselection ballot is to be held.

Maximum penalty—40 penalty units.

‘(2) The registered officer must give a candidate in the ballot a copy of the model procedures.

‘(3) The candidate must give the registered officer written acknowledgment of receipt of the model procedures.

‘148J Inquiry into preselection ballot

‘(1) The commission may inquire into a preselection ballot of a candidate for an election or an election for a local government—

(a) on its own initiative; or

(b) on receiving a complaint from a candidate, or a party member who is eligible to vote, in the preselection ballot that the ballot has not, or is not to be, conducted in accordance with—

(i) the model procedures; and

(ii) the party’s constitution.

‘(2) A complaint under subsection (1)(b) must—

(a) be made within 30 days after the voting in the ballot takes place; and

(b) be in writing; and

(c) state in detail the grounds on which the complaint is made.

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-
- ‘(3) The commission may refuse to investigate a complaint that does not comply with subsection (2). 1
2
- ‘(4) The commission may conduct the inquiry before or after the voting in the ballot takes place. 3
4
- ‘(5) The commission may require the registered officer— 5
- (a) to give the commission, within a stated reasonable period, a list of the names and addresses of the members of the party who voted, or are eligible to vote, in the ballot; and 6
7
8
- (b) to certify to the commission, within a stated reasonable period, that each member listed was, at the time of the ballot, or is, eligible to vote in the ballot under the party’s constitution. 9
10
11
- ‘(6) The commission may require the registered officer to give the commission, within a stated reasonable period, copies of the records of the party that are reasonably necessary for the commission to ensure the information given by the registered officer is accurate. 12
13
14
15
- ‘(7) The registered officer must comply with a requirement under subsection (5) or (6), unless the registered officer has a reasonable excuse. 16
17
- Maximum penalty—400 penalty units. 18
- ‘(8) The commission must, as soon as practicable, give the Minister a report that— 19
20
- (a) identifies the preselection ballot examined under this section; and 21
- (b) states whether the ballot was conducted in accordance with— 22
- (i) the model procedures; and 23
- (ii) the party’s constitution. 24
- ‘148K Frivolous or vexatious complaint 25**
- ‘(1) The commission may give a person notice that a complaint made by the person under section 148J will not be investigated, or further investigated, by the commission because it appears— 26
27
28
- (a) to concern a frivolous matter; or 29
- (b) to have been made vexatiously. 30
- ‘(2) The notice must advise the person that if the person again makes the same or substantially the same complaint to the commission the person 31
32

commits an offence punishable by a fine of 85 penalty units or 1 year's imprisonment or both.	1 2
‘(3) If, after receiving a notice mentioned in subsection (2), the person makes the same or substantially the same complaint to the commission again, the person commits an offence.	3 4 5
Maximum penalty—85 penalty units or 1 year's imprisonment.	6
‘(4) It is a defence to a prosecution for an offence against subsection (3) for the person to prove that the complaint did not concern a frivolous matter and was not made vexatiously.	7 8 9
‘(5) In this section—	10
“make” a complaint to the commission includes cause a complaint to be referred to the commission.	11 12
‘148L Notice of preselection ballot	13
‘The registered officer of a registered political party must, not later than 30 days after the polling day for an election in which the party endorsed a candidate, notify the commission whether the selection of the candidate involved a preselection ballot.	14 15 16 17
Maximum penalty—40 penalty units.	18
‘148M Selecting preselection ballots for random audit	19
‘(1) As soon as practicable after the 30th day after the polling day for an election, the commission must decide how many of the total number of preselection ballots of candidates for each registered political party in an election of which it has been notified it will audit.	20 21 22 23
‘(2) Once the commission has decided the number of ballots it will audit, a member of the commission's staff must, in the presence of at least 2 witnesses—	24 25 26
(a) write the name of each of the candidates chosen by preselection ballot on a separate piece of paper; and	27 28
(b) ensure that each piece of paper is the same kind, shape, size and colour; and	29 30
(c) put each separate piece of paper in a separate envelope and, if it is necessary to fold the piece of paper to make it fit in the	31 32

envelope, fold each piece of paper in the same way in order to make each piece of paper the same size and thickness; and	1 2
(d) ensure that each envelope is opaque and of the same kind, shape, size and colour; and	3 4
(e) after each piece of paper has been put in an envelope, seal the envelope; and	5 6
(f) put all the envelopes in a container and mix them up; and	7
(g) draw out, 1 at a time, only the number of envelopes that equal the number decided by the commission under subsection (1); and	8 9
(h) as each envelope is drawn out, open it and note the name of the candidate written on the piece of paper in the envelope.	10 11
‘(3) The member of the commission’s staff must allow any candidate, or representative of a candidate, to be present during the process mentioned in subsection (2).	12 13 14
‘148N Random audit of preselection ballots	15
‘(1) The commission must give the registered officer of the political party that endorsed a candidate whose name is noted under section 148M(2)(h) written notice that the preselection ballot for the candidate is to be audited to identify whether the ballot was conducted in accordance with—	16 17 18 19 20
(a) the model procedures; and	21
(b) the party’s constitution.	22
‘(2) The registered officer, within 1 month after receiving the notice, must—	23 24
(a) give the commission a list of the names and addresses of the members of the party who voted in the ballot; and	25 26
(b) certify to the commission that, at the time the ballot took place, each member listed was eligible to vote in the ballot under the party’s constitution.	27 28 29
Maximum penalty—400 penalty units.	30
‘(3) The commission may require the registered officer to give the commission, within a stated reasonable period, copies of the records of the party that are reasonably necessary for the commission to ensure the information given by the registered officer is accurate.	31 32 33 34

‘(4) The registered officer must comply with a requirement under subsection (3), unless the registered officer has a reasonable excuse.	1
Maximum penalty—400 penalty units.	2
‘(5) The commission must, as soon as practicable, give the Minister a report that identifies—	3
(a) the preselection ballots examined under this section; and	4
(b) any preselection ballot in which someone voted in contravention of—	5
(i) the model procedures; or	6
(ii) the party’s constitution.	7
	8
	9
	10
‘1480 Election not invalidated by irregular preselection ballot	11
‘The election is not invalid only because the commission gave the Minister a report that identified a preselection ballot in which someone voted in contravention of—	12
(a) the model procedures; or	13
(b) the party’s constitution.’.	14
	15
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Clause 18 Omission of ss 153–156	17
Sections 153 to 156—	18
<i>omit.</i>	19
Clause 19 Omission of s 159 (Forging or uttering electoral papers etc.)	20
Section 159—	21
<i>omit.</i>	22
Clause 20 Amendment of s 161 (Author of election matter must be named)	23
Section 161(5)—	24
<i>omit, insert—</i>	25
‘(5) In this section—	26

“publish” includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.’. 1
2

Clause 21 Amendment of s 161A (Distribution of how-to-vote cards) 3

Section 161A(6), definitions “distribute” and “how-to-vote card”— 4
omit. 5

Clause 22 Insertion of new s 161B 6

After section 161A— 7
insert— 8

‘161B Lodging how-to-vote cards 9

‘(1) The person who authorised a how-to-vote card for a registered political party, or for a candidate endorsed by a registered political party, for an election must, at least 7 days before the polling day for the election, lodge with the commission— 10
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12
13

(a) the required number of the how-to-vote cards; and 14

(b) a statutory declaration relating to any financial contribution received from another registered political party or another candidate, whether directly or from someone else on behalf of the party or candidate, in relation to the production of the how-to-vote card that states— 15
16
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18
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(i) who the financial contribution was received from or on behalf of; and 20
21

(ii) the nature and amount of the financial contribution. 22

‘(2) The person who authorised a how-to-vote card for a candidate, other than a candidate endorsed by a registered political party, for an election must, at least 7 days before the polling day for the election, lodge with the commission or with the returning officer for the electoral district in which the candidate is nominated— 23
24
25
26
27

(a) the required number of the how-to-vote cards; and 28

(b) a statutory declaration relating to any financial contribution received from a registered political party or another candidate, whether directly or from someone else on behalf of the party or 29
30
31

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candidate, in relation to the production of the how-to-vote card that states—	1 2
(i) who the financial contribution was received from or on behalf of; and	3 4
(ii) the nature and amount of the financial contribution.	5
‘(3) The commission or returning officer must reject a how-to-vote card received under subsection (1) or (2) that does not comply with section 161A.	6 7 8
‘(4) Before polling day, the commission must make a how-to-vote card that it has not rejected available for public inspection for free at—	9 10
(a) the commission’s Brisbane office; and	11
(b) if the how-to-vote card was printed for a candidate—the office of the returning officer for the electoral district being contested by the candidate.	12 13 14
‘(5) On polling day, if the how-to-vote card relates to only 1 electoral district, the commission or returning officer for the district must, to the extent that it is reasonably practicable to do so, make the card available for public inspection for free at each polling place in the district.	15 16 17 18
‘(6) An election is not invalid only because the commission does not comply with subsection (4) or (5).	19 20
‘(7) A person must not distribute, or permit or authorise someone else to distribute, a how-to-vote card to which subsection (1) or (2) applies on polling day unless subsection (1) or (2) has been complied with for the card.	21 22 23 24
Maximum penalty—20 penalty units.	25
‘(8) If, on polling day, a member of the commission’s staff reasonably suspects a person is distributing a how-to-vote card to which subsection (1) or (2) applies and that subsection (1) or (2) has not been complied with for the card, the employee may—	26 27 28 29
(a) require the person to produce the how-to-vote card for inspection; and	30 31
(b) confiscate any how-to-vote cards that have not been lodged as required by subsection (1) or (2).	32 33
‘(9) A person must not obstruct the employee in the exercise of the power under subsection (8)(b), unless the person has a reasonable excuse.	34 35

Maximum penalty—20 penalty units.	1
‘(10) In this section—	2
“ financial contribution ” means a contribution in the form of money, property or other valuable consideration.	3 4
“ obstruct ” includes hinder and attempt to obstruct.	5
“ required number ” of how-to-vote cards means 12 more than the number of polling places in the electorate in which the cards are to be distributed.’.	6 7 8
Clause 23 Amendment of s 163 (Misleading voters)	9
(1) Section 163, penalty—	10
<i>omit, insert—</i>	11
‘Maximum penalty—40 penalty units.’.	12
(2) Section 163(1) and (2), as a penalty—	13
<i>insert—</i>	14
‘Maximum penalty—40 penalty units.’.	15
(3) Section 163—	16
<i>insert—</i>	17
‘(4) In this section—	18
“ publish ” includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.’.	19 20
Clause 24 Amendment of s 164 (Failure to vote etc.)	21
Section 164—	22
<i>insert—</i>	23
‘(8) For the <i>Justices Act 1886</i> , section 139, ³ the place where an offence against subsection (1)(a) is committed is taken to be the office of the returning officer for the electoral district for which the elector was enrolled for the election.’.	24 25 26 27

3 *Justices Act 1886*, section 139 (Where summary cases to be heard)

Clause 25	Amendment of s 166 (Canvassing etc. in or near polling places)	1
	Section 166(1)(b), after ‘within 6 m’—	2
	<i>insert—</i>	3
	‘or, in relation to an office mentioned in section 109(1), a lesser distance allowed by the commission,’.	4
		5
Clause 26	Omission of s 168 (Influencing voting)	6
	Section 168—	7
	<i>omit.</i>	8
Clause 27	Omission of s 170 (Voting if not entitled etc.)	9
	Section 170—	10
	<i>omit.</i>	11
Clause 28	Omission of pt 9, div 4 (Further penalty of parliamentary disqualification for certain offences)	12
	Part 9, division 4—	13
	<i>omit.</i>	14
		15
Clause 29	Amendment of s 179 (How things are to be signed)	16
	Section 179—	17
	<i>insert—</i>	18
	‘(c) if the person is unable to sign as mentioned in paragraph (a) or make a mark as mentioned in paragraph (b)—by having another person (the “ other person ”) sign the other person’s name in writing, and clearly print the other person’s name and address and the words ‘signed for the elector’, on the thing.’.	19
		20
		21
		22
		23
Clause 30	Insertion of new pt and div hdgs	24
	After section 182—	25
	<i>insert—</i>	26

‘PART 11—TRANSITIONAL PROVISIONS

1

*‘Division 1—Transitional provision for Electoral and Other Acts
Amendment Act 2001’.*

2

3

Clause 31 Insertion of new pt 11, div 2

4

After section 183—

5

insert—

6

*‘Division 2—Transitional provision for Electoral and Other Acts
Amendment Act 2002*

7

8

‘184 Registered political party constitution

9

‘(1) This section applies to a political party that, on the commencement of this section, is a registered political party.

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11

‘(2) The party’s registered officer must, within 6 months after the commencement, give the commission a copy of the party’s constitution, which must be a complying constitution.

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13

14

‘(3) Despite the commencement of part 8A, part 8A does not apply to the party until subsection (2) has been complied with.

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16

‘(4) If the registered officer does not comply with subsection (2), the commission must cancel the registration of the party by—

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18

(a) cancelling the information in, and removing the documents from, the register of political parties relating to the party; and

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(b) giving notice of the cancellation and the reasons for it to the person who was the party’s registered officer immediately before the cancellation; and

21

22

23

(c) giving notice of the cancellation in the gazette; and

24

(d) keeping the documents in the commission’s records.’.

25

Clause 32 Amendment of schedule, s 287 (Interpretation)

26

(1) Schedule, section 287(1)—

27

insert—

28

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	‘ “loan” means any of the following made other than by use of a credit card—	1
		2
	(a) an advance of money;	3
	(b) a provision of credit or any other form of financial accommodation;	4
		5
	(c) a payment of an amount for, on account of, on behalf of or at the request of, an entity, if there is an express or implied obligation to repay the amount;	6
		7
		8
	(d) a transaction (whatever its terms or form) that in substance effects a loan of money.’.	9
		10
	(2) Schedule, section 287(1), definition “associated entity” , paragraph (b), ‘or mainly’—	11
		12
	omit, insert—	13
	‘or to a significant extent’.	14
	(3) Schedule, section 287(1), definition “registered” , from ‘, before the’ to ‘the election,’—	15
		16
	omit.	17
Clause 33	Amendment of schedule, s 287AA (Meaning of “disclosure period”)	18
		19
	Schedule, section 287AA(1)(c), after ‘305(1)’—	20
	insert—	21
	‘or 305A(1)’.	22
Clause 34	Amendment of schedule, s 292 (Effect of registration etc.)	23
	Schedule, section 292(2)—	24
	insert—	25
	‘(d) the party’s registration is cancelled.’.	26
Clause 35	Amendment of schedule, insertion of new s 304A	27
	Schedule—	28
	insert—	29

‘304A Loans to candidates

‘(1) The agent of each person who was a candidate in an election must, within 15 weeks after the polling day in the election, give the commission a return, in an approved form, covering all loans received by the person from a person other than a financial institution during the disclosure period for the election.

‘(2) The return must state—

(a) the total value of the loans; and

(b) the number of persons who made loans.

‘(3) The return must also state the following for each loan with a value of \$200 or more—

(a) the date on which each loan was made;

(b) for a loan made for the members of an unincorporated association—

(i) the name of the association; and

(ii) the names and addresses of the members of the executive committee (however described) of the association;

(c) for a loan purportedly made out of a trust fund or out of the funds of a foundation—

(i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation;

(d) if paragraph (b) or (c) do not apply to a loan—the name and address of the person who made the loan;

(e) the terms and conditions of each loan.’.

Clause 36 Amendment of schedule, replacement of ss 305A and 305B

Schedule, sections 305A and 305B—

omit, insert—

‘305A Donations to candidates etc.

‘(1) If a person (other than a registered political party, (words omitted) an associated entity or a candidate in an election (words omitted)) makes a

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- gift, during the disclosure period in relation to an election, to any candidate in an election (*words omitted*) the person must, within 15 weeks after the polling day in the election, give the *commission* a return, in an approved form, stating the required details of the gifts (*words omitted*).
- ‘(1A) Subsection (1) applies to a person even if at the time the person made the gift the person was outside Queensland.
- ‘(1B) If a person makes a gift to any person with the intention of benefiting a particular candidate, the person is taken for the purposes of subsection (1) to have made the gift directly to the candidate.
- ‘(2) A person need not make a return under subsection (1) if the total amount or value of gifts referred to in subsection (1) was less than the amount prescribed for the purpose of this subsection or, if no amount is prescribed, \$200.
- ‘(3) (*omitted*).
- ‘(4) For the purposes of this section, the required details of a gift are its amount or value, the date on which it was made and—
- (a) if the gift was made to an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; or
 - (b) if the gift was purportedly made to a trust fund or paid into the funds of a foundation—
 - (i) the names and addresses of the trustees of the fund or the foundation; and
 - (ii) the title or other description of the trust fund, or the name of the foundation, as the case requires; or
 - (c) in any other case—the name and address of the person or organisation.
- ‘(5) (*omitted*).
- ‘(6) On receiving a gift to which this section applies, a candidate must inform the person who gave the gift of the donor’s requirement to lodge a return under this section.

‘305B Donations to political parties

‘(1) If, in a financial year, a person makes gifts totalling \$1 500 or more to the same registered political party (*words omitted*), the person must give a return to the *commission* within 20 weeks after the end of the financial year, covering all the gifts that the person made to *the* political party (*words omitted*) during the financial year.

‘(1A) Subsection (1) applies to a person even if at the time the person made the gift the person was outside *Queensland*.

‘(2) If a person makes a gift to any person or body with the intention of benefiting a particular registered political party (*words omitted*), the person is taken for the purposes of subsection (1) to have made *the* gift directly to *the* registered political party (*words omitted*).

‘(3) For each gift, the return must *state* the following—

- (a) the amount of the gift;
- (b) the date on which it was made;
- (c) the name and address of the registered political party (*words omitted*).

‘(3A) The return must also *state* the relevant details of all gifts received by the person at any time, being gifts (*words omitted*) the whole or part of which were used to make gifts totalling \$1 500 or more in a financial year to the same registered political party (*words omitted*) and the amount or value of each of which is equal to or exceeds \$1 000.

‘(3B) Relevant details for the purpose of subsection (3A), in relation to a gift, are—

- (a) the amount or value of the gift; and
- (b) the date on which the gift was *received*; and
- (c) *for* a gift made on behalf of the members of an unincorporated association, other than a registered industrial organisation—
 - (i) the name of the association; and
 - (ii) the names and addresses of the members of the executive committee (however described) of the association; and
- (d) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—
 - (i) the names and addresses of the trustees of the fund or of the funds of the foundation; and

(ii) the title or other description of the trust fund or the name of the foundation (*words omitted*); and 1
2

(e) *if paragraph (c) or (d) does not apply*—the name and address of the person who made the gift. 3
4

‘(4) The return must be in the approved form. 5

‘(5) This section does not apply to gifts made by any of the following— 6

(a) a registered political party; 7

(b) (*omitted*); 8

(c) an associated entity; 9

(d) a candidate in an election; 10

(e) (*omitted*). 11

‘(6) *On receiving a gift to which this section applies, a registered political party must inform the person who gave the gift of the donor’s requirement to lodge a return under this section.*’ 12
13
14

Clause 37 Amendment of schedule, insertion of new s 306A 15

Schedule— 16

insert— 17

‘306A Certain loans not to be received 18

‘(1) It is unlawful for a political party (*words omitted*) or a person acting for a political party (*words omitted*) to receive a loan of \$1 500 or more from a person or entity other than a financial institution unless the loan is made in accordance with subsection (3). 19
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22

‘(2) It is unlawful for a candidate (*words omitted*) or a person acting for a candidate (*words omitted*) to receive a loan of \$200 or more from a person or entity other than a financial institution, *during the disclosure period in relation to an election*, unless the loan is made in accordance with subsection (3). 23
24
25
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‘(3) The receiver of the loan must keep a record of the following— 28

(a) the terms and conditions of the loan; 29

(b) if the loan was received from a registered industrial organisation other than a financial institution— 30
31

(i) the name of the organisation; and 32

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-
- (ii) the names and addresses of the members of the executive committee (however described) of the organisation; 1
2
- (c) if the loan was received from an unincorporated association— 3
- (i) the name of the (*words omitted*) association; and 4
- (ii) the names and addresses of the members of the executive committee (however described) of the association (*words omitted*); 5
6
7
- (d) if the loan was paid out of a trust fund or out of the funds of a foundation— 8
9
- (i) the names and addresses of the trustees of the fund or of the foundation; and 10
11
- (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or 12
13
- (e) *if paragraph (b), (c) or (d) does not apply*—the name and address of the person or *entity* (*words omitted*). 14
15
- ‘(4) (*omitted*). 16
- ‘(5) (*omitted*). 17
- ‘(6) *If a person receives a loan that, because of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the loan is payable by that person to the State and may be recovered by the State as a debt due to the State by action, in a court of competent jurisdiction, against—* 18
19
20
21
22
- (a) *for a loan to or for the benefit of a political party* (*words omitted*)— 23
24
- (i) if the party (*words omitted*) is a body corporate—the party (*words omitted*); or 25
26
- (ii) in any other case—the agent of the party (*words omitted*); or 27
- (b) in any other case—the candidate (*words omitted*) or the agent of the candidate (*words omitted*). 28
29
- ‘(7) (*omitted*). 30
- ‘(8) (*omitted*).’ 31

Clause 38	Amendment of schedule, s 307 (Nil returns)	1
	Schedule, section 307, ‘no gifts of a kind required to be disclosed were’—	2
		3
	<i>omit, insert—</i>	4
	‘ <i>nothing of a kind required to be disclosed was</i> ’.	5
Clause 39	Amendment of schedule, s 308 (Interpretation)	6
	(1) Schedule, section 308(1), definition “ electoral expenditure ”, paragraph (a), ‘ <i>or telecasting</i> ’—	7
		8
	<i>omit.</i>	9
	(2) Schedule, section 308(1), definition “ electoral expenditure ”—	10
	<i>insert—</i>	11
	‘ <i>(ba)the publishing on the internet, during the election period, of an advertisement relating to the election, even if the internet site on which the publication is made is located outside Queensland; or</i> ’.	12
		13
		14
		15
	(3) Schedule, section 308(1), definition “ electoral expenditure ”, paragraph (f)—	16
		17
	<i>omit, insert—</i>	18
	‘(f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period; or’.	19
		20
		21
Clause 40	Amendment of schedule, replacement of ss 310 and 311	22
	Schedule, sections 310 and 311—	23
	<i>omit, insert—</i>	24
	‘310 Returns by broadcasters	25
	‘(1) <i>If an election has taken place, each broadcaster who, during the election period, broadcast an advertisement (words omitted) relating to the election with the authority of a participant (words omitted) in the election must, before the end of 8 weeks after the polling day in the election, give the commission a return, in an approved form, stating particulars of the advertisement (words omitted), being particulars—</i>	26
		27
		28
		29
		30
		31

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-
- (a) identifying the broadcasting service as part of which *the* advertisement (*words omitted*) was broadcast; *and* 1
2
- (aa) identifying the person at whose request the advertisement (*words omitted*) was broadcast; *and* 3
4
- (b) identifying the participant in the election with whose authority *the* advertisement (*words omitted*) was broadcast; *and* 5
6
- (c) specifying the date (*words omitted*) on which, and the times between which, *the* advertisement (*words omitted*) was broadcast; *and* 7
8
9
- (d) showing whether or not, on each occasion when *the* advertisement (*words omitted*) was broadcast, a charge was made by the broadcaster for the broadcasting of *the* advertisement (*words omitted*) and, *if* a charge was made, specifying the amount of the charge. 10
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13
14
- ‘(1A) Subsection (1) applies to a broadcaster even if at the time the broadcaster broadcast the advertisement the broadcaster was outside Queensland. 15
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- ‘(2) *If*, in a return under subsection (1), the amount of a charge is specified by a broadcaster in relation to an advertisement, the broadcaster *must*, in the return, state whether or not the charge is a charge at less than normal commercial rates having regard to the length of the advertisement and the day (*words omitted*) on which, and the times between which, the advertisement was broadcast. 18
19
20
21
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23
- ‘(4) A broadcaster who is required to make a return under this section for an advertisement must *keep* the record made for the purpose of the relevant provision until the end of the period of 1 month *starting* on the day on which the return is *given* to the *commission*. 24
25
26
27
- ‘(5) The requirement of subsection (4) is in addition to the requirements of the relevant provision for the retention of *the* record. 28
29
- ‘(6) In subsections (4) and (5)— 30
- “**relevant provision**” means— 31
- (a) in relation to the Australian Broadcasting Corporation—the *Australian Broadcasting Corporation Act 1983* (Cwlth), section 79B; or 32
33
34
- (b) in relation to the Special Broadcasting Service—the *Special Broadcasting Service Act 1991* (Cwlth), section 70B; or 35
36

(c) in any other case—the <i>Broadcasting Services Act 1992</i> (Cwlth), schedule 2, section 5.	1 2
‘311 Returns by publishers	3
‘(1) <i>If</i> an election has taken place, each publisher of a journal who, during the election period, published in the journal an advertisement (<i>words omitted</i>) relating to the election with the authority of a participant (<i>words omitted</i>) in the election <i>must</i> , before the <i>end</i> of 8 weeks after the polling day in the election, <i>give</i> the <i>commission</i> a return, in an approved form, <i>stating</i> particulars of <i>the</i> advertisement (<i>words omitted</i>), being particulars—	4 5 6 7 8 9 10
(a) identifying the journal in which <i>the</i> advertisement (<i>words omitted</i>) was published; <i>and</i>	11 12
(aa) identifying the person at whose request the advertisement (<i>words omitted</i>) was published; <i>and</i>	13 14
(b) identifying the participant in the election with whose authority <i>the</i> advertisement (<i>words omitted</i>) was published; <i>and</i>	15 16
(c) specifying the date (<i>words omitted</i>) on which <i>the</i> advertisement (<i>words omitted</i>) was published; <i>and</i>	17 18
(d) identifying the page in the journal on which <i>the</i> advertisement (<i>words omitted</i>) was published and the space in the journal occupied by <i>the</i> advertisement (<i>words omitted</i>); <i>and</i>	19 20 21
(e) showing whether or not a charge was made by the publisher for the publication of <i>the</i> advertisement (<i>words omitted</i>) and, <i>if</i> a charge was made, specifying the amount of the charge.	22 23 24
‘(1A) <i>Subsection (1) applies to a publisher even if at the time the publisher published the advertisement the publisher was outside Queensland.</i>	25 26 27
‘(2) <i>If</i> , in a return under subsection (1), the amount of a charge is specified by a publisher in relation to an advertisement, the publisher <i>must</i> , in the return, state whether or not the charge was a charge at less than normal commercial rates having regard to the space in the journal occupied by the advertisement and the nature of the journal.	28 29 30 31 32
‘(3) A publisher is not required to <i>give</i> a return under subsection (1) in <i>relation to</i> an election if the total amount of the charge (<i>words omitted</i>) made by the publisher <i>for</i> the publication of the advertisement (<i>words omitted</i>) referred to in <i>the</i> subsection and any other advertisement (<i>words</i>	33 34 35 36

	<i>omitted</i>) relating to an election (<i>words omitted</i>) that took place on the same day as the first-mentioned election does not exceed \$1 000.’.	1 2
Clause 41	Amendment of schedule, s 314AA (Interpretation)	3
	Schedule, section 314AA, definition “ amount ”, after ‘gift’—	4
	<i>insert</i> —	5
	‘, loan’.	6
Clause 42	Amendment of schedule, s 314AC (Amounts received)	7
	Schedule, section 314AC(2), ‘\$500’—	8
	<i>omit, insert</i> —	9
	‘\$1 500’.	10
Clause 43	Amendment of schedule, s 314AD (Amounts paid)	11
	Schedule, section 314AD(2)(a), ‘\$500’—	12
	<i>omit, insert</i> —	13
	‘\$1 500’.	14
Clause 44	Amendment of schedule, s 317 (Records to be kept)	15
	(1) Schedule, section 317, ‘ <i>about</i> an election’—	16
	<i>omit</i> .	17
	(2) Schedule, section 317, ‘polling day in <i>the</i> election’—	18
	<i>omit, insert</i> —	19
	‘ <i>day on which the claim or return was made</i> ’.	20
Clause 45	Amendment of schedule, s 320 (Inspection and supply of copies of claims and returns)	21 22
	(1) Schedule, section 320(1)(a), ‘ <i>notice and</i> ’—	23
	<i>omit</i> .	24
	(2) Schedule, section 320(2) and (3), ‘ <i>notice,</i> ’—	25

	<i>omit.</i>	1
	(3) Schedule, section 320(4)(b), after ‘4’—	2
	<i>insert—</i>	3
	‘(other than section 305B)’.	4
	(4) Schedule, section 320(5)—	5
	<i>insert—</i>	6
	‘(a) a return under section 305B; or’.	7
Clause 46	Amendment of s 333 (<i>Authorised officer’s general powers for places</i>)	8
	Section 333(1)(b), before ‘ <i>examine</i> ’—	9
	<i>insert—</i>	10
	‘ <i>operate</i> ,’.	11
		12
Clause 47	Amendment of schedule, insertion of new s 336A	13
	Schedule—	14
	<i>insert—</i>	15
	‘336A Powers in relation to seized thing	16
	‘(1) <i>Having seized a thing, an authorised officer may—</i>	17
	(a) <i>operate, copy, examine, inspect, test, photograph or film the thing; or</i>	18
		19
	(b) <i>require the occupier of the place from which the thing was seized, to give the authorised officer reasonable help to operate the thing.</i>	20
		21
		22
	<i>Example—</i>	23
	<i>An authorised officer may require the occupier of the place from which a computer has been seized to give the officer the password to enter the computer.</i>	24
		25
		26
	‘(2) <i>A person who is required by an authorised officer under subsection (1)(b) to give the authorised officer reasonable help must comply with the requirement, unless the person has a reasonable excuse.</i>	27
		28
		29
	<i>Maximum penalty—20 penalty units.</i>	30

<i>(3) If the help is required to be given by—</i>	1
<i>(a) answering a question; or</i>	2
<i>(b) producing a document;</i>	3
<i>it is a reasonable excuse for the person to fail to answer the question, or produce the document, if complying with the requirement might tend to incriminate the person.’</i>	4
	5
	6

PART 3—CRIMINAL CODE

Clause 48 Code amended in pt 3	8
This part amends the Criminal Code.	9
Clause 49 Insertion of new ch 14, div hdg	10
Chapter 14, before section 98—	11
<i>insert—</i>	12
<i>‘Chapter division 1—Definitions for ch 14’.</i>	13
Clause 50 Amendment of s 98 (Definitions)	14
(1) Section 98, definition “ parliamentary election ”—	15
<i>omit.</i>	16
(2) Section 98, definition “ election ”, from ‘and any’ to ‘1997’—	17
<i>omit.</i>	18
Clause 51 Replacement of s 98A (Chapter does not apply to certain elections)	19
Section 98A—	20
<i>omit, insert—</i>	21
	22

<i>‘Chapter division 2—Legislative Assembly and Brisbane City Council elections and referendums</i>	1 2
‘98A Reference to election or referendum	3
‘In this chapter division—	4
(a) a reference to an election is a reference to—	5
(i) an election of a member or members of the Legislative Assembly; and	6 7
(ii) an election of the mayor or of a councillor or councillors of the Brisbane City Council; and	8 9
(b) a reference to a referendum is a reference to a referendum under the <i>Referendums Act 1997</i> .	10 11
‘98B False or misleading information	12
‘(1) A person who gives information to the Electoral Commission of Queensland under the <i>Electoral Act 1992</i> or <i>Referendums Act 1997</i> , including information in a document, that the person knows is false or misleading in a material particular is guilty of a crime.	13 14 15 16
Maximum penalty—7 years imprisonment.	17
‘(2) Subsection (1) does not apply to a person giving a document if, when giving the document to someone, the person—	18 19
(a) informs the other person, to the best of the person’s ability, how it is false or misleading; and	20 21
(b) if the person has, or can reasonably obtain, the correct information—gives the other person the correct information.	22 23
‘(3) It is enough for a charge against a person for an offence against subsection (1) to state that the information, without specifying which part of the information, was ‘false or misleading’.	24 25 26
‘98C Bribery	27
‘(1) A person who—	28
(a) asks for or receives; or	29
(b) offers, or agrees, to ask for or receive;	30

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a benefit of any kind, whether for himself or herself or for someone else, on the understanding that the person's election conduct will be influenced or affected is guilty of a crime.	1 2 3
Maximum penalty—7 years imprisonment.	4
‘(2) A person who, in order to influence or affect another person's election conduct, gives a benefit of any kind to anyone else is guilty of a crime.	5 6 7
Maximum penalty—7 years imprisonment.	8
‘(3) In this section—	9
“ election conduct ” of a person means—	10
(a) the way in which the person votes at an election or referendum;	11
or	12
(b) the person's nominating as a candidate for an election; or	13
(c) the person's support of, or opposition to, a candidate or a political party at an election; or	14 15
(d) the person's approval or disapproval of the Bill or question submitted to the electors at a referendum.	16 17
“ give ” includes promise or offer to give.	18
‘98D Forging or uttering electoral or referendum paper	19
‘(1) A person who—	20
(a) forges an electoral or referendum paper; or	21
(b) utters a forged electoral or referendum paper knowing it to be forged;	22 23
is guilty of a crime.	24
Maximum penalty—10 years imprisonment.	25
‘(2) A person who makes the signature of another person on—	26
(a) an electoral paper, unless the person is authorised to do so under the <i>Electoral Act 1992</i> ; or	27 28
(b) a referendum paper, unless the person is authorised to do so under the <i>Referendums Act 1997</i> ;	29 30
is guilty of a crime.	31

Maximum penalty—10 years imprisonment.	1
‘(3) In this section—	2
“ electoral paper ” means a ballot paper, declaration envelope or other document issued by the Electoral Commission of Queensland under the <i>Electoral Act 1992</i> .	3 4 5
“ referendum paper ” means a ballot paper, declaration envelope or other document issued by the Electoral Commission of Queensland under the <i>Referendums Act 1997</i> .	6 7 8
‘98E Influencing voting	9
‘(1) A person who improperly influences the vote of a person at an election or referendum is guilty of a crime.	10 11
Maximum penalty—2 years imprisonment.	12
‘(2) In this section—	13
“ improperly influence ” means influence by intimidation or violence.	14
‘98F Providing money for illegal payments	15
‘A person who knowingly provides money for—	16
(a) a payment that is contrary to law relating to elections or referendums; or	17 18
(b) replacing any money that has been spent in making a payment that is contrary to law relating to elections or referendums;	19 20
is guilty of a crime.	21
Maximum penalty—2 years imprisonment.	22
‘98G Voting if not entitled	23
‘A person who, at an election or referendum—	24
(a) votes in the name of another person, including a dead or fictitious person; or	25 26
(b) votes more than once; or	27
(c) casts a vote that the person knows the person is not entitled to cast; or	28 29

(d) procures someone to vote who, to the procuring person's knowledge, is not entitled to vote; 1
2
is guilty of a crime. 3
Maximum penalty—3 years imprisonment. 4

'Chapter division 3—Other elections' 5

'98H Application of ch div 3' 6

'This chapter division applies to an election other than—' 7

- (a) an election of a member or members of the Legislative Assembly; or 8
9
(b) an election for a local government.' 10

Clause 52 Amendment of s 552B (Charges of indictable offences that may be dealt with summarily) 11
12
Section 552B(1)— 13
insert— 14
'(ka)an offence against chapter 14, chapter division 2;⁴' 15

PART 4—CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986 16
17

Clause 53 Act amended in pt 4 18
This part amends the *Criminal Law (Rehabilitation of Offenders) Act 1986*. 19
20

4 Chapter 14 (Corrupt and improper practices at elections), chapter division 2 (Legislative Assembly and Brisbane City Council elections and referendums)

Clause 54	Amendment of s 9A (Disclosure of particulars in special cases)	1
	(1) Section 9A(1), table—	2
	<i>insert—</i>	3
	16. An applicant for membership of a registered political party.	16. Contraventions of a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> .
	17. A candidate for election to the office of chairperson, mayor, president, councillor or member of a local government.	17.(1) Contraventions of a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> . (2) Contraventions of an offence that would be a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> , except that offender was convicted of the offence before the commencement of the <i>Electoral and Other Acts Amendment Act 2002</i> .’.
	(2) Section 9A(1), table—	4
	<i>insert—</i>	5
	18. A candidate for election as a member of the Legislative Assembly.	18.(1) Contraventions of a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> . (2) Contraventions of an offence that would be a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> , except that offender was convicted of the offence before the commencement of the <i>Electoral and Other Acts Amendment Act 2002</i> .’.

PART 5—LEGISLATIVE ASSEMBLY ACT 1867

- Clause 55 Act amended in pt 5** 2
 This part amends the *Legislative Assembly Act 1867*. 3
- Clause 56 Amendment of s 7 (Vacating seats of members of Assembly in certain cases)** 4
 5
 Section 7(2) and (3)— 6
omit, insert— 7
 ‘(2) However, a member’s seat does not become vacant only because the 8
 member is convicted of an offence against the *Electoral Act 1992* that is not 9
 a disqualifying electoral offence within the meaning of that Act.’ 10

PART 6—LOCAL GOVERNMENT ACT 1993

- Clause 57 Act amended in pt 6** 12
 This part amends the *Local Government Act 1993*. 13
- Clause 58 Amendment of s 221 (General disqualifications)** 14
 (1) Section 221(e)— 15
omit, insert— 16
 ‘(e) the person— 17
 (i) for a candidate for an election—has been convicted within 18
 10 years before the day of nomination of— 19
 (A) a disqualifying electoral offence; or 20
 (B) an offence that would be a disqualifying electoral 21
 offence, except that the conviction was recorded before 22
 the commencement of the *Electoral and Other Acts* 23
Amendment Act 2002; or 24

(ii) for a councillor—is convicted of a disqualifying electoral offence; or’.

(2) Section 221—

insert—

‘(2) In this section—

“disqualifying electoral offence” see the *Electoral Act 1992*, section 3.’.

Clause 59 Amendment of s 854A (No jurisdiction to make local laws and subordinate local laws about distributing how-to-vote cards)

Section 854A(3), definition “how-to-vote card”, ‘, section 161A’—

omit.

PART 7—PARLIAMENT OF QUEENSLAND ACT 2001

Clause 60 Act amended in pt 7

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

Clause 61 Amendment of s 64 (Qualifications to be a candidate and be elected a member)

(1) Section 64(2)(d) to (h)—

renumber as section 64(2)(e) to (i).

(2) Section 64(2)—

insert—

‘(d) has been convicted within 10 years before the day of nomination of a disqualifying electoral offence; or’.

(3) Section 64(2)(i) (as renumbered), note—

omit.

(4) Section 64—

insert—

	‘(6) In this section—	1
	“disqualifying electoral offence” means—	2
	(a) a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> , section 3; or	3 4
	(b) an offence that would be a disqualifying electoral offence within the meaning of the <i>Electoral Act 1992</i> , except that offender was convicted of the offence before the commencement of the <i>Electoral and Other Acts Amendment Act 2002</i> .’	5 6 7 8
Clause 62	Amendment of s 72 (Vacating seats of members in particular circumstances)	9 10
	(1) Section 72(1)(i)(iii)—	11
	<i>renumber</i> as section 72(1)(i)(iv).	12
	(2) Section 72(1)(i)—	13
	<i>insert—</i>	14
	‘(iii) a disqualifying electoral offence;’.	15
	(3) Section 72(1)(n), note—	16
	<i>omit.</i>	17
	(4) Section 72—	18
	<i>insert—</i>	19
	‘(4) In this section—	20
	“disqualifying electoral offence” see the <i>Electoral Act 1992</i> , section 3.’.	21

PART 8—REFERENDUMS ACT 1997

Clause 63	Act amended in pt 8	23
	This part amends the <i>Referendums Act 1997</i> .	24

Clause 64	Amendment of s 16 (Kinds of polling booths)	1
	Section 16—	2
	<i>insert—</i>	3
	‘(7) The commission, a returning officer or an issuing officer may change the arrangements made under subsection (6) at any time.’	4 5
	‘(8) If the arrangements are changed, the commission, returning officer or issuing officer must take the steps that are practical and appropriate to give public notice of the changed arrangements.’	6 7 8
	‘(9) The result of the referendum is not invalidated only because an issuing officer failed to visit a mobile polling booth as arranged.’.	9 10
Clause 65	Amendment of s 25 (Who may make a declaration vote)	11
	Section 25(2)—	12
	<i>insert—</i>	13
	‘(g) an elector who a doctor has certified, in writing, is so physically incapacitated as to be incapable of signing the elector’s name.’.	14 15
Clause 66	Omission of ss 64–67	16
	Sections 64 to 67—	17
	<i>omit.</i>	18
Clause 67	Omission of s 70 (Forging or uttering referendum papers etc.)	19
	Section 70—	20
	<i>omit.</i>	21
Clause 68	Amendment of s 74 (Misleading electors)	22
	Section 74—	23
	<i>insert—</i>	24
	‘(3) In this section—	25
	“publish” includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.’.	26 27

Clause 69	Amendment of s 75 (Failure to vote etc.)	1
	Section 75—	2
	<i>insert—</i>	3
	‘(8) For the <i>Justices Act 1886</i> , section 139, ⁵ the place where an offence against subsection (1)(a) is committed is taken to be the office of the returning officer for the electoral district for which the elector was enrolled for the referendum.’.	4 5 6 7
Clause 70	Amendment of s 77 (Canvassing etc. in or near polling places)	8
	Section 77(1)(b), after ‘within 6 m’—	9
	<i>insert—</i>	10
	‘or, in relation to an office mentioned in section 29(1), a lesser distance allowed by the commission.’.	11 12
Clause 71	Omission of s 79 (Influencing voting)	13
	Section 79—	14
	<i>omit.</i>	15
Clause 72	Omission of s 81 (Voting if not entitled etc.)	16
	Section 81—	17
	<i>omit.</i>	18
Clause 73	Insertion of new pt 7A	19
	After section 96—	20
	<i>insert—</i>	21

5 *Justices Act 1886*, section 139 (Where summary cases to be heard)

‘PART 7A—RETURNS BY BROADCASTERS AND PUBLISHERS

‘96A Returns by broadcasters

‘(1) If a referendum has taken place, each broadcaster who, during the referendum period, broadcast an advertisement relating to the referendum must, before the end of 8 weeks after the voting day for the referendum, give the commission a return, in an approved form, stating—

- (a) particulars of the broadcasting service as part of which the advertisement was broadcast; and
- (aa) the name and address of the person at whose request the advertisement was broadcast; and
- (b) the name and address of the person with whose authority the advertisement was broadcast; and
- (c) the date on which, and the times between which, the advertisement was broadcast; and
- (d) whether or not, on each occasion when the advertisement was broadcast, a charge was made by the broadcaster for the broadcasting of the advertisement and, if a charge was made, specifying the amount of the charge.

Maximum penalty—20 penalty units.

‘(1A) Subsection (1) applies to a broadcaster even if at the time the broadcaster broadcast the advertisement the broadcaster was outside Queensland.

‘(2) If, in a return under subsection (1), the amount of a charge is specified by a broadcaster in relation to an advertisement, the broadcaster must, in the return, state whether or not the charge is a charge at less than normal commercial rates having regard to the length of the advertisement and the day on which, and the times between which, the advertisement was broadcast.

Maximum penalty—20 penalty units.

‘(4) A broadcaster who is required to make a return under this section for an advertisement must keep the record made for the purpose of the relevant provision until the end of the period of 1 month starting on the day on which the return is given to the commission.

Maximum penalty—20 penalty units.	1
‘(5) The requirement of subsection (4) is in addition to the requirements of the relevant provision for the retention of the record.	2 3
‘(6) In subsections (4) and (5)—	4
“relevant provision” means—	5
(a) in relation to the Australian Broadcasting Corporation—the <i>Australian Broadcasting Corporation Act 1983</i> (Cwlth), section 79B; or	6 7 8
(b) in relation to the Special Broadcasting Service—the <i>Special Broadcasting Service Act 1991</i> (Cwlth), section 70B; or	9 10
(c) in any other case—the <i>Broadcasting Services Act 1992</i> (Cwlth), schedule 2, section 5.	11 12
‘96B Returns by publishers	13
‘(1) If a referendum has taken place, each publisher of a journal who, during the referendum period, published in the journal an advertisement relating to the referendum must, before the end of 8 weeks after the voting day in the referendum, give the commission a return, in an approved form, stating—	14 15 16 17 18
(a) particulars of the journal in which the advertisement was published; and	19 20
(aa) the name and address of the person at whose request the advertisement was published; and	21 22
(b) the name and address of the person with whose authority the advertisement was published; and	23 24
(c) the date on which the advertisement was published; and	25
(d) particulars of the page in the journal on which the advertisement was published and the space in the journal occupied by the advertisement; and	26 27 28
(e) whether or not a charge was made by the publisher for the publication of the advertisement and, if a charge was made, specifying the amount of the charge.	29 30 31
Maximum penalty—20 penalty units.	32

‘(1A) Subsection (1) applies to a publisher even if at the time the publisher published the advertisement the publisher was outside Queensland.

‘(2) If, in a return under subsection (1), the amount of a charge is specified by a publisher in relation to an advertisement, the publisher must, in the return, state whether or not the charge was a charge at less than normal commercial rates having regard to the space in the journal occupied by the advertisement and the nature of the journal.

Maximum penalty—20 penalty units.

‘(3) A publisher is not required to give a return under subsection (1) in relation to a referendum if the total amount of the charge made by the publisher for the publication of the advertisement referred to in the subsection and any other advertisement relating to a referendum that took place on the same day as the first-mentioned referendum does not exceed \$1 000.

‘96C Combined returns

‘(1) If—

- (a) the voting at 2 or more referendums took place on the same day; and
- (b) a person would, apart from this subsection, be required to give 2 or more returns under this part relating to the referendums;

the person may, instead of giving the returns, give 1 return, in an approved form, stating the particulars that he or she would have been required to state in the returns.

‘(2) If—

- (a) a return is given by a person under subsection (1); and
- (b) a matter details of which are required to be stated in the return relates to more than 1 referendum;

it is sufficient compliance with this part if the return states details of the matter without showing the extent to which the matter relates to any particular referendum.

	‘96D Inspection and supply of copies of returns	1
	‘(1) The commission must keep a copy of each return given under this part.	2 3
	‘(2) Anyone is entitled to read the copy.	4
	‘(3) The commission must, on request, make the copy available for a person’s inspection.	5 6
	‘(4) A person is entitled, on payment of the prescribed fee, to get a copy of a return mentioned in subsection (1).’.	7 8
Clause 74	Amendment of s 98 (How things are to be signed)	9
	Section 98—	10
	<i>insert—</i>	11
	‘(c) if the person is unable to sign as mentioned in paragraph (a) or make a mark as mentioned in paragraph (b)—by having another person sign the other person’s name in writing, and write the other person’s name and address and the words ‘signed for the elector’, on the thing.’.	12 13 14 15 16
Clause 75	Amendment of sch 3 (Dictionary)	17
	Schedule 3—	18
	<i>insert—</i>	19
	‘ “broadcast” includes televise.	20
	“broadcaster” means—	21
	(a) the Australian Broadcasting Corporation established under the <i>Australian Broadcasting Corporation Act 1983</i> (Cwlth); or	22 23
	(b) the Special Broadcasting Service Corporation established under the <i>Special Broadcasting Service Act 1991</i> (Cwlth), section 5; or	24 25
	(c) the holder of a licence under the <i>Broadcasting Services Act 1992</i> (Cwlth); or	26 27
	(d) the provider of a broadcasting service under a class licence under the <i>Broadcasting Services Act 1992</i> (Cwlth).	28 29
	“journal” means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.’.	30 31

