

# Electoral Regulation 2024

Explanatory notes for SL 2024 No. 181

Made under the

*Electoral Act 1992*

## General Outline

### Short Title

*Electoral Regulation 2024*

### Authorising law

Section 392 of the *Electoral Act 1992*

## Policy objectives and the reasons for them

The *Electoral Act 1992* (Electoral Act) governs the conduct of parliamentary elections in Queensland. It regulates various matters including electoral rolls, registration of political parties, elections, preselection ballots, election funding and financial disclosure.

Section 392 of the Electoral Act provides that the Governor in Council may make regulations under the Act. The *Electoral Regulation 2013* (the Regulation 2013) will expire on 31 August 2024 under the *Statutory Instruments Act 1992*. The objective of the *Electoral Regulation 2024* (the Regulation 2024) is to remake the Regulation 2013 following a sunset review to consider whether the regulation is achieving its policy objectives and purpose.

Consistent with the Electoral Act and the Regulation 2013, the Regulation 2024:

- prescribes matters relating to the electoral roll including the date on which a person is enrolled as information that must be included on the electoral roll, the government entities that the Electoral Commission of Queensland (the ECQ) may ask for information about a person on the electoral roll, the price for giving information about electoral rolls to local government and the information that does not form part of the publicly available part of the electoral roll;
- prescribes the classes of electors who may utilise Electronically Assisted Voting (EAV);
- authorises procedures for EAV at elections for section 121B of the Electoral Act, electronic lodgement of returns for section 315A of the Electoral Act and counting of absentee votes for section 130A of the Electoral Act;
- prescribes various matters relating to election funding and financial disclosure including the qualifications or experience for auditors, the amount of the policy development payment and the period for giving certain returns required by the Electoral Act;
- prescribes the information to be included in particular records required to be kept under the Electoral Act to enable an election participant to demonstrate compliance with various provisions in part 11 of the Electoral Act;

- prescribes the documents that must accompany an application for registration of a political party for section 71 of the Electoral Act; and
- prescribes the model procedures for the conduct of a preselection ballot for section 166 of the Electoral Act.

The Regulation 2024 is in substantially the same form as the Regulation 2013, other than changes to:

- provide that all of the periods for giving returns about gifts or loans are calculated using ‘business days’ to ensure that the disclosure requirements are aligned for giving returns in the seven business days before the polling day of an election and the general requirement to give a return within seven business days of when the gift or loan is received—this approach is consistent with the equivalent obligations in the *Local Government Electoral Regulation 2023* and ensures that gifts or loans received on the eighth or ninth day before polling day are disclosed before polling day;
- provide that voters who are overseas or interstate during an election may vote using EAV, which is a vote saving measure given postal voting services for these electors are not always reliable, and will also allow votes to be counted more expediently;
- approve new procedures for counting of absentee votes made by the ECQ under section 130A of the Electoral Act;
- modernise the model procedures for the conduct of a preselection ballot, in particular to provide for electronic processes; and
- minor changes to reflect current drafting practices and clarify existing provisions.

## **Achievement of policy objectives**

The Regulation 2024 achieves its objectives by remaking the Regulation 2013 in substantially the same form to prescribe matters for the *Electoral Act 1992* relating to electoral rolls, registration of political parties, electronically assisted voting, preselection ballots, election funding and disclosure, information to be included in particular records and counting of votes.

## **Consistency with policy objectives of authorising law**

The Regulation 2024 is consistent with the policy objectives of the authorising law.

## **Inconsistency with policy objectives of other legislation**

The Regulation 2024 is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

There are no additional costs associated with the implementation of the Regulation 2024 for the ECQ, which is responsible for administering the Electoral Act and the Regulation 2024.

## **Consistency with fundamental legislative principles**

The Regulation 2024 potentially breaches the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals under section 4(2)(a) of the *Legislative Standards Act 1992*.

The Regulation 2024 prescribes the government entities that the ECQ may ask for information about a person including their surname and given names, address, sex, occupation, date of birth and an identifying number. This may impact on an individual's right to privacy because a person's private information might be disclosed. However, disclosure of this information is justified on the basis that it will ensure the integrity of the electoral roll. It is compulsory for Australian citizens aged 18 and over to enrol and vote. High levels of participation are the foundation for the integrity of election results. Accordingly, it is essential that the ECQ is able to access information held by other government agencies to ensure the integrity and accuracy of the electoral roll and deliver a secure and trusted election.

The disclosure requirements may also impact on an individual's right to privacy. This is because personal information about those who give certain gifts or make loans of \$1,000 or above to a registered political party, candidate, associated entity or third party will be made publicly available on the ECQ website. However, safeguards in the Electoral Act will require the ECQ to delete the street address of any individual identified in the return, and the full address of a silent elector where the person giving the return informs the ECQ of the silent elector status. The deletion of street addresses will limit the publicly available address information to the suburb, town, city or other locality and State. The disclosure requirements are justified on the basis that it is necessary to verify the donor's identity for the proper administration of the disclosure scheme and to provide transparency in financing elections, including to inform voters about the potential for improper, corrupting or undue influence in electoral and political processes.

The provisions specifying information to be kept as records and in registers may also impact on an individual's right to privacy. This is because personal information contained in those records and registers may be made available to an appointed auditor or authorised officer who is undertaking compliance activity in relation to part 11 of the Electoral Act. The provisions specifying information to be kept as records and in registers are justified on the basis that the personal information is necessary to ensure that compliance with part 11 of the Electoral Act, concerning funding and disclosure requirements, can be ascertained through audit and compliance activity and allow for any detected non-compliance to be appropriately prosecuted.

## **Consultation**

The ECQ was consulted during the development of the Regulation 2024.

Consultation was also undertaken with registered political parties in Queensland in relation to the model procedures for the conduct of a preselection ballot.