

Electoral and Other Legislation Amendment Bill 2019

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Yvette D'Ath MP

Title of the Bill

Electoral and Other Legislation Amendment Bill 2019

Objectives of the Amendments

The objectives of the amendments to the Electoral and Other Legislation Amendment Bill 2019 (the Bill) to be moved during consideration in detail are to:

- clarify that the returning officer must be satisfied of certain matters before temporarily suspending polling under the *Electoral Act 1992* (Electoral Act) and the *Referendums Act 1997* (Referendums Act), consistent with language used in relation to adjourning polling under those Acts;
- ensure that regulations can prescribe either the day or the time by which returns must be provided to the Electoral Commission of Queensland (ECQ) pursuant to sections 261(2)(c), 262(2)(c), 266B(2)(c), 290(2)(d) and 294(2)(c) of the Electoral Act;
- require the ECQ, before publishing a disclosure return, to delete the street address, but not the suburb/town/city/locality or State or Territory, of all individuals named in the return; and
- clarify that the ECQ is only required to delete the address of a silent elector before publishing disclosure returns if the ECQ is informed by the person giving the return that an individual identified in the return is a silent elector, or the individual is enrolled on the electoral roll of the Commonwealth or another State with status equivalent or similar to a silent elector; and
- clarify that the ECQ must provide elector information pursuant to a request under new section 133A of the Electoral Act with respect to elections on and from the 2017 State general election.

Achievement of the Objectives

The amendments to be moved during consideration of the Bill achieve the stated objectives.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Estimated Cost for Government Implementation

The amendments relating to the publishing of returns, including the deletion of the full addresses of identified silent electors and the street addresses of individuals will require changes to the ECQ's electronic disclosure system and election management system. Any additional costs are not known but are not expected to be substantial in the context of the ECQ's overall funding. The other amendments have no cost implications for Government.

Consistency with Fundamental Legislative Principles

ECQ to provide electoral information

The Explanatory Notes for the Bill identified that clause 47, which provides for certain elector information to be provided to registered political parties and independent members at their request may be potentially inconsistent with the fundamental legislative principle that legislation should not adversely affect rights and liberties of individuals. In particular, this clause allows political parties and independent members increased access to personal information of voters.

The amendments to the Bill provide a transitional provision with respect to clause 47 so that the elector information can be provided in relation to the last State general election (which occurred before commencement of the Bill). This could be said to further infringe the same fundamental legislative principle given its retrospective application. Making this information available will assist the analysis of the demographics and patterns of voting at polling booths and changes in those demographics and patterns over time. It will also assist in communicating relevant information to electors (for example, where the location of polling booths change between elections). The Bill contains appropriate offences to ensure the information is only accessed and used for purposes related to an election.

Consultation

The amendments 1, 9 and 10 of the Bill were developed in response to suggestions by the Economics and Governance Committee in its report on the Bill. Consultation was also undertaken with the ECQ in relation to the amendments. No further consultation was undertaken.

NOTES ON PROVISIONS

Amendment 1 – Clause 21 (Insertion of new ss 99A and 99B)

Amendment 1 amends clause 21 of the Bill. This clause inserts new section 99B into the Electoral Act to provide that a poll can be temporarily suspended in the event of

an emergency. The amendment aligns the language of the suspension of poll provision in new section 99B with the adjournment of poll provision in new section 100 so that the returning officer must be satisfied of the necessary elements in order to temporarily suspend polling.

Amendment 2 – Clause 60 (Amendment of s 261 (Disclosure by candidates of gifts))

Amendment 2 makes a formatting change to facilitate amendment 3.

Amendment 3 – Clause 60 (Amendment of s 261 (Disclosure by candidates of gifts))

Amendment 3 amends clause 60 of the Bill to insert an amendment to section 261(2)(c) of the Electoral Act which provides that a regulation may prescribe the day by which returns about particular gifts received by a candidate in an election must be given to the ECQ. The amendment will allow for the prescription of the day or the time for the giving of the returns.

Amendment 4 – Clause 61 (Amendment of s 262 (Loans to candidates))

Amendment 4 makes a formatting change to facilitate amendment 5.

Amendment 5 – Clause 61 (Amendment of s 262 (Loans to candidates))

Amendment 5 amends clause 61 of the Bill to insert an amendment to section 262(2)(c) of the Electoral Act which provides that a regulation may prescribe the day by which returns about particular loans received by a candidate in an election must be given to the ECQ. The amendment will allow for the prescription of the day or the time for the giving of the returns.

Amendment 6 – After clause 64

Amendment 6 inserts an amendment to section 266B(2)(c) of the Electoral Act which provides that a regulation may prescribe the day by which returns in relation to certain special reporting events must be given to the ECQ. The amendment will allow for the prescription of the day or the time for the giving of the returns.

Amendment 7 – After clause 66

Amendment 7 inserts amendments to section 290(2)(d) and 294(2)(c) of the Electoral Act which provide that a regulation may prescribe the day by which returns in relation to certain gifts or loans received registered political parties, and certain gifts received by associated entities, must be given to the ECQ. The amendments will allow for the prescription of the day or the time for the giving of the returns.

Amendment 8 – Clause 71 (Amendment of s 316 (Publishing of returns))

Amendment 8 amends clause 71 of the Bill, which requires the ECQ to publish a copy of a disclosure return with the address of a silent elector deleted. The amendment clarifies that the ECQ must delete the address of a silent elector where the ECQ is informed by the person giving the return that an individual identified in the return is a

silent elector, or the individual is enrolled on the electoral roll of the Commonwealth or another State with status equivalent or similar to a silent elector.

For individuals who are not identified as silent electors, the amendment provides that the ECQ must publish a copy of a disclosure return without the street address of any individual identified in the return and with only their suburb, town, city or other locality and State or Territory.

Amendment 9 – Clause 73 (Insertion of new pt 13, div 10)

Amendment 9 inserts a transitional provision with respect to the new requirement for the ECQ to provide elector information pursuant to new section 133A of the Electoral Act in clause 47 of the Bill. The amendment clarifies that the provision applies to elector information for the 2017 State general election and any subsequent election.

Amendment 10 – Clause 78 (Insertion of new ss 16A and 16B)

Amendment 10 amends clause 78 of the Bill. This clause inserts new section 16B into the Referendums Act to provide that a poll can be temporarily suspended in the event of an emergency. The amendment aligns the language of the suspension of poll provision in new section 16B with the adjournment of poll provision in new section 17 so that the returning officer must be satisfied of the necessary elements in order to temporarily suspend polling.