



# **Electoral Act 1992**

**Reprinted as in force on 14 October 2010**

**Reprint No. 7F**

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This Act is reprinted as at 14 October 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

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## Queensland

# Electoral Act 1992

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# Electoral Act 1992

[as amended by all amendments that commenced on or before 14 October 2010]

## An Act relating to the parliamentary elections, and for other purposes

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Electoral Act 1992*.

#### 3 Definitions

In this Act—

*Antarctic elector* has the meaning given by the Commonwealth Electoral Act, section 246(1).

*appointed commissioner* means the chairperson or the nonjudicial appointee.

*Australian parliament* means the parliament of the Commonwealth or a State or Territory.

*average number of enrolled electors for electoral districts* has the meaning given by section 4.

*broadcast* includes televise.

*broadcaster* means—

- (a) the Australian Broadcasting Corporation established under the *Australian Broadcasting Corporation Act 1983* (Cwlth); or

[s 3]

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- (b) the Special Broadcasting Service Corporation established under the *Special Broadcasting Service Act 1991* (Cwlth), section 5; or
- (c) the holder of a licence under the *Broadcasting Services Act 1992* (Cwlth); or
- (d) the provider of a broadcasting service under a class licence under the *Broadcasting Services Act 1992* (Cwlth).

***candidate***, in relation to an election, means a person who has become a candidate under section 88(3).

***chairperson*** means the chairperson of the commission.

***commission*** means the Electoral Commission of Queensland.

***commissioner*** means a commissioner of the commission.

***Commonwealth Electoral Act*** means the *Commonwealth Electoral Act 1918* (Cwlth).

***Commonwealth electoral roll*** means an electoral roll under the Commonwealth Electoral Act.

***complying constitution*** see section 73A.

***continuing candidate***, in relation to a counting of votes, means a candidate who has not been excluded at a previous count of votes.

***cut-off day for electoral rolls*** means—

- (a) for an election—the day so described in the writ for the election; and
- (b) for a referendum—the day so described in the writ for the referendum.

***cut-off day for the nomination of candidates***, in relation to an election, means the day so described in the writ for the election.

***day for the return of a writ*** means the day so described in the writ.



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***declaration envelope*** means—

- (a) a declaration envelope under section 112; or
- (b) another envelope on which there is a declaration to be made by an elector for the purposes of this Act.

***disqualifying electoral offence*** means an offence, of which an offender is convicted after the commencement of the *Electoral and Other Acts Amendment Act 2002*, section 5—

- (a) that relates to—
  - (i) an election of a member of an Australian Parliament; or
  - (i) 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
  - (iii) a referendum conducted under a law of the State, another State or the Commonwealth; or
  - (iv) the enrolment of a person on an electoral roll; and
- (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.

***distribute*** a how-to-vote card—

- (a) includes make the card available to other persons; but
- (b) does not include merely display the card.

*Examples—*

- 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.
- 2 A person does not ‘distribute’ how-to-vote cards if the person attaches the cards to walls and other structures, merely for display.

***election*** means an election of a member or members of the Legislative Assembly.

***election matter*** means anything able to, or intended to—

- (a) influence an elector in relation to voting at an election; or

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(b) affect the result of an election.

**election period** for an election means the period—

(a) beginning on the day after the writ for the election is issued; and

(b) ending at 6p.m. on the polling day for the election.

**elector** means a person entitled to vote under this Act.

**electoral matter** means a matter relating to elections.

**electoral paper** means a ballot paper, declaration envelope or other document issued by the commission for the purposes of this Act.

**electoral redistribution** means a redistribution of the State into electoral districts in accordance with part 3.

**electoral visitor voter** has the meaning given by section 105(4).

**exhausted ballot paper**, in relation to a count of votes, means a ballot paper on which there is not recorded a vote for a continuing candidate.

**first preference vote** means the number 1 or a tick or cross written in a square opposite the name of a candidate on a ballot paper.

**formal ballot paper** has the meaning given by section 114(4).

**general election** means an election for the members of the Legislative Assembly.

**how-to-vote card** means a card, handbill or pamphlet that—

(a) is or includes—

(i) a representation of a ballot paper or part of a ballot paper; or

(ii) something apparently intended to represent a ballot paper or part of a ballot paper; or

(b) lists the names of any or all of the candidates for an election with a number indicating an order of voting preference against the names of any or all of the candidates; or

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- (c) otherwise directs or encourages the casting of preference votes, other than first preference votes, in a particular way.

***illegal election practice*** means any contravention of this Act.

***informal ballot paper*** has the meaning given by section 114(5).

***institution*** means—

- (a) a hospital; or
- (b) a convalescent home; or
- (c) a nursing home; or
- (d) a home for the aged; or
- (e) a hostel for the aged or infirm; or
- (g) another place that is declared by a regulation to be an institution; or
- (h) any part of a place to which paragraphs (a) to (g) apply.

***issuing officer*** means a member of the commission's staff who is responsible for issuing ballot papers or declaration envelopes under this Act or the *Referendums Act 1997* to electors at an election or referendum.

***member*** of a political party means a person who is a member of the political party or a related political party.

***mobile polling booth*** has the meaning given by section 94.

***nonjudicial appointee*** means the commissioner mentioned in section 7(2)(c).

***ordinary polling booth*** has the meaning given by section 94.

***ordinary postal voter*** has the meaning given by section 105(2).

***ordinary vote*** means a vote that is not a declaration vote.

***Editor's note***—

Part 6, division 5, subdivision 2 is about the meaning and operation of declaration voting.

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**ordinary voting hours** means voting hours in relation to ordinary polling booths.

**parliament** of a Territory means the legislature of the Territory.

**parliamentary committee** means the Law, Justice and Safety Committee of the Legislative Assembly.

**parliamentary party** means a political party of which at least 1 member is a member of an Australian parliament.

**political party** means an organisation whose object, or 1 of whose objects, is 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.

**polling booth** means an ordinary polling booth or a mobile polling booth.

**polling day**, in relation to an election, means the day so described in the writ for the election.

**polling place** means—

- (a) a polling booth; or
- (b) another place where voting takes place.

**postal voter** means an elector who is—

- (a) an ordinary postal voter; or
- (b) a special postal voter.

**preselection ballot**—

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

*Example—*

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

***publicly available part of an electoral roll*** means that part of an electoral roll that does not contain—

- (a) if section 58(4) applies in relation to a person whose name is on the roll—the address of the person; and
- (b) in any case—information of a kind declared by regulation to be restricted information.

***Queensland parliamentary party*** means a parliamentary party of which at least 1 member is a member of the Legislative Assembly.

***referendum*** means a referendum under the *Referendums Act 1997*.

***registered officer*** of a registered political party means the person shown in the register of political parties as the party's registered officer, and includes a person nominated under section 72A as deputy of a party's registered officer.

***registered political party*** means a political party that is registered in the register of political parties.

***register of candidates*** means the register kept under section 96.

***register of political parties*** means the register kept under section 69.

***register of special postal voters*** means the register kept under section 67A.

***registrable political party*** means a political party that—

- (a) either—
  - (i) is a parliamentary party; or
  - (ii) has at least 500 members who are electors; and
- (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.

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*related political party* has the meaning given by section 6.

*scrutineer* means a person appointed under section 99.

*secretary* of a political party means the person who holds the office (however described) whose duties involve responsibility for carrying out the administration, and dealing with the external correspondence, of the party.

*senior electoral officer* means the electoral commissioner or the deputy electoral commissioner.

*special postal voter* has the meaning given by section 105(3).

*voting compartment* means a compartment in a polling place where electors may vote in private.

*voting hours* of a polling place means the hours during which electors may enter the polling place.

#### **4 Average number of enrolled electors for electoral districts**

(1) In this Act—

*average number of enrolled electors for electoral districts* means the number worked out by dividing the total number of enrolled electors for all electoral districts by 89.

(2) If the number includes a fraction, the number must be rounded to the nearest whole number (rounding one-half upwards).

#### **5 When electoral redistribution etc. becomes final**

For the purpose of this Act, any electoral redistribution undertaken under this Act becomes final when all appeals, and proceedings in relation to appeals, that have been instituted under section 57 have been determined and the time for all such appeals and proceedings to be instituted has passed.

#### **6 Related political parties**

For the purposes of this Act, 2 political parties are related political parties if—

- (a) 1 is a part of the other; or
- (b) both are parts of the same political party.

## **Part 2 Administration**

### **Division 1 The electoral commission**

#### **7 Establishment of Electoral Commission of Queensland etc.**

- (1) A commission called the Electoral Commission of Queensland is established.
- (2) When the commission is performing its functions under part 3, the commission consists of the following commissioners—
  - (a) the chairperson;
  - (b) the electoral commissioner;
  - (c) 1 other commissioner.
- (3) When the commission is performing its functions other than its functions under part 3, the commission consists solely of the electoral commissioner.
- (4) The chairperson and the nonjudicial appointee—
  - (a) are to be appointed by the Governor in Council; and
  - (b) hold office on a part-time basis.
- (5) The person appointed as chairperson must—
  - (a) be a judge or former judge of a court of the Commonwealth or a State or Territory; and
  - (b) have been a judge for at least 3 years.
- (6) A person appointed as the nonjudicial appointee must be—
  - (a) the chief executive of a department; or

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- (b) the holder of an office established by or under an Act that the Governor in Council considers to be equivalent to the chief executive of a department.
- (7) A person may be appointed as the chairperson or nonjudicial appointee only if the Minister has consulted—
- (a) with each member of the Legislative Assembly recognised as the leader of a political party represented in the Assembly about the proposed appointment; and
  - (b) with the parliamentary committee about—
    - (i) the process of selection for appointment; and
    - (ii) the appointment of the person as the chairperson or nonjudicial appointee.

## **8 Functions and powers of commission**

- (1) The functions of the commission are to—
- (a) perform functions that are permitted or required to be performed by or under this Act, other than functions that a specified person or body, or the holder of a specified office, is expressly permitted or required to perform; and
  - (b) conduct a review of the appropriateness of the number of electoral districts whenever the Minister requests it, in writing, to conduct such a review, and report to the Minister the results of the review; and
  - (c) consider, and report to the Minister on—
    - (i) electoral matters referred to it by the Minister; and
    - (ii) such other electoral matters as it considers appropriate; and
  - (d) promote public awareness of electoral matters by conducting education and information programs and in other ways; and
  - (e) implement strategies to encourage persons, particularly those belonging to groups with traditionally low enrolment rates, to enrol as electors; and



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- (f) implement strategies to maintain the integrity of the electoral rolls; and
  - (g) provide information and advice on electoral matters to the Legislative Assembly, the government, departments and government authorities; and
  - (h) conduct and promote research into electoral matters and other matters that relate to its functions; and
  - (i) publish material on matters that relate to its functions; and
  - (j) perform any other functions that are conferred on it by or under another Act.
- (2) The commission (the *Queensland commission*) may perform any of its functions under subsection (1)(d) to (i) in conjunction with the Australian Electoral Commission.
  - (3) The Governor may arrange with the Governor-General for the performance by the Australian Electoral Commission of any functions on behalf of the Queensland commission.
  - (4) The Commission may do all things necessary or convenient to be done for or in connection with the performance of its functions.

## **9 Queensland redistribution commission**

When performing its functions under part 3, the commission is to be known as the Queensland Redistribution Commission.

## **10 Tenure and terms of office**

- (1) An appointed commissioner holds office, subject to this division, for such term (not longer than 7 years) as is specified in the commissioner's instrument of appointment.
- (2) If the nonjudicial appointee was at the time of appointment the chief executive of a department, the person ceases to hold office if the person no longer holds office as chief executive of a department.

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- (3) If the nonjudicial appointee was at the time of appointment the holder of an office mentioned in section 7(6)(b), the person ceases to hold office if the person no longer holds that office and does not hold office as chief executive of a department.
- (4) An appointed commissioner holds office on such terms, relating to remuneration and other matters not provided for by this Act, as are determined by the Governor in Council.
- (5) An appointed commissioner is to be appointed under this Act, and not under the *Public Service Act 2008*.

## **11 Leave of absence**

The commission may grant an appointed commissioner leave of absence from a meeting of the commission.

## **12 Resignation**

An appointed commissioner may resign office by signed notice given to the Governor.

## **13 Disclosure of interests**

- (1) A commissioner who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the commission must, as soon as possible after the relevant facts have come to the commissioner's knowledge, disclose the nature of the interest at a meeting of the commission.
- (2) The disclosure must be recorded in the minutes of the meeting of the commission and the commissioner must not, unless the Minister otherwise determines—
  - (a) be present during any deliberation of the commission in relation to the matter; or
  - (b) take part in any decision of the commission in relation to the matter.

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## **14 Termination of appointment**

The Governor in Council must terminate the appointment of an appointed commissioner if the appointed commissioner—

- (a) accepts nomination for election to an Australian parliament; or
- (b) becomes a member of a political party; or
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
- (d) is absent, without the commission's leave and without reasonable excuse, from 3 consecutive meetings of the commission; or
- (e) contravenes section 13 without reasonable excuse.

## **15 Acting appointments**

The Governor in Council may appoint a person to act as an appointed commissioner—

- (a) during a vacancy in the office; or
- (b) during any period, or all periods, when the appointed commissioner is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office.

## **16 Meetings of commission**

- (1) The chairperson may, at any time, convene a meeting of the commission.
- (2) If the chairperson is absent or otherwise unavailable to perform the chairperson's duties and no one is acting as chairperson, the electoral commissioner may convene a meeting of the commission.

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- (3) The chairperson must convene such meetings of the commission as, in the chairperson's opinion, are necessary for the efficient performance of its functions.
- (4) At a meeting of the commission, 2 commissioners constitute a quorum.
- (5) The chairperson must preside at all meetings of the commission at which the chairperson is present.
- (6) If the chairperson is not present at a meeting of the commission, the commissioners present must choose 1 of them to preside.
- (7) Questions arising at a meeting of the commission are to be determined by a majority of the votes of the commissioners present and voting.
- (8) The person presiding at a meeting of the commission has a deliberative vote and, if the votes on a question are equal, also has a casting vote.
- (9) If, at a meeting of the commission at which only 2 commissioners are present (other than a meeting from which a commissioner is absent because of section 13), the commissioners differ in opinion on any matter, the determination of the matter must be postponed to a meeting of the commission at which all commissioners are present.
- (10) The commission may regulate the conduct of proceedings at its meetings as it considers appropriate.
- (11) This section applies to the commission only when it is performing its functions under part 3.

## **17 Estimates**

- (1) The commission must give the Minister a statement in relation to each financial year setting out—
  - (a) estimates of the commission's receipts and expenditure for the financial year; and
  - (b) the purpose of the expenditure; and

- 
- (c) the commission's receipts and expenditure for the previous financial year; and
  - (d) if the commission has previously given the Minister a statement under this section in relation to the previous financial year—the estimates of receipts and expenditure set out in the statement.
- (2) The commission must comply with any request by the Minister relating to the time when the statement is to be given to the Minister.

## **18 Delegation by commission**

- (1) The commission may, by resolution, delegate to a commissioner, a senior electoral officer or a member of the commission's staff its powers under part 3 (other than under sections 44 to 46 or section 50).
- (2) A certificate signed by the chairperson stating any matter with respect to a delegation of a power under subsection (1) is prima facie evidence of the matter.
- (3) The electoral commissioner may delegate to the deputy electoral commissioner or a member of the commission's staff the commission's powers under this Act (other than under part 3).
- (4) A certificate signed by the electoral commissioner, stating any matter with respect to a delegation of power under subsection (3) is prima facie evidence of the matter.
- (5) A document purporting to be a certificate under subsection (2) or (4) is taken to be such a certificate unless the contrary is established.

## **19 Reports by commission**

- (1) As soon as practicable after, but not more than 4 months after, the end of each financial year, the commission must give to the Minister a report of the commission's operations during that year.

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- (2) The commission must, as soon as practicable after the return of the writ for an election, give to the Minister a report on the operation of part 6 in relation to the election.
- (3) The Minister must cause a copy of each report given to the Minister (whether under this section or otherwise) to be laid before the Legislative Assembly within 3 sitting days after the Minister receives the report.

## **20 Electoral officer accountable officer**

For the *Financial Accountability Act 2009*, the electoral commissioner is the accountable officer of the commission.

## **Division 2 Electoral commissioner and deputy electoral commissioner**

### **21 Electoral commissioner**

There is to be an electoral commissioner.

### **22 Deputy electoral commissioner**

- (1) There may be a deputy electoral commissioner.
- (2) Subject to any directions by the commission, the deputy electoral commissioner is to perform such duties as the electoral commissioner directs.
- (3) The deputy electoral commissioner is to act as the electoral commissioner—
  - (a) during vacancies in the office of the electoral commissioner; or
  - (b) during periods when the electoral commissioner is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.
- (4) While the deputy electoral commissioner is acting as electoral commissioner—

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- (a) the deputy electoral commissioner has all the powers and functions of the electoral commissioner; and
  - (b) this Act and other Acts apply to the deputy electoral commissioner as if the deputy electoral commissioner were the electoral commissioner.
- (5) Anything done by or in relation to the deputy electoral commissioner while the deputy electoral commissioner is purporting to act as electoral commissioner is not invalid merely because the occasion for the deputy electoral commissioner to act had not arisen or had ceased.

### **23 Terms and conditions of appointment etc.**

- (1) A senior electoral officer is to be appointed by the Governor in Council.
- (2) A person may be appointed as a senior electoral officer only if—
  - (a) press advertisements have been placed nationally calling for applications from suitably qualified persons to be considered for appointment; and
  - (b) the Minister has consulted—
    - (i) with each member of the Legislative Assembly recognised as the leader of a political party represented in the Assembly about the proposed appointment; and
    - (ii) with the parliamentary committee about—
      - (A) the process of selection for appointment; and
      - (B) the appointment of the person as the senior electoral officer.
- (3) Subsection (2)(a) and (b)(i) does not apply to the reappointment of a person as senior electoral officer.
- (4) A person who is a member of a political party is not to be appointed as a senior electoral officer.

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- (5) A senior electoral officer holds office, subject to this part, for such term (not longer than 7 years) as is specified in the senior electoral officer's instrument of appointment.
- (6) A senior electoral officer is to be appointed under this Act, and not under the *Public Service Act 2008*.
- (7) If an officer of the public service is appointed as a senior electoral officer, the person retains and is entitled to all rights that have accrued to the person because of employment as an officer of the public service, or that would accrue in the future because of that employment, as if service as a senior electoral officer were a continuation of service as an officer of the public service.
- (8) A senior electoral officer holds office on such terms, relating to remuneration and other matters not provided for by this Act, as are determined by the Governor in Council.

## **24 Leave of absence**

- (1) The Minister may grant leave of absence to the electoral commissioner on such terms as the Minister determines.
- (2) The commission may grant leave of absence to the deputy electoral commissioner on such terms as the commission determines.

## **25 Resignation**

A senior electoral officer may resign office by signed notice given to the Governor.

## **26 Termination of appointment**

- (1) The Governor in Council may terminate the appointment of a senior electoral officer for misbehaviour or physical or mental incapacity.
- (2) The Governor in Council must terminate a senior electoral officer's appointment if the senior electoral officer—



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- (a) accepts nomination for election to an Australian parliament; or
  - (b) becomes a member of a political party; or
  - (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or
  - (d) is absent, without leave of absence and without reasonable excuse, for—
    - (i) 14 consecutive days; or
    - (ii) 28 days in any year; or
  - (e) contravenes section 13 without reasonable excuse; or
  - (f) engages in paid employment outside the duties of the office without the Minister's approval.

## **27 Acting electoral commissioner**

The Governor in Council may appoint a person, who is eligible for appointment as electoral commissioner, to act as electoral commissioner during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the electoral commissioner is absent from duty, or can not, for another reason, perform the duties of office.

## **28 Acting deputy electoral commissioner**

The Governor in Council may appoint a person, who is eligible for appointment as deputy electoral commissioner, to act as deputy electoral commissioner during—

- (a) any vacancy, or all vacancies, in the office; or
- (b) any period, or all periods, when the deputy electoral commissioner is absent from duty, or can not, for another reason, perform the duties of the office.

## **29 Notice of appointment**

Notice of the appointment of a person as, or to act as, a senior electoral officer must be published in the gazette.

## **Division 3 Staff of the commission**

### **30 Staff**

- (1) The staff of the commission consist of—
  - (a) electoral registrars, returning officers and assistant returning officers appointed under this division; and
  - (b) other staff necessary for the performance of the commission's functions.
- (2) The staff of the commission are to be employed under the *Public Service Act 2008*.
- (3) Subsection (2) does not apply to—
  - (a) electoral registrars, returning officers and assistant returning officers; and
  - (b) persons employed on a temporary basis in connection with the conduct of a particular election or referendum.
- (4) The commission may, on behalf of the State, employ persons on a temporary basis in connection with the conduct of a particular election or referendum.

### **31 Electoral registrars**

- (1) The Governor in Council may, on the recommendation of the commission, appoint 1 or more electoral registrars for an electoral district.
- (2) A person may be appointed as electoral registrar for 2 or more electoral districts.
- (3) The following persons may be appointed as electoral registrars—

- 
- (a) returning officers under the the *Local Government Act 2009*;
  - (b) divisional returning officers under the Commonwealth Electoral Act if the appointments are made under an arrangement between the Governor and the Governor-General.
- (4) A person must not be appointed as an electoral registrar if the person is a member of a political party.
  - (5) Without limiting the powers of the Governor in Council to terminate the appointment of electoral registrars, the Governor in Council must terminate the appointment of an electoral registrar if the electoral registrar becomes a member of a political party.
  - (6) An electoral registrar must act in accordance with any directions given by the commission.

## **32 Returning officers**

- (1) The Governor in Council may, on the recommendation of the commission, appoint an elector as the returning officer for an electoral district.
- (2) A person must not be appointed as a returning officer if the person is—
  - (a) a minor; or
  - (b) a member of a political party.
- (3) Without limiting the powers of the Governor in Council to terminate the appointment of returning officers, the Governor in Council must terminate the appointment of a returning officer if the returning officer becomes a member of a political party.
- (4) A returning officer must act in accordance with any directions given by the commission.

### **33 Assistant returning officers**

- (1) The Governor in Council may, on the recommendation of the commission, appoint an elector as assistant returning officer, or electors as assistant returning officers, for an electoral district.
- (2) A person must not be appointed as an assistant returning officer if the person is—
  - (a) a minor; or
  - (b) a member of a political party.
- (3) Without limiting the powers of the Governor in Council to terminate the appointment of assistant returning officers, the Governor in Council must terminate the appointment of an assistant returning officer if the assistant returning officer becomes a member of a political party.
- (4) An assistant returning officer must assist the returning officer for the electoral district in performing the returning officer's functions under this Act.
- (5) The commission may appoint an assistant returning officer for an electoral district to act as the returning officer for the electoral district—
  - (a) during a vacancy in the office of returning officer; or
  - (b) during any period, or all periods, when the returning officer is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.
- (6) While an assistant returning officer is assisting the returning officer or acting as returning officer—
  - (a) the assistant returning officer has all the powers and functions of the returning officer; and
  - (b) this Act applies to the assistant returning officer as if the assistant returning officer were the returning officer.
- (7) The commission may appoint a person to act as an assistant returning officer during any period, or all periods, when—

- (a) there is not an assistant returning officer for an electoral district; or
  - (b) the assistant returning officer is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.
- (8) While a person is acting as assistant returning officer—
- (a) the person has all the powers and functions of the assistant returning officer; and
  - (b) this Act applies to the person as if the person were the assistant returning officer.
- (9) Anything done by or in relation to a person while the person is purporting to act under this section is not invalid merely because the occasion for the person to act had not arisen or had ceased.
- (10) An assistant returning officer must act in accordance with any directions given by the commission.

### **33A Confidentiality of information**

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—

- (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.

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## **Part 3                      Electoral districts and electoral redistributions**

### **Division 1                Distribution etc. of State into electoral districts**

#### **34            Number of electoral districts for the State**

There are 89 electoral districts for the State.

#### **35            Distribution, and redistribution, of State into electoral districts**

- (1) Until the first electoral redistribution under this Act has become final, the State is distributed into electoral districts in accordance with the *Electoral Districts Act 1991*.
- (2) Division 2 describes when the need for electoral redistributions arises.
- (3) Subject to subsections (4) and (5), when the need for an electoral redistribution arises, the commission must, as soon as practicable, redistribute the State into the 89 electoral districts in the way set out in division 3.
- (4) If the need for an electoral redistribution arises more than 16 months after the day on which the writ for the previous general election was returned, the commissioner must defer undertaking the electoral redistribution until after the return of the writ for the next general election.
- (5) If—
  - (a) the need for an electoral redistribution arises in the period between the issue and return of a writ for a general election; or
  - (b) a writ for a general election is issued while the commission is undertaking an electoral redistribution;

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the commission must defer undertaking, or any further action in undertaking, the electoral redistribution until after the return of the writ.

- (6) If the commission is required by subsection (3) to undertake a redistribution, the commission must, as soon as practicable after the requirement arises, publish a gazette notice—
- (a) stating that the requirement has arisen; and
  - (b) setting out the membership of the commission at the time.

## **Division 2                      When need for an electoral redistribution arises**

### **36            Need for electoral redistribution arises in 3 circumstances**

The need for an electoral redistribution arises if 1 of the following sections applies—

- (a) section 37;
- (b) section 38;
- (c) section 39.

### **37            Electoral redistribution because of changed number of electoral districts**

The need for an electoral redistribution arises if this Act is amended to change the number of electoral districts for the State.

### **38            Electoral redistribution after certain number of elections and minimum period**

The need for an electoral redistribution arises—

- (a) 1 year after the day appointed for the return of writs for the third general election held after—

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- (i) the electoral distribution under the *Electoral Districts Act 1991* became final; or
  - (ii) an electoral redistribution, or the latest electoral redistribution, under this Act becomes final; or
- (b) 7.5 years after—
- (i) the electoral distribution under the *Electoral Districts Act 1991* became final; or
  - (ii) an electoral redistribution, or the latest electoral redistribution, under this Act becomes final;
- whichever is the later.

### **39 Electoral redistribution because of enrolment changes**

- (1) The need for an electoral redistribution arises if the requirement set out in section 45 would not be satisfied in respect of one-third or more of electoral districts for 2 months in a row, assuming that it were applied by reference to the number of enrolled electors and the average number of enrolled electors for electoral districts as gazetted under section 63 for each of the months.
- (2) For the purposes of subsection (1), it is not necessary that the requirement would not be satisfied in respect of the same one-third or more of electoral districts for the 2 months in a row.

### **40 Situation if need for more than 1 electoral redistribution arises**

If, during the period beginning when the need for an electoral redistribution arises under section 37, 38 or 39 and ending when the electoral redistribution becomes final, the need for another electoral redistribution arises under any of those sections (including the same section)—

- (a) the need for the other electoral redistribution does not arise; and



- (b) for the purposes of any later application of section 39, any month occurring wholly or partly during the period is to be disregarded.

## **Division 3                      How electoral redistributions are to be undertaken**

### **41            Scope of division**

- (1) This division sets out the way in which the commission is to undertake an electoral redistribution.
- (2) The steps involved are—
  - (a) inviting suggestions (section 42); and
  - (b) inviting comments on the suggestions (section 43); and
  - (c) preparing a proposed electoral redistribution (sections 44 to 46); and
  - (d) publishing the proposed electoral redistribution (section 47); and
  - (e) inviting objections against the proposed electoral redistribution (section 48); and
  - (f) inviting comments on the objections (section 49); and
  - (g) considering objections and comments (section 50); and
  - (h) making the electoral redistribution (section 51); and
  - (i) advertising the electoral redistribution (section 53); and
  - (j) tabling all relevant documents (section 54).
- (3) The division also contains provisions relating to—
  - (a) when the redistribution takes effect (section 52); and
  - (b) appeals against boundaries of electoral districts (section 57).

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## **42 Inviting suggestions**

- (1) As soon as practicable after the need for an electoral redistribution arises, the commission must invite suggestions from persons and bodies relating to the redistribution.
- (2) The invitation must be made by notice published in accordance with section 56.
- (3) The notice must state that suggestions are to be given to the commission in writing within 30 days after the notice is published in the gazette in accordance with section 56.

## **43 Inviting comments on suggestions**

- (1) As soon as practicable after the 30 days mentioned in section 42(3), the commission must make available for public inspection, without fee, copies of all suggestions given to it within the 30 days.
- (2) As soon as practicable after the 30 days, the commission must also publish a notice in accordance with section 56 that—
  - (a) advises of the availability for inspection of the copies of the suggestions; and
  - (b) states that any person or body may comment in writing to the commission on the suggestions within 21 days after the notice is published in the gazette in accordance with section 56.
- (3) As soon as practicable after the 21 days, the commission must make available for public inspection, without fee, copies of all comments given to it within the 21 days.
- (4) Suggestions and comments must be made available for public inspection at the commission's office and any other places in the State that the commission considers appropriate.

## **44 Preparing proposed electoral redistribution**

- (1) As soon as practicable after the 21 days mentioned in section 43(2)(b), the commission must prepare a proposed redistribution of the State into electoral districts.

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- (2) The proposed redistribution must include proposed names for the proposed electoral districts.
  - (3) In preparing the proposed electoral redistribution, the commission must—
    - (a) take into account all suggestions and comments properly made under sections 42 and 43; and
    - (b) comply with the following sections—
      - (i) section 45;
      - (ii) section 46.

#### **45 Proposed electoral redistribution must be within numerical limits**

- (1) In preparing the proposed redistribution, the commission must ensure that the following requirement is satisfied, as at the end of the 21 days mentioned in section 43(2)(b), for each proposed electoral district—
  - (a) if the electoral district has an area of less than 100000km<sup>2</sup>—that the number of enrolled electors does not differ from the average number of enrolled electors for electoral districts by more than 10%;
  - (b) if the electoral district has an area of 100000km<sup>2</sup> or more—the sum of the number of enrolled electors and the additional large district number does not differ from the average number of enrolled electors for electoral districts by more than 10%.
- (2) In subsection (1)(b)—

***additional large district number*** means 2% of the number of km<sup>2</sup> in the area of the electoral district.

#### **46 Matters to be considered in preparing proposed electoral redistribution**

- (1) In preparing the proposed redistribution, the commission must consider the following matters—

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- (a) the extent to which there is a community of economic, social, regional or other interests within each proposed electoral district;
  - (b) the ways of communication and travel within each proposed electoral district;
  - (c) the physical features of each proposed electoral district;
  - (d) the boundaries of existing electoral districts;
  - (e) demographic trends in the State, with a view to ensuring as far as practicable that, on the basis of the trends, the need for another electoral redistribution will not arise under section 39 before it does under section 38.
- (2) The commission may also consider the boundaries of local government areas to the extent that it is satisfied that there is a community of economic, social, regional or other interests within each local government area.
- (3) The commission may give such weight to each of the matters set out in subsections (1) and (2) as it considers appropriate.
- (4) It is the intention of the parliament—
  - (a) that the way in which this section is to be applied in preparing the proposed redistribution should be for the commission alone to decide; and
  - (b) that decisions of the commission relating to the application of this section should be final and conclusive.
- (5) Without limiting subsection (4), a decision of the commission about—
  - (a) the existence of any matter mentioned in subsection (1) or (2); or
  - (b) the weight (if any) to be given to each such matter;can not be called in question in an appeal under section 57.

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**47 Publishing proposed electoral redistribution**

- (1) As soon as practicable after the commission has prepared the proposed electoral redistribution, it must comply with this section and section 48.
- (2) The commission must—
  - (a) make available for public inspection, without fee, at its office a single map showing, or a number of maps together showing, the names and boundaries of all proposed electoral districts; and
  - (b) make available for public inspection, without fee, at its office and at any other places in the State that the commission considers appropriate—
    - (i) a description of the boundaries of all proposed electoral districts; and
    - (ii) its reasons for redistributing the State in the way proposed (including the reasons of any commissioner who disagrees with the redistribution in that way).
- (3) The commission must display, in a place to which the public has ready access, and at any other place that the commission considers appropriate, in each proposed electoral district a map showing the boundaries of the proposed electoral district.

**48 Inviting objections against proposed electoral redistribution**

- (1) The commission must publish a notice in accordance with section 56 that—
  - (a) advises of the availability for inspection, and the display, of the things mentioned in section 47(2) and (3); and
  - (b) states that any person or body may object in writing to the commission against the proposed electoral redistribution within 30 days after publication of the notice in the gazette in accordance with section 56; and

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- (c) is accompanied by a single map showing, or a number of maps together showing, the names and boundaries of all proposed electoral districts.
- (2) At any time before publishing a notice under subsection (1), the commission may make public its proposed electoral redistribution.

#### **49 Inviting comments on objections**

- (1) As soon as practicable after the 30 days mentioned in section 48(1)(b), the commission must make available for public inspection, without fee, copies of all objections given to it within the 30 days.
- (2) As soon as practicable after the 30 days, the commission must also publish a notice in accordance with section 56 that—
  - (a) advises of the availability for inspection of the copies of the objections; and
  - (b) states that any person or body may comment in writing to the commission on the objections within 10 days after the notice is published in the gazette in accordance with section 56.
- (3) As soon as practicable after the 10 days, the commission must make available for public inspection, without fee, copies of all comments given to it within the 10 days.
- (4) Objections and comments must be made available for public inspection at the commission's office and any other places in the State that the commission considers appropriate.

#### **50 Considering objections and comments**

If an objection or comment given to the commission within the period allowed under section 48 or 49 raises a matter that has not already been raised, or substantially raised, in a suggestion or comment under section 42 or 43, the commission must—

- (a) consider the objection or comment; and

- (b) make any changes to the proposed electoral redistribution that it considers would be necessary if sections 45 and 46 were being complied with.

## **51 Making electoral redistribution**

- (1) The commission must, within 60 days after the end of the 30 days mentioned to in section 48(1)(b), publish a gazette notice stating that the State is redistributed into the electoral districts whose names and boundaries are set out in the notice.
- (2) The names and boundaries set out in the notice are to be the same as those for the proposed electoral redistribution, incorporating any changes made under section 50.
- (3) The commission may, at any time before publishing the notice, make public anything that it intends to publish in the notice.

## **52 When redistribution takes effect**

- (1) At the end of 21 days after the publication of the notice, but subject to section 57(6), the State is redistributed into the electoral districts, and those districts have the names, set out in the notice.
- (2) The State remains so redistributed until the next electoral redistribution becomes final.

## **53 Advertising electoral redistribution**

- (1) As soon as practicable after publishing the notice under section 51(1), the commission must comply with this section.
- (2) The commission must—
  - (a) make available for public inspection, without fee, at its office a single map showing, or a number of maps together showing, the names and boundaries of all electoral districts; and

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- (b) make available for public inspection, without fee, at its office and at any other places in the State that the commission considers appropriate—
  - (i) a description of the boundaries of all electoral districts in the State; and
  - (ii) its reasons for redistributing the State in that way (including the reasons of any commissioner who disagrees with the redistribution in that way).
- (3) The commission must display, in a place to which the public has ready access, and at any other place that the commission considers appropriate, in each electoral district a map showing the boundaries of the electoral district.
- (4) The commission must publish a notice advising of the availability for inspection, and the display, of the things mentioned in subsections (2) and (3) in—
  - (a) a newspaper circulating generally in the State; and
  - (b) any regional newspapers, circulating in any parts of the State, that the commission considers appropriate.

#### **54 Tabling all relevant documents**

- (1) As soon as practicable after publishing the notice under section 51(1), the commission must give the Minister a copy of—
  - (a) all suggestions properly made to it under section 42; and
  - (b) all comments properly made to it under section 43; and
  - (c) the things made available for public inspection under section 47(2); and
  - (d) all objections properly made to it under section 48; and
  - (e) all comments properly made to it under section 49; and
  - (f) the notice published under section 51(1); and
  - (g) the commission's reasons for distributing the State in the way set out in the notice, together with the reasons of



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any commissioner who disagrees with the redistribution in that way.

- (2) The Minister must cause a copy of the things given to the Minister under subsection (1) to be laid before the Legislative Assembly within 5 sitting days after the Minister receives them.

## **55 Commission may hold public hearings**

Without limiting its powers under section 8(4), the commission may conduct such public hearings as it considers appropriate for the purposes of this division.

## **56 How notices are to be published**

If, under this division, the commission is required to publish a notice in accordance with this section, the commission must publish the notice in—

- (a) the gazette; and
- (b) a newspaper circulating generally in the State; and
- (c) any regional newspaper, circulating in a part of the State, that the commission considers appropriate.

## **57 Appeals against boundaries of electoral districts**

- (1) An elector may appeal to the Court of Appeal against the boundaries set out in the notice under section 51(1) on the ground that the commission has not complied with this part in making the proposed electoral redistribution.
- (2) The appeal must be made—
  - (a) within 21 days after the publication of the notice; and
  - (b) in accordance with the rules of court of the Court of Appeal.
- (3) The commission is the respondent to the appeal.

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- (4) If more than 1 appeal is made against the boundaries, every appeal must be dealt with in the same proceeding.
- (5) Any person having an interest in the appeal may apply to the court to be joined as a party to the appeal.
- (6) If an appeal is made, the notice under section 51(1) does not take effect until the appeal has been disposed of by the court.
- (7) On the hearing of the appeal under this section, the court may—
  - (a) by order—
    - (i) quash the notice, in whole or part, and, subject to such directions as it considers appropriate, order the commission to make a fresh or amended notice under section 51(1); or
    - (ii) dismiss the appeal; and
  - (b) make any ancillary order as to costs or any other matter that it considers appropriate.
- (8) The court may make an order quashing the notice, in whole or part, only if the court is satisfied that—
  - (a) the commission has not complied with this part in making the proposed redistribution; and
  - (b) the noncompliance has had, or may have had, a significant effect on the boundaries of the electoral districts into which the State is to be redistributed under the notice under section 51(1); and
  - (c) the interests of justice require the making of the order.
- (9) The validity of the electoral redistribution may only be called in question in an appeal under this section.
- (10) An appeal against the boundaries must—
  - (a) be set down for hearing by the court as soon as practicable after the end of 21 days from the publication of the notice under section 51(1); and
  - (b) must be heard and determined by the court as a matter of urgency.

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- (11) Except as provided in this section, a decision made, or appearing to have been made, by the commission or a commissioner under or for the purposes of this part—
- (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or otherwise called in question in any court or tribunal on any ground; and
  - (c) is not subject to mandamus, prohibition, certiorari, injunction or any declaratory or other order of any court on any ground.

*Editor's note—*

*Judicial Review Act 1991, section 41—*

**41 Certain prerogative writs not to be issued**

- (1) The prerogative writs of mandamus, prohibition or certiorari are no longer to be issued by the court.
- (2) If, before the commencement of this Act, the court had jurisdiction to grant any relief or remedy by way of a writ of mandamus, prohibition or certiorari, the court continues to have the jurisdiction to grant the relief or remedy, but must grant the relief or remedy by making an order, the relief or remedy under which is in the nature of, and to the same effect as, the relief or remedy that could, but for subsection (1), have been granted by way of such a writ.
- (3) In an enactment in force immediately before the commencement of this Act, a reference to a writ of mandamus, prohibition or certiorari is taken to be a reference to an order of a kind that the court is empowered to make under this section.

- (12) In this section—

***decision*** includes a failure to make a decision.

## **Part 4                      Electoral rolls**

### **Division 1                      Commission to keep electoral rolls**

#### **58                      Commission to keep electoral rolls**

- (1) The commission must keep an electoral roll for each electoral district.
- (2) Each electoral roll must, in accordance with this part, contain information in relation to the persons entitled to be enrolled for the electoral district.
- (3) Each electoral roll must also set out, in relation to each person—
  - (a) the person’s surname and given names; and
  - (b) the person’s address; and
  - (c) the person’s sex, occupation and date of birth; and
  - (d) an identifying number; and
  - (e) any other prescribed information.
- (3A) Each electoral roll may also set out, for each person who holds office—
  - (a) as a justice of the peace—the initials ‘JP’ after the person’s name; or
  - (b) as a commissioner for declarations—the initials ‘Cd’ after the person’s name.
- (4) If the commission is satisfied that the inclusion on a roll of a person’s address would place at risk the personal safety of the person or another person, the person’s address must not be set out in the publicly available part of the roll.
- (5) For the purposes of subsection (3)(b), a person’s address may, in the case of a roll prepared otherwise than in a printed form, be stated as a post office box number, mail service number or in another appropriate way in addition to the person’s residential address.

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- (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.

*Example—*

The commission may ask a local government for the names of all ratepayers living in a particular local government area.

- (6A) Also, to enable the commission to decide the persons who are not entitled to vote because of section 101(3), the commission may ask the chief executive (corrective services) to give the commission information about persons who are serving sentences of imprisonment for offences against the law of the Commonwealth or of a State or Territory.
- (7) The entity or chief executive (corrective services) 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.

## **59 Preparation of electoral rolls**

- (1) The commission must prepare all electoral rolls as soon as practicable after—
  - (a) an electoral redistribution becomes final; or
  - (b) the cut-off day for electoral rolls for an election or referendum; or
  - (c) 2 years pass after the day on which the writ for the last general election was returned.
- (2) The commission may also prepare all or any of the electoral rolls at any other time that it considers appropriate.
- (3) Subject to subsection (4), the electoral rolls may be prepared—
  - (a) in a printed form; or
  - (b) on microfiche, computer disk or computer tape; or
  - (c) in another form determined by the commission.
- (4) If subsection (1)(c) applies, the rolls—
  - (a) must be prepared in a printed form; but
  - (b) may be prepared in another form determined by the commission.

## **60 Inspection of publicly available parts of electoral rolls**

- (1) The commission must make available for inspection by any person, without fee, a copy of the most recent printed version of the publicly available part of all electoral rolls—
  - (a) at the office of the commission; and
  - (b) at the office (if any) of each returning officer.
- (2) The commission may also make available for inspection by any person, without fee, a copy of the most recent version, in

a non-printed form, of the publicly available part of any electoral roll at any place that the commission considers appropriate.

## **61 Information on electoral rolls to be provided to particular people and organisations**

- (1) The following table sets out persons and organisations to whom the commission must give stated information about electoral rolls and states the information to be given and the circumstances in which it is to be given.

### **Mandatory provision of information on electoral rolls**

<b>Item</b>	<b>Person or organisation</b>	<b>Information to be given</b>	<b>Circumstances in which information is to be given</b>
1	a candidate for an election	a certified copy, in a form decided by the commissioner, of the entire electoral roll for the electoral district for which the candidate is seeking election	(a) on request by the candidate; and (b) as soon as practicable after the cut-off day for the nomination of candidates; and (c) without charge
2	a registered political party	a copy, in electronic form, of the most recent version of the entire electoral roll for any electoral district or all electoral districts	(a) on request by the party; and (b) at a price which reasonably reflects the cost of producing that copy

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**Mandatory provision of information on electoral rolls**

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
3	a registered political party	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for any electoral district or all electoral districts	(a) on request by the party; and (b) at a price which reasonably reflects the cost of producing that copy
4	a member of the Legislative Assembly	a reasonable number of copies, in printed form, of the most recent version of the entire electoral roll for the electoral district the member represents	(a) as soon as practicable after each of the following happens— (i) the member is declared elected; (ii) the roll is prepared under section 59(1)(c); and (b) without charge
5	a member of the Legislative Assembly	a copy, in electronic form, of the most recent version of the entire electoral roll for the electoral district the member represents	(a) once during each Legislative Assembly; and (b) without charge



**Mandatory provision of information on electoral rolls**

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
6	a member of the Legislative Assembly	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for the electoral district the member represents	without charge
7	local government	a copy, in electronic form, of the most recent version of the entire electoral roll for any electoral district wholly or partly within the local government's area	(a) on request by the local government; and (b) at a price fixed or decided under a regulation
8	local government	a copy, in electronic form, of the changes to the most recent version of the entire electoral roll for any electoral district wholly or partly within the local government's area	(a) on request by the local government; and (b) at a price fixed or decided under a regulation

(2) The following table sets out persons and organisations to whom the commission may give a copy, in any form, of information in relation to electoral rolls and states the

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information that may be given and the circumstances in which it may be given.

### Discretionary provision of information on electoral rolls

Item	Person or organisation	Information to be given	Circumstances in which information is to be given
1	any department or State public authority	a copy, in electronic form, of the most recent version of the entire, or part of the, electoral roll for any electoral district	(a) on request by the department or State public authority; and (b) without charge

- (3) Subsection (2) does not prevent an entity other than the commission, when providing a person or organisation with services for accessing information given by the commission, charging the person or organisation for the services.
- (4) Other than as provided by this section, the commission must not provide a copy of any part of an electoral roll, other than the publicly available part, to a person other than—
- (a) a senior electoral officer; or
  - (b) a member of the commission's staff; or
  - (c) a person performing functions under an arrangement mentioned in section 62.

## 62 Joint roll arrangement with Commonwealth

- (1) The Governor may arrange with the Governor-General for—
- (a) the preparation, alteration or revision of the electoral rolls; or
  - (b) the carrying out of any procedure relating to the preparation, alteration or revision of the electoral rolls;

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in any way consistent with this Act, jointly by the State and the Commonwealth, whether for the purpose of the rolls being used as electoral rolls for Legislative Assembly elections as well as for Commonwealth elections or for any other purpose.

- (2) If an arrangement is made, the electoral rolls may contain—
  - (a) names and other information in relation to persons who are not entitled to be enrolled as electors for Legislative Assembly elections, provided that it is indicated as prescribed that the persons are not enrolled as electors for the Legislative Assembly; and
  - (b) distinguishing marks against the names of the persons to show that they are not also enrolled as electors for Commonwealth elections; and
  - (c) other information in addition to that required under this division.
- (3) For the purposes of this Act, the marks and other information do not form part of the electoral rolls.

### **63      Gazettal of enrolment figures**

The commission must, in relation to each month, arrange for the gazettal of—

- (a) the number of enrolled electors for each electoral district; and
- (b) the average number of enrolled electors for electoral districts; and
- (c) the extent to which the number of enrolled electors for each electoral district differs from the average number of enrolled electors for electoral districts.

## Division 2                      Enrolment

### 64            Entitlement to enrolment

- (1) A person is entitled to be enrolled for an electoral district if the person—
  - (a) either—
    - (i) is entitled to be enrolled under the Commonwealth Electoral Act for the purposes of that Act in its application in relation to an election within the meaning of that Act; or
    - (ii) is not so entitled, but was entitled to be enrolled under the *Elections Act 1983* on 31 December 1991; and
  - (b) lives in the electoral district and has lived in it for the last month.
- (2) However, subsection (1)(b) does not deny a person the entitlement to be enrolled for an electoral district if the person did not live in the electoral district for the last month merely because the person was imprisoned.
- (3) In addition, if a member of the Legislative Assembly gives notice to the commission, in the form and way approved by the commission, that the member wishes to be enrolled for the electoral district that the member represents, the member is entitled to be enrolled for that electoral district instead of the one applicable under subsection (1).
- (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).

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## 65 Enrolment and transfer of enrolment

- (1) Subject to any arrangement under section 62, the commission must maintain each electoral roll in accordance with this section.
- (2) A person who—
  - (a) is entitled to be enrolled for an electoral district; but
  - (b) is not enrolled on the electoral roll for the district;must give notice to an electoral registrar for the district in the form and way approved by the commission.
- (3) If a person who is enrolled on an electoral roll for an electoral district changes address within the electoral district, the person must, within 21 days, give notice to an electoral registrar for the district in the form and way approved by the commission.
- (4) Subject to subsection (5), if a notice under this section is received by an electoral registrar, the commission must, if satisfied that the person concerned is entitled to be enrolled for an electoral district, make appropriate amendments of the electoral rolls.
- (5) The commission must not amend the electoral rolls during the period from the end of the cut-off day for electoral rolls for an election or referendum until the end of the polling day for the election or referendum except to correct—
  - (a) a mistake; or
  - (b) the wrongful removal of a person from an electoral roll.
- (6) If the commission does not (except because of subsection (5)) amend an electoral roll to give effect to a notice by a person under subsection (2) or (3), the commission must notify the person in writing of—
  - (a) its decision not to amend the roll; and
  - (b) the reasons for its decision; and
  - (c) the person's rights under this Act to have the decision reviewed.

## **66 Provisional enrolment**

- (1) The commission must enrol a person as an elector for an electoral district if the person—
  - (a) is 17; and
  - (b) would, if the person were 18, be entitled to be enrolled for the electoral district; and
  - (c) the person makes a request to be enrolled in the form and way approved by the commission.
- (2) The enrolment does not have effect for the purposes of this Act until the person turns 18.

## **67 Objections**

- (1) An elector may object against the enrolment of a person who is enrolled because of section 64(1)(a)(ii).
- (2) The objection must—
  - (a) set out the grounds on which it is made; and
  - (b) be made in a form and way approved by the commission; and
  - (c) be accompanied by a deposit of—
    - (i) \$2; or
    - (ii) if a greater amount is prescribed for the purposes of this section—that amount.
- (3) If—
  - (a) an objection is made against the enrolment of a person; or
  - (b) the commission decides that any person enrolled on an electoral roll, because of section 64(1)(a)(ii), should not have been enrolled;

the commission must, subject to subsection (4), give the person concerned a reasonable opportunity to answer the objection or respond to the decision.

- (4) If the commission considers that the objection is frivolous or vexatious, it must take no further action on the objection.
- (5) After considering any answer to the objection or response to the decision, the commission must take such action (if any) as it considers necessary to amend the electoral rolls.
- (6) The commission must—
  - (a) give written notice of the action taken by it and its reasons for taking the action to—
    - (i) the person objected against or to whom the decision relates; and
    - (ii) in the case of an objection—the objector; and
  - (b) if the name of the person objected against or to whom the decision relates was removed from an electoral roll—include in the notice advice of the person’s right to have the decision to take the action reviewed.
- (7) If, because of an objection, the name of the person objected against is removed from an electoral roll, the commission must repay the deposit that accompanied the objection.
- (8) For the purpose of ensuring that only persons who are properly entitled to be enrolled under the Commonwealth Electoral Act are enrolled on an electoral roll because of section 64(1)(a)(i), the electoral commissioner, or member of the commission’s staff authorised for the purpose by the electoral commissioner, may take any action that the person is permitted to take under the Commonwealth Electoral Act, including making an objection under that Act to the enrolment.

## **Part 4A**                      **Register of special postal voters**

### **67A**      **Commission to keep register of special postal voters**

The commission must keep, or arrange to be kept, a register of special postal voters.

## **Part 5**                      **Registration of political parties**

### **68**      **Scope of part**

This part sets out the way in which certain political parties may become registered for various purposes under this Act.

### **69**      **Register of political parties**

- (1) The commission must, in accordance with this part, keep a register containing the names of, and other information and documents related to, political parties registered under this part.
- (2) The commission must keep the register in the form and way that the commission considers appropriate.
- (3) The register is called the register of political parties.

### **70**      **Applications for registration**

- (1) An application for registration of a political party is to be made in accordance with this section.
- (2) The application must only be made for the registration of a registrable political party.
- (3) The application must be made by the secretary of the party.



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- (4) The application must be made to the commission in a form approved by the commission for the purposes of this section, and must—
- (a) state a name for the political party; and
  - (b) if the political party wishes to use an abbreviation of its name on ballot papers for elections—set out the abbreviation; and
  - (c) set out the name and address of the person who is to be the political party’s registered officer for the purposes of this Act; and
  - (d) if the application is for a Queensland parliamentary party—set out the name of 1 member of the party who is a member of the Legislative Assembly; and
  - (e) if the application is for a party that is not a Queensland parliamentary party—set out the names and addresses of 500 members of the party who are electors; and
  - (f) be accompanied by a copy of the party’s constitution; and
  - (g) set out any other prescribed information and be accompanied by a copy of any other prescribed document.

## **71 Publication of notice of application**

- (1) As soon as practicable after an application is made to the commission, the commission must publish a notice in relation to the application in—
- (a) the gazette; and
  - (b) a newspaper circulating generally in the State.
- (2) The notice must—
- (a) set out the information included in the application under section 70(4)(a) to (c); and
  - (b) invite any persons who believe that the application—
    - (i) is not in accordance with section 70; or

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- (ii) should be refused under section 73;  
to submit to the commission, within 1 month after the day of publication of the gazette notice, a statement under subsection (3).
- (3) The statement must—
  - (a) set out in detail the grounds for the belief; and
  - (b) set out the address of the person; and
  - (c) be signed by the person.
- (4) The commission must make the statement available at its office for public inspection, without fee.
- (5) The commission must give the person who is to be the party's registered officer—
  - (a) a copy of the statement; and
  - (b) a notice inviting the person to give the commission a reply to the statement within such reasonable period as is specified in the notice.
- (6) If the person gives the commission a reply within the period, the commission must, as soon as practicable, make the reply available at its office for public inspection, without fee.

## **72 Registration**

- (1) If the commission, after considering all statements and replies to the statements under section 71, is satisfied that the application complies with the requirements of section 70, the commission must, subject to subsection (3) and section 73, register the political party.
- (2) Registration is effected by entering or otherwise including in the register of political parties—
  - (a) the information set out in the application (other than under section 70(4)(e)); and
  - (b) any document accompanying the application as required by section 70(4)(f) and (g).

- (3) The commission must not take any action in relation to the application during the election period in relation to an election.
- (4) The commission must not register a political party other than in accordance with this section.
- (5) On registration of the political party, the person whose name was set out in the application under section 70(4)(c) becomes the party's registered officer for the purposes of this Act.
- (6) As soon as possible after it registers the political party, the commission must—
  - (a) give written notice to the registered officer that it has done so; and
  - (b) if any person made a statement to the commission under section 71 in relation to the application—give written notice to the person stating that it has registered the party and setting out why the reasons in the person's statement were rejected; and
  - (c) notify the party's registration by gazette notice.

### **72A Registered officer's deputy**

- (1) A registered officer may nominate a person as a deputy of the registered officer for the purposes of this Act.
- (2) The nomination—
  - (a) must be in writing, signed by the registered officer and lodged with the commission; and
  - (b) must be signed by, and state the name and address of, the person nominated; and
  - (c) may be revoked by the registered officer by written notice given to the commission.

### **73 Refusal of registration**

- (1) In this section—

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***application name*** means a name for a political party, or the abbreviation of the name for a political party, set out in the party's application for registration.

***party name*** means the name, or an abbreviation or acronym of the name, of a parliamentary party or registered political party.

***public body name*** means the name, or an abbreviation or acronym of the name, of a prominent public body.

- (2) The commission may refuse to register a political party if the commission believes on reasonable grounds that information set out in, or documents required to accompany, the application are incorrect.
- (3) The commission must refuse to register a political party if the party's application name—
  - (a) has more than 6 words; or
  - (b) is obscene or offensive; or
  - (c) is a party name; or
  - (d) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name; or
  - (e) includes the word 'independent'; or
  - (f) would otherwise be likely to cause confusion if registered.
- (4) The commission may refuse to register a political party if the party's application name—
  - (a) is a public body name; or
  - (b) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name.
- (5) The commission must refuse to register a political party if the party's constitution is not a complying constitution.
- (6) If the commission decides to refuse an application, it must give the person who was to be the registered officer of the political party written notice of—

- (a) the refusal; and
- (b) the reasons for the refusal; and
- (c) the rights of the person to have the refusal decision reviewed.

### **73A Complying constitution**

- (1) A political party's constitution is a *complying constitution* if it contains the following—
  - (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;
  - (b) the procedure for amending the constitution;
  - (c) the rules for membership of the party, which must include the following rules—
    - (i) a rule stating the procedure for accepting a person as a member;
    - (ii) a rule stating the procedure for ending a person's membership;
    - (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;
    - (iv) a rule prohibiting a person from continuing as a member of the party if the person is convicted of a disqualifying electoral offence;
  - (d) a statement about how the party manages its internal affairs, including a statement about—
    - (i) the party structure; and
    - (ii) the process for dispute resolution;
  - (e) the rules for selecting—

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- (i) a person to hold an office in the party; and
  - (ii) a candidate to be endorsed by the party for an election or an election for a local government;
- (f) a rule requiring that a preselection ballot must satisfy the general principles of free and democratic elections.
- (2) The general principles of free and democratic elections as applied to a preselection ballot are as follows—
  - (a) only members of the party who are electors may vote;
  - (b) only members of the party who are eligible to vote in the ballot under the party's constitution may vote;
  - (c) each member has only 1 vote;
  - (d) voting must be done by secret ballot;
  - (e) a member must not be improperly influenced in voting;
  - (f) a member's ballot paper must be counted if the member's intention is clear;
  - (g) members' votes must be accurately counted;
  - (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.

## **74 Amendment of register**

- (1) An application may be made under this section to the commission for the amendment of the information, or the replacement of documents, in the register of political parties in relation to a registered political party.
- (2) The application must be made in the form and way approved by the commission.
- (3) The application must be made by—
  - (a) the party's registered officer; or
  - (b) if the application is to change the party's registered officer—the party's secretary.

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- (4) This part applies to an application under this section, subject to any necessary changes, as if it were an application for registration of a political party.

## **75 Cancellation of registration**

- (1) The commission may cancel the registration of a party at the written request of the party's registered officer.
- (2) The commission may cancel the registration of a political party if the commission is satisfied on reasonable grounds that—
- (a) the party no longer exists; or
  - (b) the party is not a Queensland parliamentary party and does not have at least 500 members who are electors; or
  - (c) the candidates at the next 2 general elections held after the registration of the party did not include at least 1 candidate endorsed by the party; or
  - (d) the registration was obtained by fraud or misrepresentation; or
  - (e) the party's constitution is not a complying constitution; or
  - (f) the party's registered officer has failed to comply with section 76A(1) or (2), including, for example, by giving false or misleading information under the provision.
- (3) If the commission proposes to cancel the registration of a party, other than because of subsection (2)(d), the commission must—
- (a) give written notice of its proposed action to the party's registered officer; and
  - (b) give notice of its proposed action in—
    - (i) the gazette; and
    - (ii) a newspaper circulating generally in the State; and
  - (c) include in the notice under paragraph (b) a statement that persons may, within 14 days after the gazette notice

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is given, object to the commission in writing against the proposed cancellation.

- (4) The commission must consider any objection made under subsection (3) before taking any further action in relation to the cancellation.
- (5) If the commission decides to cancel the registration of a party, the commission must—
  - (a) give notice of the cancellation and the reasons for it to the person who was the party's registered officer immediately before the cancellation; and
  - (b) give notice of the cancellation in the gazette; and
  - (c) cancel the information in, and remove the documents from, the register of political parties relating to the political party; and
  - (d) retain the documents in the commission's records.

## **76 Public access to register**

- (1) The commission must ensure that the register of political parties is made available for public inspection, without fee, at its office.
- (2) As soon as practicable after the issue of a writ for an election, the commission must publish in the gazette—
  - (a) a list of the names of all political parties included in the register; and
  - (b) a list of the names of the registered officers of the political parties.

## **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.



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- (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).

## **Part 6                      Elections**

### **Division 1                Calling of elections**

#### **77            Writs for elections**

- (1) The commission must conduct an election of a member or members of the Legislative Assembly if the Governor or the Speaker of the Legislative Assembly issues a writ to the commission in accordance with this division.
- (2) The commission must conduct the election in accordance with the writ and the provisions of this part.

#### **78            Writs by Governor**

- (1) The Governor is to issue writs of the following kinds—
  - (a) a writ for a general election;
  - (b) a writ for an election to fill a vacancy arising after a general election and before the first meeting of the Legislative Assembly after the election;

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- (c) a writ for an election to which section 79(3) or 90(3) applies;
  - (d) a writ for an election ordered by the Court of Disputed Returns under section 119(14) or 136.
- (2) The Governor must issue a writ under subsection (1)(a) not later than 4 days after the day on which the Legislative Assembly is dissolved or expires by the passage of time.

## **79 Writs by Speaker**

- (1) Subject to this section, the Speaker of the Legislative Assembly must issue a writ for an election to fill a vacancy in the membership of the Legislative Assembly if—
- (a) the vacancy is not one mentioned in section 78(1)(b); and
  - (b) the Legislative Assembly passes a resolution declaring that the vacancy exists and stating its cause.
- (2) Subsection (1) does not apply if—
- (a) the vacancy is caused by death or resignation; and
  - (b) when the vacancy arises, the Legislative Assembly is not sitting.
- (3) If subsection (1) does not apply to the vacancy because of subsection (2), the Governor must issue the writ.

## **80 Form and content of writs**

- (1) A writ must set out the following—
- (a) the day of issue of the writ;
  - (b) the cut-off day for electoral rolls for the election, which must be not less than 5 days, nor more than 7 days, after the issue of the writ;
  - (c) the cut-off day for the nomination of candidates for the election, which must be not less than 8 days, nor more than 18 days, after the issue of the writ;

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- (d) the polling day, which must be a Saturday not less than 26 days, nor more than 56 days, after the issue of the writ;
  - (e) the day for the return of the writ, which must be not more than 84 days after the issue of the writ.
- (2) For the purpose of determining under subsection (1) a cut-off day, the polling day or the day for the return of the writ (the *relevant day*)—
- (a) the day of issue of the writ; and
  - (b) the relevant day itself;
- are both to be included in any specified number of days.
- (3) The *Acts Interpretation Act 1954*, section 38 does not apply for the purpose of determining, or in relation to a day determined, under subsection (1).

## **81 Commission to publish writ and prepare for election**

On receiving a writ, the commission must—

- (a) arrange for a copy of the writ to be published in the gazette; and
- (b) advertise the days specified in the writ in such other ways as the commission considers appropriate; and
- (c) make appropriate arrangements, in accordance with this part, for the conduct of the election or elections concerned.

## **82 Change of time limits in writ**

- (1) Despite anything in this Act, the Governor or Speaker, as the case requires, may by gazette notice either before, on or after a day specified in the writ under section 80(1)(a) to (e)—
- (a) for a day mentioned in section 80(1)(a) to (d)—substitute a later day for the day stated in the writ; or

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- (b) for the day mentioned in section 80(1)(e)—substitute an earlier or later day for the day stated in the writ; or
  - (c) provide for anything to be done to overcome any difficulty that might otherwise affect the election concerned.
- (2) A substitution may be made under this section either generally or for a stated electoral district.
  - (3) The Governor or Speaker must not substitute a day for polling day that is more than 21 days after the day specified in the writ.
  - (4) When the notice is gazetted, it has effect accordingly.

## **Division 2                      Nomination of candidates for election**

### **83            Who may be nominated**

Provisions about who may be nominated as a candidate for election, and may be elected, as a member of the Legislative Assembly for an electoral district are set out in the *Parliament of Queensland Act 2001*, section 64.

### **84            How and when nomination takes place**

- (1) The following persons are the only persons who nominate a candidate—
  - (a) the registered officer of a registered political party that has endorsed the candidate for the election;
  - (b) 6 or more persons who are enrolled on the electoral roll for the electoral district concerned and none of whom has previously nominated a candidate for the election.
- (2) To have effect for the purposes of this Act, the nomination must comply with the requirements set out in this section and section 85.
- (3) The nomination—

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- (a) must be in a form approved by the commission for the purposes of this section; and
  - (b) must contain the following—
    - (i) the candidate's name, address and occupation;
    - (ii) a signed statement by the candidate consenting to the nomination;
    - (iii) if subsection (1)(a) applies—a signed statement by the party's registered officer that the registered political party has endorsed the candidate.
- (4) The nomination must be given to—
- (a) if subsection (1)(a) applies—the commission; or
  - (b) if subsection (1)(b) applies—the commission or the returning officer for the electoral district.
- (5) The nomination must be given—
- (a) after the day of issue of the writ for the election; and
  - (b) before noon on the cut-off day for nomination of candidates for the election.

## **85 Deposit to accompany nomination**

- (1) At the same time as a nomination is given to the commission or the returning officer, the candidate (or another person on the candidate's behalf) must deposit, in cash or bank cheque—
  - (a) \$250; or
  - (b) if a greater amount is prescribed for the purposes of this section—that amount.
- (2) Subject to subsection (3), the deposit must be held until the writ for the election has been returned.
- (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

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- (b) otherwise—the candidate’s personal representative.
- (4) The deposit must be returned to the person who paid the deposit, or someone else with the person’s written authority, if—
  - (a) the candidate withdraws consent to the nomination under section 87; or
  - (b) the candidate is elected; or
  - (c) at least 4% of the total number of formal first preference votes polled in the election for the electoral district are in favour of the candidate.
- (5) The deposit becomes the property of the State when the outcome of the election is determined unless subsection (3) or (4) applies.

### **85A Grounds for deciding a person is not properly nominated**

- (1) In this section—
  - nomination name* means the name used for a nomination under this division.
  - party name* means the name, or an abbreviation or acronym of the name, of a parliamentary party or registered political party.
  - public body name* means the name, or an abbreviation or acronym of the name, of a prominent public body.
- (2) The commission may decide that a person who has changed his or her name is not properly nominated because the nomination name—
  - (a) is a party name; or
  - (b) so nearly resembles a party name that it is likely to be confused with or mistaken for the party name; or
  - (c) includes the word ‘independent’; or
  - (d) is a public body name; or

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- (e) so nearly resembles a public body name that it is likely to be confused with or mistaken for the public body name; or
  - (f) is obscene or offensive.
- (3) The commission may also decide that a person who has changed his or her name is not properly nominated if the commission considers the name could cause confusion.

*Example—*

If a person's name is 'Informal', the commission may consider that the name could cause confusion to electors.

- (4) If the commission decides a person is not properly nominated for an election, it must give the person—
- (a) the decision; and
  - (b) the reasons for the decision; and
  - (c) a notice stating the person's right to dispute the election.

*Editor's note—*

For a person's right to dispute the election, see section 129 (Who may dispute the election).

## **86 Effect of multiple nominations**

If, at noon on the cut-off day for the nomination of candidates for the election, a person nominated as a candidate for election for the electoral district is also nominated for election for another electoral district, each of the nominations is of no effect.

## **87 Withdrawal of consent to nomination**

- (1) A person nominated as a candidate for election may withdraw consent to the nomination by notice signed by the person and given to the commission or the returning officer, as the case requires, before noon on the cut-off day for nomination.
- (2) If this happens, the nomination is of no effect.

## **88 Announcement of nominations**

- (1) As soon as practicable after noon on the cut-off day for nominations, the commission must advise the returning officer for each electoral district of the names of all persons properly nominated to the commission for election for the district.
- (2) As soon as practicable after advice is received from the commission, each returning officer must arrange for a notice stating the names of the persons properly nominated for election to the electoral district to be—
  - (a) displayed in a conspicuous place at the returning officer's office; and
  - (b) published in such ways as the returning officer considers appropriate.
- (3) On the display of the names at the returning officer's office, the persons become candidates for the election for the electoral district.
- (4) A person is properly nominated for election for the purposes of this section if—
  - (a) the provisions of this division relating to nomination have been complied with or, if there is a formal defect or error in the nomination, the provisions have been substantially complied with; and
  - (b) neither section 86 nor 87 applies to the person's nomination.

## **89 Election of sole candidate**

If there is only 1 candidate for election for an electoral district, the candidate is elected.

## **90 Failure of election**

- (1) This section applies if—



- (a) a candidate dies before the polling day for the election;  
or
- (b) there are no candidates for the election.
- (2) The writ, and everything done in connection with the election for the electoral district because of the writ, are of no effect.
- (3) The Governor must issue a writ for a fresh election for the electoral district.
- (4) The deposits of any other candidates for the election for the electoral district are to be returned.

## **91 Election to be held**

Subject to sections 89 and 90, an election must be held in accordance with the writ and the provisions of this part.

## **Division 3 Arrangements for elections**

### **92 Commission to make arrangements for elections**

- (1) The commission has the continuing function of making appropriate administrative arrangements for the conduct of elections.
- (2) The function includes doing the things required by the remainder of this division.
- (3) The commission must arrange for the appointment and employment of appropriate members of staff for the conduct of elections.

### **93 Setting up and operating polling booths**

- (1) The commission must ensure that appropriate polling booths are established for elections.
- (2) In deciding the number, kind and location of polling booths, the commission must take into account, in addition to any other matters that it considers relevant, the desirability of the

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booths being the same as polling booths for the purposes of the Commonwealth Electoral Act and of their being accessible to voters with disabilities.

- (3) The commission must ensure that each polling booth is provided with an adequate number of voting compartments and ballot papers.
- (4) In the case only of a mobile polling booth mentioned in section 94(6), the commission must, if requested by a candidate, ensure that 'how to vote' matter supplied by the candidate is distributed at the polling booth.
- (5) The commission must, in relation to each election, advertise the location and hours of opening of all polling booths in such ways as the commission considers appropriate.
- (6) The commission must not—
  - (a) establish a polling booth on polling day; or
  - (b) abolish a previously established ordinary polling booth during the period beginning when the writ for an election is issued and ending on polling day, unless it is necessary to do so for circumstances beyond the commission's control.
- (7) The commission must advertise the establishment and abolition of ordinary polling booths in—
  - (a) the gazette; and
  - (b) such other ways as the commission considers appropriate.
- (8) The commission must ensure that—
  - (a) electors are allowed to enter ordinary polling booths between 8a.m. and 6p.m. on polling day and to stay until they have voted; and
  - (b) appropriate electors are allowed to enter mobile polling booths, at times determined in writing by the commission, during the period referred to in section 94(4) and (6) and to stay until they have voted.

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## 94 Kinds of polling booths

- (1) There are 2 kinds of polling booths—
  - (a) ordinary polling booths; and
  - (b) mobile polling booths.
- (2) An ordinary polling booth is a building or other structure, or a part of a building or other structure, that the commission arranges to be available on polling day in relation to an election for the purpose of enabling electors in general to vote.
- (3) A mobile polling booth is—
  - (a) an institution declared under subsection (4) to be a mobile polling booth; or
  - (b) the whole or part of a building, structure, vehicle or place made available as a mobile polling booth under subsection (6).
- (4) If the commission considers that patients, residents or inmates of an institution should be able to vote at the institution at times (determined by the commission) during the period beginning 11 days before polling day and ending at 6p.m. on polling day, the commission may, by gazette notice, declare the institution to be a mobile polling booth for the purposes of the election.
- (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.

*Example—*

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.
- (4B) The issuing officer must comply with the requirement.
- (5) If the commission declares the institution to be a mobile polling booth, the person in charge of the institution must allow access by members of the commission's staff, and by

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patients, residents or inmates of the institution, for the purpose of enabling voting to take place at the election.

- (6) If the commission considers that an area is too remote to have enough electors to justify an ordinary polling booth, the commission may arrange for the whole or part of a building, structure, vehicle or place to be available as a mobile polling booth, at times (determined by the commission) during the period beginning 11 days before polling day and ending at 6p.m. on polling day, for electors in the area to vote at the election.
- (7) The commission, a returning officer or an issuing officer may change the arrangements made under subsection (6) at any time.
- (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.
- (9) The result of the election is not invalidated only because an issuing officer failed to visit a mobile polling booth as arranged.

## **95 Adjourning of poll**

- (1) A returning officer may adjourn the poll at a polling booth if the taking of the poll is, or is likely to be, interrupted or obstructed by—
  - (a) storm, tempest, flood, fire or a similar happening; or
  - (b) riot or open violence.
- (2) If the poll is adjourned, the commission may fix a day (not later than 34 days after the polling day) for the taking of the adjourned poll.
- (3) The commission must give notice of the day fixed for the taking of the adjourned poll in—
  - (a) the gazette; and

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- (b) such other ways as the commission considers appropriate.

## **96 Register of candidates**

- (1) As soon as practicable after the commission advises the returning officer of an electoral district of the names of the candidates for an election for the electoral district, the commission must enter, in a register called the register of candidates, the information, and a summary of the content of any statement, set out in the nomination in relation to each of the candidates under section 84(3).
- (2) The register of candidates is to be kept in such form and way as the commission considers appropriate.
- (3) If elections for other electoral districts have the same polling day, a single register must be used for all of the elections.
- (4) The register of candidates must be open for public inspection, without fee, at the commission's office.
- (5) If any name or address entered in the register of candidates in relation to a candidate ceases to be correct, the candidate may apply to the commission to have the entry corrected.
- (6) The commission must correct the entry.

## **97 Supply of ballot papers and electoral rolls**

- (1) The commission must ensure that a sufficient number of ballot papers, and certified copies of the electoral rolls for each electoral district (as at the cut-off day for electoral rolls), are available at polling places.
- (2) Ballot papers for an election for an electoral district must—
  - (a) be of such material and opacity that, when folded, the way the elector voted is effectively concealed; and
  - (b) be attached to a butt that—
    - (i) is not part of the ballot paper; and

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- (ii) is perforated in such a way that the ballot paper may be easily detached from it; and
    - (iii) has the name of the electoral district and is numbered so that each butt for the electoral district has a unique number; and
  - (c) show the name of the State, that the election is for a member of the Legislative Assembly, the name of the electoral district and the day of the election; and
  - (d) contain the names of all candidates for election, set out in the order determined under section 98; and
  - (e) if the commission considers that a similarity in the names of 2 or more candidates is likely to cause confusion—contain a description or addition that the commission considers will sufficiently distinguish the names; and
  - (f) contain a square opposite the name of each candidate; and
  - (g) if a candidate endorsed by a registered political party was nominated under section 84(1)(a)—contain, printed adjacent to the candidate’s name—
    - (i) if the register of political parties includes an abbreviation of the party’s name—the abbreviation; or
    - (ii) otherwise—the party’s full name included in the register of political parties.
- (3) The ballot papers must contain the following sentences—
- Place the number one (‘1’) in the square opposite the candidate of your choice.
  - You may if you wish indicate your preference for additional candidates by numbering the other squares in your preferred order.

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**98 Order of candidates' names on ballot papers**

- (1) The order of the names of candidates on ballot papers for an electoral district is to be determined under this section.
- (2) To determine the order, a member of the commission's staff must, in the presence of 2 witnesses—
  - (a) write the name of each candidate on a separate piece of paper; and
  - (b) ensure that each piece of paper is the same kind, shape, size and colour; and
  - (c) place 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 envelope, fold each piece of paper in the same way in order to make each the same size and thickness; and
  - (d) ensure that each envelope is opaque and of the same kind, shape, size and colour; and
  - (e) after each piece of paper has been placed in an envelope, seal the envelope; and
  - (f) place all the envelopes in a container and shuffle them; and
  - (g) draw the envelopes out, 1 at a time; and
  - (h) as each envelope is drawn out, open it and note the name of the candidate on the piece of paper in the envelope.
- (3) The order in which the names are noted is the order in which the names are to appear on the ballot paper.
- (4) The member of the commission's staff must allow any candidate, or representative of a candidate, to be present.

**99 Scrutineers**

- (1) Each candidate for an election for an electoral district may, by notice sent to the returning officer for the electoral district, appoint adult persons as scrutineers.

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- (2) Scrutineers are entitled to be present in each ordinary polling booth, each mobile polling booth, and each office staffed by an issuing officer, at times when electors are allowed to vote at the place.
- (3) Scrutineers are also entitled to be present—
  - (a) beforehand at polling places for the purpose of—
    - (i) inspecting ballot boxes; and
    - (ii) the examination of declaration envelopes received before 6p.m. the day before polling day; and
  - (b) afterwards at polling places and elsewhere to observe the examination of declaration envelopes and the counting of votes.
- (4) At a polling place during times when electors are allowed to vote and beforehand, each candidate is entitled to have 1 scrutineer present for each issuing officer at the place.
- (5) At the examination of declaration envelopes and the counting of votes, each candidate is entitled to have 1 scrutineer present for each member of the commission's staff at the place.
- (6) A scrutineer may—
  - (a) object to the entitlement of a person to vote at the election; or
  - (b) record details of electors who vote at the election, and take the record out of the polling place; or
  - (c) do anything else permitted by this Act.
- (7) Issuing officers at a polling place must, before voting starts, allow scrutineers for candidates to inspect the ballot boxes that are to be used for voting at the place.
- (8) Each scrutineer must carry adequate identification to show that the person is a scrutineer.

## **100 Correction of errors**

- (1) If there is a delay, error or omission in or in relation to the preparation, issue or return of any writ, it may be corrected by



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gazette notice by the Governor or the Speaker, as the case requires, setting out what is to be done.

- (2) If there is a delay, error or omission in or in relation to the preparation, issue, sending or return of any electoral roll, ballot paper or other document (apart from a writ), it may be corrected by a gazette notice by the commission setting out what is to be done.

## **Division 4            Who may vote**

### **101    Who may vote**

- (1) The following persons are the only persons who are entitled to vote at an election for an electoral district—
- (a) persons enrolled on the electoral roll for the district;
  - (b) persons who are not enrolled, but are entitled to be enrolled on the electoral roll for the district because of section 64(1)(a)(ii);
  - (c) persons whose names are not on the electoral roll for the district because of official error.
- (2) A person is not entitled to vote—
- (a) more than once at the same election for an electoral district; or
  - (b) at 2 or more elections for electoral districts held on the same day.
- (3) Also, a person who is serving a sentence of imprisonment is not entitled to vote at an election for an electoral district.
- (4) For subsection (3), a person is serving a sentence of imprisonment only if—
- (a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and

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- (b) the detention is attributable to the sentence of imprisonment concerned.

## **Division 5            How voting takes place**

### **Subdivision 1        Ordinary voting**

#### **102    Procedure for voting**

- (1) An elector (other than one who makes or must make a declaration vote under subdivision 2) is to vote by following the procedures set out in this section.
- (2) The elector is, during ordinary voting hours, to enter a polling booth for the electoral district for which the elector is enrolled.
- (3) In the polling booth, the elector is to request a ballot paper from an issuing officer.
- (4) If—
  - (a) the elector has a ballot paper and declaration envelope for the election; and
  - (b) does not intend to make a declaration vote under subdivision 2;the elector must give the papers to the issuing officer.
- (5) The issuing officer must issue a ballot paper to a person requesting one only if the issuing officer is satisfied that the person is entitled to vote at the election for the electoral district.
- (6) The issuing officer may ask of a person requesting a ballot paper questions for the purpose of deciding whether the person is entitled to vote at the election for the electoral district.
- (7) If, after the issuing officer has asked questions under subsection (6), the issuing officer suspects that a person

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claiming to be a particular elector is not the elector, the issuing officer must comply with section 112.

- (8) The issuing officer must keep a record of all persons to whom the officer issues ballot papers under this section.
- (9) The issuing officer must, if a scrutineer requests it, keep a record of any objection by the scrutineer to the entitlement of a person to vote.
- (10) On being given the ballot paper, the elector must, without delay—
  - (a) go alone to an unoccupied voting compartment in the polling booth; and
  - (b) there, in private, mark a vote on the ballot paper in accordance with section 113; and
  - (c) fold the ballot paper to conceal the vote and put it in a ballot box in the polling booth; and
  - (d) leave the polling booth.

### **103 Help to enable electors to vote at polling booths**

- (1) Subject to subsection (2), if an elector satisfies an issuing officer that the elector is unable to vote without help, the elector may be accompanied in the polling booth by another person chosen by the elector.
- (2) The other person may help the elector in any of the following ways—
  - (a) acting as an interpreter;
  - (b) explaining the ballot paper and the requirements of section 113 relating to its marking;
  - (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) folding the ballot paper and putting it in the ballot box.
- (3) If an elector (including an elector who makes or must make a declaration vote) is unable to enter a polling booth because of illness, disability or advanced pregnancy, but is able to come

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to a place (the *voting place*) close to the polling booth, then, subject to subsection (4)—

- (a) the issuing officer may perform the issuing officer's functions; and
- (b) the voter may vote;

at the voting place as if it were the polling booth.

(4) The issuing officer must—

- (a) before taking any action under subsection (3), inform any scrutineers present of the proposed action; and
- (b) allow only 1 scrutineer for each candidate to be present at the voting place; and
- (c) ensure that, after the ballot paper is marked, it is—
  - (i) folded to conceal the vote; and
  - (ii) put into an envelope and sealed; and
- (d) if the elector has made an ordinary vote—open the envelope inside the polling booth in the presence of any scrutineers and put the folded ballot paper in a ballot box.

## **104 Help to enable electors to vote at hospitals**

- (1) If a polling booth is a hospital or part of a hospital, an issuing officer may visit patients in the hospital or the part of the hospital for the purpose of enabling them to vote.
- (2) When visiting a patient, the issuing officer must—
  - (a) take to the patient—
    - (i) a ballot paper or a ballot paper and declaration envelope; and
    - (ii) a ballot box; and
    - (iii) anything else necessary to enable the patient to vote; and

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- (b) if a scrutineer wishes—be accompanied by the scrutineer.
  - (3) The issuing officer must ensure that, so far as reasonably practicable, section 102 is complied with when the patient votes.

## **Subdivision 2 Declaration voting**

### **105 Who may make a declaration vote**

- (1) The following electors may make a declaration vote—
  - (a) an elector who is an ordinary postal voter under subsection (2);
  - (b) an elector who is a special postal voter under subsection (3);
  - (c) an elector who is an electoral visitor voter under subsection (4).
- (2) The following electors are ordinary postal voters for the purposes of this Act—
  - (a) an elector who will not, throughout ordinary voting hours on polling day, be within 8km, by the nearest practicable route, from a polling booth;
  - (b) an elector who will, throughout ordinary voting hours on polling day, be working or travelling under conditions that prevent voting at a polling booth;
  - (c) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
  - (d) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth;
  - (e) an elector who will, because of membership of a religious order or because of religious beliefs, be

- prevented from voting at a polling booth for all, or the majority, of ordinary voting hours on polling day;
- (f) an elector who a doctor has certified, in writing, is so physically incapacitated as to be incapable of signing the elector's name.
- (3) The following electors are special postal voters for the purposes of this Act—
- (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 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, section 184A(2)(d) to (h);
- (b) an elector whose address has been excluded from the electoral roll under an arrangement under section 62 because of the Commonwealth Electoral Act, section 104.
- (4) The following electors are electoral visitor voters for the purposes of this Act—
- (a) an elector who will, because of illness, disability or advanced pregnancy, be prevented from voting at a polling booth;
- (b) an elector who will, because the elector is caring for a person who is ill, has a disability or is pregnant, be prevented from voting at a polling booth.
- (5) The commissioner must, not less than 18 months but not more than 3 years after the return of the writ for an election, review

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the continuing eligibility to make a declaration vote of electors who are special postal voters.

- (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.

## **106 Who must make a declaration vote**

The following electors must make a declaration vote—

- (a) an elector who wishes to vote by going on a polling day to a polling booth that has not been established for the electoral district for which the elector is enrolled;
- (b) an elector who wishes to vote by going to a polling booth described in section 94(4) or (6) that is outside the electoral district for which the elector is enrolled;
- (c) an elector whose name is not on the electoral roll for an electoral district because of an official error;
- (d) an elector to whom section 101(1)(b) applies;
- (e) an elector who appears from a record made in error to have already voted in the election for any electoral district;
- (f) an elector who is given a ballot paper and declaration envelope under section 112.

## **107 Ways in which an elector may make a declaration vote**

Subject to section 112, an elector who may or must make a declaration vote is to do so by—

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- (a) if the elector is unable to enter a polling booth because of illness, disability or advanced pregnancy—going to a place close to a polling booth and voting under section 103(3); or
- (b) going during voting hours to a polling booth in an electoral district and following the procedures set out in section 108; or
- (c) going to an office staffed by an issuing officer at a time before polling day for the election and following the procedures set out in section 109; or
- (d) if the person is a postal voter—using the ballot paper and declaration envelope that have been posted to the elector under section 110 and following the procedures set out in that section; or
- (e) if the person is an electoral visitor voter—voting before an electoral visitor following the procedures set out in section 111.

## **108 Making a declaration vote at a polling booth**

- (1) An elector who may or must make a declaration vote may enter a polling booth during voting hours in an electoral district and request a ballot paper and declaration envelope from an issuing officer.
- (2) The issuing officer must comply with the request unless the issuing officer is satisfied that the elector is enrolled for the electoral district in which the polling booth is located.
- (3) The issuing officer must keep a record of all persons to whom the officer gives a ballot paper and declaration envelope under this section.
- (4) The issuing officer must, if a scrutineer requests it, record on the declaration envelope any objection by the scrutineer to the right of the person to vote.
- (5) On being given the ballot paper and declaration envelope, the elector must, without delay—



- (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
  - (b) go alone to an unoccupied voting compartment in the polling booth; and
  - (c) there, in private, mark a vote on the ballot paper in accordance with section 113; and
  - (d) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling booth; and
  - (e) leave the polling booth.
- (6) Sections 103 and 104 apply to the making of a vote under this section in the same way, subject to any necessary changes, as they apply to the making of a vote under section 102.

### **109 Making a declaration vote at a commission office**

- (1) An elector who wishes to make a declaration vote during the period beginning 3 days after the cut-off day for nominations and ending at 6p.m. on the day before polling day may go to an office staffed by an issuing officer and request a ballot paper and declaration envelope from the officer.
- (2) The officer must comply with the request.
- (3) Subject to subsection (5), on being given the ballot paper and declaration envelope, the elector must without delay—
  - (a) sign the appropriate declaration on the declaration envelope before the issuing officer and have the officer sign the envelope as witness; and
  - (b) mark a vote on the ballot paper in accordance with section 113; and
  - (c) place the ballot paper in the envelope and seal the envelope; and
  - (d) give the envelope to the officer; and
  - (e) leave the office.

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- (4) The issuing officer must send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office.
- (5) If the elector satisfies the issuing officer that the elector is unable to vote without help, a person chosen by the elector may help the elector in any of the following ways—
  - (a) acting as an interpreter;
  - (b) explaining the ballot paper and the requirements of section 113 relating to its marking;
  - (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) placing the ballot paper in the declaration envelope and sealing the ballot envelope;
  - (e) giving the envelope to the officer.

## **110 Making a declaration vote using posted voting papers**

- (1) An elector who is an ordinary postal voter may, by writing signed by the elector and posted, faxed or delivered (by the elector or someone else) to the commission or returning officer for the electoral district for which the elector is enrolled, request a ballot paper and declaration envelope.
  - (1A) The request must state the address to which the ballot paper and declaration envelope is to be posted, delivered or sent.
  - (2) If the request is received not later than 6p.m. on the Thursday before polling day, the commission or returning officer must post, deliver or send a ballot paper and declaration envelope to the elector.
  - (3) The commission must, as soon as practicable after the issue of the writ for an election, post a ballot paper and declaration envelope to each special postal voter.
  - (4) Returning officers and the commission must keep a record of all ballot papers and declaration envelopes posted, delivered or sent under this section.

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- (5) Subject to subsection (7), on receiving the ballot paper and declaration envelope, the elector must—
- (a) sign the appropriate declaration on the declaration envelope before another elector or a person approved by the commission for the purposes of this paragraph and have the other elector or person sign the envelope as witness; and
  - (b) mark a vote on the ballot paper in accordance with section 113; and
  - (c) place the ballot paper in the envelope and seal the envelope; and
  - (d) either—
    - (i) give the envelope to a member of the commission’s staff at an office of the commission before polling day or at a polling booth on polling day; or
    - (ii) post or send the envelope, or give it to another person to post or send, to the commission or the returning officer.
- (6) If the elector is unable to vote without help, another person may help by doing any of the things mentioned in subsection (5)(b) to (d) on behalf of the elector.
- (7) A member of the commission’s staff who is given an envelope under subsection (5)(d)(i) must—
- (a) if it is given before polling day—send the envelope to the appropriate returning officer or put the envelope in a ballot box at the office; or
  - (b) if it is given on polling day—put the envelope in a ballot box at the office.

## **111 Electoral visitor voting**

- (1) An elector who is an electoral visitor voter may, by writing signed by the elector and posted, faxed or delivered (by the elector or someone else) to the commission or the returning

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officer for the electoral district for which the elector is enrolled, request to vote as an electoral visitor voter.

- (1A) The request must state the address the electoral visitor is to visit.
- (2) If the request is received not later than 6p.m. on the Thursday before polling day, the commission or the returning officer must ensure that an issuing officer visits the elector for the purpose of enabling the person to vote.
- (3) The issuing officer must visit the elector at a reasonable hour—
  - (a) before polling day; or
  - (b) before 6p.m. on polling day.
- (4) When visiting the elector, the issuing officer must—
  - (a) take to the elector—
    - (i) a ballot paper; and
    - (ii) a ballot box; and
    - (iii) anything else necessary to enable the elector to vote; and
  - (b) if a scrutineer wishes—be accompanied by the scrutineer.
- (5) The commission may require the issuing officer to present ‘how to vote’ material to the elector and present the material in a particular way.

*Example—*

The commission may require the issuing officer to give particular ‘how to vote’ material to the elector or to paste the material on a manila folder and show it to the elector.

- (6) The issuing officer must comply with the requirement under subsection (5).
- (7) The issuing officer must ensure, as far as practicable, section 102 is complied with when the elector votes.
- (8) The elector may ask a person to help the elector in any of the following ways—

- (a) acting as an interpreter;
  - (b) explaining the ballot paper and the requirements of section 113 about its marking;
  - (c) marking, or helping the elector to mark, the ballot paper in the way the elector wishes;
  - (d) folding the ballot paper and putting it in the ballot box.
- (9) The elector may make an ordinary vote or declaration vote.

### **112 Making a declaration vote in cases of uncertain identity**

- (1) If an issuing officer suspects, as mentioned in section 102(7), that a person claiming to be a particular elector is not the elector, this section applies.
- (2) The issuing officer must give the person a declaration envelope.
- (3) The declaration envelope must have on it the following questions—
  - (a) Are you the same person whose name appears as [*here the issuing officer must write the name of the particular elector and the number appearing on the electoral roll in relation to the name*]?
  - (b) Have you already voted, either here or elsewhere, at the present election for this electoral district or any other electoral district?
- (4) The person must write answers to the questions on the envelope, sign the envelope and have the signature witnessed by the issuing officer.
- (5) If the person does not answer the questions or answers in either or both of the following ways—
  - (a) in the negative to the question in subsection (3)(a); or
  - (b) in the affirmative to the question in subsection (3)(b);the issuing officer must retain the envelope and tell the person that he or she is not entitled to vote.

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- (6) The person must then leave the polling place.
- (7) If subsection (5) does not apply, the issuing officer must give the person a ballot paper.
- (8) The person must, without delay—
  - (a) go alone to an unoccupied voting compartment at the polling place; and
  - (b) there, in private, mark a vote on the ballot paper in accordance with section 113; and
  - (c) place the ballot paper in the envelope, seal the envelope and put it in a ballot box in the polling place; and
  - (d) leave the polling place.
- (9) Sections 103 and 104 apply to the making of a vote under this section in the same way, subject to any necessary changes, as they apply to the making of a vote under section 102.

### **Subdivision 3      Marking of ballot papers**

#### **113      How electors must vote**

- (1) An elector must vote in accordance with subsection (2) or (3).
- (2) An elector may vote by writing on a ballot paper the number 1, a tick, or a cross, in the square opposite the name of only 1 candidate to indicate the elector's preference for the candidate.
- (3) Instead of voting in accordance with subsection (2), an elector may vote by—
  - (a) writing on a ballot paper the number 1, a tick, or a cross, in the square opposite the name of a candidate to indicate the elector's first preference for the candidate; and
  - (b) writing—
    - (i) the number 2 in another square; or
    - (ii) the numbers 2, 3 and so on in other squares;

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to indicate the order of the elector's preferences for 1 or more (but not necessarily all) of the other candidates.

## **114 Formal and informal ballot papers**

- (1) Subject to this section, for a ballot paper to have effect to indicate a vote for the purposes of this Act—
  - (a) the ballot paper must contain writing that is in accordance with section 113 or other writing or marks that indicate the voter's intended preference or intended order of preferences; and
  - (b) the ballot paper must not contain any writing or mark (other than as authorised by this Act) by which the elector can be identified; and
  - (c) the ballot paper must have been put into a ballot box by the elector as required by this Act; and
  - (d) if the ballot paper was put into a declaration envelope as required by this Act—the envelope must have been signed, and the signature must have been witnessed, as required by this Act.
- (2) For the purposes of subsection (1)(a) and other provisions of this Act—
  - (a) if a ballot paper contains 2 or more squares in which the same number is written or marked—the numbers and any higher numbers written or marked in other squares are to be disregarded; and
  - (b) if there is a break in the order of the preferences indicated in writing or marks in the squares on a ballot paper—any preference after the break is to be disregarded.
- (3) Subsection (1)(d) does not apply to the witnessing of a signature if—
  - (a) the person required to witness the signature was a member of the commission's staff; and

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- (b) the person certifies in writing to the returning officer that the envelope was signed by the elector concerned.
- (4) If a ballot paper has effect to indicate a vote, it is a formal ballot paper.
- (5) If a ballot paper does not have effect to indicate a vote, it is an informal ballot paper.

## **Division 6                      Counting of votes**

### **115      Votes to be counted in accordance with division**

Votes at an election are to be counted in accordance with this division.

### **116      Preliminary processing of declaration envelopes and ballot papers**

- (1) The commission or the returning officer for each electoral district must ensure that members of the commission's staff examine all declaration envelopes received by the commission or returning officer to determine whether the ballot papers in them are to be accepted for counting.
- (2) A ballot paper must be accepted for counting only if the person examining the declaration envelope is satisfied that—
  - (a) the elector concerned was entitled to vote at the election; and
  - (b) the declaration was signed and witnessed before the end of voting hours on polling day; and
  - (c) if the declaration on the envelope was witnessed by a person other than a member of the commission's staff—the signature on the envelope corresponds with that in the request and the requirements of section 110(5)(d) were complied with; and



- (d) if the ballot paper is in a declaration envelope received by post—the envelope was received before 6p.m. on the 10th day after polling day for the election.
- (3) If the ballot paper is accepted, the person must take it out of the envelope and, without unfolding it or allowing another person to unfold it, put it in—
  - (a) if the envelope was received by the returning officer and not sent to the commission to be dealt with under this section—a sealed ballot box; and
  - (b) if the envelope was received by the commission—a sealed ballot box in which ballot papers for the appropriate electoral district, and no other ballot papers, are placed.
- (4) If a declaration envelope received by a returning officer is for a different electoral district, it must be sent to the commission or the appropriate returning officer without being examined under this section.
- (5) Members of the commission's staff must also seal up in separate parcels, and keep, all unopened envelopes and all opened envelopes.
- (6) The commission or returning officer must advise all candidates at the election of the times when, and places where, declaration envelopes will be examined under this section.

## **117 Preliminary and official counting of votes**

The commission must arrange for votes to be counted—

- (a) on polling day—in accordance with section 118; and
- (b) after polling day—in accordance with section 119.

## **118 Preliminary counting of ordinary votes**

- (1) As soon as practicable after the end of ordinary voting hours on polling day, the member of the commission's staff in charge of a polling booth must ensure that the commission's

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staff at the polling place follow the procedures set out in subsections (2) and (4).

- (2) The staff must—
  - (a) open all ballot boxes from the polling booth; and
  - (b) identify and keep in a separate parcel all declaration envelopes; and
  - (c) identify and keep in a separate parcel all informal ballot papers that are not in declaration envelopes; and
  - (d) arrange all formal ballot papers that are not in declaration envelopes under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
  - (e) count the first preference votes for each candidate on all of the formal ballot papers; and
  - (f) prepare and sign a statement, in the form approved by the commission for the purposes of this paragraph, setting out—
    - (i) the number of first preference votes for each candidate; and
    - (ii) the number of informal ballot papers; and
  - (g) advise the returning officer for the electoral district concerned of the contents of the statement; and
  - (h) seal up each parcel of ballot papers or declaration envelopes separately, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
  - (i) send the parcels and the statements referred to in paragraph (f) to the returning officer for the appropriate electoral district.
- (3) This section applies to votes received by the commission under section 116 for an electoral district in the same way, subject to any prescribed changes and any other necessary

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changes, as it would apply if the commission's office were a polling booth for the electoral district.

- (4) If the commission considers it appropriate for gaining an indication of the candidate most likely to be elected for an electoral district, the commission may require the commission's staff to—
  - (a) count the preference votes in the way required by the commission; and
  - (b) prepare and sign a statement of the number of preference votes (other than first preference votes) for each candidate; and
  - (c) advise the returning officer for the electoral district of the contents of the statement.

## **119 Official counting of votes**

- (1) As soon as practicable after polling day, the returning officer for each electoral district must ensure that the commission's staff follow the procedures set out in this section.
- (2) Firstly, the staff must—
  - (a) open all ballot boxes in relation to the electoral district that have not previously been opened; and
  - (b) identify all declaration envelopes and keep those in relation to different electoral districts in separate parcels; and
  - (c) seal up each parcel of envelopes for an electoral district other than the returning officer's electoral district, write on each a description of its contents, sign the description and permit any scrutineers who wish to do so to countersign the description; and
  - (d) send the parcels to the returning officer for the appropriate electoral district.
- (3) Secondly, the staff must—
  - (a) open all sealed parcels of ballot papers sent to the returning officer under section 118; and

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- (b) arrange all formal ballot papers under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
  - (c) count the first preference votes for each candidate on all of the formal ballot papers.
- (4) Thirdly, the staff must—
- (a) open all ballot boxes on hand in which ballot papers from declaration envelopes have been placed under section 116(3); and
  - (b) arrange all formal ballot papers under the names of the candidates for the election by placing in a separate parcel all those on which a first preference vote is indicated for the same candidate; and
  - (c) count the first preference votes for each candidate on all of the formal ballot papers and add the number to that obtained under subsection (3)(c); and
  - (d) reapply paragraphs (a) to (c) as more envelopes are placed in ballot boxes under section 116(3), until there are no more envelopes required to be placed in ballot boxes under that section.
- (5) If, because of final counting under subsection (4), a majority of the first preference votes is for 1 candidate, that candidate is elected.
- (6) If not, then a second count must take place.
- (7) On the second count—
- (a) the candidate who has the fewest first preference votes must be excluded; and
  - (b) each ballot paper recording a first preference vote for that candidate that is not exhausted must be transferred to the candidate next in the order of the voter's preference; and
  - (c) that ballot paper must be counted as a vote for that candidate.

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- (8) If, on the second count, a candidate has a majority of the votes remaining in the count, the candidate is elected.
- (9) If not, the process of—
- (a) excluding the candidate who has the fewest votes; and
  - (b) transferring each ballot paper of that candidate that is not exhausted to the continuing candidate next in the order of the voter's preference; and
  - (c) counting it to that candidate as a vote;
- must be repeated until 1 candidate has a majority of the votes remaining in the count.
- (10) The candidate who, under subsection (9), has a majority of the votes remaining in the count is elected.
- (11) Despite subsections (7) and (9), the process of transferring to a continuing candidate each of the ballot papers that is not exhausted and counting it to the candidate as a vote must not be repeated if there is only 1 continuing candidate, but that candidate is elected.
- (12) If, on any count at which the candidate with the fewest number of votes must be excluded, 2 or more candidates have an equal number of votes and that number is fewer than the number of votes of any other candidate—
- (a) the candidate who had the fewest number of votes at the last count at which the candidates did not have an equal number of votes must be excluded; or
  - (b) if the candidates had an equal number of votes at all earlier counts—the candidate whose name is on a slip chosen under subsection (13) must be excluded.
- (13) For the purposes of subsection (12)(b), the returning officer must—
- (a) write the names of the candidates who have an equal number of votes on similar slips of paper; and
  - (b) fold the slips to prevent the names being seen; and
  - (c) place the slips in an opaque container; and

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- (d) mix the slips; and
  - (e) raise the container so that its contents are not visible and choose a slip at random.
- (14) If, on any count at which the candidate with the fewest number of votes must be excluded, 2 or more candidates have an equal number of votes and the candidates are the only continuing candidates—
- (a) the returning officer must refer the matter to the commission, which must refer it to the Court of Disputed Returns; and
  - (b) the court must determine the validity of any disputed ballot papers and recount all of the ballot papers by applying subsection (3)(b) and (c) and subsections (5) to (12); and
  - (c) if the determination and recount results in a candidate being elected—the court must declare the candidate elected; and
  - (d) if not—the court must order that a fresh election be held.
- (15) Subsection (14) does not affect the jurisdiction of the court under part 8 in relation to the disputing of an election.

## **120 Objections by scrutineers**

- (1) If, while a member of the commission's staff is complying with section 118 or 119, a scrutineer objects to the member's treatment of a ballot paper as informal, the member must mark on the back of it 'formal' or 'informal' according to whether the member's decision is to treat it as formal or informal.
- (2) If, while a member of the commission's staff is complying with section 118 or 119, a scrutineer objects to the counting of a vote for a particular candidate, the member must mark on the back of the relevant ballot paper the name of the candidate for whom it is counted.

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## **121    Recounting of votes**

- (1) At any time before—
  - (a) a returning officer notifies the election of a candidate under section 122; or
  - (b) the commission refers a matter to the Court of Disputed Returns under section 119(14);

the commission may direct the returning officer, or another member of the commission's staff, to recount some or all of the ballot papers for the election.
- (2) A returning officer may recount some or all of the ballot papers for an election at any time before the returning officer notifies the election of a candidate.
- (3) A person carrying out a recount of ballot papers must, so far as practicable, ensure that the requirements of section 119 are complied with.
- (4) This section does not limit by implication section 32(4) or 33(10).

## **Division 7                    Notifying the results of elections etc.**

### **122    Notifying the results of an election**

- (1) As soon as practicable after a candidate is elected under section 89 or 119 (including that section as applied under section 121), the returning officer for the electoral district must notify the commission of the name of the candidate elected for the electoral district.
- (2) A returning officer must not delay complying with subsection (1) because ballot papers have not been received if it is clear that the ballot papers could not possibly affect the election of a candidate.

### **123 Return of writ for election**

- (1) As soon as practicable after the commission has received—
  - (a) in the case of a general election—the copies of the notifications under section 122(1) from the returning officers for all electoral districts; and
  - (b) in any other case—the copy of the notification under section 122(1) from the returning officer for the electoral district in relation to which the election was held;

and before the day for the return of the writ, the commission must comply with subsection (2).

- (2) The commission must—
  - (a) write on the writ the name of each candidate elected; and
  - (b) return the writ to whichever of the Governor or the Speaker of the Legislative Assembly issued the writ; and
  - (c) publish in the gazette the name of each candidate elected.

### **124 Counting for information purposes**

After a candidate is elected for an electoral district under section 119 (including that section as applied under section 121), the commission may direct the returning officer for the electoral district to examine ballot papers for the purpose of obtaining further information about the preferences of voters.

### **125 Notice of failure to vote etc.**

- (1) Subject to subsection (2), the 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—
  - (a) stating that—
    - (i) the elector appears to have failed to vote at the election; and



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- (ii) it is an offence to fail, without a valid and sufficient reason, to vote at an election; and
  - (iii) the elector may, if the elector considers he or she has committed the offence, pay one-half a penalty unit (the *penalty*) to the commission by a specified day, not earlier than 21 days after the elector received the notice (the *appropriate day*), and, if the commission receives the payment by the appropriate day, no further steps will be taken against the elector about the offence; and
- (b) requiring the elector—
- (i) if the elector intends paying the penalty by the appropriate day—to 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—to state, in a form included in or with the notice, whether the elector voted and, if not, the reason for failing to vote; and
  - (iii) to sign the form and post or give it to the commission so that it is received by the appropriate day.
- (2) The elector must comply with the requirements of the notice.
- (3) If—
- (a) the 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;
- the first elector is taken to have complied with the requirements.
- (4) As soon as practicable after an election, the commission must send a notice to each person who made a declaration vote under section 106(c), but whose ballot paper was not accepted

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for counting under section 116(1), advising the person why the ballot paper was not accepted for counting.

### **125A Payments for failure to vote**

- (1) If the commission sends a person a notice under section 125(1) for an election and the person makes payment to the commission under the subsection, the commissioner must—
  - (a) accept the payment; and
  - (b) give the person a receipt for the payment; and
  - (c) not take any proceeding against the person for failing to vote at the election.
- (2) In this section—

*proceeding* includes serving an infringement notice under the *State Penalties Enforcement Act 1999*.

### **126 Storage of ballot papers and declaration envelopes**

- (1) The commission must keep the following material for an election until the day of issue of the writ for the next general election—
  - (a) ballot papers showing a mark by an elector for the election;
  - (b) certified copies of electoral rolls;
  - (c) declaration envelopes.
- (2) However, the commission must comply with any order by a court, or any request by the commissioner of the Queensland Police Service, to hand over, allow access to or provide copies of any ballot papers or declaration envelopes.

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## Part 7                      Electoral funding and financial disclosure

### 126A Purposes of part

- (1) The purposes of this part are to provide for—
  - (a) electoral funding for registered political parties and candidates other than candidates endorsed by registered political parties; and
  - (b) financial disclosure by registered political parties for elections and, on a 6 monthly basis, by candidates for elections and by entities involved with the electoral process.
- (2) However, many of the persons who will be affected by this part receive election funding or are required to disclose financial matters under the Commonwealth Electoral Act, part XX.
- (3) To reduce the administrative burden on these persons, the law of the State about these matters is based on the Commonwealth Electoral Act.

### 126B Law about electoral funding and financial disclosure

- (1) The schedule provides the law about electoral funding and financial disclosure.
- (2) The schedule is based on the Commonwealth Electoral Act, part XX, and, for that reason, uses the same numbering as the Commonwealth Electoral Act.
- (3) Changes to the text of the Commonwealth Electoral Act in the schedule have been made, or are noted, in italics.
- (4) Following the introduction into the Senate of the Parliament of the Commonwealth of the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008* (the ***Commonwealth Bill***), amendments of the schedule have been made based on proposed amendments of the Commonwealth Electoral Act by the Commonwealth Bill.

[s 126C]

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- (5) Amendments of the schedule based on the Commonwealth Bill are identified by editor's notes.
- (6) The schedule is not a mere adoption or application of the Commonwealth Electoral Act.

*Example—*

A reference in the schedule to regulations is a reference to regulations made under this Act.

### **126C Regulations for part**

In the schedule, a reference to a prescribed amount or prescribed time that is followed by an amount or time in brackets is to be read as providing that the amount or time may be prescribed under the regulations but, if the regulations do not prescribe the amount or time, the amount or time in brackets applies.

*Example—*

The schedule, section 305(1)(b) provides—

'(b) the amount or value of each of which is equal to or *is more than the prescribed amount (\$1000)*'.

The amount may be prescribed under the regulations. However, if no regulation is made for the schedule, section 305(1)(b), the paragraph is to be read as 'equal to or *is more than \$1000*'.

### **126D References in the schedule to electoral commission**

In the schedule, a reference to the electoral commission is to be read as a reference to the Electoral Commission of Queensland.

*Editor's note—*

This change has not been made textually to the schedule because the reference appears frequently and the textual change may be disruptive to a user of the legislation.

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## **Part 8                      Court of Disputed Returns**

### **Division 1                      Court of Disputed Returns**

#### **127      Supreme Court to be Court of Disputed Returns**

- (1) The Supreme Court is the Court of Disputed Returns for the purposes of this Act and the *Referendums Act 1997*.
- (2) A single judge may constitute, and exercise all the jurisdiction and powers of, the Court of Disputed Returns.
- (3) For subsection (2), the Chief Justice may be the single judge or appoint another Supreme Court judge to be the single judge.

### **Division 2                      Disputing elections**

#### **128      Election may be disputed under this part**

- (1) The election of a person may be disputed by an application to the Court of Disputed Returns under this division or an appeal under division 4.
- (2) The election may not be disputed in any other way.

#### **129      Who may dispute the election**

An election may be disputed by—

- (a) a candidate at the election for the electoral district concerned; or
- (b) an elector for the electoral district concerned; or
- (c) the commission; or
- (d) a person who the commission decided was not properly nominated.

*Editor's note—*

See section 85A (Grounds for deciding a person is not properly nominated).

### **130 Requirements for an application to be effective**

- (1) For an application to have effect for the purposes of this division, the requirements of this section must be complied with.
- (2) The application must—
  - (a) set out the facts relied on to dispute the election; and
  - (b) set out the order sought from the Court of Disputed Returns; and
  - (c) be signed by—
    - (i) in the case of an application by the commission—the electoral commissioner; and
    - (ii) in any other case—the applicant before a witness; and
  - (d) if paragraph (c)(ii) applies—contain the signature, occupation and address of the witness.
- (3) The person disputing the election must—
  - (a) file the application with the Supreme Court registry in Brisbane within 7 days after the day on which the writ for the election is returned as mentioned in section 123(2)(b); and
  - (b) when filing the application, deposit with the court—
    - (i) \$400; or
    - (ii) if a greater amount is prescribed—that amount.
- (4) Subsections (1) and (2) do not, by implication, prevent the amendment of the application.

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**131 Copies of application to be given to elected candidate and commission**

The registrar of the Supreme Court must give a copy of the application to—

- (a) the candidate who was elected; and
- (b) the commission, unless the commission filed the application.

**132 Application to court for order relating to documents etc.**

- (1) The applicant may apply to the Court of Disputed Returns for an order requiring the commission to give the court specified documents and other things held by the commission in relation to the election.
- (2) The court may make such order in relation to the application as it considers appropriate.

**133 Parties to application**

- (1) The parties to an application are the person who filed it and any respondent under this section.
- (2) The commission is a respondent to any application by another person under this division.
- (3) The person who was elected is a party to the application if the person, within 7 days after receiving a copy of the application under section 131, files a notice with the Supreme Court registry in Brisbane stating that the person wishes to be a respondent.

**134 How application is to be dealt with by court**

- (1) The Court of Disputed Returns may conduct hearings and other proceedings in relation to the application.
- (2) The court is not bound by technicalities, legal forms or rules of evidence.

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- (3) The court must deal with the application as quickly as is reasonable in the circumstances.
- (4) In giving effect to subsection (3), the court must use its best efforts to ensure that—
  - (a) the proceeding begins within 28 days after the application is lodged; and
  - (b) the court's final orders are given within 14 days after the end of the proceeding.
- (5) Despite subsections (3) and (4), the court must give all parties to the proceeding at least 10 days notice before it begins the proceeding.
- (6) The rules of court of the Supreme Court may include provision, not inconsistent with this division, with respect to the practices and procedures of the Court of Disputed Returns.
- (7) Without limiting subsection (6), the rules of court may make provision regarding the withdrawal of applications, the consequences of the death of applicants and the substitution of applicants in such circumstances.

### **135 Application for dismissal of application disputing election**

- (1) The commission may apply to the court for an order dismissing the application disputing the election on the ground that there has been excessive delay by the applicant in relation to the application.
- (2) The court may make the order on the application under subsection (1) that the court considers appropriate.

### **136 Powers of the court**

- (1) Subject to sections 137 and 138, the Court of Disputed Returns may make any order or exercise any power in relation to the application that the court considers just and equitable.
- (2) The orders may include any of the following—



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- (a) an order to the effect that the person elected is taken not to have been elected;
  - (b) an order to the effect that a new election must be held;
  - (c) an order to the effect that a candidate other than the one elected is taken instead to have been elected;
  - (d) an order to dismiss or uphold the application in whole or part.
- (3) To remove doubt, it is declared that the court may order the opening of a sealed declaration vote envelope.
- (4) However, the court must ensure, as far as is reasonably practicable, the secrecy of the ballot is maintained.

### **137 Restrictions on certain orders**

- (1) The court must not make an order mentioned in section 136(2) because of a delay in—
- (a) the announcement of nominations under section 88; or
  - (b) complying with the requirements of part 6, division 5, 6 or 7.
- (1A) Also, the court must not make an order under section 136(2) (other than an order to dismiss the application)—
- (a) because of an absence or error of, or omission by, any member of the commission's staff that appears unlikely to have had the effect that the person elected would not have been elected; or
  - (b) because incorrect information an elector gives to an issuing officer is written on a declaration envelope the elector signed.
- (2) In determining whether the requirements of subsection (1A) are met, the court must not, if it finds that an elector was prevented from voting at the election by absence, error or omission, take into account any evidence of the way in which the elector had intended to vote.

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- (3) The court must not make an order mentioned in section 136(2) because—
  - (a) the names of the candidates were not set out on a ballot paper in the order required by section 97(2)(d); or
  - (b) a name or other word that was required by section 97(2)(g) to be printed on a ballot paper adjacent to a candidate's name was not so printed or was misspelt, inaccurate or incorrect; or
  - (c) a name or other word that was not authorised by section 97(2)(g) was printed on a ballot paper adjacent to a candidate's name.

### **138 Restriction on certain evidence and inquiries**

- (1) In a proceeding in relation to the application, the Court of Disputed Returns must not take into account evidence by any person that the person was not permitted to vote during voting hours in relation to a polling place, unless the court is satisfied that, so far as the person was permitted to do so, the person did everything required by this Act to enable the person to vote.
- (2) In a proceeding in relation to the application, the court—
  - (a) may inquire whether persons voting were enrolled on the electoral roll for the electoral district concerned and whether votes were correctly treated as formal or informal during the counting of votes; but
  - (b) must not inquire whether the electoral roll, or any copy used at the election, was in accordance with this Act.

### **139 Copy of final court orders to be sent to Clerk of Parliament**

The registrar of the Supreme Court must arrange for a copy of the court's final orders to be sent to the Clerk of the Parliament as soon as possible after they are made.

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**140 Costs**

- (1) The Court of Disputed Returns may order an unsuccessful party to the application to pay the reasonable costs of the other parties to the application.
- (2) If costs are awarded against the applicant, the deposit filed with the application must be applied towards payment of the costs.
- (3) If not, the deposit must be returned to the person.

**141 Decisions and orders to be final etc.**

Subject to division 4, a decision of, or order made by, the Court of Disputed Returns in relation to the application—

- (a) is final and conclusive; and
- (b) can not be appealed against or otherwise called in question on any ground.

**142 Right of commission to have access to documents**

Unless the Court of Disputed Returns otherwise orders, the filing of an application does not deprive the commission of any right to have access to a document for the purpose of performing its functions.

**Division 3                      Disputing qualifications and vacancies of members**

**143 Reference of question as to qualification or vacancy**

- (1) The Legislative Assembly may, by resolution, refer to the Court of Disputed Returns any question regarding—
  - (a) the qualification of a person to be, or to continue to be, a member of the Legislative Assembly; or
  - (b) a vacancy in the Legislative Assembly.

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- (2) The Court of Disputed Returns has jurisdiction to hear and determine the reference.

#### **144 Speaker to state case**

If the Legislative Assembly refers a question to the Court of Disputed Returns, the Speaker must give the court—

- (a) a statement of the question that the court is to hear and determine; and
- (b) any proceedings, papers, reports or documents relating to the reference in the Legislative Assembly's possession.

#### **145 Parties to the reference**

- (1) The Court of Disputed Returns may—
- (a) allow any interested person to be heard when the reference is heard; or
  - (b) direct that notice of its hearing of the reference must be served on a specified person.
- (2) Any person allowed to be heard, or on whom notice is served, becomes a party to the reference.

#### **146 Powers of court**

In hearing the reference, the Court of Disputed Returns—

- (a) must sit as an open court; and
- (b) has power to make such orders as it considers just and equitable, including the power—
  - (i) to declare that any person was not qualified to be a member of the Legislative Assembly; and
  - (ii) to declare that there is a vacancy in the Legislative Assembly.

**147 Order to be sent to Assembly**

After the hearing and determination of the reference, the registrar of the Supreme Court must arrange for a copy of the court's order to be given to the Clerk of the Parliament.

**148 Application of provisions**

Sections 134(6), 140 and 141 apply, subject to any necessary changes, to proceedings on a reference under this division.

**Division 4 Appeals**

**148A Appeal to Court of Appeal on question of law**

An appeal lies to the Court of Appeal from any decision of, or order made by, the Court of Disputed Returns on a question of law.

**148B Time for appealing**

The notice of appeal starting the appeal must—

- (a) be filed within 7 days after the date of the decision or order appealed from; and
- (b) be served as soon as practicable on all other parties to the appeal.

**148C Commission is a party to appeal**

The commission is a party to the appeal, whether or not it is the appellant.

**148D How appeal is dealt with by Court of Appeal**

- (1) In deciding the appeal, the Court of Appeal—
  - (a) is not bound by technicalities, legal forms or rules of evidence; and

[s 148E]

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- (b) may use the procedures, whether usual or otherwise, that it considers necessary to enable the appeal to be decided quickly and properly; and
  - (c) has all the powers given to it by the *Uniform Civil Procedure Rules 1999*.
- (2) The court must use its best efforts to ensure that the appeal is heard, and the court's final decision is made or order is given, as quickly as is reasonable in the circumstances.

#### **148E Application for dismissal of appeal**

- (1) A party, other than the appellant, may apply to the Court of Appeal for an order dismissing the appeal on the ground that there has been excessive delay by the appellant in relation to the appeal.
- (2) The court may make an order on the application it considers appropriate.

#### **148F Copy of final court orders to be sent to Clerk of Parliament**

The registrar of the Supreme Court must arrange for a copy of the Court of Appeal's final orders to be sent to the Clerk of the Parliament as soon as possible after they are made.

#### **148G Right of commission to have access to documents**

Unless the Court of Appeal otherwise orders, the filing of the notice of appeal does not deprive the commission of any right to have access to a document for the purpose of performing its functions.

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## **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 acknowledgement 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 been, 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—

[s 148J]

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- (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.
- (3) The commission may refuse to investigate a complaint that does not comply with subsection (2).
- (4) The commission may conduct the inquiry before or after the voting in the ballot takes place.
- (5) The commission may require the registered officer—
- (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
  - (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.
- (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.
- (7) The registered officer must comply with a requirement under subsection (5) or (6), unless the registered officer has a reasonable excuse.
- Maximum penalty—400 penalty units.
- (8) The commission must, as soon as practicable, give the Minister a report that—
- (a) identifies the preselection ballot examined under this section; and
  - (b) states whether the ballot was conducted in accordance with—



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- (i) the model procedures; and
  - (ii) the party's constitution.

### **148K Frivolous or vexatious complaint**

- (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—
  - (a) to concern a frivolous matter; or
  - (b) to have been made vexatiously.
- (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 commits an offence punishable by a fine of 85 penalty units or 1 year's imprisonment or both.
- (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.

Maximum penalty—85 penalty units or 1 year's imprisonment.

- (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.
- (5) In this section—

*make* a complaint to the commission includes cause a complaint to be referred to the commission.

### **148L Notice of preselection ballot**

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.

Maximum penalty—40 penalty units.

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### **148M Selecting preselection ballots for random audit**

- (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.
- (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—
  - (a) write the name of each of the candidates chosen by preselection ballot on a separate piece of paper; and
  - (b) ensure that each piece of paper is the same kind, shape, size and colour; and
  - (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 envelope, fold each piece of paper in the same way in order to make each piece of paper the same size and thickness; and
  - (d) ensure that each envelope is opaque and of the same kind, shape, size and colour; and
  - (e) after each piece of paper has been put in an envelope, seal the envelope; and
  - (f) put all the envelopes in a container and mix them up; and
  - (g) draw out, 1 at a time, only the number of envelopes that equal the number decided by the commission under subsection (1); and
  - (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.
- (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).

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## **148N Random audit of preselection ballots**

- (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—
  - (a) the model procedures; and
  - (b) the party's constitution.
- (2) The registered officer, within 1 month after receiving the notice, must—
  - (a) give the commission a list of the names and addresses of the members of the party who voted in the ballot; and
  - (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.

Maximum penalty—400 penalty units.

- (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.
- (4) The registered officer must comply with a requirement under subsection (3), unless the registered officer has a reasonable excuse.

Maximum penalty—400 penalty units.

- (5) The commission must, as soon as practicable, give the Minister a report that identifies—
  - (a) the preselection ballots examined under this section; and
  - (b) any preselection ballot in which someone voted in contravention of—
    - (i) the model procedures; or
    - (ii) the party's constitution.

### **1480 Election not invalidated by irregular preselection ballot**

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—

- (a) the model procedures; or
- (b) the party's constitution.

## **Part 9 Enforcement**

### **Division 1 Offences in general**

#### **149 Attempts taken to be offences**

A person who attempts to commit an offence against a provision of this part is taken to have committed the offence.

#### **150 Failure to enrol etc.**

- (1) Subject to this section, a person who contravenes section 65(2) or (3) commits an offence punishable on conviction by a penalty of a fine of not more than 1 penalty unit.
- (2) Subject to this section, if a person who is entitled to be enrolled for an electoral district is not enrolled for the electoral district—
  - (a) at the end of 21 days after becoming entitled; or
  - (b) at any later time while the person continues to be entitled to be enrolled for the district;the person commits an offence punishable on conviction by a penalty of a fine of not more than 1 penalty unit.
- (3) If the person admits evidence that the non-enrolment was not because of the person's failure to give notice as required by

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section 65(2), the person does not commit an offence against subsection (2) unless the prosecution proves the contrary.

- (4) If a person gives notice as required by section 65(2), a proceeding must not be instituted against the person for an offence against subsection (1) for a contravention of section 65(2), or for an offence against subsection (2), committed before the notice was given.

### **151 False names etc. on electoral rolls**

A person must not wilfully insert on any electoral roll a false or fictitious name or address.

Maximum penalty—20 penalty units or 6 months imprisonment.

### **152 Misuse of restricted information**

- (1) If a copy of an electoral roll is made available to a person or body under section 61, a person must use any information obtained from the copy only for purposes set out in subsection (2).

Maximum penalty—20 penalty units or 6 months imprisonment.

- (2) The purposes are—
- (a) any purpose related to an election under—
    - (i) this Act; or
    - (ii) the *Local Government Act 2009*; or
    - (v) the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*; or
  - (b) any purpose related to a referendum; or
  - (c) checking the accuracy of information on the electoral roll; or
  - (d) the performance by a member of—

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- (i) the Legislative Assembly; or
- (ii) a local authority;  
of the member's functions in relation to electors enrolled on the electoral roll; or
- (e) the performance by an official or employee of a political party of the person's duties in relation to electors enrolled on the electoral roll.

### **157 Improperly influencing commissioner**

A person must not improperly influence a commissioner in the performance of the commissioner's duties under this Act.

Maximum penalty—35 penalty units or 1 year's imprisonment.

### **158 Interfering with election right or duty**

A person must not hinder or interfere with the free exercise or performance, by another person, of any right or duty under this Act that relates to an election.

Maximum penalty—20 penalty units or 6 months imprisonment.

### **160 Wilful neglect etc. by commission staff**

A senior electoral officer or member of the commission's staff must not wilfully neglect or fail to perform any duty under this Act.

Maximum penalty—20 penalty units.

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## Division 2                      Offences relating to electoral advertising etc.

### 161      Author of election matter must be named

(1) A person must not, during the election period for an election—

- (a) print, publish, distribute or broadcast; or
- (b) permit or authorise another person to print, publish, distribute or broadcast;

any advertisement, handbill, pamphlet or notice containing election matter unless there appears, or is stated, at its end the particulars required by subsection (2).

Maximum penalty—

- (a) in the case of an individual—20 penalty units; or
- (b) in the case of a corporation—85 penalty units.

(2) 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) Subsection (1) does not apply to an advertisement—

- (a) that is printed, published or distributed on a car sticker, T-shirt, lapel button, lapel badge, pen, pencil or balloon; or
- (b) that is of a kind prescribed for the purposes of this subsection.

(4) Also, subsection (1) does not apply to distributing, or permitting or authorising another person to distribute, a how-to-vote card.

(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.

### **161A Distribution of how-to-vote cards**

- (1) During the election period for an election, a person must not distribute, or permit or authorise another person to distribute, a how-to-vote card that does not comply with subsections (2) to (4).

Maximum penalty—

- (a) for an individual—20 penalty units; or
- (b) for a corporation—85 penalty units.
- (2) A how-to-vote card must state the following particulars—
- (a) the name and address of the person who authorised the card;
- (b) if the card is authorised—
- (i) for a registered political party or a candidate endorsed by a registered political party—the party's name; or
- (ii) for a candidate who is not endorsed by a registered political party—the candidate's name and the word 'candidate'.

*Example for paragraph (b)(i)—*

'Authorised P. Smith, 100 Green Street Brisbane for [*name of registered political party*]'.  
'

*Example for paragraph (b)(ii)—*

'Authorised R. Jones, 1 Green Street Brisbane for R. Jones (candidate)'.  
'

- (3) For subsection (2)(a), the address must not be a post office box.
- (4) The particulars mentioned in subsection (2) must appear—
- (a) at the end of each printed face of the how-to-vote card; and
- (b) in prominent and legible characters in print no smaller than—
- (i) if the card is not larger than A6—10 point; or



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- (ii) if the card is larger than A6 but not larger than A3—14 point; or
  - (iii) if the card is larger than A3—20 point.
- (5) During the election period for an election, a person must not distribute, or permit or authorise another person to distribute, a how-to-vote card if the person knows, or ought reasonably to know, that the particulars, or any of the particulars, mentioned in subsection (2) on the card are false.

Maximum penalty—

- (a) for an individual—20 penalty units; or
  - (b) for a corporation—85 penalty units.
- (6) In this section—
- name*, of a registered political party, means—
- (a) if the register of political parties includes an abbreviation of the party's name—the abbreviation; or
  - (b) otherwise—the party's full name included in the register of political parties.

### **161B Lodging how-to-vote cards**

- (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, no later than 5p.m. on the Friday that is 7 days before the polling day for the election, lodge with the commission—
- (a) the required number of the how-to-vote cards; and
  - (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—
    - (i) who the financial contribution was received from or on behalf of; and

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- (ii) the nature and amount of the financial contribution.
- (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, no later than 5p.m. on the Friday that is 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—
- (a) the required number of the how-to-vote cards; and
  - (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 candidate, in relation to the production of the how-to-vote card that states—
    - (i) who the financial contribution was received from or on behalf of; and
    - (ii) the nature and amount of the financial contribution.

*Example for subsection (1) and (2)—*

If polling day is Saturday, 15 January, the how-to-vote cards and statutory declaration must be lodged no later than 5p.m. on Friday, 7 January.

- (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.
- (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—
  - (a) the commission's Brisbane office; and
  - (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.
- (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.

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- (6) An election is not invalid only because the commission does not comply with subsection (4) or (5).
- (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.

Maximum penalty—20 penalty units.

- (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—
- (a) require the person to produce the how-to-vote card for inspection; and
  - (b) confiscate any how-to-vote cards that have not been lodged as required by subsection (1) or (2).
- (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.

Maximum penalty—20 penalty units.

- (10) In this section—

*financial contribution* means a contribution in the form of money, property or other valuable consideration.

*obstruct* includes hinder and attempt to obstruct.

*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.

## 162 Headline to electoral advertisements

The proprietor of a newspaper is guilty of an offence if—

- (a) an article, or a paragraph, containing electoral matter is printed in the newspaper; and
- (b) either—

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- (i) the insertion of the article or paragraph is or is to be paid for; or
  - (ii) any reward or compensation, or promise of reward or compensation, is or is to be made for the insertion of the article or paragraph; and
- (c) the proprietor does not cause the word ‘advertisement’ to be printed as a headline to the article or paragraph in letters not smaller than 10 point or long primer.

Maximum penalty—

- (a) in the case of an individual—10 penalty units; or
- (b) in the case of a corporation—40 penalty units.

### **163 Misleading voters**

- (1) A person must not, during the election period for an election, print, publish, distribute or broadcast anything that is intended or likely to mislead an elector in relation to the way of voting at the election.

Maximum penalty—40 penalty units.

- (2) A person must not for the purpose of affecting the election of a candidate, knowingly publish a false statement of fact regarding the personal character or conduct of the candidate.

Maximum penalty—40 penalty units.

- (3) A person must not, during the election period for an election, print, publish, distribute or broadcast by television any representation or purported representation of a ballot paper for use in the election if it is likely to induce an elector to vote other than in accordance with this Act.

Maximum penalty—40 penalty units.

- (4) In this section—

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

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## **Division 3                      Offences relating to voting etc.**

### **164      Failure to vote etc.**

- (1) An elector must not—
- (a) fail to vote at an election without a valid and sufficient excuse; or
  - (b) contravene section 125(2); or
  - (c) state anything to the commission or the commission's staff under section 125 the person knows is false or misleading in a material particular; or
  - (d) omit from a statement made under section 125 to the commission or the commission's staff anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—1 penalty unit.

- (2) Without limiting subsection (1)(a), if an elector believes it to be part of the elector's religious duty not to vote at an election, that is a valid and sufficient excuse for failing to vote at the election.
- (3) A person may be prosecuted for an offence against subsection (1)(a) only if the person has been sent a notice about the election under section 125.
- (4) In a proceeding for an offence against subsection (1)(a), a certificate purporting to be signed by a member of the commission's staff stating any of the following matters is evidence of the matter—
- (a) an election happened on a stated day;
  - (b) an elector failed to vote at the election;
  - (c) a notice was sent by the commission to the elector under section 125 on a stated day;
  - (d) a form mentioned in section 125(1) was not received by the commission from the elector by the day stated under the subsection.

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- (5) If a form is not received by the commission from the elector by the day stated under section 125(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 commission about the elector's compliance with section 125, statements in the form purporting to be made by—
  - (a) the elector are evidence as statements made by the elector; and
  - (b) another elector under section 125(3) are evidence as statements made by the other elector.
- (7) Subsection (1)(a) does not apply to an Antarctic voter.
- (8) 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.

## **165 Leave to vote**

- (1) If—
  - (a) an employee who is an elector asks his or her employer, before polling day in relation to an election, for leave of absence to vote at the election; and
  - (b) the absence is necessary to enable the employee to vote at the election;then, unless the absence is reasonably likely to cause danger or substantial loss to the employer in relation to the employment concerned, the employer—
  - (c) must allow the employee leave of absence for a reasonable period of not more than 2 hours to enable the employee to vote at the election; and
  - (d) must not impose any penalty or disproportionate deduction of pay for the leave of absence.

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- (2) An employee must not ask for leave of absence under subsection (1) to vote at an election unless the employee genuinely intends to vote at the election.

Maximum penalty—

- (a) in the case of an individual—10 penalty units; or
- (b) in the case of a corporation—40 penalty units.

### **166 Canvassing etc. in or near polling places**

- (1) A person must not, during the election period for an election, do anything mentioned in subsection (2)—

- (a) inside a room with voting compartments; or
- (b) within 6m or, in relation to an office mentioned in section 109(1), a lesser distance allowed by the commission, of the entrance to a building with voting compartments.

Maximum penalty—10 penalty units.

- (2) For the purposes of subsection (1), the things are—

- (a) canvassing for votes; or
- (b) inducing an elector not to—
  - (i) vote in a particular way; or
  - (ii) vote at all at the election; or
- (c) loitering; or
- (d) obstructing the free passage of voters.

### **167 Interrupting voting etc.**

A person must not—

- (a) enter or remain in a polling booth otherwise than as authorised by this Act; or
- (b) wilfully interrupt, obstruct or disturb any proceeding at an election; or

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- (c) enter a voting compartment otherwise than as authorised by this Act; or
- (d) prevent a scrutineer from entering or leaving a polling place—
  - (i) during voting hours in relation to the polling place; or
  - (ii) while votes are being counted at the polling place; or
- (e) obstruct or wilfully mislead a senior electoral officer or member of the commission's staff in the performance of a duty.

Maximum penalty—10 penalty units.

## **169 Displaying political statements in certain places**

- (1) A person must not display a political statement—
  - (a) inside a room with voting compartments; or
  - (b) within 6m of the entrance to a building with voting compartments.

Maximum penalty—1 penalty unit.

- (2) In this section—

*political statement* means a statement or design that a reasonable person would associate with a political organisation, cause or belief.

## **171 Offences relating to ballot papers**

- (1) A person must not—
  - (a) wilfully fail to comply with section 102(10)(c), 108(5)(d), 109(3)(c) or (d) or 110(5)(c) or (d); or
  - (b) take a ballot paper out of a polling place otherwise than as authorised by this Act; or
  - (c) place in a ballot box a ballot paper that has not been—



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- (i) given to an elector under this Act; or
  - (ii) marked by the elector.
- (2) A person must not, without lawful excuse, obtain possession of, or have in the person's possession—
- (a) a ballot paper that has been marked by another person; or
  - (b) a declaration envelope that has been signed by another person.

Maximum penalty—20 penalty units or 6 months imprisonment.

### **172 Failure to post, fax or deliver documents for someone else**

- (1) A person commits an offence if the person—
- (a) is given a request under section 110 or 111 to post, fax or deliver to the commission or a returning officer; and
- Editor's note—*
- Section 110 deals with declaration voting using posted voting papers. Section 111 deals with electoral visitor voting.
- (b) fails to promptly post it or fax or deliver it to the commission or returning officer.
- (2) A person commits an offence if the person—
- (a) is given a declaration envelope under section 110(5)(d)(ii) to post or send to the commission or returning officer; and
  - (b) fails to promptly post or send it to the commission or returning officer.

Maximum penalty—20 penalty units or 6 months imprisonment.

### **173 Secrecy of voting**

A person must not—

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- (a) unfold a ballot paper that has been marked and folded by an elector under this Act unless ordered by a court or authorised under this Act to do so; or
- (b) if the person is a member of the commission's staff performing duties at a polling place in relation to an election—
  - (i) ascertain or discover how an elector has voted at the election unless the person is authorised to do so under this Act; or
  - (ii) disclose any information as to how an elector has voted at the election unless the person is authorised to do so under this Act or ordered by a court to do so.

Maximum penalty—20 penalty units or 6 months imprisonment.

#### **174 Breaking seals on parcels**

A person must not wilfully open or break the seal of a parcel sealed under section 118(2)(h) unless the person is authorised to do so under this Act or ordered by a court to do so.

Maximum penalty—20 penalty units or 6 months imprisonment.

#### **175 Duty of witness to signing of declaration voting papers**

An elector or other person (the *witness*) must not sign a declaration envelope as witness under section 110(5)(a) unless—

- (a) the witness is satisfied of the identity of the elector who signs the declaration before the witness; and
- (b) the witness has seen the elector sign the declaration; and
- (c) either—
  - (i) the witness knows that the declaration made by the elector on the envelope is true; or

- (ii) the witness is satisfied, on the basis of inquiries of the elector or otherwise, that the declaration is true.

Maximum penalty—20 penalty units or 6 months imprisonment.

## Division 5                      Injunctions

### 177      Injunctions

- (1) If—
  - (a) either—
    - (i) a person (the *offending party*) has engaged, is engaging or is proposing to engage in conduct; or
    - (ii) a person (also the *offending party*) has failed, is failing or is proposing to fail to do anything; and
  - (b) the conduct or failure constituted, constitutes or would constitute a contravention of, or an offence against, this Act;

an application may be made to the Supreme Court for an injunction.
- (2) The application may be made by—
  - (a) if the conduct or failure relates to an election—a candidate in the election; or
  - (b) in any case—the commission.
- (3) The court may grant an interim injunction pending determination of the application.
- (4) If the commission makes the application for the injunction, the court must not require it or another person to give any undertakings as to damages as a condition of granting an interim injunction under subsection (3).
- (5) On considering the application for the injunction, the court may—

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- (a) in a case to which subsection (1)(a)(i) applies—grant an injunction restraining the offending party from engaging in the conduct concerned and, if in the court’s opinion it is desirable to do so, requiring the offending party to do anything; or
  - (b) in a case to which subsection (1)(a)(ii) applies—grant an injunction requiring the offending party to do the thing concerned.
- (6) The court may grant the injunction—
- (a) if the court is satisfied that the offending party has engaged in the conduct, or failed to do the thing, mentioned in subsection (1)—whether or not it appears to the court that the offending party intends—
    - (i) to engage again or continue to engage in the conduct; or
    - (ii) to fail or continue to fail or do the thing; or
  - (b) if it appears to the court that, if the injunction is not granted, it is likely that the offending party will engage in the conduct, or fail to do the thing, mentioned in subsection (1)—whether or not—
    - (i) the offending party has previously engaged in the conduct or failed to do the thing; and
    - (ii) there is an imminent danger of substantial damage to any person if the offending party engages in the conduct or fails to do the thing.
- (7) The court may refuse to grant an injunction if it appears to the court that the application was not made to the court at the earliest possible opportunity.
- (8) The court may discharge or vary the injunction or any interim injunction granted under subsection (3).
- (9) The powers conferred on the court by this section are in addition to, and do not limit, any other powers of the court.

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## Part 10                      Miscellaneous

### 178      How things are to be given to commission

A claim, return, form, notice, application, nomination or other document or thing that is required or permitted by this Act to be given to the commission is to be given to the commission by leaving it at, or sending it by post or facsimile or in a similar way, to the commission's office.

### 179      How things are to be signed

For the purposes of this Act, a person signs a thing—

- (a) by signing the person's name in writing on the thing; or
- (b) if the person is unable to sign as mentioned in paragraph (a)—by making the person's mark on the thing as a signature before another person who signs the thing as witness; or
- (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.

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## 180 Review of certain decisions

- (1) The decisions set out in the following table are reviewable under this section if an application for review is made under this section by the person set out in the table.

<b>Reviewable decision</b>	<b>Person who may apply for review</b>
1 a decision under section 58(4) regarding the inclusion of a person's address in the publicly available part of an electoral roll	the person
2 a decision under section 65 not to amend an electoral roll to give effect to a notice by a person	the person who gave the notice
3 a decision to take action, or not to take action, under section 67(5) to amend the electoral rolls	the person who objected under section 67 to the enrolment of another person or the other person
4 a decision under section 72 to register, or under section 73 to refuse to register, a political party	any person affected by the decision
5 a decision under the Act that a person is not a special postal voter	the person

- (2) An application for review of a reviewable decision must—
- (a) be in writing; and
  - (b) be made to—
    - (i) in the case of a reviewable decision mentioned in item 4 in the table—the Supreme Court; and
    - (ii) in any other case—a Magistrates Court; and

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- (c) be made within 1 month after the decision comes to the notice of the applicant or such further period as the court allows; and
  - (d) set out the grounds on which review is sought.
- (3) The court must review the decision and make an order—
- (a) confirming the decision; or
  - (b) varying the decision; or
  - (c) setting aside the decision and making a decision in substitution.
- (4) If an application for review of a decision has been made to a Magistrates Court, a party to the application or the Attorney-General may, before or at any stage during the hearing of the application, apply to a District Court or the Supreme Court for removal of the matter to the court.
- (5) The court may, by order, grant the application.
- (6) If an application for review of a decision is required to be made to a Magistrates Court, a person who may make the application may apply to a District Court or the Supreme Court for leave to make the application to the court instead of a Magistrates Court.
- (7) The court may, by order, grant the leave.
- (8) The Supreme Court or a District Court is to be constituted by a single judge for the purposes of this section.
- (9) The Magistrates Court is to be constituted by a stipendiary magistrate for the purposes of this section.

## **181 Advertising of office addresses etc.**

The commission must advertise the locations and opening hours of its office and offices of returning officers and other members of the commission's staff.

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**182 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may be made—
  - (a) prescribing offences against the regulation; and
  - (b) fixing a maximum penalty of a fine of 20 penalty units for an offence against the regulation.

**Part 11 Transitional provisions**

**Division 1 Transitional provision for Electoral and Other Acts Amendment Act 2001**

**183 Transitional provision—petition disputing election**

- (1) If, immediately before the commencement day, there was a petition filed under section 130 that had not been finally dealt with by the Court of Disputed Returns, the petition is taken to be an application under that section.
- (2) In this section—

*commencement day* means the day that the amendments of this Act in the *Electoral and Other Acts Amendment Act 2001*, schedule 1, commenced.



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

### 184      **Registered political party constitution**

- (1) This section applies to a political party that, on the commencement of this section, is a registered political party.
- (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.
- (3) Despite the commencement of part 8A, part 8A does not apply to the party until subsection (2) has been complied with.
- (4) If the registered officer does not comply with subsection (2), the commission must cancel the registration of the party by—
  - (a) cancelling the information in, and removing the documents from, the register of political parties relating to the party; and
  - (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
  - (c) giving notice of the cancellation in the gazette; and
  - (d) keeping the documents in the commission's records.

## Division 3                      **Transitional provisions for Electoral Amendment Act 2008**

### 185      **Definitions for div 3**

In this division—

*amending Act* means the *Electoral Amendment Act 2008*.

*assent day* means the day the amending Act receives assent.

*commencement* means 1 July 2008.

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*pre-amended Act* means this Act as in force immediately before 1 July 2008.

**186 Reference to election funding amount for sch, s 294A**

For the operation of the schedule, section 294A for the financial year starting 1 July 2008, a reference in the schedule, section 294A(5), definition *A* to ‘election funding amount’ means a reference to ‘election funding reimbursement amount’.

**187 Continuation of decisions under sch, s 299A**

- (1) It is declared that a decision made under pre-amended section 299A before the assent day continues to have effect after the commencement as if the amending Act had not been enacted.
- (2) The pre-amended Act continues to apply in relation to the decision as if the amending Act had not been enacted.
- (3) In this section—

*pre-amended section 299A* means the schedule, section 299A as in force immediately before the commencement.

**188 Decisions about electoral expenditure paid under the pre-amended Act**

- (1) This section applies to a claim for an amount of electoral expenditure accepted, and paid, by the electoral commission before the assent day if, after the assent day, the electoral commission becomes satisfied that—
  - (a) the amount of electoral expenditure should not have been accepted; or
  - (b) only a lesser amount of electoral expenditure should have been accepted.
- (2) The schedule, section 301 applies as if a reference in that section to a claim decision were a reference to a decision about the payment of the amount of electoral expenditure and

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the schedule, division 3 applies in relation to the decision with necessary changes.

**189 Donations made or received on or after 1 July 2008 and before the end of a stated period**

- (1) This section applies if, under a provision of this Act as in force on the commencement, a person or entity is required to disclose, or otherwise deal with, a donation within a period prescribed by this Act ending on or after the commencement but before the day 13 days after the assent day.
- (2) The person or entity does not contravene the provision if the person or entity discloses, or otherwise deals with, the donation as required under this Act within 28 days after the assent day.
- (3) In this section—  
*disclose* includes report and give a return in relation to.  
*donation* includes gift.

**Division 4 Transitional provision for Justice and Other Legislation Amendment Act 2010**

**190 Transitional provision for Justice and Other Legislation Amendment Act 2010**

The amendment of the *Electoral Regulation 2002* by the *Justice and Other Legislation Amendment Act 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

## Schedule **Election Funding and financial disclosure based on part XX of the Commonwealth Electoral Act**

*section 126B*

*Editor's note—*

This schedule is based on the Commonwealth Electoral Act, Part XX. Textual changes are indicated by italic script. Citations of Acts and definitions are also in italics. If a cited Act or definition has changed, the citation or definition is underlined.

### Division 1 **Preliminary**

#### 287 **Interpretation**

(1) In this *Schedule* (*words omitted*)—

*(definitions omitted).*

***associated entity*** means an entity that—

- (a) is controlled by *1* or more registered political parties; or
- (b) operates wholly or to a significant extent for the benefit of *1* or more registered political parties.

***authorised officer*** means a person who is appointed under section 323 as an authorised officer.

***disposition of property*** means any conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, and includes—

- (a) the allotment of shares in a company; *and*
- (b) the creation of a trust in property; *and*
- (c) the grant or creation of any lease, mortgage, charge, servitude, licence, power, partnership or interest in property; *and*

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- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract or chose in action, or of any interest in property; *and*
  - (e) the exercise by a person of a general power of appointment of property in favour of any other person; *and*
  - (f) any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of any other person.

*(definitions omitted).*

**entity** means—

- (a) an incorporated or unincorporated body; *or*
- (b) the trustee of a trust.

**financial controller**, of an associated entity, means—

- (a) if the entity is a *corporation*—the secretary of the *corporation*; *or*
- (b) if the entity is the trustee of a trust—the trustee; *or*
- (c) in other cases—the person responsible for *keeping* the financial records of the entity.

**gift** means any disposition of property made by a person to *someone else*, otherwise than by will, being a disposition made without consideration in money or money's worth or with inadequate consideration, and includes the provision of a service (other than volunteer labour) for no consideration or for inadequate consideration, but does not include—

- (a) a payment under Division 3; *or*
- (b) an annual subscription paid to a political party (*words omitted*) by a person *for* the person's membership of the party (*words omitted*).

*(definitions omitted).*

**journal** means a newspaper, magazine or other periodical, whether published for sale or for distribution without charge.

*(definitions omitted).*

**loan** means any of the following made other than by use of a credit card—

- (a) *an advance of money;*
- (b) *a provision of credit or any other form of financial accommodation;*
- (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;*
- (d) a transaction (whatever its terms or form) that in substance effects a loan of money.

**occupier** of a place, in Divisions 9, 10 and 11, includes a person who reasonably appears to be the occupier, or in charge, of the place.

**place**, in Divisions 9, 10 and 11, includes land, premises, aircraft, ships and vehicles.

**registered**, for an election, means registered under Part 5.

**registered industrial organisation** means—

- (a) a body registered as an industrial organisation, or a body whose registration was continued or preserved, under the *Industrial Relations Act 1999*; or
- (b) an organisation registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth) or the law of another State or territory about the registration of industrial organisations or unions.

**reporting period** means—

- (a) *the first 6 months of a financial year; or*
- (b) *a full financial year.*

*Editor's note—*

The definition *reporting period* is based on the proposed definition *reporting period* for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

*(definition omitted).*

- (2) *(omitted)*.
- (3) A reference in this *Schedule* to things done by or for a *registered* political party (*words omitted*) *must*, if the party (*words omitted*) is not a body corporate, be read as a reference to things done by or with the authority of members or officers of the party (*words omitted*) for the party (*words omitted*).
- (4) A reference in this *Schedule* to a *registered* political party, other than a reference to the endorsement of a candidate (*words omitted*) in an election, *must* be read as not including a reference to a part of the political party.
- (4A) *(omitted)*.
- (5) For the purposes of this *Schedule*, the amount or value of a gift consisting of or including a disposition of property other than money *must*, if the regulations so provide, be *decided under principles stated or mentioned* in the regulations.
- (6) For the purposes of this *Schedule*—
- (a) a body corporate and any other body corporate that is related to the first-mentioned body corporate *must be taken* to be the same person; and
  - (b) the question whether a body corporate is related to another body corporate *must be decided* in the same manner as the question whether a corporation is related to another corporation is determined under the *Corporations Act*.
- (7) For the purposes of this *Schedule*, an advertisement relates to an election if it contains electoral matter, whether or not consideration was given for the publication or broadcasting of the advertisement.

### **287AA Meaning of disclosure period**

- (1) A **disclosure period**, for an election, is the period that starts—
- (a) for a candidate in the election who had been a candidate in a general election or by-election the polling day in which was within the prescribed time (4 years) before polling day in the election—at the end of

*the prescribed time (30 days) after polling day in the last general election or by-election in which the person was a candidate; or*

- (b) for a candidate in the election who had not been a candidate in a general election or by-election the polling day in which was within the prescribed time (4 years) before polling day in the relevant election—on the day on which the person announced that he or she would be a candidate in the election or on the day on which the person nominated as a candidate, whichever was the earlier; or*
  - (c) for a person or organisation to which section 305(1) or 305A(1) applies—at the end of the prescribed time (30 days) after the polling day in the last general election.*
- (2) A **disclosure period** for an election ends at the prescribed time (30 days) after the polling day for the election.*
  - (3) Despite subsection (1), a disclosure period for the first general election after the commencement of this Schedule, or a by-election that happens before the second general election after the commencement of this Schedule, for a candidate for the general election or by-election, or a person or organisation to which section 305(1) applies, is the period that starts on 1 January 1995.*
  - (4) Subsection (3) and this subsection expire on 1 January 1999.*

**287A Campaign committee to be treated as part of (words omitted) party**

- (1) Divisions 4, 4A, 5 and 5A apply as if a campaign committee of an endorsed candidate were the registered political party that endorsed the candidate (words omitted).*
- (2) In subsection (1)—*  
***campaign committee**, for a candidate (words omitted), means a body of persons appointed or engaged to form a committee to help the campaign of the candidate (words omitted) in an election.*



*endorsed candidate* means a candidate who is endorsed by a registered political party.

*(definitions omitted).*

## Division 2                      Agents

### 288      Agents of *registered* political parties

- (1) A *registered* political party *must* have an agent for the purposes of this *Schedule*.
- (2) *(omitted).*
- (3) *(omitted).*

### 289      Appointment of agents by candidates (*words omitted*)

- (1) A candidate in an election (*words omitted*) may appoint a person to be the agent of the candidate, for the purposes of this *Schedule*, for the election.
- (2) *(omitted).*
- (2A) *(omitted).*
- (3) During any period *for* which there is no appointment in force under subsection (1) of an agent of a candidate, the candidate *is* taken to be his or her own agent for the purposes of this *Schedule*.
- (4) *(omitted).*

### 290      Requisites for appointment

- (1) An appointment of an agent under section 288 or 289 has no effect unless—
  - (a) the person appointed is *an adult*; and
  - (b) written notice of the appointment is given to the Electoral Commission—

- (i) *if* the appointment is made by a *registered* political party (*words omitted*)—by the party (*words omitted*); and
    - (ii) in any other case—by the candidate (*words omitted*) making the appointment; *and*
  - (c) the name and address of the person appointed are *stated* in the notice; and
  - (d) the person appointed—
    - (i) has signed a form of consent to the appointment; and
    - (ii) has signed a declaration that he or she is eligible for appointment.
- (1A) A consent or declaration under subsection (1) may be incorporated in, or written on the same paper as, a notice under that subsection.
- (2) *If* a person who is the agent of a *registered* political party *or* a candidate (*words omitted*) is convicted of an offence against this *Schedule* for a particular election, the person is not eligible to be appointed or to hold office as an agent for the purposes of this *Schedule* for the purposes of any subsequent election.
- (3) An appointment (other than an appointment by a *registered* political party (*words omitted*)) is not effective *for* anything required by this *Schedule* to be done—
- (a) *for* a claim or return under this *Schedule* for an election; or
  - (b) during a specified period after polling day in an election; if notice of the appointment was given to the commission after the close of nominations for the election.

## **291 Register of Party Agents**

- (1) The Electoral Commission *must* keep a register called the Register of Party Agents.

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- (2) There *must* be entered in the Register the name and address of every person appointed to be an agent of a *registered* political party for the purposes of this *Schedule*.

## 292 Effect of registration etc.

- (1) The appointment of an agent by a *registered* political party—
- (a) takes effect on the entry of the name and address of the agent in the Register of Party Agents; and
  - (b) ceases to have effect if the name and address of the agent are removed from the Register.
- (2) The name and address of a person *must* not be removed from the Register unless—
- (a) the person gives to the Electoral Commission written notice that he or she has resigned the appointment as agent; *or*
  - (b) the *registered* political party (*words omitted*) that appointed the person gives to the Electoral Commission written notice that the person has ceased to be an agent of the party and also gives notice under *section 290(1)* of the appointment of *someone else* as agent of the party; *or*
  - (c) the person is convicted of an offence against this *Schedule*; *or*
  - (d) *the party's registration is cancelled*.
- (3) If a person who is an agent of a *registered* political party dies, the party (*words omitted*) by which the person was appointed *must*, within 28 days after the death of the person, give to the Electoral Commission—
- (a) written notice of the death; and
  - (b) notice under *section 290(1)* of the appointment of a person as agent in place of the *deceased* person.
- (4) *If* a person who is an agent of a *registered* political party is convicted of an offence against this *Schedule*, the party (*words omitted*) that appointed the person *must* give notice

under *section* 290(1) of a fresh appointment within 28 days after the conviction or, if an appeal against the conviction is instituted and the conviction is affirmed, within 28 days after the appeal is *decided*.

### **292A Evidence of appointment**

An entry in the Register of Party Agents is, for all purposes, (*word omitted*) evidence that the person described in the entry is the agent, for the purposes of this *Schedule*, of the *registered* political party named in the entry.

### **292B Responsibility for action when agent of party (*words omitted*) dead or appointment vacant**

*If—*

- (a) Division 4, 4A, 5 or 5A imposes an obligation on the agent of a *registered* political party (*words omitted*); and
- (b) there is no agent of the party (*words omitted*);

the obligation rests *on* each member of the executive committee of the party (*words omitted*), and this *Schedule* applies to each such member as if the obligation rested *on* that member alone.

### **292C Revocation of appointment of agent of candidate (*words omitted*)**

- (1) A candidate (*words omitted*) may, by giving written notice to the Electoral Commission, revoke the appointment of a person as the agent of the candidate (*words omitted*).
- (2) A notice under subsection (1) has no effect unless it is signed by the candidate (*words omitted*).

### **292D Notice of death or resignation of agent of candidate (*words omitted*)**

If the agent of a candidate (*words omitted*) dies or resigns, the candidate (*words omitted*) *must*, without delay, give to the

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Electoral Commission notice in writing of the death or resignation.

## **Division 3            Election funding**

### ***Subdivision AA    Preliminary***

#### **292E    Interpretation**

- (1) *A reference in this division to electoral expenditure for an election is to be read as a reference to any expenditure incurred for the election campaign (whether or not incurred during the election period).*
- (2) *For the purposes of this division, electoral expenditure for an election incurred by or for a candidate who is endorsed by a registered political party is taken to be electoral expenditure for the election incurred by the party.*

### **Subdivision A        Entitlement to election funding**

#### **293        Entitlement to election funding—registered political parties**

- (1) *A registered political party is entitled to election funding under this section for all elections held on the same day if, in relation to a candidate whom the party endorses in an election, the total number of formal first preference votes given for the candidate is at least 4% of the total number of formal first preference votes cast in the election.*
- (2) *The amount of election funding to which the registered political party is entitled is the lesser of—*
  - (a) *the election funding amount calculated under section 294A for each formal first preference vote given for a candidate in relation to whom subsection (1) is satisfied; and*

- (b) *the amount of electoral expenditure—*
  - (i) *claimed in relation to the registered political party for all elections held that day; and*
  - (ii) *accepted by the Electoral Commission under section 298C.*

*Editor's note—*

This section is based on proposed section 293 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**294 Entitlement to election funding—unendorsed candidates**

- (1) *A candidate in an election is entitled to election funding under this section if—*
  - (a) *the candidate is not endorsed by a registered political party; and*
  - (b) *the total number of formal first preference votes given for the candidate in the election is at least 4% of the total number of formal first preference votes cast in the election.*
- (2) *The amount of election funding to which the candidate is entitled is the lesser of—*
  - (a) *the election funding amount calculated under section 294A for each formal first preference vote given for the candidate in the election; and*
  - (b) *the amount of electoral expenditure—*
    - (i) *claimed in relation to the candidate for the election; and*
    - (ii) *accepted by the Electoral Commission under section 298C.*

*Editor's note—*

This section is based on proposed section 294 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

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**294A Election funding amount**

- (1) For section 293(2)(a) or 294(2)(a), the election funding amount is—
- (a) \$1.03531; or
- (b) the amount worked out (to 5 decimal places) under subsection (2).

- (2) The election funding amount is adjusted for each financial year on 1 July using the formula—

$$\frac{A \times B}{C}$$

- (3) However, if, for a particular financial year, adjustment of the election funding amount would reduce the amount, the amount is not to be adjusted for the year.
- (4) If an amount would, if calculated to 6 decimal places, end with a number more than 4, the amount is taken to be the amount calculated to 5 decimal places and increased by 0.00001.
- (5) In this section—

*A* is the election funding amount immediately before 1 July in a year.

*B* is the CPI number published for the March quarter in the year.

*C* is the CPI number published for the March quarter in the previous year.

*CPI* means the all groups consumer price index for Brisbane published by the Australian Statistician.

**295 (omitted)**

**296 (omitted)**

## **Subdivision B      Claims for election funding**

### **297      Need for a claim**

- (1) *To be paid an amount of election funding, the agent of a registered political party (words omitted) or candidate must make a claim.*
- (2) *(omitted).*
- (3) *A (word omitted) claim must specify all electoral expenditure for which election funding is sought (words omitted).*
- (4) *(omitted).*
- (5) *(omitted).*

*Editor's note—*

This section is based on proposed section 297 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **298      Electoral expenditure incurred**

- (1) *A claim made by the agent of a registered political party must specify electoral expenditure—*
  - (a) *incurred by the party, or by candidates endorsed by the party, in relation to all elections held on the same day; and*
  - (b) *for which election funding is sought.*
- (2) *A claim made by the agent of a candidate in an election must specify electoral expenditure—*
  - (a) *incurred by the candidate in relation to the election; and*
  - (b) *for which election funding is sought.*
- (3) *(omitted).*

*Editor's note—*

This section is based on proposed section 298 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.



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**298A Form of claim**

*A claim must—*

- (a) (omitted);*
- (b) be in the approved form; and*
- (c) provide all the information, and be accompanied by any documents, required by the form.*

*Editor's note—*

This section is based on proposed section 298A for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**298B Lodging of claim**

- (1) A claim in relation to an election or elections must be lodged with the Electoral Commission—*
  - (a) during the period of 20 weeks after the polling day in the election or elections to which the claim relates; or*
  - (b) within a longer period the Electoral Commission, before the end of the period specified in paragraph (a), fixes.*
- (2) The Electoral Commission must not fix a longer period for the purpose of subsection (1)(b) unless it is satisfied that the circumstances of the case justify the fixing of a longer period.*

**298C Deciding claim**

- (1) The Electoral Commission must, after receiving a claim—*
  - (a) decide whether to accept or refuse the claim, in whole or in part; and*
  - (b) to the extent that the Electoral Commission accepts the claim—pay the amount required by section (words omitted) 298E.*
- (2) In deciding whether to accept or refuse a claim, in whole or in part, the Electoral Commission must only consider—*
  - (a) whether expenditure claimed is electoral expenditure; and*

(b) *if expenditure claimed is electoral expenditure—whether the electoral expenditure was incurred.*

(3) *(omitted).*

*Editor's note—*

This section is based on proposed section 298C for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **298D (omitted)**

### **298E Accepting a (word omitted) claim**

(1) *Subsection (2) applies if—*

(a) *a (word omitted) claim is made by the agent of a registered political party or candidate (words omitted) in relation to an election or elections; and*

(b) *the Electoral Commission accepts the claim, in whole or in part.*

(2) *The Electoral Commission must pay (words omitted)—*

(a) *the amount (word omitted) under section 293(2) or 294(2) (words omitted), as applicable; (word omitted)*

(b) *(omitted);*

*(words omitted).*

*Editor's note—*

This section is based on proposed section 298E for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **298F Refusing a (word omitted) claim**

*If a (word omitted) claim is refused, in whole or in part, the Electoral Commission must cause to be served on the agent of the registered political party or candidate (words omitted) to which the claim relates, a notice that states that the claim has been refused, in whole or in part, and sets out the reasons for the refusal.*

*Editor's note—*

This section is based on proposed section 298F for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**298G Application for reconsideration of decision refusing a (word omitted) claim**

- (1) *If a (word omitted) claim is refused, in whole or in part, the agent of the registered political party or candidate (words omitted) to which the claim relates may apply to the Electoral Commission for the Electoral Commission to reconsider the decision.*
- (2) *The application must—*
  - (a) *be in writing; and*
  - (b) *set out the reasons for the application.*
- (3) *The application must be made within—*
  - (a) *28 days after the day on which the relevant agent is notified of the refusal; or*
  - (b) *if, either before or after the end of that period of 28 days, the Electoral Commission extends the period within which the application may be made—the extended period for making the application.*

*Editor's note—*

This section is based on proposed section 298G for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**298H Reconsideration by Electoral Commission**

- (1) *On receiving an application mentioned in section 298G, the Electoral Commission must—*
  - (a) *reconsider the decision; and*
  - (b) *decide to—*
    - (i) *affirm the decision; or*
    - (ii) *vary the decision; or*

*(iii) set aside the decision and make another decision.*

- (2) The Electoral Commission must give to the relevant agent a notice stating the decision on the reconsideration together with a statement of the reasons for the decision.*
- (3) If the Electoral Commission's decision on the reconsideration would require an amount, or an additional amount, of election funding to be paid, the Electoral Commission must pay the amount within 20 days after the day of its decision.*
- (4) The Electoral Commission may not delegate its power under subsection (1).*

*Editor's note—*

This section is based on proposed section 298H for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

## **Subdivision C      Payments of election funding**

### **299      Making of payments**

- (1) If the Electoral Commission is satisfied, on a claim under this division, that an amount of election funding is payable in relation to a candidate or candidates endorsed by a registered political party, the Electoral Commission must make the payment to the agent of (words omitted) the party (words omitted).*
- (2) If subsection (1) does not apply and an amount of election funding is payable in relation to a candidate, the Electoral Commission must pay the amount to the candidate's agent.*
- (3) (omitted).*

*Editor's note—*

Subsections (1) to (3) are based on proposed section 299(1) to (3) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

- (4) (omitted).*
- (4A) (omitted).*

- (5) *(omitted)*.
- (6) *If a payment is made under this Division and the recipient is not entitled to receive the whole or a part of the amount paid, whether because of a false statement in a claim or otherwise, the amount or the part of the amount may be recovered by the State as a debt due to the State by action against the person (words omitted).*

## **Subdivision D      Miscellaneous**

### **300      Death of candidates (words omitted)**

#### *Death of candidate*

- (1) *If formal first preference votes were given for a candidate in an election, a payment may be made in relation to the candidate even if the candidate dies.*
- (2) *If the candidate was not endorsed by a registered political party and was his or her own agent for the purposes of this division, the payment may be made to the candidate's legal personal representative.*
- (3) *(omitted)*.
- (4) *(omitted)*.

#### *Editor's note—*

This section is based on proposed section 300 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **301      Varying decisions accepting claims**

- (1) *If—*
- (a) *the Electoral Commission has made a decision (the **claim decision**) under section 298C to accept an amount of electoral expenditure specified in a (word omitted) claim; and*
- (b) *the Electoral Commission becomes satisfied that—*

- (i) *the amount of electoral expenditure should not have been accepted; or*
- (ii) *only a lesser amount of electoral expenditure should have been accepted;*

*the Electoral Commission may vary the claim decision accordingly.*

(2) *If the Electoral Commission makes a decision (the **variation decision**) to vary the claim decision, sections 298F, 298G and 298H apply in relation to the variation decision as if it were, to the extent of the variation, a decision of the Electoral Commission to refuse the claim.*

(3) *If—*

- (a) *the Electoral Commission varies the claim decision; and*
- (b) *the total amount of election funding that has been paid to a person in relation to the claim exceeds the amount that, under the claim decision as varied, should have been paid to the person in relation to the claim;*

*the amount of the excess is an overpayment, and may be recovered by the State as a debt due to the State by action, in a court of competent jurisdiction, against the person.*

(4) *(omitted).*

*Editor's note—*

*This section is based on proposed section 301 for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.*

## **302 Appropriation**

*(omitted).*

## **Division 4 Disclosure of donations**

## **303 Interpretation**

*(omitted).*

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**303A How division applies to gifts that are returned etc. within 6 weeks**

*Division generally does not apply to gifts returned within 6 weeks of receipt*

- (1) *Subject to subsections (2) and (3), this division does not apply to a gift that is returned within 6 weeks after its receipt.*

*Division applies to gifts of foreign property, whether or not returned*

- (2) *This division applies to a gift of foreign property within the meaning of division 4A, subdivision A whether or not the gift is returned within 6 weeks as mentioned in section 306AA.*
- (3) *If the gift is so returned, any return under this division that includes the amount or value of the gift must also include a statement to the effect that the gift was so returned.*
- (4) *(omitted).*
- (5) *(omitted).*

*Editor's note—*

This section is based on proposed section 303A for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**304 Disclosure of gifts**

- (2) The agent of each person (*words omitted*) who was a candidate in an election or by-election *must*, within *the prescribed time (15 weeks)* after the polling day in the election, *give* to the Electoral Commission a return, in an approved form, *stating* the total amount or value of all gifts, the number of persons who made gifts, and the relevant details of each gift, received by the person during the disclosure period for the election.
- (3) *(omitted).*
- (3A) *(omitted).*
- (4) For the purposes of this section, a reference to the relevant details, *of a gift, must* be read as a reference to the amount or value of the gift, the date on which the gift was made and—

- (a) *for* a gift made *for* 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*
  - (b) *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
  - (ba) for a gift made out of a trust account of a lawyer or accountant under the instructions of a person who is in substance the giver of the gift—the name and residential or business address of the person; and
  - (c) in any other case—the name and address of the person who made the gift.
- (5) *Despite subsection (2) (words omitted), the agent of a candidate (words omitted) is not required, in a return under subsection (2) (words omitted), to state the relevant details of a gift if—*
- (b) *for* a gift made to a candidate (*words omitted*)—
    - (i) the gift was made in a private capacity to the candidate for his or her personal use and the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election or a by-election; or
    - (ii) the amount or value of the gift is less than \$1000;  
or
  - (c) (*omitted*).
- (6) *Subsection (5)(b)(ii) (words omitted) does not apply to a return under subsection (2) (words omitted) for a gift made by a person if—*



- 
- (b) *for a gift made to a candidate (words omitted)—the sum of the amount or value of the gift and of all other gifts (other than gifts of the kind mentioned in subsection (5)(b)(i)) made by the person to the candidate during the period to which the return relates is equal to or is more than \$1000; or*
- (c) *(omitted).*
- (8) *Despite subsection (2), the agent of a person is not required, in a return under subsection (2), to state the total amount or value of, or the number of persons who made, gifts of the kind mentioned in subsection (5)(b)(i).*

*Nil returns*

- (9) *If no details are required to be included in a return under this section in relation to a candidate, the return must still be lodged and must include a statement to the effect that no gifts of a kind required to be disclosed were received.*
- (10) *(omitted).*

*Editor's note—*

Subsections (9) and (10) are based on proposed section 304(9) and (10) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **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 \$1000 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.*

### **305 Expenditure incurred for political purposes**

- (1) *If a person (other than a registered political party, (words omitted) an associated entity or a candidate (words omitted)), during the disclosure period for an election, incurs expenditure for a political purpose, the person must, before the expiration of 15 weeks after the polling day in the election, give to the Electoral Commission a return, in an approved form, stating the relevant details of all gifts received by the person during the disclosure period, being gifts—*
  - (a) *the whole or a part of each of which was used by the person to enable the person to incur expenditure for a political purpose or to reimburse the person for incurring expenditure for a political purpose; and*
  - (b) *the amount or value of each of which is equal to or more than the prescribed amount (\$1000).*
- (2) *Subsection (1) does not apply to a person for the disclosure period for an election if the total amount of expenditure*

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incurred by the person for political purposes during the disclosure period is less than *the prescribed amount* (\$1000).

- (2A) For the purposes of this section, a person is taken to have incurred expenditure for a political purpose if, during the disclosure period *for* an election, the person incurs the expenditure *for the* election or any other election.
- (3) In this section—
- (a) a reference to the incurring of expenditure for a political purpose *must* be read as a reference to the incurring of expenditure *for* or by the way of—
    - (i) publication by any means (including radio or television) of electoral matter; *or*
    - (ii) by any other *ways* publicly expressing views on an issue in an election; *or*
    - (iii) the making of a gift to a political party (*words omitted*); *or*
    - (iv) the making of a gift to a candidate in an election (*words omitted*); *or*
    - (v) the making of a gift to a person on the understanding that *the* person or *someone else* will apply, either directly or indirectly, the whole or a part of the gift as mentioned in subparagraph (i), (ii), (iii) or (iv); and
  - (b) the reference to the relevant details, *of* a gift, is a reference to the amount or value of the gift, the date on which the gift was made and—
    - (i) *for* a gift made *for* the members of an unincorporated association, other than a registered industrial organisation—
      - (A) the name of the association; and
      - (B) the names and addresses of the members of the executive committee (however described) of the association; *and*
    - (ii) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—

- (A) the names and addresses of the trustees of the fund or of the funds of the foundation; and
  - (B) the title or other description of the trust fund or the name of the foundation (*words omitted*); and
- (iii) in any other case—the name and address of the person who made the gift.
- (4) For the purposes of subsection (1), 2 or more gifts made, during the disclosure period *for* an election, by the same person to another person are taken to be 1 gift.
- (5) (*omitted*).

### **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 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 \$1000.
- (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**

#### *Obligation to give returns for reporting periods*

- (1) *Subject to subsections (2A) and (2B), if, in a reporting period, a person makes gifts totalling \$1000 or more to the same registered political party, the person must give a return to the Electoral Commission within 8 weeks after the end of the reporting period, disclosing all the gifts that the person made to the registered political party during the reporting period.*

#### *Editor's note—*

Subsection (1) is based on proposed section 305B(1) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

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

*How section applies to political parties that are related*

- (1A) If—
- (a) 2 or more political parties are related to each other; and
  - (b) at least 1 of those parties is a registered political party;
- subsection (1) applies as if—*
- (c) those parties together constituted a single registered political party (rather than being separate political parties); and
  - (d) a gift made by a person to any of those parties were a gift made by that person to the single registered political party referred to in paragraph (c).

*How section applies to gifts made with intention of benefiting a party*

- (2) *If a person makes a gift to any person or body with the intention of benefiting a particular political party, the person is taken for the purpose of this section (including subsection (1A)(d)) to have made that gift directly to that political party.*

*Half-year returns—effect on obligation to give full year return*

- (2A) *If a person—*
- (a) *has given a return to the Electoral Commission disclosing a gift or gifts that the person made to a registered political party during a reporting period that is the first 6 months of a financial year; and*
  - (b) *has not made any further gifts to the registered political party during the remainder of the financial year;*

*the person is not required to give a return to the commission under subsection (1) in relation to the reporting period that is the full financial year.*

- (2B) *A return given by a person under subsection (1) in relation to a reporting period that is a full financial year does not have to disclose any gift made by the person that has already been disclosed in a return under subsection (1) in relation to the reporting period that is the first 6 months of that financial year.*

*Editor's note—*

Subsections (1A) to (2B) are based on proposed section 305B(1A) to (2B) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

*Content of return*

- (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 political party *that received the gift*.

*Editor's note—*

Subsection (3)(c) is based on proposed section 305B(3)(c) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

*Disclosure of receipt of gifts in certain circumstances*

- (3A) *If—*
- (a) *a person is required to disclose a gift (the **ultimate gift**) in a return under subsection (1); and*
  - (b) *the person received a gift of \$1000 or more (the **enabling gift**) which the person used to make all or a substantial part of the ultimate gift;*

*the person must also disclose the relevant details of the enabling gift in the return under subsection (1).*

*Editor's note—*

Subsection (3A) is based on proposed section 305B(3A) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

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

*Return to be in approved form*

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

*Gifts to which section does not apply*

- (5) This section does not apply to gifts made by any of the following—
  - (a) a registered political party;
  - (b) (*omitted*);
  - (c) an associated entity;
  - (d) a candidate in an election;
  - (e) (*omitted*).
- (6) *On receiving a gift requiring a return to be given under this section, a registered political party must inform the person who gave the gift of the donor's requirement to lodge a return under this section.*

*Editor's note—*

The headings to subsections (4) and (5) are based on the proposed headings to section 305B(4) and (5) for the Commonwealth Electoral



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Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

### **305C Special reporting of large gifts**

#### *Application*

- (1) *This section applies if, in a special reporting period, gifts made by a particular person to a registered political party reach the prescribed amount.*

#### *Obligation to give returns for large gifts*

- (2) *For each special reporting event within a special reporting period—*
- (a) *the person; and*
  - (b) *the registered political party to which the person made the gifts; and*
  - (c) *if the person made any part of the gifts to an associated entity of the registered political party—the associated entity;*

*must each give a separate return to the Electoral Commission within 14 days after the special reporting event disclosing the gifts.*

- (3) *For subsection (2), there is a **special reporting event** on each occasion the amount of the gifts made by the person reaches the prescribed amount either since the start of the special reporting period or since the last occasion during the special reporting period that the prescribed amount was reached.*

#### *Example—*

*Assume that in a special reporting period starting on 1 January a person makes gifts reaching the prescribed amount up to and including 10 January. The first special reporting event happens on 10 January. Assume the person then makes further gifts reaching the prescribed amount after 10 January and up to and including 4 June. The second special reporting event happens on 4 June.*

- (4) *Subsection (2) does not require a person, party or entity mentioned in the subsection to disclose gifts made within a particular special reporting period that have previously been disclosed in another return given under the subsection.*

*Example—*

*Assume in the example for subsection (3) the person gives a return for the first special reporting event disclosing the gifts made up to and including 10 January. When the person gives a return for the second special reporting event, the return need not refer to the gifts made up to and including 10 January.*

- (5) *The requirement to give a return under subsection (2) is in addition to a requirement to give a return under section 305B, 314AB or 314AEA.*
- (6) *This section applies to the person even if at the time the person makes a gift the person was outside Queensland or Australia.*

*How section applies to political parties that are related*

- (7) *If—*
  - (a) *2 or more political parties are related to each other; and*
  - (b) *at least 1 of those parties is a registered political party;**subsection (2) applies as if—*
  - (c) *those parties together constituted a single registered political party (rather than being separate political parties); and*
  - (d) *a gift made by the person to any of those parties were a gift made by the person to the single registered political party referred to in paragraph (c).*

*How section applies to a political party and an associated entity that are related*

- (8) *If a political party has an associated entity, subsections (2) and (7) apply as if—*
  - (a) *the political party and the associated entity together constituted the political party (the **recipient party**); and*
  - (b) *a gift made by the person to the political party or the associated entity were a gift made by the person to the recipient party.*

*How section applies to gifts made with intention of benefiting a party*

- (9) *If the person makes a gift to any person or body, including an associated entity of a political party, with the intention of benefiting a particular political party, the person is taken for the purpose of this section (including subsection (7)(d)) to have made that gift directly to that political party.*
- (10) *For subsection (8) or (9), the definition ‘associated entity’ in section 287(1) applies as if a reference to registered political parties included a reference to any political parties whether or not registered.*

*Content of return*

- (11) *For each gift, the return required under subsection (2) 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 political party that received the gift.*

*Return to be in approved form*

- (12) *The return must be in the approved form.*

*Gifts to which section does not apply*

- (13) *This section does not apply to gifts made by any of the following—*
- (a) *a registered political party;*
  - (b) *an associated entity;*
  - (c) *a candidate in an election.*
- (14) *On receiving a gift requiring a return to be given under this section, a registered political party must inform the person who gave the gift of the donor’s requirement to give a return under this section.*

- (15) *In this section—*

***first special reporting period*** *means the period starting 1 July 2008 and ending on 31 December 2008.*

***later special reporting period*** *means each of the following periods in any year after 2008—*

- (a) *the period starting 1 January and ending 30 June;*
- (b) *the period starting 1 July and ending 31 December.*

***prescribed amount*** means \$100000.

***special reporting period*** means either of the following—

- (a) *the first special reporting period;*
- (b) *a later special reporting period.*

## **Division 4A**      **Rules about certain gifts and loans**

### **Subdivision A**      **Gifts of foreign property**

*Editor's note—*

This subdivision is based on proposed Part XX, Division 4A, Subdivision A for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

#### **306 Interpretation**

- (1) *In this subdivision—*

***Australian property*** means—

- (a) *money standing to the credit of an account kept in Australia; or*
- (b) *other money (for example, cash) that is located in Australia; or*
- (c) *property, other than money, that is located in Australia.*

*Note—*

*For how this subdivision applies to gifts or transfers made using a credit card, see section 306AB(4).*

***candidacy period***, in relation to a candidate, means the *period—*

- 
- (a) *starting on the earlier of the day on which the person announces that he or she will be a candidate in an election, or the day on which the nomination of the person as a candidate in the election is made; and*
- (b) *ending 30 days after the polling day in the election.*

**credit card** means—

- (a) *any article of a kind commonly known as a credit card; or*
- (b) *any similar article intended for use in obtaining cash, goods or services on credit;*

*and includes any article of a kind that persons carrying on business commonly issue to their customers or prospective customers for use in obtaining goods or services from those persons on credit.*

**enables**—*a gift or other transfer enables a person or entity to do a particular thing if all or a substantial part of the gift or transfer enables the person or entity—*

- (a) *to do all or a substantial part of that thing; or*
- (b) *to be wholly or substantially reimbursed for having done that thing.*

**foreign property** means—

- (a) *money standing to the credit of an account kept outside Australia; or*
- (b) *other money (for example, cash) that is located outside Australia; or*
- (c) *property, other than money, that is located outside Australia.*

Note—

*For how this subdivision applies to gifts or transfers made using a credit card, see subsection 306AB(4).*

**gift**, *in relation to a candidate, has a meaning affected by subsection (2).*

*(definition omitted)*

- (2) *A reference in this subdivision to a gift, in relation to a candidate (or a person acting on behalf of a candidate), does not include a gift made in a private capacity to (or for the benefit of) the candidate if the candidate has not used, and will not use, the gift solely or substantially for a purpose related to an election.*
- (3) *(omitted).*
- (4) *A reference in this subdivision to a thing done by a person includes a reference to a thing done by a person on behalf of the members of an unincorporated association.*

### **306AA Subdivision does not apply to gifts that are returned within 6 weeks**

*This subdivision does not apply to a gift that is returned within 6 weeks after its receipt.*

### **306AB Deciding whether a gift or transfer is of Australian or foreign property**

*Status of property as Australian or foreign to be decided by reference to position immediately before gift or transfer*

- (1) *For the purpose of this subdivision (but without limiting the effect of subsections (2) and (3))—*
  - (a) *a gift or transfer of property is a gift or transfer of Australian property if the property was Australian property immediately before the gift or transfer was made; and*
  - (b) *a gift or transfer of property is a gift or transfer of foreign property if the property was foreign property immediately before the gift or transfer was made.*

*Transferring foreign property to enable another person to make a gift*

- (2) *For the purpose of this subdivision, if—*
  - (a) *a person (the **donor**) transfers foreign property (the **primary transfer**) to another person (the **first recipient**); and*

- 
- (b) *the donor's main purpose in making the primary transfer is to enable (directly or indirectly) the first recipient, or another person, to make a gift to another person or entity (the **ultimate recipient**); and*
  - (c) *the first recipient, or another person, makes a gift (the **ultimate gift**) to the ultimate recipient; and*
  - (d) *the primary transfer enabled (directly or indirectly) the first recipient, or the other person, to make the ultimate gift;*

*the ultimate gift is taken to be a gift of foreign property.*

*Changing location of foreign property etc. prior to making a gift or transfer*

- (3) *For the purpose of this subdivision, if—*
  - (a) *a person—*
    - (i) *changes the location of property so that it becomes Australian property; or*
    - (ii) *uses foreign property to acquire Australian property; and*
  - (b) *the person's main purpose in changing the location of the property, or in acquiring the Australian property, was to enable the person to make a gift or transfer of property that would be Australian property rather than foreign property; and*
  - (c) *the person makes a gift or transfer of Australian property in accordance with that purpose;*

*the gift or transfer is taken to be a gift or transfer of foreign property.*

*How subdivision applies to gifts or transfers made by credit card*

- (4) *This subdivision applies to a gift or transfer of money made by use of a credit card as if the gift or transfer were of money standing to the credit of an account kept in the country in which the credit card is based.*

### **306AC Gifts of foreign property—when unlawful for political party, candidate etc. to receive gift**

*When receiving gift is unlawful*

- (1) *It is unlawful for a person or entity to receive a gift of foreign property in any of the following circumstances—*
- (a) *the gift is received by a registered political party (or by a person acting on behalf of a registered political party);*
  - (b) *(omitted);*
  - (c) *the gift is received by a candidate (or by a person acting on behalf of a candidate) during the candidacy period;*
  - (d) *(omitted).*

*Liability for unlawful receipt of gift*

- (2) *If a person or entity specified in column 2 of an item in the following table receives a gift that, under subsection (1), it is unlawful for the person or entity to receive, an amount equal to the amount or value of the gift is payable to the State by the person or persons specified in column 3 of that item.*

#### **Liability for unlawful receipt of gift**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
1	<i>a registered political party that is a body corporate (or a person acting on behalf of a registered political party that is a body corporate)</i>	<i>the registered political party</i>
2	<i>a registered political party that is not a body corporate (or a person acting on behalf of a registered political party that is not a body corporate)</i>	<i>the agent of the registered political party</i>
3	<i>(omitted)</i>	<i>(omitted)</i>
4	<i>(omitted)</i>	<i>(omitted)</i>



**Liability for unlawful receipt of gift**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the amount is payable by ...</b>
5	a candidate (or a person acting on behalf of a candidate)	the candidate and the agent of the candidate
6	(omitted)	(omitted)
	(3) If, under subsection (2), an amount is payable to the State by 2 or more persons, those persons are jointly and severally liable for the payment of the amount.	
	(4) An amount that, under subsection (2), is payable by a person or persons to the State may be recovered by the State as a debt due to the State by action, in a court of competent jurisdiction, against that person or any 1 or more of those persons.	

**306AD (omitted)****Subdivision B Anonymous gifts****306AE (omitted)****306AF (omitted)****306AG Certain gifts not to be received**

- (1) It is unlawful for a political party or (*words omitted*) a person acting for a political party (*words omitted*) to receive a gift made to or for the benefit of the party (*words omitted*) by another person, being a gift the amount or value of which is equal to or more than the prescribed amount (\$1000), unless—
  - (a) the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and

address and the person receiving the gift has no grounds to believe that the name and address (*word omitted*) given are not the true name and address of the person making the gift.

(2) It is unlawful for a candidate (*words omitted*) or a person acting *for* a candidate (*words omitted*) to receive a gift made to or for the benefit of the candidate (*words omitted*) being a gift the amount or value of which is equal to or exceeds—

(a) *for* a gift made to a candidate—the *prescribed amount* (\$1000); and

(b) (*omitted*);

unless the name and address of the person making the gift are known to the person receiving the gift or, at the time when the gift is made, the person making the gift gives to the person receiving the gift his or her name and address and the person receiving the gift has no grounds to believe that the name and address (*word omitted*) given are not the true name and address of the person making the gift.

(2A) The references in subsections (1) and (2) to a gift made by a person includes a reference to a gift made *for* the members of an unincorporated association.

(2B) A reference in subsection (1) or (2) to the name and address of a person making a gift is—

(a) *for* a gift made *for* the members of an unincorporated association, other than a registered industrial organisation—a reference to—

(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

(b) *for* a gift purportedly made out of a trust fund or out of the funds of a foundation—a reference to—

(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*).
- (2C) For the purpose of subsection (2), a person who is a candidate in an election *must* be taken to remain a candidate for *the time prescribed (30 days after the polling day in the election)*.
- (2D) (*omitted*).
- (3) For the purposes of this section, 2 or more gifts made by the same person to or for the benefit of a political party, *or a candidate, must be taken to be 1 gift*.
- (5) *If a person receives a gift that, because of this section, it is unlawful for the person to receive, an amount equal to the amount or value of the gift is payable by the person to the State and may be recovered by the State as a debt due to the State by action (words omitted) against—*
  - (a) *for a gift to or for (words omitted) a political party—*
    - (i) if the party (*words omitted*) is a body corporate—the party (*words omitted*); or
    - (ii) in any other case—the agent of the party (*words omitted*); or
  - (b) in any other case—the candidate (*words omitted*) or the agent of the candidate (*words omitted*).

### **306AH (*omitted*)**

### **306AI (*omitted*)**

## **Subdivision C Other gifts and loans**

### **306A Certain loans not to be received**

- (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 \$1000 or more from a person or entity other than a financial

institution unless the loan is made in accordance with subsection (3).

- (2) It is unlawful for a candidate (*words omitted*) or a person acting *for* a candidate (*words omitted*) to receive a loan of \$1000 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).
- (3) The receiver of the loan must keep a record of the following—
  - (a) the terms and conditions of the loan;
  - (b) if the loan was received from a registered industrial organisation other than a financial institution—
    - (i) the name of the organisation; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the organisation;
  - (c) if the loan was received from an unincorporated association—
    - (i) the name of the (*words omitted*) association; and
    - (ii) the names and addresses of the members of the executive committee (however described) of the association (*words omitted*);
  - (d) if the loan was paid 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 foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
  - (e) *if paragraph (b), (c) or (d) does not apply*—the name and address of the person or *entity* (*words omitted*).
- (4) (*omitted*).
- (5) (*omitted*).

- 
- (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—*
- (a) *for a loan to or for the benefit of a political party (words omitted)—*
    - (i) *if the party (words omitted) is a body corporate—the party (words omitted); or*
    - (ii) *in any other case—the agent of the party (words omitted); or*
  - (b) *in any other case—the candidate (words omitted) or the agent of the candidate (words omitted).*
- (7) *(omitted).*
- (8) *(omitted).*

### **307 (omitted)**

## **Division 5 Disclosure of electoral expenditure**

### **308 Interpretation**

- (1) In this Division—
- electoral expenditure*, for an election, means expenditure incurred (whether or not incurred during the election period) on—
- (a) the broadcasting, during the election period, of an advertisement relating to the election; or
  - (b) the publishing in a journal, during the election period, of an advertisement relating to the election; or
  - (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

- (c) the display, during the election period, at a theatre or other place of entertainment, of an advertisement relating to the election; or
  - (d) the production of an advertisement relating to the election, being an advertisement that is broadcast, published or displayed as mentioned in paragraph (a), (b) or (c); or
  - (e) the production of any material (*other than* material *mentioned* in paragraph (a), (b) or (c)) that is required under *section 161* to include the name and address of the author of the material or of the person authorising the material and that is used during the election period; or
  - (f) the production and distribution of electoral matter that is addressed to particular persons or organisations and is distributed during the election period; or
  - (g) the carrying out, during the election period, of an opinion poll, or other research, relating to the election.
- (2) (*omitted*).
- (3) A reference in this Division to a participant in an election *must* be read as a reference to—
- (a) a *registered* political party (*words omitted*) or a candidate; or
  - (b) a person (*other than* a registered political party (*words omitted*) or a candidate) by whom or with the authority of whom electoral expenditure *for* an election was incurred.

### **309 Returns of electoral expenditure**

- (1A) (*omitted*).
- (2) The agent of each person who was a candidate in an election (*words omitted*) *must, before the expiration of the prescribed time (15 weeks after the polling day in the election), give to the Electoral Commission a return, in an approved form, stating details of all electoral expenditure for the election incurred by or with the authority of the candidate.*

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- (3) *(omitted)*.
- (4) *If electoral expenditure for an election was incurred by or with the authority of a person and the expenditure was not incurred with the written authority of a registered political party (words omitted), an associated entity or a candidate in the election (words omitted), the person must, before the expiration of the prescribed time (15 weeks after the polling day in the election), give to the Electoral Commission a return, in an approved form, stating details of the electoral expenditure.*
- (5) *A person is not required to give a return under subsection (4) for an election if the total amount of the electoral expenditure incurred for the election by or with the authority of the person is not more than the prescribed amount (\$200).*

### **310 Returns by broadcasters**

- (1) *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—*
- (a) *identifying the broadcasting service as part of which the advertisement (words omitted) was broadcast; and*
  - (aa) *identifying the person at whose request the advertisement (words omitted) was broadcast; and*
  - (b) *identifying the participant in the election with whose authority the advertisement (words omitted) was broadcast; and*
  - (c) *specifying the date (words omitted) on which, and the times between which, the advertisement (words omitted) was broadcast; and*
  - (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.

- (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 (*words omitted*) on which, and the times between which, the advertisement was broadcast.*
- (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*.
- (5) The requirement of subsection (4) is in addition to the requirements of the relevant provision for the retention of *the* record.
- (6) In subsections (4) and (5)—  
***relevant provision*** means—
- (a) in relation to the Australian Broadcasting Corporation—the *Australian Broadcasting Corporation Act 1983* (Cwlth), section 79B; or
  - (b) in relation to the Special Broadcasting Service—the *Special Broadcasting Service Act 1991* (Cwlth), section 70B; or
  - (c) in any other case—the *Broadcasting Services Act 1992* (Cwlth), schedule 2, *section 5*.

### **311 Returns by publishers**

- (1) *If an election has taken place, each publisher of a journal who, during the election period, published in the journal an advertisement (*words omitted*) relating to the election with the*



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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—

- (a) identifying the journal in which *the* advertisement (*words omitted*) was published; *and*
  - (aa) identifying the person at whose request the advertisement (*words omitted*) was published; *and*
  - (b) identifying the participant in the election with whose authority *the* advertisement (*words omitted*) was published; *and*
  - (c) specifying the date (*words omitted*) on which *the* advertisement (*words omitted*) was published; *and*
  - (d) identifying the page in the journal on which *the* advertisement (*words omitted*) was published and the space in the journal occupied by *the* advertisement (*words omitted*); *and*
  - (e) showing whether or not a charge was made by the publisher for the publication of *the* advertisement (*words omitted*) and, *if* a charge was made, specifying the amount of the charge.
- (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.*
- (3) A publisher is not required to *give* a return under subsection (1) in *relation to* an election if the total amount of the charge (*words omitted*) made by the publisher *for* the publication of the advertisement (*words omitted*) referred to in *the* subsection and any other advertisement (*words omitted*) relating to an election (*words omitted*) that took place on the

same day as the first-mentioned election does not exceed \$1000.

**311A Annual returns of income and expenditure of Commonwealth Departments**

*(omitted).*

**313 Nil returns**

- (1) *If* no electoral expenditure *for* an election was incurred by or with the authority of a particular candidate (*words omitted*), a return under this Division *for* the candidate (*words omitted*) *must* nevertheless be lodged and *must* include a statement to the effect that no expenditure of *the* kind was incurred by or with the authority of the candidate (*words omitted*).

**314 Two or more elections on the same day**

- (1) *If*—
- (a) the polling at 2 or more elections took place on the same day; and
  - (b) a person would, but for this subsection, be required to *give* 2 or more returns under this Division relating to *the* elections;

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

- (2) *If*—
- (a) a return is *given* by a person *under* subsection (1); and
  - (b) particular electoral expenditure details of which are required to be *stated* in the return relates to more than 1 election;

it is sufficient compliance with this Division if the return *states* details of the expenditure without showing the extent to which it relates to any particular election.

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**Division 5A**                    **Returns by registered political parties and associated entities****314AA Interpretation**

In this Division—

*amount* includes the value of a gift, loan or bequest.

**314AAA How division applies to gifts that are returned etc. within 6 weeks**

*Division generally does not apply to gifts returned within 6 weeks of receipt*

- (1) *Subject to subsections (2) and (3), this division does not apply to a gift that is returned within 6 weeks after its receipt.*

*Division applies to gifts of foreign property, whether or not returned*

- (2) *This division applies to a gift of foreign property within the meaning of division 4A, subdivision A whether or not the gift is returned within 6 weeks as mentioned in section 306AA.*
- (3) *If the gift is so returned, any return under this division that includes the amount or value of the gift must also include a statement to the effect that the gift was so returned.*
- (4) *(omitted).*
- (5) *(omitted).*

*Editor's note—*

This section is based on proposed section 314AAA for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

**314AB Returns for reporting periods by registered political parties**

- (1) Subject to this Division, the agent of each registered political party (*words omitted*) must, *within the prescribed time (8 weeks after the end of each reporting period) give to the*

Electoral Commission a return, in an approved form, *stating—*

- (a) the total amount received by, or *for*, the party during the *reporting period*, together with the details required by section 314AC; and
- (b) the total amount paid by, or *for*, the party during the *reporting period*, together with the details required by section 314AD; and
- (c) the total outstanding amount, as at the end of the *reporting period*, of all debts incurred by, or *for*, the party, together with the details required by section 314AE.

### **314AC Amounts received**

- (1) If the sum of all amounts received by, or *for*, the party from a person or organisation during a *reporting period* is *the prescribed amount (\$1000)* or more, the return must include the particulars of *the* sum.
- (2) In calculating the sum, an amount of less than *the prescribed amount (\$1000)* need not be counted.
- (3) The particulars of the sum required to be *given* under subsection (1) are the amount of the sum and—
  - (a) if the sum was received from 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 sum was purportedly paid 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 foundation; and

- (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
- (c) in any other case—the name and address of the person or organisation.

### **314AD Amounts paid**

- (1) If the sum of all amounts paid by, or *for*, the party to a person or an organisation during a *reporting period* is *the prescribed amount* (\$1000) or more, the return must include the particulars of *the* sum.
- (2) In calculating the sum—
  - (a) an amount of less than *the prescribed amount* (\$1000); or
  - (b) an amount paid under a contract of employment or an award specifying terms and conditions of employment; need not be counted.
- (3) The particulars of a sum required to be *given* under subsection (1) are the amount of the sum and—
  - (a) if the sum was paid 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 sum was purportedly paid into a trust fund or into the funds of a foundation—
    - (i) the names and addresses of the trustees of the fund or of the foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
  - (c) in any other case—the name and address of the person or organisation.

### **314AE Outstanding amounts**

- (1) If the sum of all outstanding debts incurred by, or *for*, the party to a person or an organisation during a *reporting period* is *the prescribed amount* (\$1000) or more, the return must include the particulars of *the* sum.
- (2) The particulars of a sum required to be *given* under subsection (1) are the amount of the sum and—
  - (a) if the sum was owed 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 sum was purportedly incurred as a debt to a trust fund or to a foundation—
    - (i) the names and addresses of the trustees of the fund or of the foundation; and
    - (ii) the title or other description of the trust fund, or the name of the foundation (*words omitted*); or
  - (c) in any other case—the name and address of the person or organisation.

### **314AEA Returns for reporting periods by associated entities**

- (1) If an entity is an associated entity at any time during a *reporting period*, the entity's financial controller must *give* a return to the Electoral Commission, in the approved form, within *the prescribed time* (8 weeks after the end of the *reporting period*), setting out—
  - (a) the total amount received by, or *for*, the entity during the *reporting period*, together with the details required by section 314AC; and
  - (b) the total amount paid by, or *for*, the entity during the *reporting period*, together with the details required by section 314AD; and

- 
- (c) if the entity is an associated entity at the end of the *reporting period*—the total outstanding amount, as at the end of the *reporting period*, of all debts incurred by or *for* the entity, together with the details required by section 314AE.
- (2) Amounts received or paid at a time when the entity was not an associated entity are not to be counted for the purposes of *subsection* (1)(a) and (b).
- (3) If any amount required to be set out under *subsection* (1)(b)—
- (a) was paid to or for (*words omitted*) 1 or more registered political parties; and
- (b) was paid out of funds generated from capital of the associated entity;
- the return must also set out the following details about each person who contributed to *the capital at any time*—
- (c) the name and address of the person;
- (d) the total amount of the person's contributions to *the capital*, up to the end of the *reporting period*.
- (4) Subsection (3) does not apply to contributions that have been set out in a previous return under this section.
- (5) Sections 314AC, 314AD and 314AE apply for the purposes of *subsection* (1)(a), (b) and (c) (*words omitted*) to a return for an associated entity in the same way as they apply for the purposes of *section* 314AB(1)(a), (b) and (c) to a return for a registered political party.

### **314AF Returns not to include lists of party membership**

Returns *given under* this Division are not to include lists of party membership.

### **314AG Regulations**

- (1) The regulations may require greater detail to be provided in returns than is required by this Division.

- (2) Without limiting subsection (1), the regulations may require that the total amounts *mentioned* in section 314AB be broken down in the way specified in the regulations.
- (3) The regulations may reduce the amount of information to be provided in returns under section 314AEA.

## Division 6                      Miscellaneous

### 314A Interpretation

Except in section 318, a reference in this Division to a return under Division 4, 4A, 5 or 5A or to a return under this *Schedule* includes a reference to particulars under *section* 318(2).

### 315 Offences

- (1) *If* a person fails to *give* a return that the person is required to *give* under Division 4, 4A, 5 or 5A within the time required by this *Schedule*, the person is guilty of an offence punishable, *on* conviction, by a fine not exceeding—
  - (a) *for* a return required to be *given* by the agent of a *registered* political party (*words omitted*)—100 penalty units; or
  - (b) in any other case—20 penalty units.
- (2) *If* a person—
  - (a) *gives* a return that is incomplete, being a return that the person is required to *give* under Division 4, 5 or 5A; or
  - (b) fails to *keep* records in accordance with section 317;the person is guilty of an offence punishable, *on* conviction, by a fine not exceeding 20 penalty units.
- (3) *If* the agent of a political party (*words omitted*) lodges a claim under Division 3, or *gives* a return that the agent is required to *give* under Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular, the agent is guilty of an offence



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punishable, *on conviction*, by a fine not exceeding 200 penalty units.

- (3A) *If the agent of a candidate lodges a claim under Division 3, or gives a return that the agent is required to give under Division 4, 5 or 5A, that contains particulars that are, to the knowledge of the agent, false or misleading in a material particular; the agent is guilty of an offence punishable, on conviction, by a fine not exceeding 100 penalty units.*
- (4) *If a person (other than an agent) lodges a claim under Division 3, or gives a return that the person is required to give under Division 4 or 5, that contains particulars that are, to the knowledge of the person, false or misleading in a material particular, the person is guilty of an offence punishable, on conviction, by a fine not exceeding 50 penalty units.*
- (4A) *If a person is convicted of an offence against subsection (1), the court may, as well as imposing a penalty under the subsection, order the person to give the relevant return within a time stated by the court in its order.*
- (5) *If a person is convicted of an offence against subsection (3), (3A) or (4), the court may, as well as imposing a penalty under the subsection, order the person to refund to the State the amount of any payment wrongfully obtained by the person under Division 3.*
- (6) *If a court has made an order under subsection (5), a certificate signed by the appropriate officer of the court stating the amount ordered to be refunded and the person by whom the amount is payable may be filed in a court having civil jurisdiction to the extent of that amount and is thereupon enforceable in all respects as a final judgment of the court.*
- (6A) *A person must not give to another person, for the purpose of the making by the other person of a claim under Division 3, information that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.*

*Maximum penalty—20 penalty units.*

- (7) *A person must not give to another person who is required to give a return under Division 4, 5 or 5A information that*

relates to the return and that is, to the knowledge of the first-mentioned person, false or misleading in a material particular.

*Maximum penalty—20 penalty units.*

(8) *(omitted).*

(9) *(omitted).*

(10) *(omitted).*

*Unlawful receipt of gift—situations other than when political party (word omitted) or associated entity is not a body corporate (words omitted)*

(10A) *A person commits an offence if—*

(a) *the person (or a person acting on behalf of the person (words omitted)) receives a gift; and*

(b) *the receipt of the gift is unlawful under section 306AC(1) (words omitted); and*

(c) *the person is—*

(i) *a registered political party that is a body corporate; or*

(ii) *(omitted); or*

(iii) *a candidate; or*

(iv) *(omitted); or*

(v) *an associated entity that is a body corporate.*

*Maximum penalty—12 months imprisonment or 240 penalty units.*

*Unlawful receipt of gift—registered political parties (words omitted) and associated entities that are not bodies corporate*

(10B) *A person commits an offence if—*

(a) *a gift is received by (or by a person acting on behalf of) any of the following (the **recipient**)—*

(i) *a registered political party that is not a body corporate;*

- (ii) *(omitted)*;
- (iii) *an associated entity that is not a body corporate; and*
- (b) *the receipt of the gift is unlawful under section 306AC(1) (words omitted); and*
- (c) *the recipient is specified in column 2 of an item in the following table, and the person is specified in column 3 of that item.*

**Liability for unlawful receipt of gift**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>If the recipient is ...</b>	<b>the person is liable for the offence if the person is ...</b>
1	<i>a registered political party</i>	<i>the registered officer of the party, the secretary of the party (as defined in section 3), or the agent of the party</i>
2	<i>(omitted)</i>	<i>(omitted)</i>
3	<i>(omitted)</i>	<i>(omitted)</i>
4	<i>an associated entity</i>	<i>the financial controller of the associated entity</i>

*Maximum penalty—12 months imprisonment or 240 penalty units.*

(10C) *A person does not commit an offence against subsection (10B) if—*

- (a) *the person does not know of the circumstances because of which the receipt of the gift is unlawful; or*
- (b) *the person takes all reasonable steps to avoid those circumstances occurring.*

*(words omitted)*

(10D) *(omitted)*

*(heading omitted)*

(10E) *(omitted)*

*Editor's note—*

Subsections (10A) to (10E) are based on proposed section 315(10A) to (10E) for the Commonwealth Electoral Act provided in the *Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008*.

*Prosecutions to be brought within 3 years*

- (11) A prosecution *for* an offence against a provision of this section (*words omitted*) may be started at any time within 3 years after the offence was committed.

### **315AA Attempts to commit offences**

- (1) *A person who attempts to commit an offence against this Schedule commits an offence.*

*Maximum penalty— $\frac{1}{2}$  the maximum penalty for committing the offence.*

- (2) *Section 4 of the Criminal Code applies to subsection (1).*

### **315A Recovery of payments**

- (1) An action in a court to recover an amount due to the *State* under *section 299(6)* or *306AG(5)* may be brought in the name of the commission.
- (2) Any process in the action required to be served on the *State* may be served on the commission.
- (3) (*omitted*).

### **316 Investigation etc.**

*(omitted).*

*Editor's note—*

The matters covered by section 316 of the Commonwealth Electoral Act are included in divisions 7 to 11 of this schedule.

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**317 Records to be kept**

*If (words omitted) a person makes or obtains a document or other thing that is or includes a record about a matter particulars of which are, or could be, required to be stated in a claim or return under this Schedule, other than a record that, in the normal course of business or administration, would be transferred to another person, the first-mentioned person must keep the record for a period of at least 3 years commencing on the day on which the claim or return was made.*

**318 Inability to complete returns**

- (1) *If a person who is required to give a return under Division 4, 5 or 5A considers that it is impossible to complete the return because he or she is unable to obtain particulars that are required for the preparation of the return, the person may—*
- (a) *prepare the return to the extent that it is possible to do so without the particulars; and*
  - (b) *give the return so prepared; and*
  - (c) *give to the Electoral Commission notice in writing—*
    - (i) *identifying the return; and*
    - (ii) *stating that the return is incomplete because he or she is unable to obtain certain particulars; and*
    - (iii) *identifying the particulars; and*
    - (iv) *stating the reasons why he or she is unable to obtain the particulars; and*
    - (v) *if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give those particulars—stating that belief and the reasons for it and the name and address of that other person;*

*and a person who complies with this subsection must not, merely because the omission of the particulars, be taken, for the purposes of section 315(2), to have given a return that is incomplete.*

- (2) *If* the Electoral Commission has been informed under *subsection* (1)(c) or (3)(c) that a person can supply particulars that have not been included in a return, the Electoral Commission may, by notice in writing served on that person, require the person to *give* to the Electoral Commission, within the period *stated* in the notice and in writing, those particulars and, subject to subsection (3), the person *must* comply with *the* requirement.
- (3) If a person who is required to *give* particulars under subsection (2) considers that he or she is unable to obtain some or all of the particulars, the person *must* give to the Electoral Commission a written notice—
- (a) *stating* the particulars (if any) that 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 why the person considers he or she is unable to obtain *the* particulars; and
  - (e) if the person believes, on reasonable grounds, that another person whose name and address he or she knows can give *the* particulars—*stating* the name and address of *the* other person and the reasons why he or she believes that *the* other person is able to give *the* particulars.
- (3A) A person who complies with subsection (3) *must* not, because of the omission of particulars required under subsection (2), be taken, for the purpose of *section* 315(2), to have *given* a return that is incomplete.

**318A Application of *sections* 305(1) and 309(4) in certain cases**  
(*omitted*).

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**319 Non-compliance with *Schedule* does not affect election**

- (1) A failure of a person to comply with a provision of this *Schedule* for an election does not invalidate *the* election.
- (2) Without limiting the generality of subsection (1), *if*—
  - (a) a *registered* political party endorsed a candidate in an election; and
  - (b) the candidate was elected at the election;any failure by the agent of the political party (*words omitted*) to comply with a provision of this *Schedule* for the election does not invalidate the election of the candidate.
- (3) Without limiting the generality of subsection (1), if the agent of a candidate who is elected at an election fails to comply with a provision of this *Schedule* for the election, that failure does not invalidate the election of the candidate.
- (4) (*omitted*).

**319A Amendment of claims and returns**

- (1) *If* the Electoral commissioner is satisfied that a claim or return under this *Schedule* contains a formal error or is subject to a formal defect, the commissioner may amend the claim or return to the extent necessary to correct the error or remove the defect.
- (2) A person who has lodged a claim or *given* a return under this *Schedule* may *ask* the permission of the Electoral Commission to make a specified amendment of the claim or return for the purpose of correcting an error or omission.
- (2A) If the claim was lodged, or the return was *given*, by a person as the agent of a registered political party, the request under subsection (2) may be made either by—
  - (a) the person who lodged the claim or return; or
  - (b) the person who is currently registered as the agent of the political party.
- (3) A request under subsection (2) *must*—

- (a) be by written notice (*words omitted*) signed by the person making the request; and
  - (b) be *given to* the Electoral Commission.
- (4) *If—*
- (a) a request has been made under subsection (2); and
  - (b) the Electoral Commission is satisfied that there is an error in, or omission from, the claim or return to which the request relates;
- the commission *must* permit the person making the request to amend the claim or return in accordance with the request.
- (5) *If* the Electoral Commission decides to refuse a request under subsection (2), the commission *must* give to the person making the request written notice of the reasons for the decision.
- (6) An officer authorised for the purpose by the Electoral Commission may exercise the power of the commission under subsection (4).
- (7) *If* an officer acting under subsection (6) decides to refuse a request under subsection (2)—
- (a) subsection (5) applies as if the officer were the Electoral Commission; and
  - (b) the person who made the request may, by *written* notice (*words omitted*) lodged with the commission within 28 days after notice of the refusal was given, *ask* the commission to review the decision.
- (8) *If* a request is made under subsection (7), the Electoral Commission *must* review the decision to which the request relates and make a fresh decision.
- (9) The amendment of a claim or return under this section does not affect the liability of a person to be convicted of an offence against *section* 315(2), (3) or (4) arising out of the lodging of the claim or the *giving* of the return.



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**319B Publishing of returns**

- (1) *The Electoral Commission must publish on its website the following returns given to the Electoral Commission—*
  - (a) *a return under section 305B;*
  - (b) *a return under section 305C;*
  - (c) *a return under section 314AB;*
  - (d) *a return under section 314AEA.*
- (2) *A return mentioned in subsection (1)(a), (c) or (d) must be published within 6 weeks after the return is given to the Electoral Commission.*
- (3) *A return mentioned in subsection (1)(b) must be published within 10 business days after the return is given to the Electoral Commission.*

**320 Inspection and supply of copies of claims and returns**

- (1) The Electoral Commission *must* keep, *at its office*, a copy of—
  - (a) each claim under Division 3; and
  - (b) each return under Division 4, 4A or 5; and
  - (c) each return under Division 5A.
- (2) Any person *may* peruse, at the *(word omitted)* office of the Electoral Commission *(words omitted)*, a copy of a claim or return *mentioned* in subsection (1).
- (2A) *(omitted)*.
- (3) A person *may*, on payment of a fee *decided* by the Electoral Commission to cover the cost of copying, *(word omitted)* obtain a copy of a claim or return *mentioned* in subsection (1).
- (4) A person is not entitled under this section to peruse, or obtain a copy of—
  - (a) a claim under Division 3; or
  - (b) a return under Division 4 (other than section 305B *or* 305C) or 5 *(words omitted)*;

until after the end of 24 weeks after the polling day in the election to which the claim or return relates.

(5) *(omitted)*.

### **321 Indexation**

*(omitted)*.

## **Division 7 Authorised officers**

### **322 Authorised officer under this Schedule**

- (1) *This Schedule includes provision for the appointment of authorised officers, and gives authorised officers certain powers.*
- (2) *The purpose of these provisions is to ensure that the Electoral Commission has available to it suitably qualified persons who can help the Electoral Commission properly deal with issues about compliance with the Schedule.*

### **323 Appointment**

- (1) *The Electoral Commission may appoint any of the following persons as authorised officers—*
  - (a) *officers of the Electoral Commission;*
  - (b) *officers or employees of a department;*
  - (c) *other persons prescribed under the regulations.*
- (2) *The Electoral Commission may appoint a person as an authorised officer only if—*
  - (a) *in the commission's opinion, the person has the necessary expertise or experience to be an authorised officer; or*
  - (b) *the person has satisfactorily finished training approved by the Electoral Commission.*

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**324 Limitation of authorised officer's powers**

- (1) *The powers of an authorised officer may be limited—*
  - (a) *under a regulation; or*
  - (b) *under a condition of appointment; or*
  - (c) *by written notice of the Electoral Commission given to the authorised officer.*
- (2) *Notice under subsection (1)(c) may be given orally, but must be confirmed in writing as soon as practicable.*

**325 Authorised officer's conditions of appointment**

- (1) *An authorised officer holds office on the conditions stated in the instrument of appointment.*
- (2) *An authorised officer—*
  - (a) *if the appointment provides for a term of appointment—ceases holding office at the end of the term; and*
  - (b) *may resign by signed notice of resignation given to the Electoral Commission; and*
  - (c) *if the conditions of appointment provide—ceases holding office as an authorised officer on ceasing to hold another office stated in the appointment conditions (the **main office**).*
- (3) *However, an authorised officer may not resign from the office of authorised officer (the **secondary office**) under subsection (2)(b) if a term of the authorised officer's employment to the main office requires the authorised officer to hold the secondary office.*

**326 Authorised officer's identity card**

- (1) *The Electoral Commission must give each authorised officer an identity card.*
- (2) *The identity card must—*

- (a) *contain a recent photograph of the authorised officer; and*
  - (b) *be signed by the authorised officer; and*
  - (c) *include an expiry date; and*
  - (d) *identify the person as an authorised officer under this Schedule.*
- (3) *A person who ceases to be an authorised officer must return the person's identity card to the Electoral Commission within 21 days after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it.*  
*Maximum penalty—20 penalty units.*
- (4) *This section does not prevent the giving of a single identity card to a person under this section and for other provisions, Acts or purposes.*

**327 Production or display of authorised officer's identity card**

- (1) *An authorised officer may exercise a power under this Schedule in relation to someone else (the **other person**) only if the authorised officer—*
- (a) *first produces his or her identity card for the other person's inspection; or*
  - (b) *has the identity card displayed so it is clearly visible to the other person.*
- (2) *However, if for any reason, it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the other person's inspection at the first reasonable opportunity.*

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## **Division 8**                      **Power of authorised officers to ask questions or require documents**

### **328**    **Power to require information from certain persons**

- (1) *This section applies if an authorised officer suspects on reasonable grounds—
  - (a) an offence against this Schedule has been committed; and
  - (b) a person may be able to give information about the offence.*
- (2) *The authorised officer may require the person to give information about the offence.*
- (3) *When making the requirement, the authorised officer must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.*
- (4) *The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.*  
*Maximum penalty—40 penalty units.*
- (5) *It is a reasonable excuse for the person to fail to give information if giving it might tend to incriminate the person.*
- (6) *The person does not commit an offence against this section if the information sought by the authorised officer is not in fact relevant to the offence.*

### **329**    **Power to require production of certain documents**

- (1) *An authorised officer may require a person who holds, claims to hold or should hold, a document to which this Schedule relates to produce the document.*
- (2) *When making the requirement, the authorised officer must warn the person it is an offence to fail to produce the document, unless the person has a reasonable excuse.*
- (3) *The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.*

*Maximum penalty—40 penalty units.*

- (4) *It is a reasonable excuse for the person to fail to produce the document if producing it might tend to incriminate the person.*
- (5) *The authorised officer may keep the document to take an extract from it or make a copy of it.*
- (6) *The authorised officer must return the document to the person as soon as practicable after taking the extract or making the copy.*
- (7) *The person does not commit an offence against this section if the document sought by the authorised officer is not in fact relevant to the offence.*

## **Division 9                      Powers of authorised officers for places**

### **330      Entry to places**

- (1) *An authorised officer may enter a place under this Schedule if—*
  - (a) *its occupier agrees to the entry; or*
  - (b) *the entry is permitted by a warrant.*
- (2) *An authorised officer, without the occupier's agreement or a warrant, may—*
  - (a) *enter a place when the place is open to the public; or*
  - (b) *enter land to ask for the occupier's agreement to the authorised officer entering the land or a building or structure on the land.*
- (3) *Unless an entry under this Schedule is made under the authority of a warrant, the entry must be made at a reasonable time.*

### **331      Warrants for entry**

- (1) *An authorised officer may apply to a Magistrate for a warrant for a place.*

- 
- (2) *The application must be sworn and must state the grounds on which the warrant is sought.*
- (3) *The Magistrate may refuse to consider the application until the authorised officer gives the Magistrate all the information the Magistrate requires about the application in the way the Magistrate requires.*

*Example—*

*The Magistrate may require additional information supporting the application be given by statutory declaration.*

- (4) *The Magistrate may issue a warrant only if the Magistrate is satisfied there are reasonable grounds for suspecting—*
- (a) *there is a particular thing or activity (the **evidence**) that may provide evidence of the commission of an offence against this Schedule; and*
- (b) *the evidence is at the place, or may be at the place within the next 7 days.*
- (5) *The warrant must state—*
- (a) *the authorised officer may, with necessary and reasonable help and force, enter the place and exercise the authorised officer's powers under this Schedule; and*
- (b) *the evidence for which the warrant is issued; and*
- (c) *the hours of the day or night when entry may be made; and*
- (d) *the day (within 14 days after the warrant's issue) when the warrant ends.*
- (6) *The Magistrate must record the reasons for issuing the warrant.*

### **332 Warrants—applications made other than in person**

- (1) *An authorised officer may apply for a warrant by phone, fax, radio or another form of communication if the authorised officer considers it necessary because of urgent circumstances or other special circumstances, including, for example, the authorised officer's remote location.*

- (2) *Before applying for the warrant, the authorised officer must prepare an application stating the grounds on which the warrant is sought.*
- (3) *The authorised officer may apply for the warrant before the application is sworn.*
- (4) *After issuing a warrant, the Magistrate must immediately fax a copy to the authorised officer if it is reasonably practicable to fax the copy.*
- (5) *If it is not reasonably practicable to fax a copy of the warrant to the authorised officer—*
  - (a) *the Magistrate must—*
    - (i) *record on the warrant the reasons for issuing the warrant; and*
    - (ii) *tell the authorised officer the date and time the warrant was signed; and*
    - (iii) *tell the authorised officer the warrant's terms; and*
  - (b) *the authorised officer must write on a form of warrant (the **warrant form**)—*
    - (i) *the Magistrate's name; and*
    - (ii) *the date and time the Magistrate signed the warrant; and*
    - (iii) *the warrant's terms.*
- (6) *The facsimile warrant, or the warrant form properly completed by the authorised officer, authorises the entry and the exercise of the other powers mentioned in the warrant issued by the Magistrate.*
- (7) *The authorised officer must, at the first reasonable opportunity, send to the Magistrate—*
  - (a) *the sworn application; and*
  - (b) *if a warrant form was completed by the authorised officer—the completed warrant form.*
- (8) *On receiving the documents, the Magistrate must attach them to the warrant.*



- (9) *Unless the contrary is proved, a court must presume a power exercised by an authorised officer was not authorised by a warrant issued under this section if—*
- (a) *a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and*
  - (b) *the warrant is not produced in evidence.*

### **333 Authorised officer's general powers for places**

- (1) *An authorised officer who enters a place under this Schedule may—*
- (a) *search any part of the place; or*
  - (b) *operate, examine, inspect, test, photograph or film anything at the place; or*
  - (c) *copy a document at the place; or*
  - (d) *take into the place any persons, equipment and materials the authorised officer reasonably requires for exercising a power in relation to the place; or*
  - (e) *require a person at the place or the occupier of the place, to give the authorised officer reasonable help for the exercise of the powers mentioned in paragraphs (a) to (d).*
- (2) *A person who is required by an authorised officer under subsection (1)(e) to give the authorised officer reasonable help for the exercise of a power must comply with the requirement, unless the person has a reasonable excuse for not complying with it.*

*Maximum penalty—20 penalty units.*

- (3) *If the help is required to be given by—*
- (a) *answering a question; or*
  - (b) *producing a document;*

*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.*

- (4) *This section applies to an authorised officer who enters a place to get the occupier's agreement to enter only if the agreement is given or the entry is otherwise authorised.*

## **Division 10                      Authorised officer's power to seize**

### **334      Power to seize**

- (1) *An authorised officer who enters a place under the authority of a warrant under this Schedule may seize the evidence for which the warrant was issued.*
- (2) *An authorised officer who enters a place with the occupier's agreement under this Schedule may seize the particular thing for which the entry was made, if the officer believes, on reasonable grounds, the thing is evidence of an offence against this Schedule.*
- (3) *The authorised officer may also seize another thing if the officer believes, on reasonable grounds—*
- (a) *the thing is evidence of an offence against this Schedule; and*
  - (b) *the seizure is necessary to prevent the thing being—*
    - (i) *concealed, lost or destroyed; or*
    - (ii) *used to commit, continue or repeat the offence.*
- (4) *Having seized a thing, an authorised officer may—*
- (a) *move the thing from the place where it was seized (the **place of seizure**) to another place; or*
  - (b) *leave the thing at the place of seizure but restrict access to the thing.*

*Example of subsection (4)(b)—*

*An authorised officer may seal—*

- (a) *a thing and mark it to show it has been seized; or*
- (b) *the entrance to a room where the seized thing is situated and mark it to show it contains a thing that has been seized.*

- 
- (5) *If an authorised officer restricts access to a seized thing, a person must not tamper with it without the approval of the authorised officer or the Electoral Commission.*

*Maximum penalty—40 penalty units.*

### **335 Powers in support of seizure**

- (1) *To enable a thing to be seized, an authorised officer may, by written notice given to the person in control of the thing, require the person—*
- (a) *to take it to a stated reasonable place by a stated reasonable time; and*
  - (b) *if necessary, to remain in control of it at the place for a reasonable time.*
- (2) *If, for any reason, it is not practicable to make the requirement by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.*
- (3) *A person must comply with a requirement under this section, unless the person has a reasonable excuse for not complying with it.*

*Maximum penalty—40 penalty units.*

### **336 Receipt for seized things**

- (1) *As soon as practicable after an authorised officer seizes a thing, the authorised officer must give a receipt for it to the person from whom it was seized.*
- (2) *However, if for any reason it is not practicable to comply with subsection (1), the authorised officer must leave the receipt at the place of seizure, in a reasonably secure way and in a conspicuous position.*
- (3) *Subsection (1) does not apply if—*
- (a) *the thing is unattended when seized; and*
  - (b) *the thing's owner is unknown; and*

- (c) *the owner can not be found after reasonable inquiries (given the thing's value) have been made.*

### **336A Powers in relation to seized thing**

- (1) *Having seized a thing, an authorised officer may—*
- (a) *operate, copy, examine, inspect, test, photograph or film the thing; or*
  - (b) *require the occupier of the place from which the thing was seized, to give the authorised officer reasonable help to operate the thing.*

*Example—*

*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.*

- (2) *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.*

*Maximum penalty—20 penalty units.*

- (3) *If the help is required to be given by—*

- (a) *answering a question; or*
- (b) *producing a document;*

*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.*

### **337 Access to seized things**

*Until a seized thing is forfeited, returned, or otherwise finally dealt with, an authorised officer must allow its owner—*

- (a) *to inspect it; or*
- (b) *if it is a document—to make copies of it.*

**338 Return of seized things**

- (1) *This section does not apply to a thing forfeited to the State.*
- (2) *The authorised officer must return a seized thing to its owner at the end of—*
  - (a) *6 months; or*
  - (b) *if a prosecution for an offence involving it is started within 6 months—the prosecution and any appeal from the prosecution.*
- (3) *Despite subsection (2), the authorised officer must return the seized thing to its owner immediately the authorised officer stops being satisfied its retention as evidence is necessary.*

**339 Forfeiture of unclaimed seized things**

*A seized thing is forfeited to, and becomes the property of, the State if the Electoral Commission—*

- (a) *can not find its owner after reasonable inquiries (given the thing's value) have been made; or*
- (b) *is unable, after making reasonable efforts, to return it to its owner.*

**Division 11 Other enforcement matters****340 False or misleading information**

- (1) *A person must not—*
  - (a) *state anything to an authorised officer the person knows is false or misleading in a material particular; or*
  - (b) *omit from a statement made to an authorised officer anything without which the statement is, to the person's knowledge, misleading in a material particular.*

*Maximum penalty—20 penalty units.*

- (2) *It is enough for a complaint for an offence against subsection (1)(a) or (b) to state that the statement made was false or misleading to the person's knowledge.*

**341 False, misleading or incomplete documents**

- (1) *A person must not give an authorised officer a document containing information the person knows is false, misleading or incomplete in a material particular.*

*Maximum penalty—20 penalty units.*

- (2) *However, the person does not commit an offence against subsection (1) if, when giving the document, the person—*
- (a) *informs the authorised officer, to the best of the person's ability, how it is false, misleading or incomplete; and*
  - (b) *gives the correct information to the authorised officer if the person has, or can reasonably obtain, the correct information.*
- (3) *It is enough for a complaint for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.*

**342 Authorised officer to give notice of damage**

- (1) *This section applies if—*
- (a) *an authorised officer damages anything in the exercise of a power under this Schedule; or*
  - (b) *a person who is authorised by an authorised officer to take action under this Schedule damages anything in taking the action.*
- (2) *The authorised officer must promptly give written notice of the particulars of the damage to the person who appears to the authorised officer to be the thing's owner.*
- (3) *If the authorised officer believes the damage was caused by a latent defect in the thing or other circumstances beyond the authorised officer's control, the authorised officer may state this in the notice.*

- (4) *If, for any reason, it is not practicable to comply with subsection (2), the authorised officer must—*
  - (a) *leave the notice at the place where the damage happened; and*
  - (b) *ensure the notice is left in a reasonably secured way in a conspicuous position.*
- (5) *This section does not apply to damage the authorised officer believes, on reasonable grounds, is trivial.*

### **343 Compensation**

- (1) *A person may claim compensation if the person incurs loss or expense because of the exercise or purported exercise of a power under this Schedule, including, for example, in complying with a requirement made of the person under this Schedule.*
- (2) *Compensation may be claimed and ordered in a proceeding for—*
  - (a) *compensation brought in a court of competent jurisdiction; or*
  - (b) *an offence against this Schedule brought against the person making the claim for compensation.*
- (3) *A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.*
- (4) *The regulations may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.*

### **344 Agreement to entry**

- (1) *This section applies if an authorised officer seeks the agreement of an occupier of a place to an authorised officer entering the place under this Schedule.*
- (2) *In seeking the agreement, the authorised officer must inform the occupier—*

- (a) *of the purpose of the entry; and*
  - (b) *that information obtained by the authorised officer may be used in evidence in court; and*
  - (c) *that the occupier is not required to agree to the entry.*
- (3) *If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the occupier's agreement.*
- (4) *The acknowledgment must state—*
- (a) *the occupier was informed—*
    - (i) *of the purpose of the entry; and*
    - (ii) *that information obtained by the authorised officer may be used in evidence in court; and*
    - (iii) *that the occupier was not required to agree to the entry; and*
  - (b) *the occupier agreed to the authorised officer entering the place and exercising powers under this Schedule; and*
  - (c) *the time and date the agreement was given.*
- (5) *If the occupier signs an acknowledgment of agreement, the authorised officer must immediately give a copy to the occupier.*

### **345 Evidence of agreement**

- (1) *This section applies to a proceeding if—*
- (a) *a question arises whether an occupier of a place agreed to the entry of the place by an authorised officer under this Schedule; and*
  - (b) *an acknowledgment of the occupier's agreement is not produced in evidence.*
- (2) *In a proceeding to which this section applies, the court may presume the occupier did not agree to the entry, unless the contrary is proved.*



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**346 Obstruction of authorised officer**

(1) *In this section—*

*authorised officer* includes a person who is authorised by an authorised officer to take action under this Schedule.

(2) *A person must not obstruct an authorised officer in the exercise of a power under this Schedule, unless the person has a reasonable excuse.*

*Maximum penalty—50 penalty units.*

(3) *In this section—*

*obstruct* includes hinder, resist and attempt to obstruct.

**347 Impersonation of authorised officer**

*A person must not pretend to be an authorised officer.*

*Maximum penalty—80 penalty units.*

**Division 12 Evidence****348 Evidentiary provisions**

(1) *This section applies to a proceeding under this Act.*

(2) *The appointment or power of an authorised officer must be presumed unless a party, by reasonable notice, requires proof of—*

(a) *the appointment; or*

(b) *the power to do anything under this Schedule.*

(3) *A signature purporting to be the signature of the Electoral commissioner or an authorised officer is evidence of the signature it purports to be.*

(4) *A certificate purporting to be signed by a person mentioned in subsection (3) and stating any of the following matters is evidence of the matter—*

(a) *a stated document is—*

Schedule

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- (i) *an order, direction, requirement or decision, or a copy of an order, direction, requirement or decision, given or made under this Schedule; or*
  - (ii) *a notice, or a copy of a notice, given under this Schedule; or*
  - (iii) *a record, or a copy of a record, kept under this Schedule; or*
  - (iv) *a document, or a copy of a document, kept under this Schedule;*
- (b) *on a stated day, a stated person was given a stated notice, order, requirement or direction under this Schedule;*
- (c) *anything else prescribed under the regulations.*

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## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 14 October 2010. Future amendments of the Electoral Act 1992 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	19 June 1992	1 September 1992
2	1994 Act No. 82	1 December 1994	21 December 1994
3	1995 Act No. 58	28 November 1995	18 December 1995
3A	1996 Act No. 2	24 April 1996	25 July 1996
3B	1996 Act No. 79	12 December 1996	24 January 1997
4	1997 Act No. 11	1 July 1997	1 July 1997
4A	1997 Act No. 82	5 December 1997	15 December 1997
4B	1999 Act No. 33	1 July 1999	28 October 1999
4C	2000 Act No. 46	25 October 2000	8 November 2000
4D	2000 Act No. 63	27 November 2000	8 December 2000
4E	2001 Act No. 45	15 July 2001	24 August 2001
4F	2002 Act No. 8	6 June 2002	7 June 2002
5	2002 Act No. 8	1 July 2002	5 July 2002

Reprint No.	Amendments included	Effective	Notes
5A	2002 Act No. 8	6 December 2002	
5B	2003 Act No. 19	9 May 2003	
5C	2003 Act No. 77	8 December 2003	
5D	2004 Act No. 37	1 January 2005	
5E	2006 Act No. 41	11 August 2006	
5F	2006 Act No. 29	28 August 2006	
5G	2007 Act No. 21	26 April 2007	R5G withdrawn, see R6
6	—	26 April 2007	
6A	2007 Act No. 37	28 September 2007	
6B	2007 Act No. 59	15 March 2008	
6C	2008 Act No. 47	1 July 2008	
6D	2008 Act No. 47	19 September 2008	R6D withdrawn, see R7
7	—	19 September 2008	
7A	2009 Act No. 7	28 May 2009	
7B	2009 Act No. 9	1 July 2009	
7C	2009 Act No. 25	2 November 2009	
7D	2009 Act No. 49	10 December 2009	
7E	2009 Act No. 17	1 July 2010	
	2010 Act No. 23		
7F	2010 Act No. 42	14 October 2010	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	2
Corrected minor errors	1, 3
Obsolete and redundant provisions	2
Renumbered provisions	3

## 6 List of legislation

### Electoral Act 1992 No. 28

date of assent 1 June 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 19 June 1992 (1992 SL No. 160)

amending legislation—

### Electoral Amendment Act 1994 No. 82

date of assent 1 December 1994

commenced on date of assent

**Justice and Attorney-General (Miscellaneous Provisions) Act 1995 No. 24 pts 1, 4**

date of assent 11 April 1995  
commenced on date of assent

**Parliamentary Committees Act 1995 No. 38 ss 1, 35 sch 1**

date of assent 15 September 1995  
commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Parliamentary Committees Legislation Amendment Act 1996 No. 2 pts 1, 4**

date of assent 24 April 1996  
commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Justices of the Peace and Commissioners for Declarations Legislation Amendment Act 1996 No. 40 pts 1, 3**

date of assent 1 November 1996  
commenced on date of assent

**Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 12**

date of assent 12 December 1996  
commenced on date of assent

**Electoral Amendment Act 1997 No. 10**

date of assent 15 May 1997  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1997 (1997 SL No. 134)

**Referendums Act 1997 No. 11 s 102 sch 2**

date of assent 15 May 1997  
commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–3, sch**

date of assent 5 December 1997  
commenced on date of assent

**Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**State Penalties Enforcement Act 1999 No. 70 ss 1–2, 166 sch 1**

date of assent 6 December 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 27 November 2000 (2000 SL No. 274)

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000  
commenced on date of assent

**Corrective Services Act 2000 No. 63 ss 1, 2(2), 276 sch 2**

date of assent 24 November 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2001 (2001 SL No. 88)

**Electoral and Other Acts Amendment Act 2001 No. 25 pts 1–2 sch 1**

date of assent 25 May 2001  
commenced on date of assent

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 sch 3**

date of assent 28 June 2001  
ss 1–2 commenced on date of assent  
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
remaining provision commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Parliament of Queensland Act 2001 No. 81 ss 1–2, ch 9 pt 6**

date of assent 3 December 2001  
ss 1–2 commenced on date of assent  
remaining provisions commenced 6 June 2002 (see s 2)

**Electoral and Other Acts Amendment Act 2002 No. 8 pts 1–2 (this Act is amended, see amending legislation below)**

date of assent 19 April 2002  
ss 1–2 commenced on date of assent  
s 12 commenced 6 December 2002 (2002 SL No. 119)  
s 28 commenced 6 June 2002 (see s 2(1))  
ss 32–45 commenced 1 July 2002 (2002 SL No. 119)  
remaining provisions commenced 6 June 2002 (2002 SL No. 119)

amending legislation—

**Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 ss 1, 2(5), 74 sch 6 (amends 2002 No. 8 above)**

date of assent 16 August 2002  
ss 1–2, 74 commenced on date of assent  
remaining provisions commenced 5 June 2002 (see s 2(5))

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch**

date of assent 9 May 2003  
commenced on date of assent

**Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 13**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 8 December 2003 (2003 SL No. 310)

**Local Government (Community Government Areas) Act 2004 No. 37 ss 1–2, 86 sch 1**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2005 (2004 SL No. 266)

**Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provision commenced 28 August 2006 (2006 SL No. 213) (amdt could not be given effect)

**Crime and Misconduct and Other Legislation Amendment Act 2006 No. 41 pts 1, 2B**

date of assent 11 August 2006

commenced on date of assent (see s 2)

**Local Government and Other Legislation Amendment Act 2007 No. 21 pts 1, 4**

date of assent 26 April 2007

commenced on date of assent

**Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 12**

date of assent 29 August 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 28 September 2007 (2007 SL No. 241)

**Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007 No. 59 ss 1–2, 152 sch**

date of assent 22 November 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 2008 (2007 SL No. 336)

**Electoral Amendment Act 2008 No. 47**

date of assent 19 September 2008

ss 1–2, 4, 10–11, 17, 21–22, 27, 33–35 commenced on date of assent (see s 2)

remaining provisions commenced 1 July 2008 (see s 2)

**Parliament of Queensland Amendment Act 2009 No. 7 ss 1, 16 sch**

date of assent 28 May 2009

commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)



**Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch**

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

**Fair Work (Commonwealth Powers) and Other Provisions Act 2009 No. 49 ss 1–2, pt 3 div 4**

date of assent 19 November 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 10 December 2009 (2009 SL No. 289)

Note—AIA s 15DA does not apply (see s 2(2))

**City of Brisbane Act 2010 No. 23 ss 1–2(1), 352 sch 1**

date of assent 17 June 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (see s 2(1))

**Justice and Other Legislation Amendment Act 2010 No. 42 s 1, pt 11, s 39 sch**

date of assent 14 October 2010

commenced on date of assent

## 7 List of annotations

**Note in text**

- s 2** orig s 2 om R2 (see RA s 37)  
 prev s 2 ins 2002 No. 8 s 4  
 om 2008 No. 47 s 4

**Definitions**

- s 3** def “**broadcast**” ins 2002 No. 8 s 5(1)  
 def “**broadcaster**” ins 2002 No. 8 s 5(1)  
 def “**candidate**” amd 2001 No. 25 s 2 sch 1  
 def “**Commonwealth Electoral Act**” ins 1994 No. 82 s 2 sch  
 def “**complying constitution**” ins 2002 No. 8 s 5(1)  
 def “**cut-off day for electoral rolls**” sub 1997 No. 11 s 102 sch 2  
 def “**disqualifying electoral offence**” ins 2002 No. 8 s 5(1)  
 def “**distribute**” ins 2002 No. 8 s 5(1)  
 def “**how-to-vote card**” ins 2002 No. 8 s 5(1)  
 def “**institution**” amd 2000 No. 63 s 276 sch 2; 2006 No. 41 s 35D  
 def “**issuing officer**” sub 1997 No. 11 s 102 sch 2  
 def “**ordinary vote**” ins 1994 No. 82 s 3  
 def “**parliamentary committee**” ins 1995 No. 38 s 35 sch 1  
 amd 2009 No. 7 s 16 sch  
 def “**political party**” amd 2002 No. 8 s 5(2)  
 def “**preselection ballot**” ins 2002 No. 8 s 5(1)  
 def “**prisoner**” amd 2000 No. 63 s 276 sch 2  
 def “**referendum**” ins 1997 No. 11 s 102 sch 2

def “**registered officer**” amd 1997 No. 10 s 4  
def “**register of special postal voters**” ins 1996 No. 79 s 38

**Establishment of Electoral Commission of Queensland etc.**

s 7 amd 1995 No. 38 s 35 sch 1; 1996 No. 2 s 13

**Functions and powers of commission**

s 8 amd 2002 No. 8 s 6

**Tenure and terms of office**

s 10 amd 1996 No. 37 s 147 sch 2; 2009 No. 25 s 83 sch

**Electoral officer accountable officer**

s 20 sub 1996 No. 37 s 147 sch 2  
amd 2009 No. 9 s 136 sch 1

**Deputy electoral commissioner**

s 22 amd 1994 No. 82 s 4

**Terms and conditions of appointment etc.**

s 23 amd 1995 No. 38 s 35 sch 1; 1996 No. 2 s 14; 1996 No. 37 s 147 sch 2; 2009  
No. 25 s 83 sch

**Acting electoral commissioner**

s 27 sub 1994 No. 82 s 2 sch

**Acting deputy electoral commissioner**

s 28 sub 1994 No. 82 s 2 sch

**Staff**

s 30 amd 1996 No. 37 s 147 sch 2; 1997 No. 11 s 102 sch 2; 2009 No. 25 s 83 sch

**Electoral registrars**

s 31 amd 2009 No. 17 s 331 sch 1; 2010 No. 23 s 352 sch 1

**Confidentiality of information**

s 33A ins 2002 No. 8 s 7

**Commission to keep electoral rolls**

s 58 amd 1996 No. 40 s 11; 2002 No. 8 s 8; 2006 No. 41 s 35E

**Preparation of electoral rolls**

s 59 amd 1997 No. 11 s 102 sch 2

**Inspection of publicly available parts of electoral rolls**

prov hdg amd 2010 No. 42 s 40(1)

s 60 amd 2010 No. 42 s 40(2)

**Information on electoral rolls to be provided to particular people and organisations**

s 61 amd 1997 No. 82 s 3 sch  
sub 2010 No. 42 s 41

**Entitlement to enrolment**

s 64 amd 1994 No. 82 s 5; 2000 No. 63 s 276 sch 2; 2002 No. 8 s 9; 2006 No. 41 s  
35F; 2006 No. 29 s 518 sch 3 (amdt could not be given effect)

**Enrolment and transfer of enrolment**

s 65            amd 1997 No. 11 s 102 sch 2

**PART 4A—REGISTER OF SPECIAL POSTAL VOTERS**

**pt hdg**        ins 1996 No. 79 s 39

**Commission to keep register of special postal voters**

s 67A        ins 1996 No. 79 s 39

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**Registered officer's deputy**

s 72A        ins 1997 No. 10 s 5

**Refusal of registration**

s 73        amd 1994 No. 82 s 6; 2001 No. 25 s 2 sch 1; 2002 No. 8 s 10

**Complying constitution**

s 73A        ins 2002 No. 8 s 11

**Cancellation of registration**

s 75        amd 2002 No. 8 s 12

**Party constitution**

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s 82        amd 2001 No. 25 s 3(2)–(5)

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            amd 2003 No. 19 s 3 sch

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s 94        amd 2002 No. 8 s 15

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s 97        amd 2001 No. 25 s 4

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s 106      amd 1994 No. 82 s 9; 1997 No. 10 s 8

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s 111      amd 1994 No. 82 s 10; 1995 No. 24 s 12; 1997 No. 10 s 10

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s 114      amd 1997 No. 10 s 11

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s 116      amd 1997 No. 10 s 12

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s 125A     ins 1994 No. 82 s 13  
            amd 1999 No. 70 s 166 sch 1

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            amd 2008 No. 47 s 5 (retro)

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s 126B     ins 1994 No. 82 s 15  
            amd 2008 No. 47 s 6 (retro)

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            amd 1995 No. 58 s 4 sch 1; 2008 No. 47 s 7 (retro)

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**s 128** amd 2001 No. 25 s 5(2)

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**s 129** amd 1994 No. 82 s 16

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**s 130** amd 2001 No. 25 s 2 sch 1; 2007 No. 37 s 64

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**s 131** amd 2001 No. 25 s 2 sch 1; 2007 No. 37 s 65

**Application to court for order relating to documents etc.**

**s 132** amd 2001 No. 25 s 2 sch 1

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**prov hdg** amd 2001 No. 25 s 2 sch 1

**s 133** amd 2001 No. 25 s 2 sch 1; 2007 No. 37 s 66

**How application is to be dealt with by court**

**prov hdg** amd 2001 No. 25 s 2 sch 1

**s 134** amd 2001 No. 25 ss 6, 2 sch 1

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**s 136** amd 1997 No. 10 s 14; 2001 No. 25 s 2 sch 1

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**s 137** amd 1997 No. 10 s 15; 2001 No. 25 s 2 sch 1

**Restriction on certain evidence and inquiries**

**s 138** amd 2001 No. 25 s 2 sch 1

**Copy of final court orders to be sent to Clerk of Parliament**

**s 139** amd 2007 No. 37 s 67

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**s 140** amd 1997 No. 82 s 3 sch; 2001 No. 25 s 2 sch 1

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**s 141** amd 2001 No. 25 ss 7, 2 sch 1

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**s 142** amd 2001 No. 25 s 2 sch 1

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s 143      amd 2001 No. 25 s 2 sch 1

**Order to be sent to Assembly**

s 147      amd 2007 No. 37 s 68

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s 148A     ins 2001 No. 25 s 8

**Time for appealing**

s 148B     ins 2001 No. 25 s 8

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s 148C     ins 2001 No. 25 s 8

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s 148D     ins 2001 No. 25 s 8

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s 148F     ins 2001 No. 25 s 8  
            amd 2007 No. 37 s 69

**Right of commission to have access to documents**

s 148G     ins 2001 No. 25 s 8

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s 148H     ins 2002 No. 8 s 17

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s 148I     ins 2002 No. 8 s 17

**Inquiry into preselection ballot**

s 148J     ins 2002 No. 8 s 17  
            amd 2003 No. 77 s 71

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s 148K     ins 2002 No. 8 s 17

**Notice of preselection ballot**

s 148L     ins 2002 No. 8 s 17

**Selecting preselection ballots for random audit**

s 148M     ins 2002 No. 8 s 17

**Random audit of preselection ballots**

s 148N     ins 2002 No. 8 s 17

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s 148O ins 2002 No. 8 s 17

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s 151 amd R2 (see RA s 39)

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s 152 amd R2 (see RA s 39); 1997 No. 11 s 102 sch 2; 2004 No. 37 s 86 sch 1; 2007 No. 59 s 152 sch; 2009 No. 17 s 331 sch 1; 2010 No. 23 s 352 sch 1; 2010 No. 42 s 42

**False or misleading statements**

s 153 amd R2 (see RA s 39)  
om 2002 No. 8 s 18

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s 154 amd R2 (see RA s 39)  
om 2002 No. 8 s 18

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s 155 amd R2 (see RA s 39)  
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**Providing money for illegal payments**

s 156 amd R2 (see RA s 39)  
om 2002 No. 8 s 18

**Improperly influencing commission**

s 157 amd R2 (see RA s 39)

**Interfering with election right or duty**

s 158 amd R2 (see RA s 39); 2000 No. 46 s 3 sch

**Forging or uttering electoral papers etc.**

s 159 amd R2 (see RA s 39)  
om 2002 No. 8 s 19

**Author of election matter must be named**

s 161 amd 1997 No. 10 s 16; 2001 No. 25 s 9; 2002 No. 8 s 20

**Distribution of how-to-vote cards**

s 161A ins 2001 No. 25 s 10  
amd 2002 No. 8 s 21

**Lodging how-to-vote cards**

s 161B ins 2002 No. 8 s 22  
amd 2003 No. 77 s 72

**Headline to electoral advertisements**

s 162 amd 2007 No. 21 s 60

**Misleading voters**

s 163 amd 2002 No. 8 s 23

**Failure to vote etc.**

s 164 sub 1994 No. 82 s 17  
amd 2002 No. 8 s 24; 2010 No. 42 s 39 sch

**Leave to vote**

s 165 amd 2007 No. 21 s 61

**Canvassing etc. in or near polling places**

s 166 amd 1994 No. 82 s 18; 2002 No. 8 s 25; 2007 No. 21 s 62

**Interrupting voting etc.**

s 167 amd 2007 No. 21 s 63

**Influencing voting**

s 168 amd R2 (see RA s 39)  
om 2002 No. 8 s 26

**Displaying political statements in certain places**

s 169 sub 1994 No. 82 s 19

**Voting if not entitled etc.**

s 170 amd R2 (see RA s 39)  
om 2002 No. 8 s 27

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s 171 amd R2 (see RA s 39)

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prov hdg amd 1997 No. 10 s 17(1)  
s 172 amd R2 (see RA s 39)  
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amd 1997 No. 10 s 17(2)–(5)

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s 173 amd R2 (see RA s 39)

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s 174 amd R2 (see RA s 39)

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s 175 amd R2 (see RA s 39)

**Division 4—Further penalty of parliamentary disqualification for certain offences**

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pt hdg pres pt 10 hdg (prev pt 9 hdg) renum 1994 No. 82 s 2 sch

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s 179 amd 2002 No. 8 s 29



**Review of certain decisions**

s 180 amd 2001 No. 25 s 2 sch 1

**Regulation-making power**

prov hdg sub 2010 No. 42 s 39 sch

s 182 amd 1995 No. 58 s 4 sch 1

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pt hdg prev pt 11 hdg ins 1994 No. 82 s 20

om R3 (see RA s 7(1)(k))

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div hdg ins 2002 No. 8 s 30

**Transitional provision—petition disputing election**

s 183 orig s 183 om R1 (see RA s 40)

prev s 183 ins 1994 No. 82 s 20

exp 1 June 1995 (see s 183(2))

pres s 183 ins 2001 No. 25 s 2 sch 1

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

div hdg ins 2002 No. 8 s 31

**Registered political party constitution**

s 184 prev s 184 om R1 (see RA s 38)

pres s 184 ins 2002 No. 8 s 31

**Division 3—Transitional provisions for Electoral Amendment Act 2008**

div hdg ins 2008 No. 47 s 8 (retro)

**Definitions for div 3**

s 185 prev s 185 om 1995 No. 58 s 4 sch 1

pres s 185 ins 2008 No. 47 s 8 (retro)

**Reference to election funding amount for sch, s 294A**

s 186 prev s 186 om R1 (see RA s 40)

pres s 186 ins 2008 No. 47 s 8 (retro)

**Continuation of decisions under sch, s 299A**

s 187 prev s 187 om R1 (see RA s 40)

pres s 187 ins 2008 No. 47 s 8 (retro)

**Decisions about electoral expenditure paid under the pre-amended Act**

s 188 prev s 188 om R1 (see RA s 40)

pres s 188 ins 2008 No. 47 s 8 (retro)

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s 189 prev s 189 om R1 (see RA s 40)

pres s 189 ins 2008 No. 47 s 8 (retro)

**Division 4—Transitional provision for Justice and Other Legislation Amendment Act 2010**

**div hdg** ins 2010 No. 42 s 43

**Transitional provision for Justice and Other Legislation Amendment Act 2010**

**s 190** prev s 190 om R1 (see RA s 40)

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om 1995 No. 58 s 4 sch 1

**Division 1—Repeal of Acts**

**div hdg** om 1995 No. 58 s 4 sch 1

**Division 2—Amendment of City of Brisbane Act 1924**

**div hdg** om R1 (see RA s 40)

**Amendment of s.14K (Existing Council)**

**s 191** om R1 (see RA s 40)

**Amendment of s.14L (Names of electoral wards)**

**s 192** om R1 (see RA s 40)

**Amendment of s.14Q (Electoral rolls)**

**s 193** om R1 (see RA s 40)

**Amendment of s.17 (Provisions concerning elections)**

**s 194** om R1 (see RA s 40)

**Amendment of s.18 (Filling vacancies)**

**s 195** om R1 (see RA s 40)

**Division 3—Amendment of Criminal Code**

**div 3 (ss 196–197)** om R1 (see RA s 40)

**Division 4—Amendment of Legislative Assembly Act 1867**

**div 4 (ss 198–201)** om R1 (see RA s 40)

**Division 5—Amendment of Local Government Act 1936**

**div 5 (ss 202–205)** om R1 (see RA s 40)

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ins 1994 No. 82 s 21

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**s 287** amd 1999 No. 33 s 747 sch 3; 2001 No. 45 s 29 sch 3; 2002 No. 8 s 32; 2008 No. 47 s 9 (retro); 2009 No. 49 s 25

**Meaning of “disclosure period”**

**s 287AA** amd 2002 No. 8 s 33

(3)–(4) exp 1 January 1999 (see s 287AA(4))

**Campaign committee to be treated as part of (words omitted) party**

s 287A amd 2008 No. 47 s 10

**Effect of registration etc.**

s 292 amd 2002 No. 8 s 34

**Responsibility for action when agent of party (words omitted) dead or appointment vacant**

s 292B amd 2008 No. 47 s 11

**Division 3—Election funding****Subdivision AA—Preliminary**

sdiv AA (s 292E) ins 2008 No. 47 s 12 (retro)

**Subdivision A—Entitlement to election funding**

sdiv hdg ins 2008 No. 47 s 12 (retro)

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s 293 sub 2008 No. 47 s 12 (retro)

**Entitlement to election funding—unendorsed candidates**

s 294 sub 2008 No. 47 s 12 (retro)

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s 294A amd 2008 No. 47 s 13 (retro)

**Notice of intention to claim election funding**

s 294B om 1997 No. 10 s 18

**(omitted)**

s 295 sub 2008 No. 47 s 14 (retro)

**(omitted)**

s 296 sub 2008 No. 47 s 14 (retro)

**Subdivision B—Claims for election funding**

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**Electoral expenditure incurred**

s 298 sub 2008 No. 47 s 14 (retro)

**Form of claim**

s 298A ins 2008 No. 47 s 14 (retro)

**Lodging of claim**

s 298B ins 2008 No. 47 s 14 (retro)

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s 298C ins 2008 No. 47 s 14 (retro)

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s 298D ins 2008 No. 47 s 14 (retro)

**Accepting a (word omitted) claim**

s 298E ins 2008 No. 47 s 14 (retro)

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s 298F ins 2008 No. 47 s 14 (retro)

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s 298G ins 2008 No. 47 s 14 (retro)

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s 298H ins 2008 No. 47 s 14 (retro)

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s 299 amd 2008 No. 47 s 15 (retro)

**Revocation of decision regarding payment**

s 299A om 2008 No. 47 s 16 (retro)

**Subdivision D—Miscellaneous**

sdiv hdg ins 2008 No. 47 s 16 (retro)

**Death of candidates (words omitted)**

s 300 sub 2008 No. 47 s 16 (retro)

**Varying decisions accepting claims**

s 301 sub 2008 No. 47 s 16 (retro)

**How division applies to gifts that are returned etc. within 6 weeks**

s 303A ins 2008 No. 47 s 17

**Disclosure of gifts**

s 304 amd 2007 No. 21 s 64; 2008 No. 47 s 18 (retro)

**Loans to candidates**

s 304A ins 2002 No. 8 s 35  
amd 2008 No. 47 s 18A (retro)

**Donations to candidates etc.**

s 305A sub 2002 No. 8 s 36  
amd 2008 No. 47 s 18B (retro)

**Donations to political parties**

s 305B sub 2002 No. 8 s 36  
amd 2008 No. 47 s 19 (retro)

**Special reporting of large gifts**

s 305C ins 2008 No. 47 s 20 (retro)

**Division 4A—Rules about certain gifts and loans**

div hdg ins 2008 No. 47 s 22

**Subdivision A—Gifts of foreign property**

sdiv A (ss 306–306AD) ins 2008 No. 47 s 22

**Subdivision B—Anonymous gifts****sdiv hdg** ins 2008 No. 47 s 22**(omitted)****s 306AE** ins 2008 No. 47 s 22**(omitted)****s 306AF** ins 2008 No. 47 s 22**Certain gifts not to be received****s 306AG** (prev s 306) amd 2008 No. 47 s 21(1)  
renum and reloc 2008 No. 47 s 21(2)**(omitted)****s 306AH** ins 2008 No. 47 s 22**(omitted)****s 306AI** ins 2008 No. 47 s 22**Subdivision C—Other gifts and loans****sdiv hdg** ins 2008 No. 47 s 22**Certain loans not to be received****s 306A** ins 2002 No. 8 s 37  
amd 2008 No. 47 s 23 (retro)**(omitted)****s 307** amd 2002 No. 8 s 38  
sub 2008 No. 47 s 24 (retro)**Interpretation****s 308** amd 2002 No. 8 s 39**Returns by broadcasters****s 310** sub 2002 No. 8 s 40**Returns by publishers****s 311** sub 2002 No. 8 s 40**Division 5A—Returns by registered political parties and associated entities****div hdg** amd 2008 No. 47 s 26 (retro)**Interpretation****s 314AA** amd 2002 No. 8 s 41**How division applies to gifts that are returned etc. within 6 weeks****s 314AAA** ins 2008 No. 47 s 27**Returns for reporting periods by registered political parties****prov hdg** amd 2008 No. 47 s 28(1) (retro)**s 314AB** amd 2008 No. 47 s 28(2)–(3) (retro)**Amounts received****s 314AC** amd 2002 No. 8 s 42; 2008 No. 47 s 29 (retro)

**Amounts paid**

s 314AD amd 2002 No. 8 s 43; 2008 No. 47 s 30 (retro)

**Outstanding amounts**

s 314AE amd 2008 No. 47 s 31 (retro)

**Returns for reporting periods by associated entities**

prov hdg amd 2008 No. 47 s 32(1) (retro)

s 314AEA amd 2008 No. 47 s 32(2)–(4) (retro)

**Interpretation**

s 314A amd 2008 No. 47 s 33

**Offences**

s 315 amd 2008 No. 47 s 34

**Recovery of payments**

s 315A amd 2008 No. 47 s 35

**Records to be kept**

s 317 amd 2002 No. 8 s 44

**Publishing of returns**

s 319B ins 2008 No. 47 s 36 (retro)

**Inspection and supply of copies of claims and returns**

s 320 amd 2002 No. 8 s 45; 2008 No. 47 s 37 (retro); 2010 No. 42 s 44

**Authorised officer's general powers for places**

s 333 amd 2002 No. 8 s 46 (amd 2002 No. 34 s 74 sch 6)

**Powers in relation to seized thing**

s 336A ins 2002 No. 8 s 47

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form BBC 5 Version December 2003—Nomination for Mayor and/or Councillor—  
For Candidates Endorsed by a Registered Political Party**

pubd gaz 27 February 2004 p 788

**Form BBC 5A Version December 2003—Endorsed Candidate's Consent and  
Declaration**

pubd gaz 27 February 2004 p 788

**Form BBC 6 Version December 2003—Nomination for Mayor and/or Councillor—  
For Candidates NOT Endorsed by a Registered Political Party**  
pubd gaz 27 February 2004 p 788

**Form BBC 39 Version August 2003—General Return—Polling Booth Supervisor**  
pubd gaz 27 February 2004 p 788

**Form ECQ 5 Version January 2003—Nomination for the Legislative Assembly—For  
Candidates Endorsed by a Registered Political Party**  
pubd gaz 16 January 2004 p 138

**Form ECQ 5A Version July 2003—Endorsed Candidate’s Consent and Declaration**  
pubd gaz 16 January 2004 p 138

**Form ECQ 6 Version July 2003—Nomination for the Legislative Assembly—For  
Candidates NOT Endorsed by a Registered Political Party**  
pubd gaz 16 January 2004 p 138

**Form ECQ 39 Version June 2003—General Return—Polling Booth Supervisor**  
pubd gaz 16 January 2004 p 138

**Form QFD01 Version October 2008—Disclosure Return – Registered Political Party**  
pubd gaz 14 November 2008 p 1435

**Form QFD02 Version October 2008—Disclosure Return – Associated Entity**  
pubd gaz 14 November 2008 p 1435

**Form QFD03 Version October 2008—Disclosure Return – Donor to Registered  
Political Party**  
pubd gaz 14 November 2008 p 1435

**Form QFD 06 Version June 2005—Annual Return by a Donor to a Registered  
Political Party**  
pubd gaz 8 July 2005 p 833

**Form QFD 07 Version September 2007—Disclosure Returns to be given by a third  
party following an election**  
pubd gaz 21 September 2007 p 440

**Form QFD 08 Version September 2007—Claim for election funding**  
pubd gaz 21 September 2007 p 440

**Form QFD 09 Version September 2007—Disclosure Returns to be given on behalf of  
a candidate following an election**  
pubd gaz 21 September 2007 p 440

**Form QFD10 Version October 2008—Special Reporting Event Report by Registered  
Political Party or Associated Entity**  
pubd gaz 10 October 2008 p 814

**Form QFD11 Version October 2008—Special Reporting Event Report made by  
Donor**  
pubd gaz 10 October 2008 p 814

**Form QFD 12 Version September 2007—Return by a Publisher following a State election**

pubd gaz 21 September 2007 p 440

**Form QPR 01 Version June 2008—Application to Register a Political Party**

pubd gaz 20 June 2008 p 1072

**Form QPR 02 Version June 2008—Application to change the Register of Political Parties**

pubd gaz 20 June 2008 p 1072

**Form QPR 03 Version June 2008—Nomination of a Deputy Registered Officer of a Registered Political Party**

pubd gaz 20 June 2008 p 1072

**Form QPR 04 Version April 2002—Quarterly Report (Section 76A)**

pubd gaz 16 January 2004 p 138

**Form QPR 05 Version June 2008—Notice of Appointment of an Agent by a Registered Political Party**

pubd gaz 20 June 2008 p 1072

**Form SPV 1 Version March 2003—Review of Postal Voter Register**

pubd gaz 16 January 2004 p 138

**Form SPV 2 Version March 2003—Review of Postal Voter Register (State Only)**

pubd gaz 16 January 2004 p 138

## **9 Information about retrospectivity**

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.