



Queensland

Local Government Legislation Amendment Bill 2014

Includes amendments agreed during Consideration



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Contents

		Page
Part 1	Preliminary	
1	Short title	8
2	Commencement	8
Part 2	Amendment of City of Brisbane Act 2010	
3	Act amended	8
4	Amendment of s 154 (Disqualification of prisoners)	8
5	Amendment of s 216 (Administrators who act honestly and without negligence are protected from liability)	9
6	Amendment of sch 1 (Dictionary)	9
Part 3	Amendment of Local Government Act 2009	
7	Act amended	9
8	Amendment of s 154 (Disqualification of prisoners)	10
9	Amendment of s 235 (Administrators who act honestly and without negligence are protected from liability)	10
10	Omission of ss 260A–260E	10
11	Amendment of s 260F (Implementation)	10
12	Amendment of sch 4 (Dictionary)	11
Part 4	Amendment of Local Government Electoral Act 2011	
13	Act amended	11
14	Amendment of s 7 (Meaning of conclusion of local government election)	11
15	Replacement of s 9 (Returning officers)	12
	9 Returning officer	12
16	Insertion of new s 9A	14
	9A Responsibility of returning officers	14
17	Amendment of s 10 (Assistant returning officers)	14
18	Amendment of s 11 (Presiding officers)	15

Contents

19	Amendment of s 12 (Issuing officers)	15
20	Insertion of new ss 12A and 12B	16
	12A CEO returning officer may appoint persons to carry out relevant duties	16
	12B Appointments made by CEO returning officer	16
21	Amendment of pt 3, hdg (Voters rolls)	17
22	Insertion of pt 3, div 1, hdg	17
23	Amendment of s 17 (Returning officer must compile voters roll)	17
24	Amendment of s 18 (Cut off day for compiling voters roll)	18
25	Amendment of s 19 (Requirements of voters roll)	18
26	Amendment of s 21 (Supply of voters roll to candidates)	18
27	Insertion of new pt 3, div 2	19
	Division 2 Register of special postal voters	
	21A Electoral commission to keep register of special postal voters	19
28	Insertion of new s 24A	20
	24A Plan for election	20
29	Amendment of s 25 (Calling for nominations)	21
30	Amendment of s 27 (How and when nomination takes place)	21
31	Amendment of s 28 (Grounds for deciding a person is not properly nominated)	23
32	Omission of s 31 (Certification of nominations)	23
33	Amendment of s 32 (Announcement of nominations)	23
34	Amendment of s 39 (Deposit to accompany nomination)	23
35	Amendment of s 40 (Disposal of deposits generally)	24
36	Amendment of s 41 (Record of membership in group of candidates)	24
37	Amendment of s 45 (Direction that poll be conducted by postal ballot)	24
38	Amendment of s 46 (Kinds of polling booths)	25
39	Amendment of s 49 (Declaration of mobile polling booths)	25
40	Amendment of s 50 (Declaration of early polling booths)	26
41	Amendment of s 51 (Duty of person in charge of institution)	27
42	Amendment of s 55 (Requirements of ballot papers)	27
43	Amendment of s 56 (Ballot papers for separate polls)	28
44	Amendment of s 58 (Distribution of ballot papers)	29
45	Replacement of ss 59–62	29
	59 Scrutineers	29

46	Amendment of s 59 (Scrutineers)	31
47	Amendment of s 64 (Who may vote)	31
48	Amendment of s 65 (System of voting)	31
49	Amendment of s 67 (Ways in which to cast votes)	32
50	Amendment of s 68 (Who may cast votes in particular ways) . . .	32
51	Amendment of s 69 (Who must complete a declaration envelope)	34
52	Amendment of s 70 (Casting an ordinary vote)	34
53	Omission of s 71 (Casting a pre-poll vote)	35
54	Amendment of s 72 (Casting a postal vote)	35
55	Amendment of s 73 (Voting hours for polling booths)	36
56	Amendment of s 75 (Particular responsibilities of issuing officers when electors cast ordinary or pre-poll votes)	36
57	Insertion of new pt 4, div 5, sdiv 2A	37
	Subdivision 2A Electronically assisted voting	
	75A Prescribed procedures for electronically assisted voting	37
	75B Audit of electronically assisted voting for an election .	38
	75C Protection of information technology	39
	75D Electoral commissioner may decide electronically assisted voting is not to be used.	39
	75E Review of electronically assisted voting	40
58	Amendment of s 77 (Arrangements for electoral visitor voting) . .	40
59	Amendment of s 78 (Help for electors voting)	41
60	Amendment of s 79 (Applications to cast postal votes in local government elections that are not postal ballot elections)	41
61	Amendment of s 80 (Distribution of ballot papers to electors for postal ballot elections)	42
62	Amendment of s 81 (Applications to cast postal votes in postal ballot elections)	43
63	Amendment of s 82 (Distribution of ballot papers to particular electors whose address has been omitted from a voters roll)	44
64	Amendment of s 83 (How electors must record a vote on a ballot paper—optional-preferential voting)	45
65	Amendment of s 84 (How electors must record a vote on a ballot paper—first-past-the-post voting)	46
66	Amendment of s 86 (Formal and informal ballot papers—optional-preferential voting)	46
67	Amendment of s 87 (Formal and informal ballot papers—first-past-the-post voting)	46

Contents

68	Amendment of s 89 (Preliminary processing of declaration envelopes—general)	46
69	Omission of s 90 (Preliminary processing of declaration envelopes—postal ballot election)	47
70	Amendment of s 92 (Preliminary counting of ordinary votes).	47
71	Omission of s 94 (Receipt of things given to returning officer).	47
72	Insertion of new s 96A	48
	96A Re-counting of votes.	48
73	Amendment of s 98 (Counting of votes for first-past-the-post system)	48
74	Amendment of s 100 (Notifying the results of an election).	49
75	Amendment of s 103 (Notice to electors whose ballot papers are not accepted)	49
76	Omission of s 113 (Disclosure period for candidates who are councillors).	49
77	Amendment of s 114 (Disclosure period for candidates who were previously candidates in a local government election)	49
78	Amendment of s 115 (Disclosure period for new candidates)	50
79	Amendment of s 116 (Disclosure period for groups of candidates)	50
80	Insertion of new s 116A	51
	116A Definition for div 3.	51
81	Amendment of s 117 (Gifts to candidates).	51
82	Amendment of s 118 (Gifts to groups of candidates).	51
83	Amendment of s 120 (Loans to candidates or groups of candidates)	52
84	Amendment of s 122 (Electoral commission to give reminder notice to candidates).	52
85	Amendment of s 123 (Definition for div 4)	52
86	Amendment of s 124 (Third party expenditure for political activity)	53
87	Amendment of s 125 (Gifts received by third parties to enable expenditure for political activity)	53
88	Amendment of s 128 (Register of gifts)	53
89	Insertion of new pt 6, div 6A.	53
	Division 6A Authorised officers under pt 6	
	130A Functions and powers of authorised officers etc.	54
90	Replacement of s 131 (Statement about returns)	55
	131 Inability to complete returns	55
91	Amendment of s 134 (Noncompliance with part does not affect election)	57
92	Omission of s 135 (Definitions for div 1).	57

93	Amendment of s 138 (Requirements for an application to be effective)	57
94	Amendment of s 145 (Restrictions on particular orders)	58
95	Omission of s 160 (Evidentiary value of list under s 164)	58
96	Amendment of s 163 (Evidentiary provisions)	58
97	Omission of s 164 (List of electors failing to vote)	58
98	Replacement of s 165 (Notice about failure to vote)	59
	165 Notice about failure to vote	59
99	Amendment of s 166 (Payments for failure to vote)	60
100	Omission of s 167 (Recording response to notice)	60
101	Amendment of s 168 (Failure to vote)	60
102	Amendment of s 169 (False or misleading information)	62
103	Amendment of s 173 (Obstructing electors)	62
104	Amendment of s 175 (Forged electoral papers)	62
105	Insertion of new s 176A	62
	176A Confidentiality of information	63
106	Amendment of s 177 (Author of election material must be named)	63
107	Amendment of s 178 (Distribution of how-to-vote cards)	64
108	Amendment of s 179 (Giving of how-to-vote cards to returning officer)	64
109	Amendment of s 185 (Canvassing in or near polling booths)	66
110	Amendment of s 191 (Failure to post, fax or deliver documents for someone else)	66
111	Amendment of s 201 (Designated election offences and application of Criminal Code)	66
112	Amendment of sch (Dictionary)	67
Part 5	Minor and consequential amendments	
113	Acts amended	68
Schedule 1	Minor and consequential amendments	69
	City of Brisbane Act 2010	69
	Electoral Act 1992	69
	Local Government Act 2009	69
	Local Government Electoral Act 2011	70

2014

A Bill

for

An Act to amend the *City of Brisbane Act 2010*, the *Local Government Act 2009* and the *Local Government Electoral Act 2011* for particular purposes, and to make minor and consequential amendments of the Acts as stated in schedule 1

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Local Government Legislation Amendment Act 2014*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 5, 6, 9 and 12;
- (b) parts 4 and 5;
- (c) schedule 1.

Part 2 Amendment of City of Brisbane Act 2010

3 Act amended

This part amends the *City of Brisbane Act 2010*.

Note—

See also schedule 1.

4 Amendment of s 154 (Disqualification of prisoners)

Section 154(2)—

insert—

- (c) would be serving a term of imprisonment had the term of imprisonment not been suspended under the *Penalties and Sentences Act 1992*, section 144.

5 Amendment of s 216 (Administrators who act honestly and without negligence are protected from liability)

Section 216(1), ‘Act,’—

omit, insert—

Act or the *Local Government Electoral Act 2011*,

6 Amendment of sch 1 (Dictionary)

- (1) Schedule 1, definition *conclusion*—

omit.

- (2) Schedule 1—

insert—

conclusion, of the election of a councillor, see the *Local Government Electoral Act 2011*, section 7.

Part 3 Amendment of Local Government Act 2009

7 Act amended

This part amends the *Local Government Act 2009*.

Note—

See also schedule 1.

[s 8]

8 Amendment of s 154 (Disqualification of prisoners)

Section 154(2)—

insert—

- (c) would be serving a term of imprisonment had the term of imprisonment not been suspended under the *Penalties and Sentences Act 1992*, section 144.

9 Amendment of s 235 (Administrators who act honestly and without negligence are protected from liability)

Section 235(1), ‘Act,’—

omit, insert—

Act or the Local Government Electoral Act,

10 Omission of ss 260A–260E

Sections 260A to 260E—

omit.

11 Amendment of s 260F (Implementation)

- (1) Section 260F, heading—

omit, insert—

260F Regulation-making power for implementation of de-almagamations

- (2) Section 260F, before subsection (1)—

insert—

- (1AA) A *de-amalgamation* of a local government area is the separation of the area into different local government areas, each to be governed by its own local government.

- (3) Section 260F(1), ‘the de-amalgamation of the’—

omit, insert—

a de-amalgamation of a

- (4) Section 260F(1AA) to (5)—
renumber as section 260F(1) to (6).
- (5) Section 260F, as amended—
relocate and *renumber*, in chapter 7, part 6, as section 270A.

12 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definition *conclusion*—
omit.
- (2) Schedule 4—
insert—

conclusion, of the election of a councillor, see the Local Government Electoral Act, section 7.

Part 4 Amendment of Local Government Electoral Act 2011

13 Act amended

This part amends the *Local Government Electoral Act 2011*.

Note—

See also schedule 1.

14 Amendment of s 7 (Meaning of *conclusion* of local government election)

- (1) Section 7(a), (b)(i) and (c)(i), from ‘as required’—
omit, insert—
under section 100(2)(a); or

[s 15]

(2) Section 7—

insert—

(2) In this section—

declaration, of a poll, means the declaration by the electoral commission of the result of the poll under section 100(1).

15 Replacement of s 9 (Returning officers)

Section 9—

omit, insert—

9 Returning officer

- (1) The chief executive officer of the local government for which an election is to be held is the returning officer for the election.
- (2) However, subsection (1) does not apply for the election if—
 - (a) the electoral commissioner is satisfied that, immediately before the notification day, the chief executive officer is a member of a political party, regardless of whether the chief executive officer stops being a member of the political party before the conclusion of the election; or
 - (b) the electoral commissioner is satisfied that the chief executive officer has become a member of a political party at any time on or after the notification day and before the conclusion of the election; or
 - (c) the chief executive officer gives the electoral commission a withdrawal notice under subsection (3); or
 - (d) the electoral commission gives the chief executive officer a removal notice under subsection (4).

- (3) The chief executive officer may, before the notification day, give the electoral commissioner a written notice (a *withdrawal notice*) stating the chief executive officer will not undertake the role of returning officer for the election.
- (4) The electoral commission may, at any time, give the chief executive officer a written notice (a *removal notice*) stating the chief executive officer will not undertake the role of returning officer for the election.
- (5) However, the electoral commission may give a removal notice only if satisfied that the chief executive officer—
 - (a) is unable to discharge the functions of a returning officer, whether because of illness, absence or otherwise; or
 - (b) has failed to comply with a direction given to the officer under section 9A(2).
- (6) If subsection (1) does not apply for the election, the electoral commission must appoint another person as the returning officer for the election.
- (7) A person must not be appointed under subsection (6) if the person is—
 - (a) a minor; or
 - (b) a member of a political party.
- (8) If the chief executive officer gives a withdrawal notice before the notification day, the notice is, on and from the notification day, binding on the chief executive officer, and any subsequent chief executive officer, for the election.
- (9) In this section—

notification day, for an election, means—

 - (a) the following day—

[s 16]

- (i) for a quadrennial election—1 July in the year before the election;
 - (ii) for a by-election—5 business days after the vacancy of the office of a councillor occurs;
 - (iii) for a fresh election—5 business days after a regulation directs that a fresh election be held under section 105; or
- (b) a later day approved by the electoral commission.

16 Insertion of new s 9A

After section 9—

insert—

9A Responsibility of returning officers

- (1) The returning officer is responsible for the proper conduct of an election.
- (2) The returning officer must comply with a direction, given by the electoral commission, for the proper conduct of the election.
- (3) If the returning officer is the chief executive officer, the returning officer must not delegate a function or power of the returning officer under this Act.

17 Amendment of s 10 (Assistant returning officers)

(1) Section 10(2)—

omit, insert—

- (2) The following entity may appoint a person as an assistant returning officer for an election—
 - (a) if there is a CEO returning officer for the election—the CEO returning officer;

- (b) otherwise—the electoral commission.
- (2A) A person must not be appointed under subsection (2) if the person is—
 - (a) a minor; or
 - (b) a member of a political party.
- (2) Section 10(3), after ‘The’—
insert—
CEO returning officer or
- (3) Section 10(2A) and (3)—
renumber as section 10(3) and (4).

18 Amendment of s 11 (Presiding officers)

- (1) Section 11(2)(b), ‘an adult’—
omit, insert—
a person
- (2) Section 11(3), ‘an adult’—
omit, insert—
another person

19 Amendment of s 12 (Issuing officers)

- (1) Section 12, from ‘is a’ to ‘who’—
omit.
- (2) Section 12—
insert—
 - (2) If there is a CEO returning officer for an election, the CEO returning officer may appoint a person as an issuing officer for the election.

[s 20]

(3) If subsection (2) does not apply, a member of the staff of the electoral commission is an issuing officer for the election.

(4) In this section—

staff of the electoral commission means staff of the electoral commission mentioned in the *Electoral Act 1992*, section 29.

20 Insertion of new ss 12A and 12B

After section 12—

insert—

12A CEO returning officer may appoint persons to carry out relevant duties

- (1) This section applies if there is a CEO returning officer for an election.
- (2) The CEO returning officer may appoint a person to carry out a relevant duty for the election that is required by the CEO returning officer.
- (3) In this section—

relevant duty means a duty or responsibility for an election other than a duty or responsibility mentioned in section 9, 10, 11 or 12.

12B Appointments made by CEO returning officer

- (1) A person appointed by a CEO returning officer under section 10, 11, 12 or 12A for an election is to be employed or contracted under—
 - (a) if the election is for the Brisbane City Council—the *City of Brisbane Act 2010*; or
 - (b) otherwise—the *Local Government Act 2009*.

- (2) The person's appointment under section 10, 11, 12 or 12A as an electoral officer ends if, under section 9, the chief executive officer of the local government stops being the returning officer for the election under section 9.

21 Amendment of pt 3, hdg (Voters rolls)

Part 3, heading, after 'rolls'—

insert—

and register of special postal voters

22 Insertion of pt 3, div 1, hdg

Part 3, before section 17—

insert—

Division 1 Voters rolls

23 Amendment of s 17 (Returning officer must compile voters roll)

- (1) Section 17, heading, 'Returning'—

omit, insert—

Electoral commission or returning

- (2) Section 17(1)—

omit, insert—

- (1) The following entity must compile a roll of persons entitled to vote at an election (the *voters roll*)—

- (a) if there is a CEO returning officer for the election—the electoral commission;
(b) otherwise—the returning officer.

- (3) Section 17(3), 'An'—

[s 24]

omit, insert—

If subsection (1)(b) applies, an

24 Amendment of s 18 (Cut off day for compiling voters roll)

(1) Section 18, heading—

omit, insert—

18 When voters roll must be compiled

(2) Section 18(1)—

omit, insert—

(1) A voters roll for a quadrennial election or fresh election must be compiled at least 5 days, but not more than 7 days, after the publication in a newspaper, under section 25(1), of notice of the day of the election.

(3) Section 18(2), from ‘cut-off’—

omit, insert—

day for compiling the voters roll for a particular election.

25 Amendment of s 19 (Requirements of voters roll)

Section 19(2)—

omit, insert—

(2) The voters roll must not include an elector’s address that, under the *Electoral Act 1992*, is excluded from the publicly available part of an electoral roll.

26 Amendment of s 21 (Supply of voters roll to candidates)

Section 21—

insert—

-
- (2) The electoral commission may decide the format in which the voters roll is given to the candidates and direct the returning officer to give the voters roll that format.

27 Insertion of new pt 3, div 2

Part 3, after section 21—

insert—

Division 2 Register of special postal voters

21A Electoral commission to keep register of special postal voters

- (1) The electoral commission must keep, or arrange to be kept, a register of special postal voters.
- (2) The electoral commissioner must, not less than 18 months but not more than 4 years after the result of a poll for a quadrennial election is declared, review the continuing eligibility of a person to cast a vote as a special postal voter.
- (3) In conducting the review, the electoral commissioner must—
- (a) require each relevant elector to advise, in the approved form, whether the elector still lives at the address shown on the voters roll; and
 - (b) do a random check of approved forms given to the electoral commission under paragraph (a) to decide whether the signature on each approved form checked is the same as the signature on the elector's application to be a special postal voter mentioned in section 68(5A).
- (4) In this section—

[s 28]

relevant elector means an elector whose name is included in the register of special postal voters because of a circumstance mentioned in section 68(5A)(a)(i) or (ii).

28 Insertion of new s 24A

Part 4, division 2, subdivision 1—

insert—

24A Plan for election

- (1) If, for an election, there is a CEO returning officer, the CEO returning officer must prepare a written plan for the proposed conduct of the election and give the plan to the electoral commissioner.
- (2) The plan must—
 - (a) include the following details—
 - (i) the electoral officers to be appointed;
 - (ii) the location of the polling booths;
 - (iii) other matters as directed by the electoral commission; and
 - (b) be given to the electoral commissioner before the following day or a later day approved by the electoral commission—
 - (i) for a quadrennial election—1 September in the year before the election;
 - (ii) for a by-election—10 business days after the vacancy of the office of a councillor occurs;
 - (iii) for a fresh election—10 business days after a regulation directs that a fresh election be held under section 105.

- (3) The electoral commissioner must approve the plan if satisfied the proposed conduct of the election will allow the CEO returning officer to perform the officer's function under section 9.

29 Amendment of s 25 (Calling for nominations)

- (1) Section 25(2)(a) and (b)—

omit, insert—

- (a) state a day as a nomination day—

- (i) not less than 8, or more than 18, days after the publication of the notice; and
(ii) not less than 18, or more than 42, days before the day on which the election is to be held; and

- (2) Section 25(2)(c) and (d)—

renumber as section 25(2)(b) and (c).

30 Amendment of s 27 (How and when nomination takes place)

- (1) Section 27, heading—

omit, insert—

27 Making and certification of nomination

- (2) Section 27(2) and (3)—

omit, insert—

- (2) A nomination must—

- (a) be in the approved form; and
(b) contain the following—
(i) the candidate's name, address and occupation;
(ii) a signed statement by the candidate consenting to the nomination;

[s 30]

- (iii) if subsection (1)(a) applies—a signed statement by the registered political party’s registered officer that the party has endorsed the candidate; and
 - (c) be given to the returning officer after the nominations are invited for the election but before noon on the nomination day.
- (3) If the returning officer is satisfied a person has been properly nominated, the returning officer must—
 - (a) as soon as practicable, certify the nomination in the approved form; and
 - (b) give a copy of the certificate to the person.
- (4) The certificate must state the time, day and place proposed for a draw, if necessary, for the order of listing of candidates’ names on the ballot paper.
- (5) For subsection (3), a person is properly nominated for an election if—
 - (a) subsection (2) has been complied with, or substantially complied with apart from a mere formal defect or error in the nomination; and
 - (b) section 29(2) does not apply to the nomination; and
 - (c) section 39 has been complied with; and
 - (d) the nomination has not been withdrawn.
- (6) In deciding whether a person is properly nominated for an election, the returning officer is not required to look beyond—
 - (a) the form of nomination and payment of the deposit; and
 - (b) the voters roll; and

- (c) documentary evidence produced by the nominee or nominator that, at the time the voters roll is compiled for the election—
 - (i) the nominator is an elector for the election or the registered officer of a registered political party; or
 - (ii) the nominee is, under the *Electoral Act 1992*, an elector for an electoral district, or part of an electoral district, included in the local government's area.
- (7) If a nomination is wrongly certified by the returning officer, the certification is of no effect.

31 Amendment of s 28 (Grounds for deciding a person is not properly nominated)

Section 28(3), after 'decides'—

insert—

under this section that

32 Omission of s 31 (Certification of nominations)

Section 31—

omit.

33 Amendment of s 32 (Announcement of nominations)

Section 32(1), 'section 31'—

omit, insert—

section 27(3)(a)

34 Amendment of s 39 (Deposit to accompany nomination)

Section 39(2)—

[s 35]

insert—

(c) by electronic funds transfer.

35 Amendment of s 40 (Disposal of deposits generally)

(1) Section 40(2)—

omit.

(2) Section 40(3), ‘Also, if’—

omit, insert—

If

(3) Section 40(3) and (4)—

renumber as section 40(2) and (3).

36 Amendment of s 41 (Record of membership in group of candidates)

(1) Section 41(3), after paragraph (a)—

insert—

(aa) state the name of the group; and

(2) Section 41(3)(aa) to (c)—

renumber as section 41(3)(b) to (d).

37 Amendment of s 45 (Direction that poll be conducted by postal ballot)

(1) Section 45—

insert—

(1A) The application must be made before 1 July in the year preceding a quadrennial election or a later day approved by the Minister.

(2) Section 45(5), ‘subsection (2)’—

omit, insert—

subsection (3)

- (3) Section 45(1A) to (5)—
renumber as section 45(2) to (6).

38 Amendment of s 46 (Kinds of polling booths)

- (1) Section 46(1)(c), ‘early polling’—
omit, insert—
pre-polling
- (2) Section 46(2), from ‘a returning’ to ‘an election’—
omit, insert—
the returning officer for an election arranges to be
available on polling day for the election
- (3) Section 46(4), ‘An *early polling*’—
omit, insert—
A pre-polling

39 Amendment of s 49 (Declaration of mobile polling booths)

- (1) Section 49(1)—
omit, insert—
(1) If the returning officer is satisfied patients or residents of an institution should be able to vote at the institution in a poll, the returning officer may arrange for all or part of the institution to be available as a mobile polling booth to enable the patients or residents to vote there in the poll.
- (2) Section 49(3)(b), ‘, in the approved form,’—
omit.
- (3) Section 49(4) and (5)—
omit, insert—

[s 40]

- (4) If the returning officer arranges a place to be available as a mobile polling booth under subsection (2), the returning officer may change the arrangements made for the mobile polling booth under subsection (3) at any time.
- (5) If the arrangements are changed under subsection (4), the returning officer must take the steps that are practical and appropriate to give public notice of the changed arrangements.
- (6) The returning officer must give written notice to candidates of the declaration of the mobile polling booth, the times at which votes may be cast at the booth, and any change to the arrangements under subsection (4).
- (7) On the declaration of a mobile polling booth, the patients or residents of the institution who are electors, or electors resident in the part of the local government area in which the mobile polling booth is situated, may vote at the booth during—
 - (a) the times stated for the booth in the notice published under subsection (3)(b); or
 - (b) if the times have been changed under subsection (4)—the changed times.

40 Amendment of s 50 (Declaration of early polling booths)

- (1) Section 50, heading ‘early polling’—

omit, insert—

pre-polling

- (2) Section 50(2)(b), ‘, in the approved form,’—

omit.

- (3) Section 50(3)—

omit, insert—

- (3) The returning officer may also publish the notice in any other way the returning officer considers appropriate.
- (4) The returning officer must give written notice to candidates of the declaration of the polling booth and the times at which votes may be cast at the booth.

41 Amendment of s 51 (Duty of person in charge of institution)

Section 51(2), ‘residents in’—

omit, insert—

patients or residents of

42 Amendment of s 55 (Requirements of ballot papers)

(1) Section 55, heading ‘Requirements of ballot’—

omit, insert—

Ballot

(2) Section 55, before subsection (1)—

insert—

(1AA) The electoral commission must ensure a sufficient number of ballot papers complying with subsection (1) are printed and available to the returning officer for distribution under section 58.

(3) Section 55(1), ‘A ballot paper must’—

omit, insert—

A ballot paper, other than a completed ballot paper printed for an electronically assisted vote, must

(4) Section 55(1)(a)—

omit.

[s 43]

- (5) Section 55(1)(f), from ‘candidate’s name’—
omit, insert—
candidate’s name—
- (i) if the register of political parties includes an abbreviation of the party’s name—the party’s abbreviated name; or
 - (ii) otherwise—the party’s full name included in the register; and
- (6) Section 55(1)(b) to (g)—
renumber as section 55(1)(a) to (f).
- (7) Section 55(2), after ‘ballot paper’—
insert—
to which subsection (1) applies
- (8) Section 55—
insert—
(2A) A completed ballot paper printed for an electronically assisted vote must be of a size or format that enables the elector’s electronically assisted vote to be accurately determined.

43 Amendment of s 56 (Ballot papers for separate polls)

Section 56(2)—

omit, insert—

- (2) The following entity may decide to use separate ballot papers or combined ballot papers for the poll—
- (a) if there is a CEO returning officer for the election—the electoral commission;
 - (b) otherwise—the returning officer.

44 Amendment of s 58 (Distribution of ballot papers)

(1) Section 58, heading, after ‘papers’—

insert—

and voters roll

(2) Section 58(1)—

omit, insert—

(1) The returning officer must ensure an adequate number of the following are available at polling booths for an election—

- (a) ballot papers;
- (b) certified copies of the voters roll for each electoral district (as at the cut-off day for the voters rolls).

45 Replacement of ss 59–62

Sections 59 to 62—

omit, insert—

59 Scrutineers

- (1) Each candidate for an election may, by notice given to the returning officer for the election in the approved form, appoint 1 or more adults as scrutineers for the candidate.
- (2) Scrutineers are entitled to be present in each polling booth at times when electors are allowed to vote at the booth.
- (3) Scrutineers are also entitled to be present—
 - (a) beforehand at each polling booth to—
 - (i) inspect ballot boxes; and
 - (ii) observe the examination of declaration envelopes received before 6p.m. the

[s 45]

day before the polling day for the election; and

- (b) afterwards at each polling booth and other places to observe the examination of declaration envelopes and the counting of votes.
- (4) For subsections (2) and (3), the number of scrutineers each candidate is entitled to have at a polling booth or other place is 1 scrutineer for each issuing officer present at the booth or place.
- (5) A scrutineer may—
- (a) object to an issuing officer's decision on a person's entitlement to vote at the election; and
 - (b) object to the acceptance or rejection of a ballot paper by the returning officer or a presiding officer; and
 - (c) record the identification details given to an issuing officer at a polling booth by a person who votes at the election at the polling booth; and
 - (d) remove from the polling booth the scrutineer's record of identification details mentioned in paragraph (c); and
 - (e) do anything else permitted by this Act.

Note—

A scrutineer may record the name and address, as given to an issuing officer, of a person voting at an election but may not record details of how the person voted at the election. See section 192(3).

- (6) A scrutineer must carry adequate identification to show that the person is a scrutineer.

46 Amendment of s 59 (Scrutineers)

Section 59(3)(b), as inserted by section 45—

omit, insert—

- (b) afterwards at each polling booth and other places to observe the examination of declaration envelopes, the printing of completed ballot papers for electronically assisted votes and the counting of votes; and
- (c) at a place to observe any part of a procedure for making an electronically assisted vote.

47 Amendment of s 64 (Who may vote)

Section 64(1)—

insert—

- (c) persons who—
 - (i) are not on the voters roll for the area or division but are entitled under the *Electoral Act 1992* to be enrolled on the electoral roll for the electoral district under that Act in which the area or division is situated; and
 - (ii) after the cut-off day for the poll and no later than 6p.m. on the day before the polling day, give the electoral commission a notice under the *Electoral Act 1992*, section 65.

48 Amendment of s 65 (System of voting)

(1) Section 65, 'election'—

omit, insert—

election, other than an election of a mayor of a local government,

[s 49]

(2) Section 65—

insert—

(2) The system of voting at an election of a mayor of a local government is optional-preferential voting.

49 Amendment of s 67 (Ways in which to cast votes)

(1) Section 67(1)(b), ‘an early polling’—

omit, insert—

a pre-polling

(2) Section 67(1)—

insert—

(d) cast an electronically assisted vote.

50 Amendment of s 68 (Who may cast votes in particular ways)

(1) Section 68(4)—

omit, insert—

(4) The following electors may cast a postal vote in an election, other than a postal ballot election—

(a) any elector who wishes to cast a postal vote before the polling day for an election;

(b) a special postal voter under subsection (5A).

(2) Section 68—

insert—

(5A) For subsection (4)(b), an elector is a *special postal voter* if—

(a) the elector’s name is included in the register of special postal voters kept under section 21A because of a written application that satisfies the electoral commission that—

- (i) the elector's address, as shown on the voters roll at the time the application is made, is more than 15km but not more than 20km, by the nearest practicable route, from a polling booth; or
 - (ii) the elector's address is more than 20km, 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 1918* (Cwlth), section 184A(2)(d) to (k); or
- (b) the elector's address has been excluded or omitted from the electoral roll under an arrangement under the *Electoral Act 1992*, section 62, because of the *Commonwealth Electoral Act 1918* (Cwlth), section 104.
- (5B) Subject to section 75D, if a procedure about how an elector may cast an electronically assisted vote has been made under section 75A, an elector may cast an electronically assisted vote if—
- (a) the elector can not vote without assistance because the elector has—
 - (i) an impairment; or
 - (ii) an insufficient level of literacy; or
 - (b) the elector can not vote at a polling booth because of an impairment; or
 - (c) the elector is a member of a class of electors prescribed under a regulation for this section.

Examples of a class of electors—

- electors whose addresses shown on the voters roll are more than 20km by the nearest practical route from a polling booth

[s 51]

- electors who will not, throughout ordinary voting hours on polling day, be within Queensland

51 Amendment of s 69 (Who must complete a declaration envelope)

(1) Section 69(1)(d), ‘cut-off day for the election,’—

omit, insert—

cut-off day for the voters roll

(2) Section 69(1)(e), ‘been omitted from a voters’—

omit, insert—

been excluded or omitted from the electoral

(3) Section 69(2)—

omit, insert—

(2) Also, an elector must complete a declaration envelope for an election if—

- (a) an issuing officer suspects, on reasonable grounds, that the elector is not entitled to vote at the election; or
- (b) the elector does not give an issuing officer the elector’s proof of identity document under section 70(3)(b).

52 Amendment of s 70 (Casting an ordinary vote)

(1) Section 70, heading, after ‘vote’—

insert—

or pre-poll vote

(2) Section 70(1), after ‘vote’—

insert—

or pre-poll vote

(3) Section 70(2)—

omit, insert—

- (2) The elector must—
- (a) to cast an ordinary vote—attend a polling booth in the local government area during voting hours for the booth; or
 - (b) to cast a pre-poll vote—attend a pre-polling booth in the local government area during voting hours for the booth.

- (4) Section 70(3)—

omit, insert—

- (3) At the polling booth or pre-polling booth, the elector must give an issuing officer at the booth the elector's—
- (a) full name and address; and
 - (b) proof of identity document.

- (5) Section 70(5)—

omit.

53 Omission of s 71 (Casting a pre-poll vote)

Section 71—

omit.

54 Amendment of s 72 (Casting a postal vote)

- (1) Section 72, heading, after 'vote'—

insert—

by elector other than special postal voter

- (2) Section 72—

insert—

[s 55]

- (6) If the elector is unable to apply under subsection (2) without help, another person may help the elector apply.
- (7) This section does not apply to a special postal voter.

Note—

Ballots are distributed to special postal voters under section 82.

55 Amendment of s 73 (Voting hours for polling booths)

Section 73(3), ‘an early polling’—

omit, insert—

a pre-polling

56 Amendment of s 75 (Particular responsibilities of issuing officers when electors cast ordinary or pre-poll votes)

(1) Section 75(2)(a)—

omit, insert—

- (a) the elector gives the issuing officer the elector’s—
 - (i) full name and address; and
 - (ii) proof of identity document; and

(2) Section 75(4)—

omit, insert—

- (4) Subsection (5) applies if—
 - (a) because of the elector’s answers to the questions under subsection (3)—
 - (i) the issuing officer suspects, on reasonable grounds, that the elector is not entitled to vote at the election; or

-
- (ii) the issuing officer is satisfied the elector must complete a declaration envelope; or
 - (b) the elector does not give the issuing officer the elector's proof of identity document under section 70(3)(b).
- (3) Section 75(5)—
insert—
- (c) if this subsection applies because the elector did not give the issuing officer the elector's proof of identity document as mentioned in subsection (4)(b)—give the elector a ballot paper.

57 Insertion of new pt 4, div 5, sdiv 2A

Part 4, division 5—

insert—

Subdivision 2A Electronically assisted voting

75A Prescribed procedures for electronically assisted voting

- (1) The electoral commission may make procedures about how an elector may cast an electronically assisted vote for an election.
- (2) The procedures must provide for the following—
 - (a) the registration of electors who may cast an electronically assisted vote for an election under section 68(5B);
 - (b) the authentication of each electronically assisted vote;
 - (c) the recording of each elector who uses electronically assisted voting;

[s 57]

- (d) ensuring the secrecy of each electronically assisted vote;
 - (e) the secure transmission of each electronically assisted vote to the electoral commissioner, and secure storage of each electronically assisted vote by the commissioner, until printing;
 - (f) the printing, for scrutiny and counting, of a ballot paper for each electronically assisted vote;
 - (g) the secure delivery of each printed ballot paper to the returning officer.
- (3) The procedures—
- (a) do not take effect until approved by a regulation; and
 - (b) must be tabled in the Legislative Assembly with the regulation approving the procedures; and
 - (c) must be published on the electoral commission's website.

75B Audit of electronically assisted voting for an election

- (1) The electoral commission must appoint an independent person to audit the information technology used for an election under the procedures for electronically assisted voting made under section 75A.
- (2) The audit must be conducted—
 - (a) at least 7 days before the nomination day for the election; and
 - (b) within 60 days after the polling day for the election.

- (3) A person appointed under subsection (1) must be an individual who is not, and has not ever been, a member of a political party.
- (4) The person appointed to conduct the audit may make recommendations to the electoral commission to reduce or eliminate risks that could affect the security, accuracy or secrecy of electronically assisted voting.
- (5) A regulation may prescribe requirements about the conduct of an audit under this section.

75C Protection of information technology

- (1) A person must not disclose to another person a source code or other computer software relating to electronically assisted voting, unless the disclosure is authorised under—
 - (a) the procedures approved under section 75A(3); or
 - (b) an agreement entered into by the person with the electoral commissioner.

Maximum penalty—40 penalty units or 6 months imprisonment.

- (2) A person must not, without reasonable excuse, destroy or interfere with computer software, a data file or electronic device used for or in connection with electronically assisted voting.

Maximum penalty—100 penalty units or 2 years imprisonment.

75D Electoral commissioner may decide electronically assisted voting is not to be used

- (1) The electoral commissioner may decide that electronically assisted voting is not to be used—
 - (a) at a particular election; or

[s 58]

- (b) by a class of electors at a particular election.
- (2) The electoral commissioner's decision must be in writing and published on the electoral commission's website.

75E Review of electronically assisted voting

- (1) On the request of the Minister following an election, the electoral commissioner must conduct—
 - (a) a review of the use of electronically assisted voting for the election; and
 - (b) an investigation into extending the use of electronically assisted voting to other electors for future elections.
- (2) A report on the review and investigation must be given to the Minister.
- (3) The Minister must, within 14 days after receiving the report, table the report in the Legislative Assembly.

58 Amendment of s 77 (Arrangements for electoral visitor voting)

- (1) Section 77(1) and (2), 'an electoral visitor voter'—
omit, insert—
a visitor elector
- (2) Section 77(4), '6p.m.'—
omit, insert—
7p.m.
- (3) Section 77—
insert—

- (9) If the elector is unable to apply under subsection (2) without help, another person may help the person apply.

59 Amendment of s 78 (Help for electors voting)

- (1) Section 78(1), after ‘polling booth,’—

insert—

be assisted in casting an electronically assisted vote

- (2) Section 78(2)(c) and (d)—

omit, insert—

- (c) explaining the following—

(i) the ballot paper and the requirements of subdivision 5 about its marking;

(ii) for electronically assisted voting—any aspect of the procedure for casting an electronically assisted vote;

- (d) marking or helping to mark the ballot paper, or helping to cast the electronically assisted vote, in the way the elector wishes;

- (3) Section 78(4)—

omit, insert—

- (4) This section applies despite section 70(7)(a) and (b).

60 Amendment of s 79 (Applications to cast postal votes in local government elections that are not postal ballot elections)

- (1) Section 79(1), note—

omit.

- (2) Section 79(2)(a), ‘signed by the elector’—

omit.

[s 61]

- (3) Section 79(2)(a), note—
omit.
- (4) Section 79(2)(c), ‘posted, faxed or’—
omit.
- (5) Section 79(2)(d)—
omit, insert—
 - (d) must be received by the returning officer no later than 7p.m. on the Wednesday before polling day.
- (6) Section 79(5), from ‘envelope addressed to’—
omit, insert—
 - envelope—
 - (i) if there is a CEO returning officer for the election—addressed to the returning officer and bearing the words ‘Ballot paper—(insert name of local government area)’; or
 - (ii) otherwise—addressed to the returning officer at the returning officer’s postal address and bearing the words ‘Ballot Paper’.

61 Amendment of s 80 (Distribution of ballot papers to electors for postal ballot elections)

Section 80(2)(a)—

omit, insert—

- (a) be accompanied by an unsealed reply paid post envelope—
 - (i) if there is a CEO returning officer for the election—addressed to the returning officer and bearing the words

‘Ballot paper—(insert name of local government area)’; or

- (ii) otherwise—addressed to the returning officer at the returning officer’s postal address and bearing the words ‘Ballot Paper’.

62 Amendment of s 81 (Applications to cast postal votes in postal ballot elections)

- (1) Section 81(2), ‘election.’—

omit, insert—

election by—

- (a) giving the returning officer an application under subsection (3); or
- (b) contacting the electoral commission using the telephone number or electronic contact details shown on the electoral commission’s website.

- (2) Section 81—

insert—

- (2A) The application must be received by the returning officer for the election no later than 7p.m. on the Wednesday before polling day.

- (3) Section 81(3), ‘The application’—

omit, insert—

An application mentioned in subsection (2)(a)

- (4) Section 81(3)(d)—

omit.

- (5) Section 81(6), from ‘envelope’—

omit, insert—

envelope—

[s 63]

- (i) if there is a CEO returning officer for the election—addressed to the returning officer and bearing the words ‘Ballot paper—(insert name of local government area)’; or
 - (ii) otherwise—addressed to the returning officer at the returning officer’s postal address and bearing the words ‘Ballot Paper’.
- (6) Section 81—
insert—
 - (9) If the elector is unable to apply under subsection (2) without help, another person may help the person apply.

63 Amendment of s 82 (Distribution of ballot papers to particular electors whose address has been omitted from a voters roll)

- (1) Section 82, heading, ‘a voters roll’—
omit, insert—
electoral roll and to special postal voters
- (2) Section 82(1)—
omit, insert—
 - (1) As soon as practicable after the nomination day for an election, the relevant entity must post the following things to each elector mentioned in section 69(1)(e) and to each special postal voter—
 - (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—

-
- (i) if there is a CEO returning officer for the election—addressed to the returning officer and bearing the words ‘Ballot paper—(insert name of local government area)’; or
 - (ii) otherwise—addressed to the returning officer at the returning officer’s postal address and bearing the words ‘Ballot Paper’.
- (3) Section 82(3), ‘returning officer’—
omit, insert—
relevant entity
- (4) Section 82—
insert—
- (4) In this section—
relevant entity means—
 - (a) if there is a CEO returning officer for the election—the electoral commission; or
 - (b) otherwise—the returning officer.

64 Amendment of s 83 (How electors must record a vote on a ballot paper—optional-preferential voting)

- (1) Section 83—
insert—
- (1A) An elector must record a vote in accordance with—
 - (a) if the elector votes using electronically assisted voting—the procedures approved under section 75A(3); or
 - (b) otherwise—subsection (3) or (4).
- (2) Section 83(1A) to (3)—

[s 65]

renumber as section 83(2) to (4).

65 Amendment of s 84 (How electors must record a vote on a ballot paper—first-past-the-post voting)

Section 84—

insert—

- (1A) An elector must record a vote in accordance with—
- (a) if the elector votes using electronically assisted voting—the procedures approved under section 75A(3); or
 - (b) otherwise—subsection (2) or (3).

66 Amendment of s 86 (Formal and informal ballot papers—optional-preferential voting)

Section 86(4)(b), ‘an application’—

omit, insert—

a signed application

67 Amendment of s 87 (Formal and informal ballot papers—first-past-the-post voting)

Section 87(4)(b), ‘an application’—

omit, insert—

a signed application

68 Amendment of s 89 (Preliminary processing of declaration envelopes—general)

- (1) Section 89, heading, ‘—general’—

omit.

- (2) Section 89(1)—

omit, insert—

- (1) For a postal ballot election, the returning officer may open all ballot boxes and examine the declaration envelopes to decide whether the ballot papers in the envelopes are to be accepted for counting.
- (3) Section 89(2), ‘After 8a.m. on polling day’—

omit, insert—

For an election other than a postal ballot election

69 Omission of s 90 (Preliminary processing of declaration envelopes—postal ballot election)

Section 90—

omit.

70 Amendment of s 92 (Preliminary counting of ordinary votes)

- (1) Section 92(4), after ‘envelopes’—

insert—

and all ballot papers printed for electronically assisted votes

- (2) Section 92(6)—

omit, insert—

- (6) Prepare a written statement in the approved form.

71 Omission of s 94 (Receipt of things given to returning officer)

Section 94—

omit.

[s 72]

72 Insertion of new s 96A

Part 4, division 7, subdivision 3—

insert—

96A Re-counting of votes

- (1) At any time before the following happens, the electoral commission may direct the returning officer, or another member of the electoral commission's staff, to re-count some or all of the ballot papers for an election—
 - (a) the result of the poll for the election is notified by the electoral commission under section 100;
 - (b) the electoral commission refers a matter to the Court of Disputed Returns under part 7.
- (2) The returning officer may re-count some or all of the ballot papers for the election at any time before the results of the election are notified.
- (3) A person carrying out a re-count of ballot papers must, so far as practicable, ensure that the requirements of section 95 are complied with.
- (4) This section does not limit by implication section 9A(2).

73 Amendment of s 98 (Counting of votes for first-past-the-post system)

- (1) Section 98(2), '(as mayor or another councillor)'—

omit.

- (2) Section 98(4) and (5)—

insert—

Note—

A candidate who receives no votes has a number of votes that is 0.

74 Amendment of s 100 (Notifying the results of an election)

(1) Section 100(1), after paragraph (a)—

insert—

(ab) for a poll for the election of a mayor, the name of the mayor who has been elected; and

(2) Section 100(1)(ab) and (b)—

renumber as section 100(1)(b) and (c).

75 Amendment of s 103 (Notice to electors whose ballot papers are not accepted)

Section 103(2), ‘in the approved form’—

omit.

76 Omission of s 113 (Disclosure period for candidates who are councillors)

Section 113—

omit.

77 Amendment of s 114 (Disclosure period for candidates who were previously candidates in a local government election)

(1) Section 114(1), ‘(a *previous election*)’—

omit.

(2) Section 114(2) and (3)—

omit, insert—

(2) The candidate’s disclosure period for the current election—

(a) starts 30 days after the polling day for the most recently held election for which the candidate was also a candidate; and

[s 78]

Example—

If the polling day for the most recently held election was 15 March, the disclosure period starts at the beginning of 15 April.

- (b) ends 30 days after the polling day of the current election.

Example—

If the polling day for the current election was 31 March, the disclosure period ends at the end of 30 April.

78 Amendment of s 115 (Disclosure period for new candidates)

- (1) Section 115, heading, ‘for new candidates’—

omit, insert—

—other candidates

- (2) Section 115(1), ‘113 or’—

omit.

- (3) Section 115(2)(b) and example—

omit, insert—

- (b) ends 30 days after the polling day for the election.

Example—

If the polling day for the election was 31 March, the disclosure period ends at the end of 30 April.

79 Amendment of s 116 (Disclosure period for groups of candidates)

Section 116(a) and (b) and examples—

omit, insert—

- (a) starting 30 days after the polling day for the most recent quadrennial elections to have been held before the current election; and

Example—

If the polling day for the most recently held quadrennial election was 15 March, the disclosure period starts at the beginning of 15 April.

- (b) ending 30 days after the polling day for the current election.

Example—

If the polling day for the current election was 31 March, the disclosure period ends at the end of 30 April.

80 Insertion of new s 116A

Part 6, division 3—

insert—

116A Definition for div 3

In this division—

required period, for an election, means 15 weeks after the polling day or, if no poll is conducted, the day a poll would otherwise have been required to be conducted under this Act.

81 Amendment of s 117 (Gifts to candidates)

Section 117(1), ‘15 weeks after the conclusion of’—

omit, insert—

the required period for

82 Amendment of s 118 (Gifts to groups of candidates)

Section 118(2), ‘15 weeks after the conclusion of’—

omit, insert—

[s 83]

the required period for

83 Amendment of s 120 (Loans to candidates or groups of candidates)

Section 120(1) and (2), ‘15 weeks after the conclusion of’—

omit, insert—

the required period for

84 Amendment of s 122 (Electoral commission to give reminder notice to candidates)

(1) Section 122(1), ‘conclusion of’—

omit, insert—

polling day, or if no poll is conducted, the day a poll would otherwise have been required to be conducted under this Act, for

(2) Section 122(2)(a), ‘15 weeks after the conclusion of’—

omit, insert—

the required period for

(3) Section 122(2)(b), second dot point—

omit.

(4) Section 122(3)(a), ‘return.’—

omit, insert—

return; and

85 Amendment of s 123 (Definition for div 4)

(1) Section 123, heading, ‘Definition’—

omit, insert—

Definitions

(2) Section 123—

insert—

required period has the meaning given under section 116A.

86 Amendment of s 124 (Third party expenditure for political activity)

Section 124(2), ‘15 weeks after the conclusion of’—

omit, insert—

the required period after

87 Amendment of s 125 (Gifts received by third parties to enable expenditure for political activity)

Section 125(2), ‘15 weeks after the conclusion of’—

omit, insert—

the required period for

88 Amendment of s 128 (Register of gifts)

Section 128(2)(e) and (f), ‘section 131(2)’—

omit, insert—

section 131(3)

89 Insertion of new pt 6, div 6A

Part 6—

insert—

Division 6A Authorised officers under pt 6

130A Functions and powers of authorised officers etc.

- (1) The purpose of this division is to ensure the electoral commission has available to it suitably qualified persons who can help the electoral commission properly deal with issues about compliance under this part.
- (2) The functions of an authorised officer under the *Electoral Act 1992*, part 11, also include the following functions (the *further functions*)—
 - (a) to investigate and enforce compliance with this part;
 - (b) to investigate whether an occasion has arisen for the exercise of powers under this part;
 - (c) to facilitate the exercise of powers under this part.
- (3) For the performance of the further functions by an authorised officer—
 - (a) the authorised officer may exercise the officer's powers under the *Electoral Act 1992*, part 11, divisions 15 to 18; and
 - (b) on an application by the authorised officer, a magistrate may issue a warrant for a place under section 336 of that Act only if the magistrate is satisfied there are reasonable grounds for suspecting—
 - (i) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this part; and

- (ii) the evidence is at the place or, within the next 7 days, will be at the place; and
 - (c) the electoral commissioner may decide a seized thing is forfeited to the State under section 354 of that Act; and
 - (d) the authorised officer must comply with part 11, division 19, subdivision 1 of that Act; and
 - (e) a person who incurs a loss because of the exercise, or purported exercise, of a power mentioned in paragraph (a) may apply for compensation under section 367 of that Act; and
 - (f) the electoral commissioner, an authorised officer and a person acting under the authority or direction of an authorised officer are each a designated person for section 372 of that Act; and
 - (g) a reference in part 11 of that Act to an offence against that part is taken to be a reference to an offence against this part; and
 - (h) a person who is given an information notice under part 11 of that Act has a right to appeal under section 374 of that Act.
- (4) In this section—
- authorised officer* means a person who holds office under the *Electoral Act 1992*, part 11, division 14, as an authorised officer.

90 Replacement of s 131 (Statement about returns)

Section 131—

omit, insert—

[s 90]

131 Inability to complete returns

- (1) If a person who is required to give a return under this part considers it is impossible to complete the return because the person is unable to obtain particulars required for the preparation of the return, the person may—
 - (a) prepare the return to the extent it is possible to do so without the particulars; and
 - (b) give the return to the electoral commission; and
 - (c) give the electoral commission a written notice—
 - (i) identifying the return; and
 - (ii) stating that the return is incomplete; and
 - (iii) identifying the particulars; and
 - (iv) stating the reasons the person is unable to obtain the particulars; and
 - (v) if the person believes, on reasonable grounds, that another person can give those particulars—stating that belief and reasons for it and, if known, the name and address of that other person.
- (2) A person who complies with subsection (1) must not, merely because of the omission of the particulars, be taken, for section 195(1), to have failed to comply with that section.
- (3) The electoral commission may, by written notice, ask a person stated in a notice given under subsection (1)(c)(v) or (5)(e), to give the particulars mentioned in the notice to the commission, in writing, within a stated period.

- (4) The person must comply with the requirement.
- (5) If a person required to give particulars under subsection (3) is unable to obtain some or all of the particulars, the person must give the commission a written notice—
 - (a) stating any particulars the person is able to give; and
 - (b) stating that the person is unable to obtain some or all of the particulars; and
 - (c) identifying the particulars the person is unable to obtain; and
 - (d) stating the reasons the person considers the person is unable to obtain the particulars; and
 - (e) if the person believes, on reasonable grounds, that another person whose name and address the person knows can give the particulars—stating that belief and reasons for it and, if known, the name and address of that other person.

91 Amendment of s 134 (Noncompliance with part does not affect election)

Section 134, note—

omit.

92 Omission of s 135 (Definitions for div 1)

Section 135—

omit.

93 Amendment of s 138 (Requirements for an application to be effective)

Section 138(2)(b)—

[s 94]

omit, insert—

- (b) when filing the application, deposit with the court—
 - (i) \$400; or
 - (ii) if a greater amount is prescribed under a regulation—that amount.

94 Amendment of s 145 (Restrictions on particular orders)

Section 145(2)(a), from ‘any member’—

omit, insert—

any of the following persons that appears unlikely to have had the effect that a candidate elected at an election would not have been elected—

- (i) a CEO returning officer;
- (ii) an electoral officer appointed by a CEO returning officer;
- (iii) a member of the electoral commission’s staff; or

95 Omission of s 160 (Evidentiary value of list under s 164)

Section 160—

omit.

96 Amendment of s 163 (Evidentiary provisions)

Section 163, after ‘commission’—

insert—

or a CEO returning officer

97 Omission of s 164 (List of electors failing to vote)

Section 164—

omit.

98 Replacement of s 165 (Notice about failure to vote)

Section 165—

omit, insert—

165 Notice about failure to vote

- (1) The electoral commission may, as soon as practicable after an election, send a notice to each elector who appears to have failed to vote at the election stating that—
 - (a) the elector appears to have failed to vote at the election; and
 - (b) it is an offence to fail, without a valid and sufficient excuse, to vote at the conclusion of the election; and
 - (c) the elector may, if the elector considers the elector has committed the offence, pay one-half of a penalty unit (the *penalty*) to the electoral commission by a stated day, not earlier than 21 days after the elector received the notice (the *appropriate day*), and, if the electoral commission receives the payment by the appropriate day, no further steps will be taken against the elector about the offence; and
 - (d) the elector must—
 - (i) if the elector intends paying the penalty by the appropriate day—sign the appropriate form for payment of the penalty and include payment of the penalty; and
 - (ii) if the elector does not intend paying the penalty by the appropriate day—state, in a form included in or with the notice,

[s 99]

whether the elector voted and, if not,
the reason for failing to vote; and

(iii) sign the form and post or give it to the
electoral commission so it is received
by the appropriate day.

- (2) The elector must comply with the requirements
of the notice.
- (3) Subsection (4) applies if—
- (a) the elector (the *first elector*) is absent or
unable, because of physical incapacity, to
comply with the requirements of the notice;
and
- (b) another elector 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.
- (4) The first elector is taken to have complied with
the requirements of the notice.

99 Amendment of s 166 (Payments for failure to vote)

Section 166(1), ‘section 165(2)(c)(iii)’—

omit, insert—

section 165(d)(i)

100 Omission of s 167 (Recording response to notice)

Section 167—

omit.

101 Amendment of s 168 (Failure to vote)

(1) Section 168(1)(a), ‘valid and sufficient reason’—

omit, insert—

a valid and sufficient excuse

(2) Section 168(2), ‘is valid and sufficient reason’—

omit, insert—

is a valid and sufficient excuse

(3) Section 168—

insert—

(3) An elector may be prosecuted for an offence against subsection (1)(a) only if the elector has been sent a notice about the election under section 165.

(4) In a proceeding for an offence against subsection (1)(a), a certificate purporting to be signed by a member of the electoral commission’s staff stating any of the following matters is evidence of the matter—

(a) an elector failed to vote at the election;

(b) a notice was sent by the electoral commission to the elector under section 165 on a stated day;

(c) a form mentioned in section 165(1) was not received by the electoral commission from the elector by the day stated under the subsection.

(5) If a form is not received by the electoral commission from the elector by the day stated under section 165(1), it is evidence the elector failed to vote at the election without a valid and sufficient excuse.

(6) If a form is received by the electoral commission about the elector’s compliance with section 165, statements in the form purporting to be made by—

(a) the elector are evidence as statements made by the elector; and

[s 102]

(b) another elector under section 165(3) are evidence as statements made by the other elector.

(7) For the *Justices Act 1886*, section 139, 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.

102 Amendment of s 169 (False or misleading information)

Section 169(1), penalty—

omit, insert—

Maximum penalty—7 years imprisonment.

103 Amendment of s 173 (Obstructing electors)

(1) Section 173, heading ‘electors’—

omit, insert—

persons

(2) Section 173, ‘an elector’—

omit, insert—

another person

104 Amendment of s 175 (Forged electoral papers)

Section 175(2), ‘paper’—

omit, insert—

paper, unless the person is authorised to do so under this Act

105 Insertion of new s 176A

Part 9, division 2—

insert—

176A Confidentiality of information

- (1) This section applies to a person who—
 - (a) is involved in the administration of this Act; and
 - (b) gains information because of the person's involvement in the administration.
- (2) The person must not disclose the information to anyone else other than—
 - (a) for the purposes of this Act; or
 - (b) under the authority of another Act; or
 - (c) in a proceeding before a court in which the information is relevant to the issue before the court.

Maximum penalty—40 penalty units or 18 months imprisonment.

106 Amendment of s 177 (Author of election material must be named)

- (1) Section 177(1), 'advertisement authorisation'—

omit, insert—

particulars required by subsection (2)

- (2) Section 177—

insert—

- (1A) The particulars are the name and address, other than a post office box, of the person who authorised the advertisement, handbill, pamphlet or notice.

- (3) Section 177(2)(a), after 'T-shirt,'—

insert—

lapel button,

[s 107]

(4) Section 177(4)—

omit, insert—

(5) In this section—

publish includes publish on the internet, even if the internet site on which the publication is made is located outside Queensland.

(5) Section 177(1A) to (3)—

renumber as section 177(2) to (4).

107 Amendment of s 178 (Distribution of how-to-vote cards)

Section 178(3)(a), ‘party—the party’s name; or’—

omit, insert—

party—

- (i) if the register of political parties includes an abbreviation of the party’s name—the party’s abbreviated name; or
- (ii) otherwise—the party’s full name included in the register of political parties; or

108 Amendment of s 179 (Giving of how-to-vote cards to returning officer)

(1) Section 179, heading, ‘returning officer’—

omit, insert—

electoral commission

(2) Section 179(1) and (2), ‘returning officer for the election’—

omit, insert—

electoral commission

(3) Section 179(3) and (4)—

omit, insert—

- (3) The electoral commission must reject a how-to-vote card received under subsection (1) or (2) if—
 - (a) the how-to-vote card does not comply with section 178(2) to (5); or
 - (b) the electoral commission is satisfied, on reasonable grounds, the how-to-vote card is likely to mislead or deceive an elector in voting under this Act.
- (4) If the electoral commission rejects a how-to-vote card under subsection (3)(b), the electoral commission must give the person who authorised the how-to-vote card written reasons for the rejection.
- (4A) A person to whom reasons are given under subsection (4) may, no later than 5p.m. on the Wednesday immediately before the polling day for the election—
 - (a) revise the how-to-vote card; and
 - (b) give the electoral commission the things mentioned in subsections (1)(a) and (b) or (2)(a) and (b) in relation to the revised how-to-vote card.
- (4B) Before polling day, the returning officer must ensure an accepted how-to-vote card is available—
 - (a) for public inspection for free at—
 - (i) the place of nomination under section 25; and
 - (ii) if the place of nomination is not also the public office of the local government for which the election is to be held—the local government’s public office; and

[s 109]

(b) on the local government's website.

(4) Section 179(6), 'subsection (4) or (5)'—

omit, insert—

subsection (6) or (7)

(5) Section 179(4A) to (7)—

renumber as section 179(5) to (9).

109 Amendment of s 185 (Canvassing in or near polling booths)

(1) Section 185(2), 'an early polling'—

omit, insert—

a pre-polling

(2) Section 185(3)—

insert—

(d) obstruct the free passage of electors.

(3) Section 185(4), 'early polling'—

omit, insert—

pre-polling

110 Amendment of s 191 (Failure to post, fax or deliver documents for someone else)

Section 191(1), from 'to be cast' to 'vote,'—

omit, insert—

under section 72, 77 or 81,

111 Amendment of s 201 (Designated election offences and application of Criminal Code)

Section 201(1)—

insert—

- section 169(1)

112 Amendment of sch (Dictionary)

- (1) Schedule, definitions *applicant*, *application*, *early polling booth*, *name* and *voters roll*—

omit.

- (2) Schedule—

insert—

applicant, for part 7, means a person who files an application.

application, for part 7, means an application about disputing an election under section 138.

CEO returning officer, for an election, means a returning officer for the election who is the chief executive officer of the local government.

electoral commissioner means the electoral commissioner under the *Electoral Act 1992*.

pre-polling booth see section 46(4).

proof of identity document means a document relating to proof of a person's identity prescribed under a regulation.

required period, for part 6, division 3 and 4, see section 116A.

special postal voter see section 68(5A).

voters roll see section 17.

- (3) Schedule, definition *candidate*, 'section 31(1)(a)'—

omit, insert—

section 27(3)(a)

- (4) Schedule, definition *Court of Disputed Returns*, '139'—

omit, insert—

137

- (5) Schedule, definition *electoral officer*, from ‘officer or’—
omit, insert—

officer, presiding officer, issuing officer or a person
appointed by a CEO returning officer under section
12A.

- (6) Schedule, definition *electoral paper*, from ‘paper’—
omit, insert—

paper, declaration envelope or other document issued
by the electoral commission under this Act.

- (7) Schedule, definition *polling booth*, paragraph (c), ‘an early
polling’—

omit, insert—

a pre-polling

- (8) Schedule, definition *properly nominated*, ‘section 31(3)’—
omit, insert—

section 27(5)

- (9) Schedule, definition *returning officer*, ‘appointed under
section 9 as’—

omit, insert—

who under section 9 is the

Part 5 **Minor and consequential amendments**

113 **Acts amended**

Schedule 1 amends the Acts it mentions.

Schedule 1 Minor and consequential amendments

section 113

City of Brisbane Act 2010

1 Section 160A, ‘Electoral Act 1992’—

omit, insert—

Electoral Act

Electoral Act 1992

1 Section 177(2)(a)(ii), ‘Local Government Act 2009’—

omit, insert—

Local Government Electoral Act 2011

Local Government Act 2009

1 Section 90A(1)(a), ‘Local Government Electoral Act 2011’—

omit, insert—

Local Government Electoral Act

2 Section 160B, ‘Electoral Act 1992’—

omit, insert—

Electoral Act

- 3 Chapter 7, part 5A, heading—**
omit.

Local Government Electoral Act 2011

- 1 Section 34(5), ‘subsection (4)’—**
omit, insert—
subsection (3)

- 2 Part 4, division 5, subdivision 3, heading ‘voters’—**
omit, insert—
electors

- 3 Section 149, ‘division 3’—**
omit, insert—
division 2

- 4 Section 182, heading, ‘voters’—**
omit, insert—
electors

- 5 Section 190(1)(a), ‘70, 71’—**
omit, insert—
70