

THIS PUBLIC BILL has this day been read a Third time and passed

*The Clerk of the Parliament.*

*Legislative Assembly Chamber,  
Brisbane, October 2019*



Queensland

**No.  
A BILL for**

**An Act to amend the City of Brisbane Act 2010, the Local Government Act 2009, the Local Government Electoral Act 2011, the Referendums Act 1997 and the Right to Information Act 2009 for particular purposes**





## Queensland

# Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019

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# 2019

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## A Bill

for

**An Act to amend the *City of Brisbane Act 2010*, the *Local Government Act 2009*, the *Local Government Electoral Act 2011*, the *Referendums Act 1997* and the *Right to Information Act 2009* for particular purposes**

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## **The Parliament of Queensland enacts—**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*.

#### **2 Commencement**

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

- (a) part 2, division 3;
- (b) part 3, division 3;
- (c) part 4, division 3;
- (d) part 6.

### **Part 2 Amendment of City of Brisbane Act 2010**

#### **Division 1 Preliminary**

#### **3 Act amended**

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



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## Division 2                      Amendments commencing on assent

### 4                      **Amendment of s 92D (Prohibition on election material in caretaker period)**

(1) Section 92D(1), after ‘The council’—

*insert—*

or a controlled entity of the council

(2) Section 92D(2)—

*insert—*

*Examples—*

a fact sheet or newsletter that raises the profile of a  
councillor

(3) Section 92D—

*insert—*

(4) In this section—

***control*** means the capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with the first entity in pursuing the first entity’s objectives.

***controlled entity***, of the council, means an entity subject to the control of either or both of the following—

- (a) the council;
- (b) another entity subject to the control of the council.

### 5                      **Amendment of s 148 (Obstructing enforcement of this Act or local laws etc.)**

Section 148(3), ‘chapter 5,’—

*omit.*

**6 Amendment of s 162 (When a councillor's office becomes vacant)**

Section 162(d)—

*omit, insert—*

- (d) is absent, without the council's leave, for 2 or more consecutive ordinary meetings of the council over at least 2 months, unless the councillor is absent while the councillor is suspended under section 186B; or

**9 Amendment of s 214 (Decisions under this division are not subject to appeal)**

Section 214, heading, 'division'—

*omit, insert—*

**part**

**10 Omission of s 224 (Types of offences under this Act)**

Section 224—

*omit.*

**11 Replacement of s 226 (Decisions not subject to appeal)**

Section 226—

*omit, insert—*

**226 Decisions not subject to appeal**

- (1) This section applies if a provision of this Act declares a decision to be not subject to appeal.
- (2) Unless the Supreme Court decides the decision is affected by jurisdictional error, the decision—
  - (a) is final and conclusive; and

- 
- (b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.
  - (4) A person who, but for subsection (2), could have made an application under the *Judicial Review Act 1991* in relation to the decision may apply under part 4 of that Act for a statement of reasons in relation to the decision.
  - (5) In this section—  
*decision* includes—
    - (a) conduct related to making the decision; and
    - (b) a failure to make a decision.

## 11A Amendment of s 252 (Regulation-making power)

- (1) Section 252(2)(h), ‘or its committees’—  
*omit, insert—*  
    , its committees or other meetings of councillors  
    (including informal meetings at which councillors  
    discuss council matters)
- (2) Section 252(2)—  
*insert—*  
    (ha) empowering the council to make and adopt a  
    policy about meetings mentioned in

paragraph (h), other than meetings of the council or its committees; or

(3) Section 252(2)—

*insert—*

(j) matters relating to discretionary funds.

(4) Section 252(2)(ha) to (j)—

*renumber* as section 252(2)(i) to (k).

## 12 Insertion of new ch 8, pt 10

Chapter 8—

*insert—*

### **Part 10**

## **Transitional provisions for Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019**

### **Division 1**

## **Transitional provisions for new disqualifying offences**

### **280 Definitions for division**

In this division—

*amending provision* means a provision of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, other than section 42, that amends section 153 or schedule 1.

*new disqualifying offence* means an offence

---

that—

- (a) is a disqualifying offence after the commencement of an amending provision; but
- (b) was not a disqualifying offence before the amending provision commenced.

### **281 New disqualifying offence committed before commencement**

Chapter 6, part 2 applies in relation to a new disqualifying offence, even if the act or omission constituting the offence was committed before the commencement.

### **282 Existing charge for new disqualifying offence**

- (1) This section applies if a proceeding for a new disqualifying offence against a councillor had started before the commencement but has not ended.
- (2) The councillor is automatically suspended as a councillor on the commencement.
- (3) Chapter 6, part 2, division 8 applies in relation to the councillor as if the councillor was suspended under section 186B.
- (4) Immediately after the commencement, the councillor must give a written notice about the proceeding for the new disqualifying offence that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer;

Maximum penalty—100 penalty units.

- (5) For subsection (4), the notice must state—
  - (a) the provision of the law to which the proceeding for the new disqualifying offence relates; and
  - (b) the day the councillor was charged with the offence.
- (6) The notice is taken to be a notice mentioned in section 186G(1)(a).
- (7) The information contained in the notice is taken to be criminal history information for section 186H.

### **283 Existing conviction for new disqualifying offence**

- (1) This section applies if—
  - (a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and
  - (b) on the commencement, the disqualifying period for the offence would not have ended.
- (2) The councillor automatically stops being a councillor on the commencement.
- (3) Immediately after the commencement, the councillor must give a written notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.

Maximum penalty—100 penalty units.

- (4) For subsection (3), the notice must state—
  - (a) the provision of the law against which the councillor was convicted; and
  - (b) the day the councillor was convicted.
- (5) Section 153(7) applies in relation to the offence.
- (6) The notice is taken to be a notice mentioned in section 186G(1)(a).
- (7) The information contained in the notice is taken to be criminal history information for section 186H.
- (8) In this section—

*conviction* includes a spent conviction.

*disqualifying period*, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

### 13 Amendment of sch 1 (Serious integrity offences and integrity offences)

- (3) Schedule 1, part 2, under heading ‘Local Government Electoral Act’—

*insert—*

- |        |  |
|--------|--|
| 126(8) | Requirement for candidate to operate dedicated account           |
| 127(8) | Requirement for group of candidates to operate dedicated account |
| 195(2) | Offences about returns   |
| 195(3) | Offences about returns   |

### 14 Amendment of sch 2 (Dictionary)

- (2A) Schedule 2—

*insert—*

***discretionary funds*** see section 106(2).

(3) Schedule 2, definition *investigator*, ‘section 195(2)’—

*omit, insert—*

section 205(2)

(4) Schedule 2, definition *major policy decision*—

*insert—*

(e) relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or

(f) to make, amend or repeal a local law; or

(g) to make, amend or repeal a local planning instrument under the Planning Act; or

(h) under the Planning Act, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to—

(i) vary the category of development or category of assessment of development; or

(ii) vary the assessment benchmarks or criteria for accepted development that would apply to development; or

(iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the council’s local government infrastructure plan; or

(i) under the Planning Act, chapter 3, part 5, division 2, subdivision 2 on a change



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application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to—

- (i) further vary the category of development or category of assessment of development; or
- (ii) further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
- (iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the council's local government infrastructure plan.

*Note—*

Change application assessments for minor changes under the Planning Act, section 81 are not subject to paragraph (i).

## **Division 3                      Amendments commencing by proclamation**

### **Subdivision 1                Amendments relating to councillor complaints and State intervention powers**

#### **15            Amendment of s 3 (Purpose of this Act)**

Section 3(2)(f), from 'its rules'—

*omit, insert—*

the council's procedures for the conduct of its

meetings are observed and enforced.

**16 Amendment of s 5 (Relationship with Local Government Act)**

Section 5(3), examples—

*insert—*

- 3 The Local Government Act, chapter 5, part 1 applies to the council as a local government for the purpose of providing for powers of the State to monitor and evaluate the council and its councillors and to take remedial action, including suspending or dismissing a councillor or dissolving the council.
- 4 The Local Government Act, chapter 5A applies to the council as a local government for the purpose of dealing with the conduct of councillors, including at a meeting of the council or its committees.
- 5 The Local Government Act, chapter 6, part 7 applies to the council as a local government if an interim administrator is appointed to act in place of its councillors under the Local Government Act, chapter 5, part 1.

**17 Amendment of s 13 (Who the council is constituted by)**

Section 13(2)—

*omit, insert—*

(2) However—

- (a) if all of the councillors have been suspended or the council has been dissolved under the Local Government Act, section 123 and an interim administrator is appointed—the council is constituted by the interim administrator; or
- (b) if there are no councillors for any other reason and an interim administrator has not been appointed—the council is constituted by its chief executive officer.

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**18 Amendment of s 25 (Chairperson of the council)**

Section 25(2), from ‘its rules’—

*omit, insert—*

the council’s procedures for the conduct of its meetings are observed and enforced.

*Note—*

The chairperson of the council also has powers under the Local Government Act, section 150I in relation to particular conduct of councillors at meetings of the council.

**19 Omission of ch 5, pt 1 (The council)**

Chapter 5, part 1—

*omit.*

**20 Replacement of ch 5, pt 2, hdg (The public)**

Chapter 5, part 2, heading—

*omit, insert—*

**Part 2 Monitoring and enforcement powers**

**21 Amendment of s 139 (What this part is about)**

Section 139, after ‘this Act’—

*insert—*

or the Local Government Act, chapter 5A

**22 Amendment of s 142 (Power to require information or document for department investigation)**

Section 142(1)(a)(ii), after ‘this Act’—

*insert—*

, or the Local Government Act, chapter 5A,

**23 Amendment of s 145 (Power to require information or document for council investigation)**

Section 145(1)(a)(ii), after ‘this Act’—

*insert—*

, or the Local Government Act, chapter 5A,

**24 Amendment of s 146 (Referral to department)**

Section 146(1), after ‘this Act’—

*insert—*

, or the Local Government Act, chapter 5A,

**25 Amendment of s 150 (Duty to make documents available)**

(1) Section 150, after ‘this Act’—

*insert—*

or the Local Government Act

(2) Section 150, examples—

*omit, insert—*

*Example—*

preventing a councillor from copying a council record  
under section 172

**26 Amendment of s 153 (Disqualification for certain offences)**

(1) Section 153, heading, after ‘offences’—

*insert—*

**or if dismissed**

(2) Section 153(1)—

---

*insert—*

- (e) for the remainder of the term before the next quadrennial elections, if the person has been dismissed.

(3) Section 153—

*insert—*

(8) In this section—

***dismissed*** means dismissed as a councillor—

- (a) under the Local Government Act, section 122; or
- (b) because of the dissolution of the council under the Local Government Act, section 123.

## 27 Insertion of new s 160AA

After section 160—

*insert—*

### **160AA Extension of term of councillors elected at fresh elections**

A regulation may declare that the councillors elected at a fresh election are elected for a term ending at the conclusion of the quadrennial elections after the next quadrennial elections.

## 28 Amendment of s 162 (When a councillor's office becomes vacant)

Section 162(d)—

*omit, insert—*

- (d) is absent from 2 or more consecutive ordinary meetings of the council over a period of at least 2 months, unless the councillor is absent—

- (i) in compliance with an order made by the conduct tribunal, the council or the chairperson of the council or a committee of the council; or
- (ii) with the council's leave; or
- (iii) while the councillor is suspended under section 186B or the Local Government Act, section 122 or 123; or

**29 Amendment of s 170 (Giving directions to council staff)**

Section 170(2)—

*insert—*

*Note—*

Contravention of subsection (2) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor under that Act. See the Local Government Act, sections 150L(1)(c)(v), 150AQ and 150AR.

**30 Amendment of s 171 (Requests for assistance or information)**

(1) Section 171(4)(a)—

*omit, insert—*

- (a) that is a record of the conduct tribunal; or
- (ab) that was a record of the former conduct review panel; or

(2) Section 171(4)(ab) to (c)—

*renumber* as section 171(4)(b) to (d).

(3) Section 171—

*insert—*

(10) In this section—

*former conduct review panel* means the BCC

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councillor conduct review panel under this Act as in force before the commencement of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 34.

**31 Amendment of s 172 (Inspection of particular records by councillors)**

(1) Section 172(3)(a) to (d)—

*omit, insert—*

- (a) a record of the conduct tribunal;
- (b) a record of the former conduct review panel;
- (c) a record that would be privileged from production in a legal proceeding on the ground of legal professional privilege;
- (d) another record if disclosure of the record would be contrary to an order of a court or tribunal.

(2) Section 172—

*insert—*

(4) In this section—

*former conduct review panel* means the BCC councillor conduct review panel under this Act as in force before the commencement of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 34.

**32 Amendment of s 173 (Use of information by councillors)**

Section 173(3), note—

*omit, insert—*

*Note—*

Contravention of subsection (3) is misconduct under the Local Government Act that could result in disciplinary action being taken against a councillor under that Act. See the Local Government Act, sections 150L(1)(c)(v), 150AQ and 150AR.

**34 Omission of ch 6, pt 2, divs 6 and 7**

Chapter 6, part 2, divisions 6 and 7—

*omit.*

**35 Omission of ch 6, pt 3 (BCC councillor conduct review panel)**

Chapter 6, part 3—

*omit.*

**36 Amendment of s 215 (False or misleading information)**

(1) Section 215(1)(f)—

*omit.*

(2) Section 215(1)(g)—

*renumber* as section 215(1)(f).

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

(1) Section 216(2)(f)—

*omit.*

(2) Section 216(2)(g)—

*renumber* as section 216(2)(f).

(3) Section 216(6)—

*omit, insert—*



- (6) The protection given under this section is in addition to any other protection given under another law or Act, including, for example, the *Public Interest Disclosure Act 2010* and the *Public Service Act 2008*.

*Note—*

For protection from civil liability in relation to State employees—see the *Public Service Act 2008*, section 26C.

**38 Amendment of s 217 (Who is authorised to sign council documents)**

Section 217(2)(b)—

*omit, insert—*

- (b) if all of the councillors have been suspended or the council has been dissolved under the Local Government Act, section 123 and an interim administrator is appointed—the interim administrator; or
- (c) if there are no councillors for any other reason and an interim administrator has not been appointed—the chief executive officer.

**39 Amendment of s 233 (Evidence of directions given to council)**

Section 233(1)(a), after ‘this Act’—

*insert—*

or the Local Government Act

**40 Amendment of s 238 (Delegation of council powers)**

(1) Section 238—

*insert—*

(1A) However, the council may only delegate a power

[s 41]

---

to make a decision about a councillor's conduct under the Local Government Act, section 150AG to—

- (a) the mayor; or
- (b) the Establishment and Coordination Committee; or
- (c) a standing committee of the council.

(2) Section 238(2), 'However'—

*omit, insert—*

Also

(3) Section 238(1A) to (3)—

*renumber* as section 238(2) to (4).

## **41 Insertion of new ch 8, pt 10, div 2**

Chapter 8, part 10—

*insert—*

### **Division 2 Transitional provisions for councillor conduct**

#### **286 Definitions for division**

In this division—

***assessed***, in relation to a complaint about the conduct or performance of a councillor, means a preliminary assessment of the complaint was conducted under former section 179.

***assessor*** see the Local Government Act, section 150C.

***existing complaint*** means a complaint about the conduct or performance of a councillor made to any of the following entities before the commencement—

- (a) the council;
- (b) the department's chief executive;
- (c) the chief executive officer.

*former*, for a provision of this Act, means as in force immediately before the commencement of the section in which the provision is mentioned.

*local government official* see the Local Government Act, section 150R(4).

### **287 Existing complaints not assessed**

- (1) This section applies if, immediately before the commencement, an existing complaint about a councillor's conduct had not been assessed.
- (2) The assessor must deal with the existing complaint under the Local Government Act, chapter 5A as if the existing complaint was made or referred to the assessor under chapter 5A of that Act.
- (3) An entity holding information relating to the existing complaint must, as soon as practicable after the commencement, give the information to the assessor.
- (4) This section is subject to section 290.

### **288 Existing inappropriate conduct and misconduct complaints**

- (1) This section applies if, immediately before the commencement—
  - (a) an existing complaint about a councillor was assessed to be about inappropriate conduct or misconduct; and
  - (b) a final decision dealing with the complaint had not been made.

- (2) The assessor must deal with the existing complaint under the Local Government Act, chapter 5A as if the existing complaint was made or referred to the assessor under chapter 5A of that Act.
- (3) An entity holding relevant information relating to the existing complaint must, as soon as practicable after the commencement, give the information to the assessor.
- (4) This section is subject to section 290.

### **289 Existing orders taken into account**

- (1) This section applies if, before the commencement—
  - (a) an order was made against a councillor under section 183 as in force from time to time before the commencement; and
  - (b) the order is substantially the same as an order that may be made under the Local Government Act, chapter 5A.
- (2) The order may be taken into account for the following purposes—
  - (a) the council or a local government official deciding whether—
    - (i) to notify the assessor about a councillor's conduct under the Local Government Act, chapter 5A, part 3, division 3; or
    - (ii) to give information about a councillor's conduct to the assessor under the Local Government Act, section 150AF;
  - (b) the assessor deciding how to deal with the conduct of a councillor, or a complaint

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about the conduct of a councillor, under the Local Government Act, section 150W;

- (c) the council or conduct tribunal deciding what action to take in relation to any inappropriate conduct or misconduct of the councillor under the Local Government Act.

### **290 Dealing with particular pre-commencement complaints or conduct**

- (1) This section applies in relation to conduct engaged in by a councillor before the commencement, including conduct that is the subject of an existing complaint mentioned in section 287(1) or 288(1).
- (2) In deciding how to deal with the conduct, the assessor, a local government official, the council and the conduct tribunal must—
- (a) apply the former conduct definitions to the conduct; and
- (b) only make an order that is substantially the same as an order that could have been made under former section 183.
- (3) To remove any doubt, it is declared that the Local Government Act, chapter 5A otherwise applies in relation to an order mentioned in subsection (2).
- (4) In this section—
- former conduct definitions* means—
- (a) the definition of *misconduct* under former section 178(3); and
- (b) the definition of *inappropriate conduct* under former section 178(4); and
- (c) the qualification of those definitions under former section 180A(5) and (6); and

- (d) the extension of the definition of *misconduct* under former section 183(5) and (6).

### **291 Model procedures apply until procedures adopted**

- (1) If, immediately before the commencement, the council has not adopted the model procedures or other procedures under the Local Government Act, section 150G, on the commencement the council is taken to have adopted the model procedures.
- (2) Subsection (1) applies until the council adopts the model procedures or other procedures under the Local Government Act, section 150G.
- (3) In this section—  
*model procedures* see the Local Government Act, section 150F.

### **292 Process if no investigation policy**

- (1) This section applies if, on or after the commencement—
  - (a) the council is required to deal with the inappropriate conduct of a councillor under the Local Government Act, chapter 5A, part 3, division 5; and
  - (b) the council has not adopted an investigation policy under section 150AE of that Act.
- (2) The council must decide, by resolution, the procedure for investigating the conduct.
- (3) However, subsections (4) and (5) apply if the assessor has recommended, under the Local Government Act, section 150AC(3), how the conduct may be dealt with.
- (4) The council must follow the process

recommended by the assessor or decide, by resolution, to deal with the complaint in another way.

- (5) The council must state the reasons for its decision in the resolution.

### **293 Offences against s 215 charged before commencement**

- (1) This section applies if—
  - (a) a person was charged with an offence against section 215(1)(f) as in force before the commencement; and
  - (b) on the commencement, the proceeding for the offence had not been finally decided.
- (2) The proceeding for the offence may be continued, and the person may be punished for the offence, as if the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*, section 36 had not commenced.
- (3) Subsection (2) applies despite the Criminal Code, section 11.

## **42 Amendment of sch 1 (Serious integrity offences and integrity offences)**

Schedule 1, part 2—

*insert—*

### **Local Government Act**

- |          |                                 |
|----------|---------------------------------|
| 150AW(1) | Protection from reprisal        |
| 234(1)   | False or misleading information |

**43 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definitions *BCC councillor conduct review panel*, *inappropriate conduct*, *misconduct*, *preliminary assessment* and *rules of procedure*—

*omit.*

- (2) Schedule 2—

*insert—*

*conduct tribunal* see the Local Government Act, section 150DK.

*interim administrator* see the Local Government Act, schedule 4.

**Subdivision 2 Other amendments commencing by proclamation**

**44 Amendment of s 24 (Establishment and Coordination Committee)**

Section 24, note—

*omit.*

**45 Amendment of s 162 (When a councillor's office becomes vacant)**

- (1) Section 162—

*insert—*

(ca) ceases to be a councillor under section 174;  
or

- (2) Section 162(ca) to (g)—

*renumber* as section 162(d) to (h).



---

**46 Amendment of s 169 (Obligations of councillors before acting in office)**

Section 169(5)(a), ‘1 month’—

*omit, insert—*

30 days

**47 Amendment of s 171 (Requests for assistance or information)**

(1) Section 171(2), ‘that the council has access to’—

*omit, insert—*

, that the council has access to, relating to the council

(2) Section 171—

*insert—*

(2A) If the advice or information requested under subsection (1) or (2) relates to a document, the requirement under subsection (8) to comply with the request includes a requirement to provide a copy of the document.

(3) Section 171(3), ‘Subsection (2) does not apply to information’—

*omit, insert—*

Subsections (2) and (3) do not apply to information or a document

(4) Section 171(3)(b), after ‘information’—

*insert—*

or document

(5) Section 171(4), from ‘the request’—

*omit, insert—*

the request does not comply with the acceptable requests guidelines.

(6) Section 171(5), ‘Subsection (4)’—

*omit, insert—*

Subsection (5)

(7) Section 171(7)—

*omit, insert—*

(8) The chief executive officer must comply with a request made to the chief executive officer under subsection (1) or (2)—

(a) within 10 business days after receiving the request; or

(b) if the chief executive officer reasonably believes it is not practicable to comply with the request within 10 business days—within 20 business days after receiving the request.

Maximum penalty—20 penalty units.

(9) If the chief executive officer forms the belief mentioned in subsection (8)(b), the chief executive officer must give the councillor written notice about the belief and the reasons for the belief within 10 business days after receiving the request.

(8) Section 171(2A) to (6)—

*renumber* as section 171(3) to (7).

## **50A Insertion of new ss 174 and 175**

Chapter 6, part 2, division 5—

*insert—*

### **174 Failure to give particular returns under Local Government Electoral Act 2011**

(1) If a person who is elected as a councillor fails to give a summary return within the required period or a longer period allowed by the Minister, the

person ceases to be a councillor on the day immediately after the required period or the longer period ends.

*Note—*

In particular circumstances, the required period may be taken to be extended—see section 175.

- (2) However, subsections (3) to (5) apply if—
  - (a) under the *Local Government Electoral Act 2011*, an agent was required to give the summary return for—
    - (i) a group of candidates of which the person was a member; or
    - (ii) a political party that endorsed the candidature of the person; and
  - (b) the agent fails to give the summary return within the required period.
- (3) As soon as practicable after the date of the notice given to the person under the *Local Government Electoral Act 2011*, section 130C that the agent has failed to give the summary return, the person must give the Minister a notice stating that—
  - (a) the agent failed to give the summary return within the required period; and
  - (b) the person intends to give the return under subsection (4).
- (4) The person must give the summary return within—
  - (a) 30 days after the date of the notice of the agent's failure; or
  - (b) a longer period allowed by the Minister.

*Note—*

In particular circumstances, the period mentioned in paragraph (a) may be taken to be extended—see section 175.

(5) The person ceases to be a councillor if the person does not comply with subsection (4).

(6) In this section—

***required period***, for a summary return, means the period within which the summary return must be given under the *Local Government Electoral Act 2011*.

***summary return*** means a return required to be given under the following provisions of the *Local Government Electoral Act 2011*—

- (a) section 117(4);
- (b) section 118(4);
- (c) section 120(7);
- (d) section 125(2).

### **175 Extension of time for giving summary return**

(1) For section 174(1) or (4), a person who is elected as a councillor may make a written request to the Minister to allow a longer period for giving a summary return.

(2) The request must be made before the following period (the ***relevant period***) ends—

- (a) for section 174(1), the required period;
- (b) for section 174(4), the period mentioned in section 174(4)(a).

(3) If, when the relevant period ends, the Minister has not decided the request, the relevant period is taken to be extended until the date of the notice of the Minister's decision on the request.

(4) In this section—

***required period*** see section 174(6).

***summary return*** see section 174(6).

**52 Amendment of s 244 (Acceptable requests guidelines)**

(1) Section 244(1)(b)—

*omit.*

(2) Section 244(1)(c)—

*renumber* as section 244(1)(b).

**53 Amendment of sch 1 (Serious integrity offences and integrity offences)**

(2) Schedule 1, part 2, under heading ‘Local Government Electoral Act’—

*insert—*

183

Engaging in group campaign activities

**Part 3 Amendment of Local Government Act 2009**

**Division 1 Preliminary**

**55 Act amended**

This part amends the *Local Government Act 2009*.

**Division 2 Amendments commencing on assent**

**60 Amendment of s 90D (Prohibition on election material in caretaker period)**

(1) Section 90D(1), after ‘A local government’—

*insert—*

or a controlled entity of a local government

(2) Section 90D(2)—

*insert—*

*Examples—*

a fact sheet or newsletter that raises the profile of a councillor

(3) Section 90D—

*insert—*

(4) In this section—

***control*** means the capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with the first entity in pursuing the first entity's objectives.

***controlled entity***, of a local government, means an entity subject to the control of either or both of the following—

- (a) the local government;
- (b) another entity subject to the control of the local government.

## 61 Replacement of s 113 (What this part is about)

Section 113—

*omit, insert—*

### 113 What this part is about

- (1) The purpose of this part is to allow the Minister or the department's chief executive, on behalf of the State—
  - (a) to gather information, including under a direction, to monitor and evaluate whether—

- 
- (i) a local government or councillor is performing their responsibilities properly; or
  - (ii) a local government or councillor is complying with laws applying to the local government or councillor, including the Local Government Acts; or
  - (iii) it is otherwise in the public interest for the Minister or the department's chief executive to take remedial action under this part; and
- (b) to take remedial action.
- (2) **Remedial action** is action to improve a local government's or councillor's performance or compliance, or that is in the public interest, taken under division 2A or 3.

## 62 Amendment of s 115 (Gathering information)

- (1) Section 115, after 'compliance,'—

*insert—*

or whether it is in the public interest to take remedial action in relation to the local government or councillor,

- (2) Section 115(b)—

*omit, insert—*

- (b) otherwise carry out an investigation into—
  - (i) the local government's or councillor's performance and compliance; or
  - (ii) whether it is in the public interest to take the remedial action.

**63 Insertion of new ch 5, pt 1, div 2A, hdg**

Chapter 5, part 1, after section 115—

*insert—*

**Division 2A Remedial action initiated  
by chief executive**

**64 Replacement of s 116 (Acting on the information  
gathered)**

Section 116—

*omit, insert—*

**116 Recommendation to Minister**

- (1) This section applies if the department's chief executive believes—
  - (a) a local government or councillor is not performing their responsibilities properly; or
  - (b) a local government or councillor is not complying with laws applying to the local government or councillor, including the Local Government Acts; or
  - (c) it is otherwise in the public interest for the Minister to take remedial action.
- (2) The department's chief executive may make recommendations to the Minister about what remedial action to take.
- (3) The Minister may take the remedial action the Minister considers appropriate in the circumstances.
- (4) If the Minister takes remedial action, the Minister may publish the following information—
  - (a) the way in which the local government or councillor—



- 
- (i) is not performing their responsibilities properly; or
  - (ii) is not complying with laws applying to the local government or councillor, including the Local Government Acts;
  - (b) the reason it is in the public interest for the Minister to take remedial action;
  - (c) the remedial action the Minister has taken.
- (5) The Minister may—
- (a) publish the information in a newspaper circulating generally in the local government area; or
  - (b) direct the local government to publish the information on the local government's website.

## **65 Amendment of s 117 (Advisors)**

- (1) Section 117(1)—

*omit, insert—*

- (1) This section applies if the department's chief executive believes—
  - (a) a local government is not performing its responsibilities properly; or
  - (b) a local government is not complying with laws applying to the local government, including the Local Government Acts; or
  - (c) it is otherwise in the public interest for the department's chief executive to appoint an advisor for a local government.

- (2) Section 117(3)(a)(ii)—

*omit, insert—*

- (ii) to comply with laws applying to the local government, including the Local Government Acts; and

**66 Amendment of s 118 (Financial controllers)**

Section 118(1)—

*omit, insert—*

- (1) This section applies if the department's chief executive believes—
  - (a) a local government is not performing its responsibilities properly; or
  - (b) a local government is not complying with laws applying to the local government, including the Local Government Acts; or
  - (c) it is otherwise in the public interest for the department's chief executive to appoint a financial controller for a local government.

**67 Replacement of ch 5, pt 1, div 3, hdg (Action by the Minister)**

Chapter 5, part 1, division 3, heading—

*omit, insert—*

**Division 3 Remedial action by  
Minister**

**68 Amendment of s 121 (Removing unsound decisions)**

(1) Section 121(1)—

*omit, insert—*

- (1) This section applies if the Minister believes—

- 
- (a) a decision of the local government is contrary to any law or inconsistent with the local government principles; or
  - (b) it is otherwise in the public interest to suspend or revoke a decision of the local government.
- (2) Section 121(4)—  
*omit, insert—*
- (4) The gazette notice must state—
    - (a) either—
      - (i) how the decision is contrary to a law or inconsistent with the local government principles; or
      - (ii) why it is otherwise in the public interest to suspend or revoke the decision; and
    - (b) if the decision has been suspended, how the decision may be amended so it is no longer—
      - (i) contrary to the law or inconsistent with the local government principles; or
      - (ii) in the public interest to suspend the decision.

**69 Amendment of s 149 (Obstructing local government officials)**

Section 149(3), ‘chapter 5,’—

*omit.*

**71 Amendment of s 150B (Overview of chapter)**

(4) Section 150B(2)(c)(ii)—

*omit, insert—*

- (ii) may apply to the conduct tribunal to decide—
  - (A) whether the councillor engaged in misconduct, or inappropriate conduct that is connected to misconduct; and
  - (B) if the conduct tribunal decides the councillor engaged in misconduct or inappropriate conduct, the action to be taken to discipline the councillor; and

**73A Amendment of s 150I (Chairperson may deal with unsuitable meeting conduct)**

Section 150I(3), after ‘the meeting’—

*insert—*

or, if minutes are not required for the meeting, in another way prescribed by regulation

**74 Amendment of s 150L (What is *misconduct*)**

Section 150L(1)(c)(iv)—

*omit, insert—*

(iv) section 150R(2), 170(3), 171(3) or 175G.

**75 Amendment of ch 5A, pt 3, div 3, hdg (Local government duties to notify assessor about particular conduct)**

Chapter 5A, part 3, division 3, heading, after ‘particular’—

*insert—*

**councillor**

**76 Amendment of s 150R (Local government official must notify assessor about particular conduct)**

(1) Section 150R—

*insert—*

(2A) The local government official must not give the notice—

(a) vexatiously; or

(b) other than in good faith.

Maximum penalty—85 penalty units.

(2) Section 150R(2A) and (3)—

*renumber* as section 150R(3) and (4).

**78 Amendment of s 150T (Assessor must investigate conduct of councillor)**

(1) Section 150T(1)—

*insert—*

(ca) a referral made to the assessor by the conduct tribunal under section 150DLA; or

(2) Section 150T(1)(ca) to (d)—

*renumber* as section 150T(1)(d) to (e).

**81 Amendment of s 150W (Decision about conduct)**

(1) Section 150W—

*insert—*

(ca) if the assessor is reasonably satisfied the councillor's conduct is inappropriate conduct and the conduct is connected to conduct of the councillor that the assessor is reasonably satisfied is misconduct—make an application to the conduct tribunal about

the alleged misconduct and inappropriate conduct; or

(2) Section 150W(ca) and (d)—

*renumber* as section 150W(d) and (e).

(3) Section 150W—

*insert*—

(2) However, if the conduct was referred to the assessor by the conduct tribunal under section 150DLA, the assessor may—

(a) if the assessor is reasonably satisfied the councillor's conduct is misconduct—make an application to the conduct tribunal about the conduct; or

(b) if the assessor is not reasonably satisfied the councillor's conduct is misconduct—give the conduct tribunal a notice stating the assessor is not reasonably satisfied the councillor's conduct is misconduct.

## **82 Amendment of s 150X (Decision to dismiss complaint)**

Section 150X(b)(ii), 'not made'—

*omit, insert*—

made other than

## **83 Amendment of s 150AA (Notice and opportunity for councillor to respond)**

(1) Section 150AA(1)(b), from 'to decide'—

*omit, insert*—

about a councillor's conduct.

(2) Section 150AA(2)(c)(ii), from 'to decide'—

*omit, insert*—

---

about the conduct; and

**84 Amendment of s 150AB (Application of division)**

Section 150AB(b), ‘section 150W(b)’—

*omit, insert—*

section 150W(1)(b)

**85 Amendment of ch 5A, pt 3, div 6, hdg (Application to conduct tribunal about misconduct)**

Chapter 5A, part 3, division 6, heading, after ‘misconduct’—

*insert—*

**and connected inappropriate conduct**

**86 Amendment of s 150AI (Application of division)**

Section 150AI, from ‘engaged’—

*omit, insert—*

engaged in—

(a) misconduct; or

(b) inappropriate conduct that is connected to conduct of the councillor that the assessor is reasonably satisfied is misconduct.

**87 Amendment of s 150AJ (Application to conduct tribunal about alleged misconduct)**

(1) Section 150AJ(1), from ‘engaged’—

*omit, insert—*

engaged in—

(a) misconduct; or

- (b) inappropriate conduct that is connected to conduct of the councillor that is alleged misconduct.
- (2) Section 150AJ(2)(b), after ‘misconduct’—  
*insert—*  
or inappropriate conduct
- (3) Section 150AJ(2)(c), from ‘engaged’—  
*omit, insert—*  
engaged in—
  - (i) misconduct; or
  - (ii) misconduct and inappropriate conduct that is connected to the alleged misconduct; and
- (4) Section 150AJ—  
*insert—*
  - (3) The assessor may make an application under subsection (1) about the alleged inappropriate conduct only if the application is also made about the connected alleged misconduct.

## **88 Amendment of s 150AN (Role of the assessor)**

Section 150AN(2), from ‘engaged’—

*omit, insert—*

engaged in—

- (a) misconduct; and
- (b) if the application also relates to alleged inappropriate conduct, inappropriate conduct.

## **89 Amendment of s 150AQ (Deciding about misconduct)**

- (1) Section 150AQ, heading, after ‘misconduct’—



*insert—*

**and connected inappropriate conduct**

- (2) Section 150AQ(1)(a), from ‘engaged’—

*omit, insert—*

engaged in—

- (i) if the application relates to alleged misconduct and inappropriate conduct—misconduct or inappropriate conduct (or both); or
- (ii) if the application relates only to alleged misconduct—misconduct; and

- (3) Section 150AQ(1)(b), after ‘misconduct’—

*insert—*

or inappropriate conduct

- (4) Section 150AQ(2)—

*insert—*

(ab) if the application relates to inappropriate conduct—any previous inappropriate conduct of the councillor; and

- (5) Section 150AQ(2)(ab) and (b)—

*renumber* as section 150AQ(2)(b) and (c).

**90 Amendment of s 150AR (Disciplinary action against councillor)**

- (1) Section 150AR(1)(b)(i) and (v), after ‘misconduct’—

*insert—*

or inappropriate conduct (or both)

- (2) Section 150AR—

*insert—*

(1A) However, if the conduct tribunal decides under

section 150AQ(1)(a)(i) that the councillor has engaged in misconduct and inappropriate conduct, the conduct tribunal, in deciding what action to take, must have regard to the action a local government could have taken under section 150AH in relation to inappropriate conduct.

(1B) Also, if the conduct tribunal decides under section 150AQ(1)(a)(i) that the councillor has only engaged in inappropriate conduct, the conduct tribunal may only take the action a local government could have taken under section 150AH in relation to inappropriate conduct.

(3) Section 150AR(1A) to (3)—

*renumber* as section 150AR(2) to (5).

**91 Amendment of s 150AS (Notices and publication of decisions and orders)**

Section 150AS(1)(a) and (b), after ‘misconduct’—

*insert*—

or inappropriate conduct (or both)

**92 Amendment of s 150AV (Other improper complaints)**

Section 150AV(1)(a)(ii), ‘not’—

*omit, insert*—

other than

**93 Amendment of s 150AY (Functions of investigators)**

(2) Section 150AY(b), first dot point—

*omit, insert*—

- section 150R(3), 150AU, 150AV, 150AW, 150BW, 150CA, 150CB, 150CI, 150CJ(3) or 150CK(5)

---

**96 Amendment of s 150CK (Notice about confidentiality)**

(2) Section 150CK—

*insert—*

(3A) If the assessor gives the notice, the notice is also confidential information.

(3) Section 150CK(4), ‘subsection (5)’—

*omit, insert—*

subsection (6)

(4) Section 150CK(6), ‘subsection (5)(b)(ii)’—

*omit, insert—*

subsection (6)(b)(ii)

(5) Section 150CK(3A) to (6)—

*renumber* as section 150CK(4) to (7).

**100 Amendment of s 150DL (Functions)**

Section 150DL—

*insert—*

(3) Nothing in this section limits the president’s duty under the *Crime and Corruption Act 2001* to notify the Crime and Corruption Commission about suspected corrupt conduct.

**101 Insertion of new s 150DLA**

After section 150DL—

*insert—*

**150DLA Referral of alleged misconduct to assessor**

(1) This section applies if the conduct tribunal—

(a) at the request of a local government, is investigating the suspected inappropriate

conduct of a councillor referred to the local government, by the assessor, to be dealt with by the local government; and

(b) is reasonably satisfied the conduct is misconduct.

(2) The conduct tribunal must refer the conduct to the assessor for further investigation under part 3, division 4.

*Note—*

See also sections 150T and 150W(2).

**102 Amendment of s 150DU (Costs of conduct tribunal to be met by local government)**

Section 150DU(1)(a), after ‘misconduct’—

*insert—*

or inappropriate conduct

**103 Amendment of s 150DX (Local governments to keep and publish register)**

Section 150DX(1)(c), after ‘misconduct’—

*insert—*

or inappropriate conduct

**104 Amendment of s 150DY (Content of register—decisions)**

Section 150DY(1)(c), after ‘misconduct’—

*insert—*

or inappropriate conduct

**105 Amendment of s 150EB (Annual report)**

Section 150EB(2)(a)(vii), after ‘misconduct’—

---

*insert—*

or inappropriate conduct

**107 Amendment of s 162 (When a councillor’s office becomes vacant)**

Section 162(1)(e)—

*insert—*

(iii) while the councillor is suspended under section 122, 123 or 175K; or

**108 Amendment of s 170 (Giving directions to local government staff)**

(1) Section 170(1), ‘or senior executive employees’—

*omit.*

(2) Section 170—

*insert—*

(1A) However, a direction under subsection (1) must not be inconsistent with a resolution, or a document adopted by resolution, of the local government.

(3) Section 170(2)—

*insert—*

*Note—*

Contravention of subsection (3) is misconduct that could result in disciplinary action being taken against a councillor. See sections 150L(1)(c)(iv), 150AQ and 150AR.

(4) Section 170—

*insert—*

(3) The chief executive officer must—

- (a) keep a record of each direction given to the chief executive officer; and
  - (b) make available to the local government each direction mentioned in paragraph (a).
- (5) Section 170(1A) to (3)—  
*renumber* as section 170(2) to (4).

**109 Amendment of s 170A (Requests for assistance or information)**

- (1) Section 170A(1), after ‘employee’—  
*insert—*
- to
- (2) Section 170A(1), after ‘the councillor’—  
*insert—*
- to
- (3) Section 170A(5)(b), ‘the council’—  
*omit, insert—*
- a local government

**110 Amendment of s 171 (Use of information by councillors)**

Section 171(3)—  
*insert—*

*Note—*

Contravention of subsection (3) is misconduct that could result in disciplinary action being taken against a councillor. See sections 150L(1)(c)(iv), 150AQ and 150AR.

**112 Amendment of s 182E (When suspension of councillor ends)**

Section 182E, ‘section 182A’—

---

*omit, insert—*

section 175K

**113 Amendment of s 182F (Criminal history report)**

Section 182F(1)(a)(ii), ‘section 182C’—

*omit, insert—*

section 175M

**114 Amendment of s 182G (Confidentiality of criminal history information)**

- (1) Section 182G(5), definition *criminal history information*, paragraph (a), ‘section 182F’—

*omit, insert—*

section 175P

- (2) Section 182G(5), definition *criminal history information*, paragraph (b)(ii), ‘section 182C’—

*omit, insert—*

section 175M

**115 Renumbering of ss 182A–182G**

Sections 182A to 182G—

*renumber* as sections 175K to 175Q.

**116 Amendment of s 196 (Appointing other local government employees)**

- (1) Section 196(3), ‘(other than senior executive employees)’—

*omit.*

- (2) Section 196(4) to (7)—

*omit.*

**117 Amendment of s 236 (Who is authorised to sign local government documents)**

Section 236(2)(b), ‘dismissed’—

*omit, insert—*

suspended or the local government has been dissolved

**118 Replacement of s 244 (Decisions not subject to appeal)**

Section 244—

*omit, insert—*

**244 Decisions not subject to appeal**

- (1) This section applies if a provision of this Act declares a decision to be not subject to appeal.
- (2) Unless the Supreme Court decides the decision is affected by jurisdictional error, the decision—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.
- (4) A person who, but for subsection (2), could have made an application under the *Judicial Review Act 1991* in relation to the decision may apply under part 4 of that Act for a statement of reasons



in relation to the decision.

(5) In this section—

*decision* includes—

- (a) conduct related to making the decision; and
- (b) a failure to make a decision.

### **119 Amendment of s 258 (Delegation of mayor’s powers)**

Section 258(2), ‘or senior executive employees’—  
*omit.*

### **119A Amendment of s 270 (Regulation-making power)**

(1) Section 270(2)(i), ‘or its committees’—

*omit, insert—*

, its committees or other meetings of councillors  
(including informal meetings at which councillors  
discuss local government matters)

(2) Section 270(2)—

*insert—*

(ia) empowering a local government to make  
and adopt a policy about meetings  
mentioned in paragraph (i), other than  
meetings of the local government or its  
committees; or

(3) Section 270(2)—

*insert—*

(l) matters relating to discretionary funds.

(4) Section 270(2)(ia) to (l)—

*renumber* as section 270(2)(j) to (m).

## **119B Amendment of s 316 (Definitions for pt 12)**

Section 316, definition *local government official*—  
*insert*—

*Note*—

Section 150R(3) was renumbered as section 150R(4) by the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*.

## **120 Insertion of new ch 9, pt 14**

Chapter 9—

*insert*—

# **Part 14                      Transitional provisions for Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019**

## **Division 1                      Transitional provisions for new disqualifying offences**

### **328 Definitions for division**

In this division—

*amending provision* means a provision of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019* that amends section 153 or schedule 1.

*new disqualifying offence* means an offence that—

- 
- (a) is a disqualifying offence after the commencement of an amending provision; but
  - (b) was not a disqualifying offence before the amending provision commenced.

### **329 New disqualifying offence committed before commencement**

Chapter 6, part 2 applies in relation to a new disqualifying offence, even if the act or omission constituting the offence was committed before the commencement.

### **330 Existing charge for new disqualifying offence**

- (1) This section applies if a proceeding for a new disqualifying offence against a councillor had started before the commencement but has not ended.
- (2) The councillor is automatically suspended as a councillor on the commencement.
- (3) Chapter 6, part 2, division 7 applies in relation to the councillor as if the councillor was suspended under section 175K.
- (4) Immediately after the commencement, the councillor must give a written notice about the proceeding for the new disqualifying offence that complies with subsection (5) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer;Maximum penalty—100 penalty units.

- (5) For subsection (4), the notice must state—
  - (a) the provision of the law to which the proceeding for the new disqualifying offence relates; and
  - (b) the day the councillor was charged with the offence.
- (6) The notice is taken to be a notice mentioned in section 175P(1)(a).
- (7) The information contained in the notice is taken to be criminal history information for section 175Q.

### **331 Existing conviction for new disqualifying offence**

- (1) This section applies if—
  - (a) before the commencement, a councillor was convicted of an offence that is a new disqualifying offence; and
  - (b) on the commencement, the disqualifying period for the offence would not have ended.
- (2) The councillor automatically stops being a councillor on the commencement.
- (3) Immediately after the commencement, the councillor must give a written notice that complies with subsection (4) to each of the following, unless the councillor has a reasonable excuse—
  - (a) the Minister;
  - (b) if the councillor is not the mayor—the mayor;
  - (c) the chief executive officer.Maximum penalty—100 penalty units.
- (4) For subsection (3), the notice must state—

- 
- (a) the provision of the law against which the councillor was convicted; and
  - (b) the day the councillor was convicted.
- (5) Section 153(7) applies in relation to the offence.
  - (6) The notice is taken to be a notice mentioned in section 175P(1)(a).
  - (7) The information contained in the notice is taken to be criminal history information for section 175Q.
  - (8) In this section—  
*conviction* includes a spent conviction.  
*disqualifying period*, for a new disqualifying offence, means the period stated in section 153(1) during which a person convicted of the offence can not be a councillor.

## **Division 2            Other transitional provision commencing on assent**

### **332 Existing senior executive employees**

- (1) This section applies to a person who, immediately before the commencement, was a senior executive employee of a local government.
- (2) The person is taken to have been appointed as a senior executive employee by the chief executive officer of the local government.

### **121 Amendment of sch 1 (Serious integrity offences and integrity offences)**

- (3) Schedule 1, part 2, under heading ‘Local Government Electoral Act’—

*insert—*

- |        |  |
|--------|--|
| 126(8) | Requirement for candidate to operate dedicated account           |
| 127(8) | Requirement for group of candidates to operate dedicated account |
| 195(2) | Offences about returns   |
| 195(3) | Offences about returns   |

## **122 Amendment of sch 4 (Dictionary)**

(2A) Schedule 4—

*insert—*

***discretionary funds*** see section 109(2).

(3) Schedule 4, definition *major policy decision*—

*insert—*

- (e) relating to making or preparing an arrangement, list, plan or register in the way provided under a regulation made under this Act that can be used to establish an exception to obtaining quotes or tenders when entering into a contract; or
- (f) to make, amend or repeal a local law; or
- (g) to make, amend or repeal a local planning instrument under the Planning Act; or
- (h) under the Planning Act, chapter 3, part 3, division 2 on a development application that includes a variation request under that Act if the application proposes to—
  - (i) vary the category of development or category of assessment of development; or

- 
- (ii) vary the assessment benchmarks or criteria for accepted development that would apply to development; or
  - (iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan; or
- (i) under the Planning Act, chapter 3, part 5, division 2, subdivision 2 on a change application under that Act that includes a change to a variation approval if the application is being assessed under section 82 of that Act and the application proposes to—
- (i) further vary the category of development or category of assessment of development; or
  - (ii) further vary the assessment benchmarks or criteria for accepted development that would apply to development; or
  - (iii) facilitate development that would result in a greater demand on infrastructure than the demand anticipated in the local government's local government infrastructure plan.

*Note—*

Change application assessments for minor changes under the Planning Act, section 81 are not subject to paragraph (i).

- (4) Schedule 4, definition *senior executive employee*—  
*omit, insert—*

*senior executive employee*, of a local government, means an employee of the local government—

- (a) who reports directly to the chief executive officer; and
- (b) whose position ordinarily would be considered to be a senior position in the local government's corporate structure.

### **Division 3                      Amendments commencing by proclamation**

#### **Subdivision 1                Amendments relating to councillor complaints and State intervention powers**

##### **123      Amendment of s 5 (Relationship with City of Brisbane Act 2010)**

Section 5(c) and (d)—  
*omit.*

##### **124      Insertion of new s 113A**

After section 113—  
*insert—*

##### **113A Meaning of *local government* and application of local government principles**

- (1) In this part, a *local government* includes the Brisbane City Council.
- (2) Also, the local government principles apply as if a reference in the principles to a councillor or local government employee included a reference to a councillor or council employee under the *City of Brisbane Act 2010*.



---

**125 Amendment of s 150C (Definitions for chapter)**

Section 150C—

*insert—*

**local government** includes the Brisbane City Council.

**126 Insertion of new s 150CAA**

After section 150C—

*insert—*

**150CAA Application of local government principles**

In this chapter, the local government principles apply as if a reference in the principles to a councillor or local government employee included a reference to a councillor or council employee under the *City of Brisbane Act 2010*.

**127 Amendment of s 150D (Minister to make code of conduct)**

(1) Section 150D(1), after ‘under this Act’—

*insert—*

or the *City of Brisbane Act 2010*

(2) Section 150D(1), note 1, after ‘principles.’—

*insert—*

See also section 150CAA in relation to the application of the local government principles.

(3) Section 150D(1), note 2—

*omit, insert—*

2 Also, see the obligations imposed on councillors under chapter 6, part 2, division 5 or the *City of Brisbane Act 2010*, chapter 6, part 2, division 5 which apply to councillors in performing their

functions as councillors under this Act or the *City of Brisbane Act 2010*.

**128 Amendment of s 150L (What is *misconduct*)**

(1) Section 150L(1)(c)(ii), after ‘170A’—

*insert—*

or the *City of Brisbane Act 2010*

(2) Section 150L(1)(c)—

*insert—*

(v) the *City of Brisbane Act 2010*, section 170(2) or 173(3).

**129 Amendment of s 150P (Complaints about councillor conduct must be referred to assessor)**

Section 150P(5), definition *government entity*—

*insert—*

(d) the chief executive officer under the *City of Brisbane Act 2010*.

**130 Amendment of s 150R (Local government official must notify assessor about particular conduct)**

Section 150R(4), definition *local government official*—

*insert—*

(c) the chief executive officer under the *City of Brisbane Act 2010*.

**131 Amendment of s 150AG (Decision about inappropriate conduct)**

Section 150AG(1), note, ‘which limits’—

*omit, insert—*

---

or the *City of Brisbane Act 2010*, section 238(2)  
which limit

**132 Amendment of s 150AR (Disciplinary action against councillor)**

Section 150AR(1)(b)(vi), after ‘deputy mayor’—

*insert—*

, the chairperson of the council under the *City of Brisbane Act 2010*

**133 Amendment of s 150AY (Functions of investigators)**

Section 150AY(b), after the third dot point—

*insert—*

- the *City of Brisbane Act 2010*, section 173, 173A(2) or (3) or 173B(2)

**134 Amendment of s 153 (Disqualification for certain offences)**

(1) Section 153, heading, after ‘offences’—

*insert—*

**or if dismissed**

(2) Section 153(1)(e), from ‘dismissed as’—

*omit, insert—*

dismissed.

(3) Section 153—

*insert—*

(8) In this section—

***dismissed*** means dismissed as a councillor—

(a) under section 122; or

(b) because of the dissolution of the local government under section 123.

**135 Amendment of s 160 (When a councillor's term ends)**

- (1) Section 160(d)—  
*omit.*
- (2) Section 160(e)—  
*renumber* as section 160(d).

**136 Amendment of s 162 (When a councillor's office becomes vacant)**

- (1) Section 162(1)(a)—  
*omit.*
- (2) Section 162(1)(b) to (h)—  
*renumber* as section 162(1)(a) to (g).

**137 Insertion of new s 204G**

Before section 205—

*insert—*

**204G Definition for part**

In this part—

*local government* includes the Brisbane City Council.

**138 Amendment of s 234 (False or misleading information)**

- (1) Section 234(1)—

*insert—*

(ca) the chief executive officer under the *City of Brisbane Act 2010*;

- (2) Section 234(1)(ca) to (j)—  
*renumber* as section 234(1)(d) to (k).

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

- (1) Section 235(1), from ‘done under’—  
*omit, insert*—  
done, or omission made, honestly and without negligence under—  
(a) this Act; or  
(b) the *City of Brisbane Act 2010*; or  
(c) the Local Government Electoral Act.
- (2) Section 235(3)—  
*insert*—  
(aa) a councillor under the *City of Brisbane Act 2010*; or  
(ba) the chief executive officer under the *City of Brisbane Act 2010*; or
- (3) Section 235(3)(aa) to (e)—  
*renumber* as section 235(3)(b) to (g).

**140 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definition *local government*, before paragraph (a)—  
*insert*—  
(aa) for chapter 5, part 1—see section 113A(1);  
or  
(ab) for chapter 5A—see section 150C; or  
(ac) for chapter 6, part 7—see section 204G; or

- (2) Schedule 4, definition *local government*, paragraphs (aa) to (b)—  
*renumber* as paragraphs (a) to (e).

## **Subdivision 2      Other amendments commencing by proclamation**

### **141      Amendment of s 12 (Responsibilities of councillors)**

- (1) Section 12(4)(b)—  
*omit.*
- (2) Section 12(4)(d)—  
*omit, insert—*
- (d) directing the chief executive officer in accordance with a resolution, or a document adopted by resolution, of the local government;
- (3) Section 12(4)(c) to (h)—  
*renumber* as section 12(4)(b) to (g).

### **141A      Replacement of ch 2, pt 2, hdg (Divisions of local government areas)**

Chapter 2, part 2, heading—  
*omit, insert—*

## **Part 2                      Councillors for divisions of local government areas**

### **141B      Amendment of s 15 (Division of local government areas)**

- (1) Section 15, heading—

---

*omit, insert—*

**15 Number of councillors for divisions**

- (2) Section 15(1), after ‘electors’—

*insert—*

for each councillor elected, or to be elected, for the division

- (3) Section 15(2), from ‘is the number’ to ‘plus’—

*omit, insert—*

for a councillor of a division is the number of electors that is worked out by dividing the total number of electors in the local government area (as nearly as can be found out) by the total number of councillors (other than the mayor) currently elected, or to be elected, for the local government, plus

- (4) Section 15(3)—

*omit, insert—*

- (3) When changing a division, including changing the number of councillors elected, or to be elected, for the division, the reasonable proportion of electors for a councillor of a division must be worked out as near as practicable to the time when the change is to happen.

**141C Amendment of s 16 (Review of divisions of local government areas)**

- (1) Section 16, heading, ‘of local government areas’—

*omit, insert—*

**and councillors**

- (2) Section 16(a)—

*omit, insert—*

- (a) review whether each division of its local government area has a reasonable proportion of electors for each councillor elected for the division; and

**141D Amendment of s 17 (What this part is about)**

Section 17(2)(c), after ‘government’—

*insert—*

or divisions of a local government area

**142 Omission of s 107A (Approval of budget)**

Section 107A—

*omit.*

**145 Amendment of s 162 (When a councillor’s office becomes vacant)**

(1) Section 162(1)—

*insert—*

(ca) ceases to be a councillor under section 172;  
or

(2) Section 162(1)(ca) to (g)—

*renumber* as section 162(1)(d) to (h).

**146 Amendment of s 169 (Obligations of councillors before acting in office)**

Section 169(5)(a), ‘1 month’—

*omit, insert—*

30 days



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**147 Amendment of s 170A (Requests for assistance or information)**

(1) Section 170A(3)—

*omit, insert—*

(3) If the advice or information requested under subsection (1) or (2) relates to a document, the requirement under subsection (9) to comply with the request includes a requirement to provide a copy of the document.

(3A) Subsections (2) and (3) do not apply to information or a document—

- (a) that is a record of the conduct tribunal; or
- (b) that was a record of a former conduct review body; or
- (c) if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
- (d) that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

(2) Section 170A(5), ‘Subsection (4)’—

*omit, insert—*

Subsection (5)

(3) Section 170A(8)—

*omit, insert—*

(9) The chief executive officer must comply with a request made to the chief executive officer under subsection (1) or (2)—

- (a) within 10 business days after receiving the request; or
- (b) if the chief executive officer reasonably believes it is not practicable to comply with

the request within 10 business days—within 20 business days after receiving the request.

Maximum penalty—20 penalty units.

(10) If the chief executive officer forms the belief mentioned in subsection (9)(b), the chief executive officer must give the councillor notice about the belief and the reasons for the belief within 10 business days after receiving the request.

(11) In this section—

*former conduct review body* means a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal under this Act as in force before the commencement of the *Local Government (Councillor Complaints) and Other Legislation Amendment Act 2018*, section 18.

(4) Section 170A(3A) to (7)—

*renumber* as section 170A(4) to (8).

## **150A Insertion of new ss 172 and 173**

Chapter 6, part 2, division 5—

*insert*—

### **172 Failure to give particular returns under Local Government Electoral Act**

(1) If a person who is elected as a councillor fails to give a summary return within the required period or a longer period allowed by the Minister, the person ceases to be a councillor on the day immediately after the required period or the longer period ends.

*Note*—

In particular circumstances, the required period may be taken to be extended—see section 173.

- 
- (2) However, subsections (3) to (5) apply if—
- (a) under the Local Government Electoral Act, an agent was required to give the summary return for—
    - (i) a group of candidates of which the person was a member; or
    - (ii) a political party that endorsed the candidature of the person; and
  - (b) the agent fails to give the summary return within the required period.
- (3) As soon as practicable after the date of the notice given to the person under the Local Government Electoral Act, section 130C that the agent has failed to give the summary return, the person must give the Minister a notice stating that—
- (a) the agent failed to give the summary return within the required period; and
  - (b) the person intends to give the return under subsection (4).
- (4) The person must give the summary return within—
- (a) 30 days after the date of the notice of the agent's failure; or
  - (b) a longer period allowed by the Minister.
- Note—*
- In particular circumstances, the period mentioned in paragraph (a) may be taken to be extended—see section 173.
- (5) The person ceases to be a councillor if the person does not comply with subsection (4).
- (6) In this section—
- required period***, for a summary return, means the period within which the summary return must be

given under the Local Government Electoral Act.

**summary return** means a return required to be given under the following provisions of the Local Government Electoral Act—

- (a) section 117(4);
- (b) section 118(4);
- (c) section 120(7);
- (d) section 125(2).

### **173 Extension of time for giving summary return**

- (1) For section 172(1) or (4), a person who is elected as a councillor may make a written request to the Minister to allow a longer period for giving a summary return.
- (2) The request must be made before the following period (the **relevant period**) ends—
  - (a) for section 172(1), the required period;
  - (b) for section 172(4), the period mentioned in section 172(4)(a).
- (3) If, when the relevant periods ends, the Minister has not decided the request, the relevant period is taken to be extended until the date of the notice of the Minister’s decision.
- (4) In this section—  
**required period** see section 172(6).  
**summary return** see section 172(6).

### **151 Amendment of s 257 (Delegation of local government powers)**

Section 257(4), from ‘of 2’—  
*omit, insert—*

---

of the local government and councillors of 1 or more other local governments.

**152 Amendment of sch 1 (Serious integrity offences and integrity offences)**

(2) Schedule 1, part 2, under heading ‘Local Government Electoral Act’—

*insert—*

183 Engaging in group campaign activities

**Part 4 Amendment of Local Government Electoral Act 2011**

**Division 1 Preliminary**

**154 Act amended**

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

**Division 2 Amendments commencing on assent**

**155 Amendment of s 4 (Definitions)**

Section 4, ‘the schedule’—

*omit, insert—*

schedule 2

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

Section 7(1)(a), (b)(i) and (c)(i), ‘displayed at the office of the returning officer under section 100(2)(a)’—

*omit, insert—*

published on the electoral commission’s website under section 100(2)

**157 Replacement of s 13 (Membership of a political party ends particular appointments)**

Section 13—

*omit, insert—*

**13 Removal from office for membership of political party**

- (1) The electoral commission must remove a person from the office of returning officer or assistant returning officer if the person becomes a member of a political party.
- (2) Subsection (1) does not limit the electoral commission’s power to remove a person from the office of returning officer or assistant returning officer.
- (3) A person’s membership of a political party, or failure to comply with section 14, does not invalidate—
  - (a) anything done by the person while the person is a returning officer or assistant returning officer; or
  - (b) if the person does a thing for an election while the person is a returning officer or assistant returning officer—the election.

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**158 Amendment of s 21 (Supply of voters roll to candidates)**

Section 21—

*insert—*

- (3) A person must not use, disclose to another person or allow another person to access information in a copy of a voters roll given to a candidate under subsection (1), unless the use, disclosure or giving of access is for a purpose stated in subsection (4).

Maximum penalty—20 penalty units or 6 months imprisonment.

- (4) The purposes are—
- (a) any purpose related to an election under this Act; or
  - (b) checking the accuracy of information on the voters roll; or
  - (c) the performance by a councillor of a local government of the councillor's functions in relation to electors enrolled on the voters roll; or
  - (d) the performance by an official or employee of a political party of the person's duties in relation to electors enrolled on the voters roll.

**159 Amendment of s 23 (Date of quadrennial elections)**

Section 23(3), after 'different day'—

*insert—*

, which must be a Saturday,

**160 Amendment of s 24 (Date of by-elections)**

Section 24(3)(a), 'in a newspaper circulating generally in the local government area'—

*omit, insert—*

on the electoral commission's website

## **161 Amendment of s 25 (Calling for nominations)**

Section 25(1)—

*omit, insert—*

- (1) The returning officer must publish notice of an election on the electoral commission's website, and in other ways the returning officer considers appropriate.

## **162 Amendment of s 26 (Who may be nominated)**

(1) Section 26—

*insert—*

(1A) Also, a person may be nominated as a candidate for an election only if the person has, within 6 months before the nomination day for the election, successfully completed a training course approved by the department's chief executive about—

- (a) the person's obligations as a candidate, including the person's obligations under part 6; and
- (b) the person's obligations as a councillor, if the person is elected or appointed, including obligations under a Local Government Act within the meaning of the *Local Government Act 2009*.

(2) Section 26(1A) to (3)—

*renumber* as section 26(2) to (4).



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**163 Amendment of s 32 (Announcement of nominations)**

(1) Section 32(1), from ‘must display’—

*omit, insert—*

must publish the prescribed information for the nomination—

- (a) on the electoral commission’s website; and
- (b) in other ways the returning officer considers appropriate.

(2) Section 32(2)—

*omit, insert—*

(2) The publication of the prescribed information must continue until the conclusion of the election.

(3) In this section—

***prescribed information***, for a nomination, means information or a statement contained in the nomination prescribed by regulation.

**164 Amendment of s 35 (Procedure if number of candidates exceeds number required)**

(1) Section 35(3)(c) and (d)—

*omit, insert—*

(c) be published on the electoral commission’s website, and in other ways the returning officer considers appropriate.

(2) Section 35(4)—

*omit, insert—*

(4) Publication of the notice under subsection (3)(c) must—

- (a) start as soon as practicable after noon on the nomination day; and
- (b) continue until the close of the poll.

## **165 Amendment of s 38 (Extension of times)**

- (1) Section 38, heading—

*omit, insert—*

### **38 Changing nomination day or polling day**

- (2) Section 38(2), from ‘the day is’—

*omit, insert—*

the conduct of the election is likely to be affected  
by—

- (a) a storm, flood, fire or a similar happening;  
or
- (b) a riot or open violence; or
- (c) another exceptional circumstance.

- (3) Section 38(3), from ‘subsection (2)’—

*omit, insert—*

subsection (2)—

- (a) the later day must be—

- (i) for a later nomination day—a day that is as close as practicable to the nomination day mentioned in subsection (1)(a); or
- (ii) for a later polling day—the Saturday that is as close as practicable to the day the poll would have been conducted under section 35; and

- (b) the returning officer—

- (i) may give any necessary directions to candidates, and to electors, about the procedures to be followed; and
- (ii) must publish a notice detailing the directions on the electoral commission’s website, and in other

ways the returning officer considers appropriate.

**166 Replacement of s 45 (Direction that poll be conducted by postal ballot)**

Section 45—

*omit, insert—*

**45AA Application for direction that poll be conducted by postal ballot**

- (1) A local government may apply to the Minister for a poll to be conducted by postal ballot in—
  - (a) for an election for all of the local government's area—all of the local government's area or a part or division of the local government's area; or
  - (b) for an election for a division of the local government's area—the division or a part of the division.
- (2) The application must be made—
  - (a) for a poll for a quadrennial election—before 1 May in the year preceding the quadrennial election or a later day approved by the Minister; or
  - (b) for a poll for a by-election—before the day for holding the by-election is fixed by the returning officer under section 24.

**45AB Referral of application to electoral commissioner for recommendation**

- (1) The Minister must refer an application made under section 45AA to the electoral commissioner for the commissioner's recommendation about whether the application should be approved.
- (2) The electoral commissioner must—

- (a) consider the application; and
  - (b) give the Minister a written recommendation about whether the application should be approved and the reasons for the recommendation.
- (3) Before making the recommendation, the electoral commissioner may ask the local government for further information the electoral commissioner reasonably requires to make the recommendation.
- (4) In making the recommendation, the electoral commissioner must have regard to the following matters—
- (a) the reasons, stated in the application, why the poll should be conducted by postal ballot;
  - (b) the costs of conducting the poll by postal ballot compared to the costs of conducting the poll using polling booths;
  - (c) the number of persons enrolled on an electoral roll for an electoral district, or part of an electoral district, included in the area to which the application relates;
  - (d) the population density and distribution in the area to which the application relates;
  - (e) whether a poll has previously been conducted by postal ballot in the area to which the application relates.

#### **45 Direction that poll be conducted by postal ballot**

- (1) After receiving the electoral commissioner's recommendation about an application under section 45AB, the Minister must consider the application and decide to approve or not to approve the application.

- (2) In deciding whether to approve the application, the Minister must have regard to—
  - (a) the electoral commissioner’s recommendation and the reasons for the recommendation; and
  - (b) the matters mentioned in section 45AB(4).
- (3) The approval may be given for—
  - (a) all the local government’s area; or
  - (b) 1 or more divisions of its area; or
  - (c) a part of its area marked on a map.
- (4) If the approval is given for a part of a local government’s area, the local government must—
  - (a) ensure that the public may inspect the relevant map—
    - (i) at the local government’s public office; and
    - (ii) on the local government’s website; and
  - (b) publish details of the approval in a newspaper circulating generally in the part of the local government’s area.

#### **45A Decisions under this subdivision are not subject to appeal**

A decision of the Minister or the electoral commissioner under this subdivision is not subject to appeal.

*Note—*

See the *Judicial Review Act 1991*, section 6 in relation to the making of a recommendation for the purposes of that Act. See also section 158.

**167 Amendment of s 49 (Declaration of mobile polling booths)**

Section 49(3)(b), ‘in a newspaper circulating generally in the relevant part of the local government area’—

*omit, insert—*

on the electoral commission’s website, and in other ways the returning officer considers appropriate

**168 Amendment of s 50 (Declaration of pre-polling booths)**

(1) Section 50(2)(b), ‘in a newspaper circulating generally in the local government’s area’—

*omit, insert—*

on the electoral commission’s website, and in other ways the returning officer considers appropriate

(2) Section 50(3)—

*omit.*

(3) Section 50(4)—

*renumber* as section 50(3).

**169 Insertion of new s 52A**

After section 52—

*insert—*

**52A Suspension of poll**

(1) The returning officer, or the presiding officer for a polling booth, may suspend the poll at a polling booth on polling day for not more than 4 hours if satisfied the taking of the poll is, or is likely to be, temporarily interrupted or obstructed by—

(a) a serious threat that a riot or open violence will happen; or

- (b) circumstances that pose a serious risk to the health or safety of persons at the polling booth; or
  - (c) another emergency.
- (2) The returning officer, or the presiding officer for the polling booth, must ensure an elector who attends the polling booth while the poll is suspended is given information to assist the elector to cast a vote, including—
- (a) the time the poll is expected to resume at the polling booth; and
  - (b) the location of other polling booths.
- (3) The returning officer or the presiding officer for the polling booth must adjourn the conduct of the poll at the polling booth to another day if—
- (a) for any reason, taking of the poll at the polling booth can not resume on the polling day; or
  - (b) the returning officer or presiding officer is satisfied that it is unreasonable for an elector who would have otherwise cast a vote at the polling booth while it was suspended to cast a vote at another polling booth.

## 170 Replacement of s 53 (Adjournment of poll)

Section 53—

*omit, insert—*

### 53 Adjournment of poll

- (1) The returning officer, or the presiding officer for a polling booth, may adjourn the poll at the polling booth to another day if satisfied the taking of the poll at the polling booth is, or is likely to be, interrupted or obstructed by any of the things stated in subsection (2) to the extent the taking of

the poll can not start or continue at the polling booth.

- (2) For subsection (1), the things are as follows—
  - (a) a storm, flood, fire or a similar happening;
  - (b) a riot or open violence;
  - (c) a serious threat that a riot or open violence will happen;
  - (d) circumstances that pose a serious risk to the health or safety of persons at the polling booth;
  - (e) another emergency.
- (3) If a poll is adjourned under subsection (1) or section 52A(3), the returning officer must fix a day (no later than 34 days after the day on which the poll is adjourned) for taking, or resuming, the adjourned poll.
- (4) The returning officer must publish notice of the day fixed for taking, or resuming, the adjourned poll on the electoral commission's website, and in other ways the returning officer considers appropriate.
- (5) If an adjourned poll is held, only electors who are enrolled in the electoral district for which the polling booth is established and who have not otherwise voted in the election, are entitled to vote.
- (6) The adjourned poll is taken to have been held on the polling day.

## **171 Amendment of s 55 (Ballot papers)**

- (1) Section 55(1)(b), before 'be attached to'—

*insert—*

for a ballot paper other than a ballot paper



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reproduced under section 58A—

(2) Section 55(1)(b)(iii)—

*omit, insert—*

(iii) states the local government area, or division of the local government area, for which the poll is conducted; and

(3) Section 55(2A), from ‘must be’—

*omit, insert—*

must—

(a) be of a size or format that enables the elector’s electronically assisted vote to be accurately determined; and

(b) state the local government area, or division of the local government area, for which the vote is cast.

**172 Amendment of s 58 (Distribution of ballot papers and voters roll)**

(1) Section 58—

*insert—*

(1AA) Without limiting subsection (1)(a), a ballot paper is available at a polling booth if a ballot paper can be reproduced at the polling booth under section 58A.

(1A) Without limiting subsection (1)(b), a certified copy of a voters roll for an electoral district is available at a polling booth if—

(a) a certified copy of the voters roll can be accessed from the polling booth; and

(b) an issuing officer at the polling booth can use the electronic certified copy to make an electronic record of the persons to whom a ballot paper is issued.

- (2) Section 58(1A) to (8)—  
*renumber* as section 58(2) to (9).

### **173 Insertion of new s 58A**

After section 58—

*insert—*

#### **58A Ballot papers may be reproduced if required**

- (1) This section applies if a polling booth does not have, or runs out of, ballot papers for an election.
- (2) An issuing officer at the polling booth may reproduce a ballot paper for the election, including, for example, by photocopying, handwriting or printing the ballot paper.
- (3) Section 55(1) applies to a ballot paper reproduced under this section.
- (4) The issuing officer must keep a record of the number of ballot papers for an election the officer reproduces under this section.

### **174 Amendment of s 64 (Who may vote)**

Section 64(3), after ‘imprisonment’—

*insert—*

of 3 years or longer

### **175 Amendment of s 69 (Who must complete a declaration envelope)**

- (1) Section 69(1)—

*insert—*

(da) the elector is serving a sentence of imprisonment, or is otherwise lawfully

detained, on the polling day for the election;  
or

(2) Section 69(1)—

*insert—*

- (g) the elector, who attends a polling booth on the polling day, is not able to make an ordinary vote at the polling booth for a reason beyond the elector's control.

*Example of a reason beyond an elector's control—*

an electronic copy of the voters roll can not be accessed from the polling booth so an issuing officer at the polling booth can not confirm the elector's name is on the voters roll for the election

(3) Section 69(1)(da) and (e)—

*renumber* as section 69(1)(e) and (f).

**176 Amendment of s 73 (Voting hours for polling booths)**

Section 73(5), definition *pre-polling period*, paragraph (a)(ii), from 'notifies in a newspaper'—

*omit, insert—*

publishes on the electoral commission's website, and in other ways the returning officer considers appropriate; and

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

(1) Section 79(1), from 'This section' to 'an elector'—

*omit, insert—*

An elector may apply

(2) Section 79(2), before paragraph (a)—

*insert—*

(aa) may be made orally or in writing; and

- (3) Section 79(2)(a), before ‘must be’—

*insert—*

if the application is written—

- (4) Section 79(2)(b), ‘posted, delivered or’—

*omit.*

- (5) Section 79(2)(d)—

*omit, insert—*

(d) must be received by the returning officer no later than 7p.m. on the day that is 12 days before the polling day.

*Note—*

The polling day for a quadrennial election is a Saturday—see section 23(2) and (3). The day that is 12 days before the polling day for a quadrennial election will be 2 Mondays before the polling day.

- (6) Section 79(3)(b), ‘applicant is an elector who’—

*omit, insert—*

elector

- (7) Section 79(4), ‘applicant’—

*omit, insert—*

elector

- (8) Section 79—

*insert—*

- (8) If the returning officer receives an application after the time mentioned in subsection (2)(d), or is otherwise satisfied the elector is not entitled to cast a postal vote in the election, the returning officer must give the applicant a written notice that states the elector is not entitled to cast a postal vote in the election.

---

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

- (1) Section 81(2), from ‘election’—

*omit, insert—*

election.

- (2) Section 81(2A), ‘Wednesday before’—

*omit, insert—*

day that is 12 days before the

- (3) Section 81(2A)—

*insert—*

*Note—*

The polling day for a quadrennial election is a Saturday—see section 23(2) and (3). The day that is 12 days before the polling day for a quadrennial election will be 2 Mondays before the polling day.

- (4) Section 81(3)—

*omit, insert—*

- (3) The application—

(a) may be made orally or in writing; and

(b) if the application is written—must be in the approved form; and

(c) must state the address to which the ballot paper and declaration envelope for the person is to be sent; and

(d) may be given to the returning officer by any person.

- (5) Section 81—

*insert—*

- (10) If the returning officer receives an application after the time mentioned in subsection (2A), or is otherwise satisfied the person is not an elector who is entitled to cast a postal vote in the election,

the returning officer must give the person a written notice that states the person is not entitled to cast a postal vote in the election.

## 179 Replacement of s 85 (Replacement ballot papers)

Section 85—

*omit, insert—*

### 85 Replacement ballot paper issued at polling booth or by visiting issuing officer

- (1) This section applies if, while voting at a polling booth or when visited by an issuing officer under section 76 or 77, an elector—
  - (a) satisfies an issuing officer that—
    - (i) a ballot paper given to the elector (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent that it can not be used to cast a vote; and
    - (ii) the spoilt ballot paper has not been put in a ballot box in use in the poll; and
    - (iii) the elector has not voted in the election; and
  - (b) gives the spoilt ballot paper, or the remains of the ballot paper, to the issuing officer.
- (2) The issuing officer must give the elector another ballot paper.
- (3) The issuing officer must also—
  - (a) place the spoilt ballot paper in an envelope and seal the envelope; and
  - (b) keep the envelope for separate identification under section 92(9)(b).

### **85A Replacement ballot paper issued to postal voter**

- (1) This section applies if a ballot paper for an election and declaration envelope is sent to an elector under subdivision 4 and either—
  - (a) the elector does not receive the ballot paper and declaration envelope; or
  - (b) the ballot paper (the *spoilt ballot paper*) is marked, damaged or destroyed to the extent that it can not be used to cast a postal vote.
- (2) The elector may ask the returning officer for a replacement ballot paper.
- (3) If the replacement ballot paper is to be sent to the elector, the request must state the address to which the ballot paper and a declaration envelope are to be sent.
- (4) The returning officer or an issuing officer must—
  - (a) if the elector makes the request in person—give another ballot paper and declaration envelope to the elector; or
  - (b) if the elector's request complies with subsection (3)—post, deliver or otherwise send another ballot paper and declaration envelope to the elector as soon as practicable after receiving the request.
- (5) When the elector casts a postal vote, the elector must make the declaration on the declaration envelope that states—
  - (a) the ballot paper sent to the elector has not been received or has been marked, damaged or destroyed; and
  - (b) the elector has not otherwise voted in the election.
- (6) The returning officer must keep a record of all

ballot papers and declaration envelopes given or sent under this section.

**180 Amendment of s 89 (Preliminary processing of declaration envelopes)**

- (1) Section 89(1), after ‘postal ballot election,’—

*insert—*

before, on or after the polling day,

- (2) Section 89(2), after ‘postal ballot election,’—

*insert—*

before or after the polling day,

**181 Amendment of s 91 (Procedure for processing declaration envelopes)**

- (1) Section 91(2)(a) and (b)—

*omit, insert—*

- (a) record on the voters roll, in a way approved by the returning officer, that the declarant has voted; and

- (2) Section 91(2)(c) and (d)—

*renumber* as section 91(2)(b) and (c).

- (3) Section 91(6)—

*omit, insert—*

- (6) The returning officer must seal up in separate parcels, and keep in the officer’s custody for separate identification—

- (a) all accepted declaration envelopes from which ballot papers have been removed; and

- (b) all rejected declaration envelopes.



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**182 Amendment of s 92 (Preliminary counting of ordinary votes)**

- (1) Section 92(4), ‘and all ballot papers printed for electronically assisted votes’—

*omit.*

- (2) Section 92(5), after ‘envelopes,’—

*insert—*

including ballot papers printed for electronically assisted votes,

- (3) Section 92(7), after ‘informal ballot papers’—

*insert—*

(including ballot papers printed for electronically assisted votes)

- (4) Section 92(9)(b), ‘section 85(2)(e) or (4)(d)’—

*omit, insert—*

section 85(3)(b)

**183 Amendment of s 95 (Official counting of votes)**

- (1) Section 95(3)(b), after ‘declaration envelopes’—

*insert—*

, including ballot papers printed for electronically assisted votes,

- (2) Section 95(4)(b), ‘section 91(2)(d)’—

*omit, insert—*

section 91(2)(c)

- (3) Section 95(4)(c), after ‘informal ballot papers’—

*insert—*

, including ballot papers printed for electronically assisted votes

(4) Section 95(4)(d), after ‘formal ballot papers’—

*insert—*

, including ballot papers printed for electronically assisted votes,

**184 Amendment of s 99 (Returning officer’s duty after counting votes)**

Section 99(a)—

*omit, insert—*

(a) seal the following in separate parcels—

- (i) all formal ballot papers, including ballot papers printed for electronically assisted votes;
- (ii) all informal ballot papers, including ballot papers printed for electronically assisted votes;
- (iii) all accepted declaration envelopes from which ballot papers have been removed;
- (iv) all rejected declaration envelopes;
- (v) all spoilt ballot papers in sealed envelopes;
- (vi) all unused ballot papers;
- (vii) all of the books and papers (other than the voters roll) used in the poll by each presiding officer; and

**185 Amendment of s 100 (Notifying the results of an election)**

Section 100(2)—

*omit, insert—*

(2) The electoral commission must ensure the notice

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is published on the electoral commission's website, and in other ways the electoral commission considers appropriate.

**186 Amendment of s 126 (Requirement for candidate to operate dedicated account)**

Section 126(4), from 'be paid'—

*omit, insert—*

be paid—

- (a) out of the account; and
- (b) in a way permitted under section 127A.

**187 Amendment of s 127 (Requirement for group of candidates to operate dedicated account)**

Section 127(4), from 'be paid'—

*omit, insert—*

be paid—

- (a) out of the account; and
- (b) in a way permitted under section 127A.

**188 Insertion of new ss 127A–127C**

After section 127—

*insert—*

**127A Permitted ways to pay amounts from dedicated account**

- (1) An amount paid from an account under section 126(4) or 127(4) may be paid in 1 of the following ways or a combination of the ways—
  - (a) by an electronic funds transfer transaction from the account; or

- (b) using a debit card that withdraws the payment directly from the account; or
  - (c) in cash withdrawn from the account.
- (2) For subsection (1)(c), the amount of cash withdrawn from the account to pay an amount under section 126(4) or 127(4) must not exceed—
- (a) the amount to be paid; or
  - (b) if the cash is withdrawn from an ATM—the amount to be paid rounded up to the nearest amount the ATM can dispense.

### **127B Payment of campaign expenses by credit card prohibited**

- (1) A person to whom section 126(8) or 127(8) applies must not—
- (a) use a credit card to pay an amount for the conduct of the election campaign of a candidate or group of candidates; or
  - (b) pay an amount out of the dedicated account of a candidate or group of candidates to pay a charge incurred using a credit card.

Maximum penalty—100 penalty units.

- (2) For subsection (1)(b), it does not matter whether or not the charge was incurred for the conduct of the election campaign of a candidate or group of candidates.
- (3) This section does not limit section 126, 127 or 127A.

### **127C Time for prosecuting offences**

A prosecution for an offence against this division may be started at any time within 4 years after the offence was committed.

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## 189 Replacement of s 158 (Decisions not subject to appeal)

Section 158—

*omit, insert—*

### 158 Decisions not subject to appeal

- (1) This section applies if a provision of this Act declares a decision to be not subject to appeal.
- (2) Unless the Supreme Court decides the decision is affected by jurisdictional error, the decision—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside or called into question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (3) The *Judicial Review Act 1991*, part 5 applies to the decision to the extent it is affected by jurisdictional error.
- (4) A person who, but for subsection (2), could have made an application under the *Judicial Review Act 1991* in relation to the decision may apply under part 4 of that Act for a statement of reasons in relation to the decision.
- (5) This section does not limit section 149.
- (6) In this section—

**decision** includes—

  - (a) conduct related to making the decision; and
  - (b) a failure to make a decision.

*Note—*

See also the *Judicial Review Act 1991*, section 6.

**190 Amendment of s 174 (Obstructing electoral officers etc.)**

Section 174, penalty—

*omit, insert—*

Maximum penalty—20 penalty units or 6 months imprisonment.

**191 Amendment of s 176A (Confidentiality of information)**

Section 176A(2), penalty—

*omit, insert—*

Maximum penalty—100 penalty units.

**192 Amendment of s 179 (Giving of how-to-vote cards to electoral commission)**

(1) Section 179(1), from ‘no later than 5p.m.’ to ‘for the election’—

*omit, insert—*

after the start of the election period and at least 7 business days before the how-to-vote card is to be distributed on a day when votes may be cast for the election

(1A) Section 179(2), from ‘by 5p.m.’ to ‘for the election’—

*omit, insert—*

after the start of the election period and at least 7 business days before the how-to-vote card is to be distributed on a day when votes may be cast for the election

(2) Section 179(2), example—

*omit.*

(2A) Section 179—

*insert—*

(2A) The electoral commission must, within 5 business days after receiving the things mentioned in subsection (1)(a) and (b) or (2)(a) and (b)—

- (a) decide to accept or reject the how-to-vote card; and
- (b) inform the person who authorised the how-to-vote card of the decision.

(2B) Section 179(5), from ‘no later than 5p.m.’ to ‘immediately before’—

*omit, insert—*

at least 2 business days before

(2C) Section 179—

*insert—*

(5A) The electoral commission must, within 2 business days after receiving the things mentioned in subsection (5)(b)—

- (a) decide to accept or reject the revised how-to-vote card; and
- (b) inform the person who authorised the revised how-to-vote card of the decision; and
- (c) if the revised how-to-vote card is rejected—  
give the person who authorised the revised how-to-vote card written reasons for the rejection.

(3) Section 179(6), from ‘Before’ to ‘accepted’—

*omit, insert—*

As soon as practicable after the electoral commission accepts a how-to-vote card, the returning officer must ensure the

(4) Section 179(7)—

*omit, insert—*

(7) The returning officer must, to the extent practicable, make an accepted how-to-vote card available for public inspection at a place where, and on a day when, votes may be cast.

### **193 Amendment of s 180 (Unauthorised how-to-vote cards)**

(1) Section 180(1), from ‘not distribute’ to ‘polling day’—

*omit, insert—*

not distribute, or authorise someone else to distribute, a how-to-vote card to which section 179(1) or (2) applies on a day when votes may be cast

(2) Section 180(2), ‘polling day’—

*omit, insert—*

a day when votes may be cast

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

(1) Section 191, heading, ‘post, fax or deliver’—

*omit, insert—*

**give or post**

(2) Section 191(1), ‘for delivery or posting’—

*omit, insert—*

to give

(3) Section 191(1), ‘deliver or post’—

*omit, insert—*

give, post or otherwise send

(4) Section 191(1), after ‘post it to the returning officer’—



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*insert—*

, unless the person has a reasonable excuse

- (5) Section 191(2), ‘for delivery or posting’—

*omit, insert—*

to give or post

- (6) Section 191(2), ‘or post’—

*omit, insert—*

, post or otherwise send

#### **195 Amendment of s 192 (Secrecy of voting)**

Section 192(3), penalty—

*omit, insert—*

Maximum penalty—20 penalty units or 6 months imprisonment.

#### **196 Amendment of s 195 (Offences about returns)**

- (2) Section 195(2), penalty—

*omit, insert—*

Maximum penalty—100 penalty units.

#### **197 Amendment of s 198 (Further information for incomplete returns)**

- (1) Section 198(1)(a), ‘who’—

*omit.*

- (2) Section 198(2), from ‘to the returning’ to ‘was given’—

*omit, insert—*

the electoral commission

**198 Amendment of s 206 (Office of returning officer)**

Section 206(2), from ‘in a newspaper’—

*omit, insert—*

on the electoral commission’s website, and in other ways the electoral commission considers appropriate.

**199 Insertion of new pt 11, div 4**

After section 212—

*insert—*

**Division 4 Transitional provisions for  
Local Government  
Electoral (Implementing  
Stage 2 of Belcarra) and  
Other Legislation  
Amendment Act 2019**

**Subdivision 1 Transitional provisions  
commencing on assent**

**213 Existing applications under s 45**

- (1) This section applies to an application made under section 45 as in force before the commencement that has not been decided before the commencement.
- (2) The application is taken to have been made under section 45AA.

**214 Time for making applications under s 45AA for  
quadrennial election for 2020**

Despite section 45AA(2)(a), an application under

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section 45AA for a poll for the quadrennial election for 2020 to be conducted by postal ballot must be made before 1 July 2019 or a later day approved by the Minister.

**200 Amendment and numbering of schedule (Dictionary)**

(1) Schedule—

*number* as schedule 2.

(2) Schedule 2, as numbered, definition *emergency*—

*omit*.

(3) Schedule 2, as numbered—

*insert*—

*spoilt ballot paper* see sections 85(1)(a)(i) and 85A(1)(b).

**Division 3 Amendments commencing by proclamation**

**201 Amendment of s 19 (Requirements of voters roll)**

Section 19(2), from ‘an elector’s address’ to ‘electoral roll’—

*omit, insert*—

the address of a silent elector

**202 Amendment of s 27 (Making and certification of nomination)**

Section 27(2)(b)—

*insert*—

(iv) information about the account with a financial institution the candidate intends to

use as the candidate's account for section 126;

- (v) the other matters stated in schedule 1.

**203 Amendment of pt 4, div 2, sdiv 3, hdg (Recording of membership and agents for group of candidates)**

Part 4, division 2, subdivision 3, heading, 'Recording of membership'—

*omit, insert*—

**Membership**

**205 Amendment of s 41 (Record of membership in group of candidates)**

- (1) Section 41, heading, 'Record of membership in'—

*omit, insert*—

**Membership of**

- (2) Section 41(1)—

*omit, insert*—

- (1) This section applies if 2 or more candidates propose to engage in group campaign activities for an election.

- (3) Section 41(2), from 'returning officer'—

*omit, insert*—

electoral commission during the period that—

- (a) starts—

- (i) if the last election was a quadrennial election—30 days after the polling day for the quadrennial election; or
- (ii) otherwise—the day after the polling day for the last election; and

(b) ends at noon on the last day for the receipt of nominations for candidates in the election.

(4) Section 41(3)(d)—

*omit, insert—*

(d) be signed by each of the candidates who is a member of the group; and

(e) include information about the account with a financial institution the group intends to use as its account for section 127.

(5) Section 41(4)—

*omit, insert—*

(4) As soon as practicable after the electoral commission receives the record, the commission must publish a copy of the record on the commission's website and in other ways the commission considers appropriate.

(6) Section 41—

*insert—*

(5) A candidate in an election may be a member of only 1 group of candidates for the election.

(6) Only 1 member of the group may be a candidate for election as mayor of a local government.

## **206 Amendment of s 42 (Appointment of agent for group of candidates)**

(1) Section 42(2)(c)—

*omit, insert—*

(c) be signed by each of the candidates who is a member of the group; and

(2) Section 42(3), from 'returning officer at' to 'returning officer under'—

*omit, insert—*

electoral commission at the same time the record  
is given to the commission under

**207 Amendment of s 43 (Register of group agents)**

Section 43, ‘returning officer’—

*omit, insert—*

electoral commission

**208 Amendment of s 50 (Declaration of pre-polling booths)**

(1) Section 50, before subsection (1)—

*insert—*

(1AA) The returning officer may arrange a place as a  
polling booth for an election to enable electors to  
cast a pre-poll vote.

(1AB) A polling booth mentioned in subsection (1) may  
be located anywhere within or outside the local  
government area, or division of the local  
government area, for which the election is to be  
held.

(2) Section 50(1), from ‘The returning officer’ to ‘pre-poll vote—  
,—

*omit, insert—*

However, the returning officer must ensure a  
pre-polling booth mentioned in subsection (1) is  
arranged at 1 of the following places—

(3) Section 50(1AA) to (3)—

*renumber* as section 50(1) to (5).

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

(1) Section 68(5A)(b)—

*omit, insert—*

(b) the elector is a silent elector.

(2) Section 68(6), definition *absentee vote*, note—

*omit.*

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

Section 69(1)(f), as renumbered by this Act—

*omit, insert—*

(f) the elector is a silent elector; or

**212 Amendment of s 73 (Voting hours for polling booths)**

Section 73(3), ‘section 50(2)’—

*omit, insert—*

section 50(4)

**213 Amendment of s 82 (Distribution of ballot papers to particular electors whose address has been omitted from electoral roll and to special postal voters)**

(1) Section 82, heading, from ‘particular electors’ to ‘electoral roll and to’—

*omit, insert—*

**silent electors and**

(2) Section 82(1), ‘elector mentioned in section 69(1)(e) and to each’—

*omit, insert—*

silent elector and

## 219 Insertion of new s 101A

After section 101—

*insert—*

### 101A Election and elector information

- (1) This section applies if the electoral commission has given notice of the final result of a poll for an election under section 101.
- (2) As soon as practicable after giving the notice, the electoral commission must publish on the commission's website—
  - (a) the number of formal first preference votes cast for each candidate in the poll; and
  - (b) information about the distribution of formal preference votes, other than first preference votes, for the candidates in the poll.
- (3) Also, the following (each a *requester*) may ask the electoral commission for elector information for the election—
  - (a) a registered political party;
  - (b) a group of candidates for the election, if at least 1 member of the group was elected at the election;
  - (c) a councillor who—
    - (i) was elected at the election; and
    - (ii) as a candidate for the election, was not a member of a group of candidates or endorsed by a registered political party.
- (4) The electoral commission must comply with a request under subsection (3) by giving the requester the elector information about each elector who—
  - (a) was enrolled on the relevant voters roll for the election; and



- (b) voted in the election.
- (5) The **relevant voters roll** for the election is—
- (a) for a request made by a registered political party—the voters roll for each local government area; or
  - (b) for a request made by a group of candidates—the voters roll for the local government area, or division of a local government area, for each member of the group that was elected; or
  - (c) for a request made by a councillor mentioned in subsection (3)(c)—the voters roll for the local government area, or division of a local government area, for which the councillor was elected.
- (6) The **elector information** about an elector who voted in an election is—
- (a) the elector’s name and address; and
  - (b) whether the elector voted in person, by post or in another way; and
  - (c) if the elector voted in person at a polling booth in the local government area—the location of the polling booth.
- (7) However, the commission must not give the requester the elector information about a silent elector.
- (8) A person must not use, disclose to another person or allow another person to access elector information given to a registered political party, group of candidates or councillor under this section, unless the use, disclosure or access is for a purpose related to an election.

Maximum penalty for subsection (8)—200 penalty units.

## **220 Amendment of s 106 (Definitions for part)**

- (1) Section 106, definitions *candidate's disclosure period*, *disclosure date*, *electoral expenditure*, *gifts register*, *group's disclosure period*, *political activity* and *third party*—

*omit.*

- (2) Section 106—

*insert—*

***disclosure deadline***, for a return, means the day or time prescribed by regulation for the giving of the return.

***disclosure period***, for an election—

- (a) for a candidate in the election—see section 106A(1); or
- (b) for a group of candidates in the election or a third party to which section 118A or 125A applies for the election—see section 106A(3).

***electoral expenditure*** see section 123.

***fundraising contribution*** see section 107A.

***recipient***, of a gift or loan, means the entity to whom, or for the benefit of whom, the gift or loan was made.

***source***—

- (a) of a gift—see section 121A(1); or
- (b) of a loan—see section 121A(2).

***third party***, for an election, means an entity other than—

- (a) a political party, an associated entity or a candidate; or
- (b) a person who is a member of a committee for the election of a candidate endorsed by a

- 
- registered political party, if the committee is part of the political party; or
- (c) a person who is a member of a committee for the election of—
- (i) a candidate in the election; or
  - (ii) members of a group of candidates for the election.
- (3) Section 106, definition *gift*, ‘(1) and (2)’—  
*omit.*
- (4) Section 106, definition *relevant details*, after ‘gift’—  
*insert—*
- or loan

## 221 Insertion of new s 106A

After section 106—

*insert—*

### **106A Meaning of *disclosure period***

- (1) The *disclosure period* for an election, for a candidate in the election, is the period that—
- (a) starts—
    - (i) if the candidate was a candidate in an election held within 5 years before the polling day for the election—30 days after the polling day for the earlier election; or
    - (ii) otherwise—on the day that applies for the candidate under subsection (2); and
  - (b) ends 30 days after the polling day for the election.
- (2) For subsection (1)(a)(ii), the day that applies for the candidate for the election is the earlier of the

following days—

- (a) the day the person announces or otherwise publicly indicates the person's intention to be a candidate in the election;
  - (b) the day the person nominates as a candidate in the election;
  - (c) the day the person otherwise indicates the person's intention to be a candidate in the election, including, for example, by accepting a gift made for the purpose of the election.
- (3) The *disclosure period* for an election, for a group of candidates for the election or a third party to whom section 118A or 125A applies for the election, is the period that—
- (a) starts 30 days after the polling day for the last quadrennial election; and
  - (b) ends 30 days after the polling day for the election.
- (4) However, a regulation may prescribe another day on which a disclosure period mentioned in subsection (1) or (3) starts or ends.

## **222 Replacement of s 107 (Meaning of *gifts*)**

Section 107—

*omit, insert—*

### **107 Meaning of *gift***

- (1) A *gift* is the disposition of property, or provision of a service, for no consideration or inadequate consideration.
- (2) Also, a *gift* includes—
  - (a) uncharged interest on a loan; and

- (b) any part of a fundraising contribution that exceeds \$200.
- (3) For subsection (2)(a), uncharged interest on a loan is an amount that would have been payable on the loan if—
  - (a) the loan had been made on terms requiring the payment of interest at the generally prevailing interest rate for a loan of that kind; and
  - (b) any interest payable had not been waived; and
  - (c) any interest payments were not capitalised.
- (4) A *gift* does not include—
  - (a) the disposition of property under a will; or
  - (b) a fundraising contribution of \$200 or less, or the first \$200 of a fundraising contribution that exceeds \$200; or
  - (c) an amount paid to a political party as a subscription for a person's membership of, or affiliation with, the party; or
  - (d) the provision of voluntary labour; or
  - (e) the incidental or ancillary use of—
    - (i) a volunteer's vehicle or equipment; or
    - (ii) a vehicle or equipment that is ordinarily available for the personal use of a volunteer.
- (5) A reference in this part to a gift does not include a gift made in a private capacity to an individual for the individual's personal use if the individual has not used, does not use and does not intend to use the gift solely or substantially for a purpose related to an election.

## **223 Insertion of new s 107A**

After section 107—

*insert—*

### **107A Meaning of *fundraising contribution***

- (1) A *fundraising contribution* is an amount paid by a person as a contribution, entry fee or other payment to entitle the person or another person to participate in, or otherwise obtain a benefit from, a fundraising venture or function.
- (2) Without limiting subsection (1), a *fundraising contribution* includes—
  - (a) an amount paid for a raffle ticket; and
  - (b) an amount paid for an item at a fundraising auction.
- (3) An amount mentioned in subsection (1) is a fundraising contribution whether or not the venture or function to which the payment relates raises funds for an entity.

## **224 Amendment of s 108 (Meaning of *value of gifts*)**

Section 108(d)—

*omit, insert—*

- (d) if the gift is a fundraising contribution—the gross amount of the contribution, regardless of the value of anything received in consideration for the contribution.

## **225 Replacement of s 109 (Meaning of *relevant details for gifts*)**

Section 109—

*omit, insert—*

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## 109 Meaning of *relevant details* for a gift or loan

- (1) All of the following are *relevant details* for a gift or loan—
- (a) the value of the gift or loan;
  - (b) when the gift or loan was made;
  - (c) for a loan—the terms of the loan;
  - (d) if the person making the gift or loan has an interest in a local government matter that is greater than that of other persons in the local government area—
    - (i) that fact; and
    - (ii) the nature of the person’s interest;
  - (e) for a gift or loan made by an individual—
    - (i) the individual’s name and residential or business address; and
    - (ii) the individual’s occupation; and
    - (iii) if the individual is employed, carries on a business or is otherwise engaged in an industry—the industry in which the individual is employed, carries on a business or is otherwise engaged;
  - (f) for a gift or loan made by a corporation—
    - (i) the corporation’s name; and
    - (ii) the names and residential or business addresses of the directors or members of the executive committee (however described) of the corporation; and
    - (iii) if the corporation has a holding company—the names and residential or business addresses of the directors or members of the executive committee (however described) of the holding company; and

- (iv) a description of the type of business the corporation carries on;
  - (g) for a gift or loan made on behalf of the members of an unincorporated association—
    - (i) the association's name; and
    - (ii) unless the organisation is a registered industrial organisation—the names and residential or business addresses of the members of the executive committee (however described) of the association;
  - (h) for a gift or loan made out of a trust fund or out of the funds of a foundation—
    - (i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and
    - (ii) the name or other description of the trust fund or foundation; and
    - (iii) if the gift is given, or loan is 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 or lender—the name and residential or business address of the person;
  - (i) for a gift or loan not mentioned in paragraph (e), (f), (g) or (h)—the name and residential or business address of the person who made the gift or loan.
- (2) If a gift or loan is made by an entity that is not the source of the gift or loan, the *relevant details* for the gift or loan include—
- (a) that fact; and



- 
- (b) the details mentioned in subsection (1)(d) to (i) for the entity that is the source of the gift or loan.
- (3) In this section—
- holding company*, of a corporation, see the Corporations Act, section 9.
- local government matter*, in relation to a local government, means—
- (a) a transaction, contract or other arrangement entered into by the local government; or
- (b) another matter to be decided or otherwise dealt with by the local government.

## 226 Insertion of new s 112A

After section 112—

*insert*—

### 112A When expenditure is incurred

- (1) For this part, expenditure is incurred when the goods or services for which the expenditure is incurred are delivered or provided.
- (2) Without limiting subsection (1)—
- (a) expenditure on advertising is incurred when the advertisement is broadcast or published; and
- (b) expenditure on the production and distribution of material for an election is incurred when the material is distributed.
- (3) A regulation may prescribe when expenditure of another kind is incurred.

## 227 Amendment of s 113A (Meaning of political donation)

Section 113A(4)—

*omit, insert—*

- (4) Despite section 107(4)(b), a reference in this section to a gift includes a fundraising contribution, to the extent the amount of the contribution forms part of the proceeds of the fundraising venture or function to which the contribution relates.
- (5) Despite section 107(4)(c), a reference in this section to a gift includes any of the following amounts paid by a person to a political party, to the extent the total amount of the person's payments in a calendar year exceeds \$1,000—
  - (a) an amount paid as a subscription for a person's membership of the party;
  - (b) an amount paid for a person's affiliation with the party.
- (6) In this section—

*electoral expenditure* means expenditure incurred for the purposes of a campaign for an election, whether or not the expenditure is incurred during the election period for the election.

**228 Omission of pt 6, div 2 (Disclosure periods)**

Part 6, division 2—

*omit.*

**229 Replacement of pt 6, div 3, hdg (Disclosure by candidates)**

Part 6, division 3, heading—

*omit, insert—*

**Division 3**

**Gifts and loans**

---

## Subdivision 1 Disclosure of gifts and prohibited gifts

### 229A Amendment of s 117 (Gifts to candidates)

- (1) Section 117(2), ‘date’—  
*omit, insert*—  
deadline
- (2) Section 117(7), ‘under subsection (2)’—  
*omit, insert*—  
under subsection (4)

### 229B Amendment of s 118 (Gifts to groups of candidates)

- (1) Section 118(2), ‘date’—  
*omit, insert*—  
deadline
- (2) Section 118(7)—  
*omit, insert*—
  - (7) If the electoral commission receives a return under subsection (4) from the agent of a group of candidates, any of whom are successful in an election, the electoral commission must give a copy of the return to—
    - (a) the chief executive officer of the local government for which the election was held; and
    - (b) each successful candidate in the group.

### 230 Insertion of new s 118A

After section 118—  
*insert*—

### **118A Gifts to third parties to enable political expenditure**

- (1) This section applies to a third party for an election if—
  - (a) the third party receives a gift of a value of \$500 or more from an entity during the disclosure period for an election; and
  - (b) the entity that is the source of the gift intended the gift to be used, wholly or in part—
    - (i) by the recipient of the gift to incur political expenditure; or
    - (ii) as reimbursement for political expenditure incurred by the recipient of the gift; and
  - (c) the third party used the gift, wholly or in part—
    - (i) to incur political expenditure for the election; or
    - (ii) as reimbursement for political expenditure for the election incurred by the third party.
- (2) The third party must give the electoral commission a return about the gift by the disclosure deadline for the return.
- (3) The return must—
  - (a) be in the approved form; and
  - (b) state the relevant details for the gift.
- (4) Also, the third party must give the electoral commission a return, in the approved form, within the required period for the election that states—
  - (a) the total value of all gifts received by the party during the disclosure period; and

- (b) the number of entities that made the gifts.
- (5) For subsection (1)(a), the value of a gift made to the third party by an entity is taken to include the value of all other gifts made to the third party by the same entity during the disclosure period.
- (6) In this section—  
*political expenditure*, for an election, means expenditure mentioned in section 125A(1)(a), (b) or (c) for the election.

**231 Amendment of s 119 (Particular gifts not to be received)**

- (1) Section 119, heading—

*omit, insert—*

**119 Receiving anonymous gifts prohibited**

- (2) Section 119(3)—

*omit.*

- (3) Section 119(4) and (5)—

*renumber* as section 119(3) and (4).

**232 Insertion of new pt 6, div 3, sdiv 2 hdg**

After section 119—

*insert—*

**Subdivision 2 Disclosure of loans and prohibited loans**

**233 Amendment of s 120 (Loans to candidates or groups of candidates)**

- (1) Section 120(2) and (4), ‘date’—

*omit, insert—*

deadline

(2) Section 120(6)(b) to (e)—

*omit, insert—*

(b) state the relevant details for the loan.

(3) Section 120—

*insert—*

(9) Subsection (10) applies if the electoral commission receives a return under subsection (7) from—

(a) a candidate who is successful in an election;  
or

(b) the agent of a group of candidates, any of whom are successful in an election.

(10) The electoral commission must give a copy of the return to—

(a) the chief executive officer of the local government for which the election was held;  
and

(b) if the return is received from the agent for a group of candidates—each successful candidate in the group.

## **234 Amendment of s 121 (Particular loans not to be received)**

(1) Section 121(4)—

*omit,*

(2) Section 121(5)—

*renumber* as section 121(4).

## **235 Insertion of new pt 6, div 3, sdiv 3**

After section 121—

*insert—*

---

### **Subdivision 3 Other provisions about gifts and loans**

#### **121A When an entity is the *source* of a gift or loan**

- (1) An entity is the *source* of a gift (the *ultimate gift*) made to another entity (the *ultimate recipient*) if—
  - (a) the entity makes a gift or loan (the *first gift or loan*) to another entity (the *first recipient*); and
  - (b) the entity's main purpose in making the first gift or loan is to enable (directly or indirectly) the first recipient, or another person, to make the ultimate gift to the ultimate recipient; and
  - (c) the first recipient, or another person, makes the ultimate gift to the ultimate recipient; and
  - (d) the first gift or loan enabled (directly or indirectly) the first recipient, or the other person, to make the ultimate gift.
- (2) An entity is the *source* of a loan (the *ultimate loan*) made to another entity (the *ultimate recipient*) if—
  - (a) the entity makes a gift or loan (the *first gift or loan*) to another entity (the *first recipient*); and
  - (b) the entity's main purpose in making the first gift or loan is to enable (directly or indirectly) the first recipient, or another person, to make the ultimate loan to the ultimate recipient; and
  - (c) the first recipient, or another person, makes the ultimate loan to the ultimate recipient; and

- (d) the first gift or loan enabled (directly or indirectly) the first recipient, or the other person, to make the ultimate loan.

### **121B Donor must disclose source of gift or loan**

- (1) This section applies to an entity that—
  - (a) makes a gift of a value of \$500 or more, or a loan of \$500 or more, to a candidate in an election, a group of candidates for an election or a registered political party; or
  - (b) makes a gift mentioned in section 118A(1) to a third party.
- (2) When the entity makes the gift or loan, the entity must give the recipient of the gift or loan a notice that states—
  - (a) the relevant details of the gift or loan in relation to the entity; and
  - (b) if the entity is not the source of the gift or loan—
    - (i) that fact; and
    - (ii) the relevant details of the gift or loan in relation to the entity that is the source of the gift or loan.

Maximum penalty—20 penalty units.

### **121C Recovery of prohibited gifts or loans**

- (1) If a person receives a gift in contravention of section 119, or a loan in contravention of section 121, an amount equal to the amount or value of the gift or loan is payable by the person to the State.
- (2) The amount may be recovered by the State as a debt due to the State from—



- 
- (a) if the recipient is a group of candidates—the members of the group or the group’s agent; or
  - (b) otherwise—the recipient.
- (3) If, under subsection (2), the amount may be recovered from 2 or more persons, those persons are jointly and severally liable for the amount.
  - (4) An action in a court to recover an amount due to the State under this section may be brought in the name of the electoral commission.
  - (5) Any process in the action required to be served on the State may be served on the electoral commission.

**236 Insertion of new pt 6, div 3, sdiv 4 hdg**

After section 121C, as inserted by this Act—

*insert—*

**Subdivision 4 Notification obligations**

**237 Replacement of s 122 (Electoral commission to give reminder notice to candidates)**

Section 122—

*omit, insert—*

**122 Requirement to notify the public about disclosure obligations**

- (1) This section applies if any of the following are required, under this division, to give the electoral commission a return about a gift or loan—
  - (a) a candidate;
  - (b) the agent for a group of candidates;
  - (c) a third party for an election.

- (2) The candidate, agent or third party must take reasonable steps to notify the public that the candidate, agent or third party is required to—
- (a) give the return to the electoral commission;  
and
- (b) state the relevant details for the gift or loan in the return.

*Examples of reasonable steps—*

- publishing a notice on a website
- including a notice on a brochure distributed in the local government area or division or a local government area for which a candidate has been nominated for election

Maximum penalty—1 penalty unit.

- (3) A notification under subsection (2) must include a fair summary of the provisions under which the requirement arises.

### **122A Requirement to notify third party of obligation to give return under s 125A**

- (1) This section applies if—
- (a) a candidate or group of candidates receives a gift—
- (i) of a value of \$500 or more; and
- (ii) comprised of expenditure mentioned in section 125A(1) incurred by a third party for an election; or
- (b) a third party for an election receives a gift mentioned in section 118A(1)(a) from another third party for the election.
- (2) Within 7 business days after receiving the gift, the recipient must give the third party who gave the gift a notice that states the third party may be required, under section 125A, to give a return

about the gift.

Maximum penalty—20 penalty units.

## **238 Replacement of pt 6, div 4 (Disclosure by third parties)**

Part 6, division 4—

*omit, insert—*

### **Division 4 Electoral expenditure**

#### **123 Meaning of *electoral expenditure***

- (1) *Electoral expenditure*, in relation to an election, is expenditure incurred (whether or not during the election period for the election) on, or a gift in kind given that consists of—
  - (a) broadcasting a political advertisement during the election period; or
  - (b) publishing a political advertisement in a journal during the election period; or
  - (c) publishing a political advertisement on the internet during the election period, even if the internet site on which the publication is made is located outside Queensland; or
  - (d) displaying a political advertisement at a theatre or other place of entertainment during the election period; or
  - (e) producing and distributing a political advertisement mentioned in paragraph (a), (b), (c) or (d); or
  - (f) producing and distributing other material used during the election period that—
    - (i) advocates a vote for or against a candidate, group of candidates or registered political party; and

- (ii) is required under section 177 to include the name and address of the author of the material or of the person authorising the material; or
  - (g) carrying out an opinion poll or other research relating to the election during the election period if the dominant purpose of the opinion poll or research is to, directly or indirectly—
    - (i) promote or oppose the election of a candidate or group of candidates; or
    - (ii) promote or oppose a registered political party in relation to the election; or
    - (iii) otherwise influence voting at the election.
- (2) In this section—

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

*political advertisement* means an advertisement that advocates a vote for or against a candidate, group of candidates or registered political party.

#### **124 Expenditure return—candidate, groups of candidates or registered political party**

- (1) This section applies if, during the disclosure period for an election, any of the following election participants incur electoral expenditure for the election that totals \$500 or more—
- (a) a candidate in the election;
  - (b) a group of candidates for the election, a member of the group or another person acting on behalf of the group;

- (c) a registered political party;
  - (d) an associated entity.
- (2) A return for each amount of electoral expenditure incurred by the election participant during the disclosure period must be given to the electoral commission by—
- (a) for expenditure incurred by a candidate—the candidate; or
  - (b) for expenditure incurred by or on behalf of a group of candidates—the group’s agent; or
  - (c) for expenditure incurred by a registered political party—the party’s agent; or
  - (d) for expenditure incurred by an associated entity—the entity.
- (3) The return must—
- (a) be in the approved form; and
  - (b) be given to the electoral commission by the disclosure deadline for the return; and
  - (c) state the following—
    - (i) the name and business address of the person who supplied the goods or service to which the expenditure relates;
    - (ii) a description of the goods or service;
    - (iii) the amount of the electoral expenditure;
    - (iv) when the expenditure was incurred;
    - (v) the purpose for incurring the expenditure.
- (4) For subsection (1), an amount of expenditure incurred by a person, group or entity for 2 or more elections is taken to have been incurred by the

person, group or entity for each of the elections.

(5) In this section—

*bank statement*, for an account with a financial institution, means a written record issued by the financial institution of all of the transactions carried out in relation to the account during a stated period.

### **125 Summary expenditure return—candidate, group of candidates or registered political party**

(1) This section applies to the following election participants—

- (a) a candidate in an election;
- (b) a group of candidates for an election;
- (c) a registered political party that endorsed a candidate for an election;
- (d) if section 124 applies to an associated entity for an election—the associated entity.

(2) A return, in the approved form, must be given to the electoral commission within the required period for the election by—

- (a) the election participant; or
- (b) for a group of candidates or registered political party—the agent for the group or party.

(3) The return must—

- (a) state the total amount of electoral expenditure the election participant incurred during the disclosure period for the election; and
- (b) for a return for a candidate or group of candidates—be accompanied by a copy of a

bank statement for the dedicated account of the candidate or group for the disclosure period for the election.

- (4) However, if the election participant did not incur electoral expenditure during the disclosure period for the election, the return must state that fact.
- (5) Subsection (6) applies if the electoral commission receives a return under subsection (2) from—
  - (a) a candidate who is successful in the election; or
  - (b) the agent of a group of candidates, any of whom are successful in the election; or
  - (c) the agent for a registered political party that endorsed a candidate who is successful in the election.
- (6) The electoral commission must give a copy of the return to—
  - (a) the chief executive officer of the local government for which the election was held; and
  - (b) if the return is received from the agent for a group of candidates or the agent for a registered political party that endorsed a candidate—each successful candidate in the group or endorsed by the party.

### **125A Expenditure returns—political expenditure by third party**

- (1) This section applies to a third party for an election if, during the disclosure period for the election, the third party incurs expenditure for the election that totals \$500 or more and is comprised of—
  - (a) electoral expenditure; or
  - (b) a gift made to or for the benefit of—

- (i) a political party; or
  - (ii) a candidate for an election; or
  - (iii) a group of candidates for an election, a member of the group or a person acting on behalf of the group; or
  - (c) a gift made to another person on the understanding that the person, or another person, uses the gift (directly or indirectly) to incur expenditure mentioned in paragraph (a) or (b).
- (2) The third party must give the electoral commission a return for each amount of expenditure the third party incurs during the disclosure period.
- (3) The return must—
- (a) be in the approved form; and
  - (b) be given to the electoral commission by the disclosure deadline for the return; and
  - (c) state the following—
    - (i) the name and business address of the person who supplied the goods or service to which the expenditure relates;
    - (ii) a description of the goods or service;
    - (iii) the value of the electoral expenditure;
    - (iv) when the expenditure was incurred;
    - (v) the purpose for incurring the expenditure;
    - (vi) if the expenditure was incurred to benefit, support or oppose a particular candidate, group of candidates or political party in the election—that fact



and the name of the candidate, group of candidates or political party;

(vii) if the expenditure was incurred to support or oppose a particular issue in the election that fact and a description of the issue.

(4) Also, the third party must give the electoral commission a return—

(a) in the approved form; and

(b) that states the total amount of political expenditure the third party incurred during the disclosure period for the election; and

(c) within the required period for the election.

(5) For subsection (1), an amount of expenditure incurred by the third party for 2 or more elections is taken to have been incurred by the third party for each of the elections.

### **239 Amendment of pt 6, div 6, hdg (Gifts register)**

Part 6, division 6, heading—

*omit, insert—*

#### **Division 6 Publication of returns**

### **240 Amendment of s 128 (Register of gifts)**

(1) Section 128, heading—

*omit, insert—*

#### **128 Electoral commission must publish returns and other documents**

(2) Section 128(1)—

*omit.*

(3) Section 128(2), all words before paragraph (a)—

*omit, insert—*

The electoral commission must publish the following returns and other documents on its website—

(4) Section 128—

*insert—*

- (3) A return or other document must be published within 5 business days after it is given to the commission.
- (4) However, if publishing a return or other document would disclose any of the following information, the electoral commission must publish a copy of the return or document from which the information has been deleted—
  - (a) if the electoral commission is informed, by the person giving the return, that an individual identified in the return is a silent elector or an elector whose status is equivalent or similar to a silent elector under a law of the Commonwealth or another State—the address of the individual elector;
  - (ab) the street address, but not the suburb, town, city or other locality including the State, of each individual identified in the return;
  - (b) a copy of, or extract from, a bank statement mentioned in section 125(3)(b) that accompanied a return given under that section;
  - (c) information prescribed by regulation for this subsection.
- (5) Section 128(2) to (4)—

*renumber* as section 128(1) to (3).

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**241 Replacement of s 129 (Access to gifts register)**

Section 129—

*omit, insert—*

**129 Access to published returns and other documents**

The electoral commission must ensure that the public may inspect a return or other document published under section 128—

- (a) at the commission’s public office; and
- (b) on the commission’s website.

**242 Amendment of s 130 (Queries on contents of gifts register)**

Section 130, heading, ‘gifts register’—

*omit, insert—*

**return**

**243 Insertion of new s 130B**

Part 6, division 7, before section 131—

*insert—*

**130B Electoral commission must give reminder notice about requirement for return**

- (1) This section applies if a person—
  - (a) is required to give the electoral commission a return under division 3 or 4; and
  - (b) has not given the return to the electoral commission by the reminder day.
- (2) As soon as practicable after the reminder day, the electoral commission must give the person a written notice that states—
  - (a) the person is required to give the return; and

- (b) the provision of this division under which the return is required to be given; and
- (c) the following provisions, or a general outline of them, to the extent they are relevant to the requirement to give the return—
  - (i) the *Local Government Act 2009*, sections 153, 162, 172 and 175K and the *City of Brisbane Act 2010*, sections 153, 162, 174 and 186B;
  - (ii) section 117;
  - (iii) section 118;
  - (iv) section 118A;
  - (v) section 120;
  - (vi) section 125A;
  - (ix) section 195;
  - (x) section 197.
- (3) If the person to whom the notice must be given is the agent for a group of candidates or the agent for a registered political party that endorsed a candidate, the electoral commission must also give a copy of the notice to each candidate who is—
  - (a) a member of the group or endorsed by the party; and
  - (b) successful in the election.
- (4) In this section—

**reminder day**, for an election, means the day that is 10 weeks after—

  - (a) the polling day for the election; or

- (b) if no poll is conducted for the election—the day a poll would have been held under this Act.

## 243A Insertion of new s 130C

After section 130B, as inserted by this Act—

*insert—*

### **130C Electoral commission must give notice about agent's failure to give return**

- (1) This section applies if—
  - (a) an agent for a group of candidates or an agent for a registered political party that endorsed a candidate—
    - (i) is required to give the electoral commission a summary return; and
    - (ii) has not given the return to the electoral commission within the required period; and
  - (b) 1 or more of the candidates in the group or endorsed by the political party is elected as a councillor.
- (2) The electoral commission must, as soon as practicable after the end of the required period, give each successful candidate represented by the agent (each the *councillor*) a notice stating—
  - (a) that the agent has failed to give the electoral commission the summary return within the required period; and
  - (b) that the councillor is required to give the return and the provision of division 3 or 4 under which the return is required to be given; and
  - (c) the following provisions, or a general outline of them, to the extent they are

relevant to the requirement to give the return—

- (i) the *City of Brisbane Act 2010*, section 174(3) and (4);
- (ii) the *Local Government Act 2009*, section 172(3) and (4).

(3) In this section—

**summary return** means a return required to be given under the following provisions—

- (a) section 117(4);
- (b) section 118(4);
- (c) section 120(7);
- (d) section 125(2).

## **245 Amendment of s 132 (Amendment of returns)**

Section 132(3)(b)—

*omit, insert—*

- (b) publish, under section 128, the amended return and the day and time the amendment was made.

## **247 Amendment of s 179 (Giving of how-to-vote cards to electoral commission)**

Section 179(3)(b)—

*omit, insert—*

- (b) the electoral commission is satisfied, on reasonable grounds, that the how-to-vote card—
  - (i) is likely to mislead or deceive an elector in voting under this Act; or

- (ii) constitutes a group campaign activity relating to a candidate who is not a member of a group of candidates, in contravention of section 183.

**248 Replacement of s 183 (Offence for group of candidates to advertise or fundraise if particular requirements not complied with)**

Section 183—

*omit, insert—*

**183 Engaging in group campaign activities**

- (1) A person must not engage in a group campaign activity for an election, unless the activity relates to—
  - (a) candidates who are members of a group of candidates for the election, as stated in the record for the group published under section 41(4); or
  - (b) candidates who are endorsed by the same political party for the election.

Maximum penalty—100 penalty units.

- (2) A ***group campaign activity*** is any of the following activities for an election campaign, if the activity is carried out in an intentionally coordinated way by or for 2 or more candidates for the election—
  - (a) using a common platform to promote the election of the candidates, including, for example, the same political policies;
  - (b) using any of the following in relation to the candidates—
    - (i) the same advertisements, including pamphlets, billboards and any other media;
    - (ii) the same campaign slogans;

- (iii) the same brands or images;
- (iv) the same how-to-vote cards;
- (v) other election material that promotes the election of the candidates;
- (c) participating in the same fundraising activities or events;
- (d) sharing the same resources for election campaigns, including human resources (other than volunteers), between the candidates;
- (e) giving or sharing gifts or loans between the candidates;
- (f) another activity prescribed by regulation for this section.

*Examples of group campaign activities—*

- a person erecting electoral signs with the names or images of 2 or more candidates
  - a candidate giving a donation to another candidate or group of candidates during a campaign
  - a candidate publishing a notice or letter on a website encouraging electors to vote for another candidate or group of candidates
- (3) A proceeding for an offence against subsection (1) must be brought within 4 years after the commission of the offence.

## **249 Insertion of new s 195A**

After section 195—

*insert—*

### **195A False or misleading information about gift**

- (1) A person must not publish information about a gift made to, or received by, any of the following election participants that the person knows is false or misleading in a material particular—



- (a) a candidate in an election;
- (b) a group of candidates for an election;
- (c) a registered political party;
- (d) an associated entity;
- (e) a third party to which section 118A or 125A applies for an election.

Maximum penalty—20 penalty units.

- (2) A person does not commit an offence against subsection (1) if the information published is a true copy, or fair summary, of information in a return published by the electoral commission under section 128.

## **250 Amendment of s 196 (Records to be kept)**

Section 196(2), definition *relevant record*, paragraph (b), from ‘in part,’—

*omit, insert—*

in part—

- (i) to incur political expenditure mentioned in section 125A(1) for the election; or
- (ii) as reimbursement for political expenditure mentioned in section 125A(1) for the election incurred by the receiver.

## **251 Insertion of new pt 11, div 4, sdiv 2**

Part 11, division 4—

*insert—*

### **Subdivision 2 Transitional provisions commencing by proclamation**

## **216 Disclosure period for an election**

- (1) A reference in section 106A to an election held before the polling day for the election to which the section applies, or the last quadrennial election, includes an election held before the commencement.
- (2) A reference in section 106A to a nomination as a candidate in an election, or an announcement or other indication of a person's intention to be a candidate in an election, includes a nomination, announcement or other indication made before the commencement.

## **217 Disclosure obligations for candidates—gifts**

- (1) This section applies to a person who—
  - (a) immediately before the commencement, was not a candidate; and
  - (b) on the commencement, is a candidate.
- (2) For part 6, the disclosure period for the person is taken to start on the commencement.
- (3) Within 14 days after the commencement, the person must give a return under section 117(2) and (4), as in force immediately before the commencement, for the person's pre-commencement disclosure period.
- (3A) For applying section 117—
  - (a) a reference to a candidate is taken to be a reference to the person; and
  - (b) a reference to relevant details is taken to be a reference to relevant details under section 109 as in force immediately before the commencement; and
  - (c) a reference to the required period is taken to be a reference to the period starting on the

commencement and ending 14 days after the commencement; and

- (d) a reference to the disclosure date is taken to be a reference to the day that is 14 days after the commencement; and
  - (e) a reference to the disclosure period is taken to be a reference to the person's pre-commencement disclosure period; and
  - (f) a reference to a gift is taken to be a reference to a gift under section 107 as in force immediately before the commencement; and
  - (g) a reference to the value of a gift is taken to be a reference to the value of a gift under section 108 as in force immediately before the commencement.
- (4) However, subsection (3) does not apply—
- (a) to the person if, before the commencement, a disclosure period would not have started under section 114 or 115 as in force immediately before the commencement, as applied under subsection (6), definition *pre-commencement disclosure period*, paragraph (a); or
  - (b) in relation to a gift that is the subject of a return given to the electoral commission under part 6 before the commencement.
- (5) Part 9, division 5 applies in relation to the person as if a reference in the division to part 6 included a reference to this section.
- (6) In this section—
- pre-commencement disclosure period***, for a person who, on the commencement, is a candidate, means the period—
- (a) starting when the disclosure period would have started for the person under section 114

or 115 as in force immediately before the commencement—

- (i) if the person were a candidate for those sections; and
  - (ii) as if a reference in those sections to an election were a reference to the election for which the person is, on the commencement, a candidate; and
- (b) ending immediately before the commencement.

### **217A Disclosure obligations for agent for group of candidates—gifts**

- (1) This section applies in relation to a person who—
  - (a) represents a group of persons who—
    - (i) immediately before the commencement, were not candidates; and
    - (ii) on the commencement, are candidates; and
    - (iii) after the commencement, give a record of membership of the group to the electoral commission under section 41; and
  - (b) is appointed as the agent for the group after the commencement.
- (2) For part 6, the disclosure period for the group is taken to start on the day the group gives the record of membership to the electoral commission.
- (3) Within 14 days after the appointment, the person must give a return under section 118(2) and (4), as in force immediately before the commencement, for the group's pre-commencement disclosure period.

- (4) For applying section 118—
- (a) a reference to a group of candidates is taken to be a reference to the group of persons; and
  - (b) a reference to a gift is taken to be a reference to a gift under section 107 as in force immediately before the commencement; and
  - (c) a reference to the disclosure date is taken to be a reference to the day that is 14 days after the appointment; and
  - (d) a reference to relevant details is taken to be a reference to relevant details under section 109 as in force immediately before the commencement; and
  - (e) a reference to the required period is taken to be a reference to the period starting on the appointment and ending 14 days after the appointment; and
  - (f) a reference to the disclosure period is taken to be a reference to the group's pre-commencement disclosure period; and
  - (g) a reference to the value of a gift is taken to be a reference to the value of a gift under section 108 as in force immediately before the commencement.
- (5) However, subsection (3) does not apply in relation to a gift that is the subject of a return given to the electoral commission under part 6 before the commencement.
- (6) Part 9, division 5 applies in relation to the person and to each member of the group as if—
- (a) a reference in the division to part 6 included a reference to this section; and
  - (b) a reference in the division to section 118 included a reference to this section.

(7) In this section—

*pre-commencement disclosure period*, for a group of persons mentioned in subsection (1)(a), means the period—

- (a) starting when the disclosure period would have started for the group under section 116, as in force immediately before the commencement—
  - (i) if the persons in the group were a group of candidates for that section; and
  - (ii) as if a reference in that section to an election were a reference to the election for which the persons in the group are, on the commencement, candidates; and
- (b) ending immediately before the day the group gives the record of membership to the electoral commission.

### **217B Disclosure obligations for candidates—loans**

- (1) This section applies to a person who—
  - (a) immediately before the commencement, was not a candidate; and
  - (b) on the commencement, is a candidate.
- (2) For part 6, the disclosure period for the person is taken to start on the commencement.
- (3) Within 14 days after the commencement, the person must give a return under section 120(2) and (7), as in force immediately before the commencement, for the person's pre-commencement disclosure period.
- (4) For applying section 120—
  - (a) a reference to a candidate is taken to be a reference to the person; and

- (b) a reference to the required period is taken to be a reference to the period starting on the commencement and ending 14 days after the commencement; and
  - (c) a reference to the disclosure date is taken to be a reference to the day that is 14 days after the commencement; and
  - (d) a reference to the disclosure period is taken to be a reference to the person's pre-commencement disclosure period.
- (5) However, subsection (3) does not apply—
- (a) to the person if, before the commencement, a disclosure period would not have started under section 114 or 115 as in force immediately before the commencement, as applied under subsection (7), definition *pre-commencement disclosure period*, paragraph (a); or
  - (b) in relation to a loan that is the subject of a return given to the electoral commission under part 6 before the commencement.
- (6) Part 9, division 5 applies in relation to the person as if—
- (a) a reference in the division to part 6 included a reference to this section; and
  - (b) a reference in the division to section 120 included a reference to this section.
- (7) In this section—
- pre-commencement disclosure period***, for a person who, on the commencement, is a candidate, means the period—
- (a) starting when the disclosure period would have started for the person under section 114 or 115 as in force immediately before the commencement—

- (i) if the person were a candidate for those sections; and
  - (ii) as if a reference in those sections to an election were a reference to the election for which the person is, on the commencement, a candidate; and
- (b) ending immediately before the commencement.

### **217C Disclosure obligations for agent for group of candidates—loans**

- (1) This section applies in relation to a person who—
- (a) represents a group of persons who—
    - (i) immediately before the commencement, were not candidates; and
    - (ii) on the commencement, are candidates; and
    - (iii) after the commencement, give a record of membership of the group to the electoral commission under section 41; and
  - (b) is appointed as the agent for the group after the commencement.
- (2) For part 6, the disclosure period for the group is taken to start on the day the group gives the record of membership to the electoral commission.
- (3) Within 14 days after the appointment, the person must give a return under section 120(4) and (7), as in force immediately before the commencement, for the group's pre-commencement disclosure period.
- (4) For applying section 120—



- (a) a reference to a group of candidates is taken to be a reference to the group of persons; and
  - (b) a reference to the required period is taken to be a reference to the period starting on the appointment and ending 14 days after the appointment; and
  - (c) a reference to the disclosure date is taken to be a reference to the day that is 14 days after the appointment; and
  - (d) a reference to the disclosure period is taken to be a reference to the group's pre-commencement disclosure period.
- (5) However, subsection (3) does not apply in relation to a loan that is the subject of a return given to the electoral commission under part 6 before the commencement.
- (6) Part 9, division 5 applies in relation to the person and to each member of the group as if—
- (a) a reference in the division to part 6 included a reference to this section; and
  - (b) a reference in the division to section 120 included a reference to this section.
- (7) In this section—
- pre-commencement disclosure period*, for a group of persons mentioned in subsection (1)(a), means the period—
- (a) starting when the disclosure period would have started for the group under section 116, as in force immediately before the commencement—
    - (i) if the persons in the group were a group of candidates for that section; and

- (ii) as if a reference in that section to an election were a reference to the election for which the persons in the group are, on the commencement, candidates; and
- (b) ending immediately before the day the group gives the record of membership to the electoral commission.

### **218 Disclosure obligations for electoral expenditure**

- (1) This section applies to the following, each an *election participant*, for applying part 6, division 4 in relation to an election to be held after the commencement—
  - (a) a candidate in the election;
  - (b) a group of candidates for the election;
  - (c) a registered political party;
  - (d) an associated entity;
  - (e) a third party to which section 125A applies for the election.
- (2) It is immaterial whether the election participant incurred electoral expenditure for the election before or after the commencement.
- (3) If, under section 106A, the election participant's disclosure period for the election, other than for this section, started before the introduction day, the disclosure period for the election, for a provision of part 6, division 4, is taken to have started on the introduction day.
- (4) Within 14 days after the commencement, the election participant must give a return under part 6, division 4 for any electoral expenditure the participant incurred during the period—

- 
- (a) starting on the introduction day; and
  - (b) ending on the commencement.
- (5) Part 9, division 5 applies in relation to the election participant as if a reference in the division to part 6 includes a reference to this section.
- (6) In this section—

*introduction day* means the day the Bill for the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Act 2019* was introduced into the Legislative Assembly.

## **219 Election and elector information for election before commencement**

Elector information can be requested and given under section 101A in relation to the 2016 quadrennial election and any subsequent election.

## **252 Insertion of new sch 1**

Before schedule 2—

*insert—*

### **Schedule 1 Other matters nomination must contain**

section 27(2)(b)(v)

#### **1 Definitions for schedule**

In this schedule—

*close associate* see section 2.

*contractual arrangement* means—

- (a) a contractual arrangement for which the *Local Government Act 2009* or the *City of Brisbane Act 2010* prescribes contracting procedures that the local government must comply with in making the arrangement; or

*Note—*

See the *Local Government Regulation 2012*, chapter 6, parts 2 and 3 and the *City of Brisbane Regulation 2012*, chapter 6, parts 2 and 3.

- (b) an arrangement provided for under the *Local Government Act 2009* or the *City of Brisbane Act 2010* that allows a local government to enter into a contract without first inviting quotes or tenders.

*Note—*

See the *Local Government Regulation 2012*, chapter 6, part 3 and the *City of Brisbane Regulation 2012*, chapter 6, part 3.

***contractual process*** means a process provided for under the *Local Government Act 2009* or the *City of Brisbane Act 2010* that is preliminary to the making of a contractual arrangement with a local government.

*Examples—*

a tender process, an expressions of interest process for a list of appropriately qualified suppliers

## 2 Who is a ***close associate***

A person is a ***close associate*** of a candidate if the person is any of the following in relation to the candidate—

- (a) a spouse;
- (b) a partner in a partnership;

- (c) an entity, other than a government entity, for which the candidate is an executive officer or board member.

### **3 Membership of political party or trade or professional organisation**

- (1) If a candidate is, or has been within the previous year, a member of a registered political party or trade or professional organisation, the nomination must contain, for each party or organisation—
  - (a) the name and address of the party or organisation; and
  - (b) the date on which the candidate became a member and, if the candidate is no longer a member, the date the candidate stopped being a member.
- (2) If subsection (1) does not apply, the nomination must contain a statement that the candidate is not, and has not been within the previous year, a member of a registered political party or trade or professional organisation.

### **4 Contractual arrangements**

- (1) Subsection (2) applies to a candidate if the candidate, or a close associate of the candidate, is, or has been within the previous year, a party to a contractual arrangement with the local government.
- (2) The nomination must contain, for each contractual arrangement—
  - (a) the nature of the arrangement; and
  - (b) if the arrangement is a medium-sized contractual arrangement or a large-sized contractual arrangement under the *Local Government Regulation 2012* or the *City of*

*Brisbane Regulation 2012*—a statement about that fact; and

- (c) if a close associate of the candidate is a party to the arrangement—
  - (i) the name and address of the close associate; and
  - (ii) the nature of the candidate's relationship with the close associate.
- (3) If subsection (2) does not apply to the candidate, the nomination must contain a statement that the candidate, and each close associate of the candidate, is not, and has not been within the previous year, a party to a contractual arrangement with the local government.

## **5 Contractual processes**

- (1) Subsection (2) applies to a candidate if the candidate, or a close associate of the candidate, is engaged in a contractual process with the local government.
- (2) The nomination must contain, for each contractual process—
  - (a) the nature of the process; and
  - (b) if a close associate of the candidate is engaged in the process—
    - (i) the name and address of the close associate; and
    - (ii) the nature of the candidate's relationship with the close associate.
- (3) If subsection (2) does not apply to the candidate, the nomination must contain a statement that the candidate, and each close associate of the candidate, is not engaged in a contractual process with the local government.

## **6 Particular applications or representations**

- (1) Subsection (2) applies to a candidate if any of the following applications or representations made by the candidate, or a close associate of the candidate, have not been decided before the nomination is made—
  - (a) a development application under the *Planning Act 2016* for which the local government is the assessment manager under that Act;
  - (b) a development application under the repealed *Sustainable Planning Act 2009* for which the local government is the assessment manager under that Act;
  - (c) a change representation under the *Planning Act 2016* for which the local government is the assessment manager under that Act;
  - (d) a change application under the *Planning Act 2016* for which the local government is the responsible entity under that Act;
  - (e) an extension application under the *Planning Act 2016* for which the local government is the assessment manager under that Act.
- (2) The nomination must contain, for each application or representation—
  - (a) the nature of the application or representation; and
  - (b) if the application or representation was made by a close associate of the candidate—
    - (i) the name and address of the close associate; and
    - (ii) the nature of the candidate's relationship with the close associate.
- (3) If subsection (1) does not apply to the candidate,

the nomination must contain a statement that the candidate, and each close associate of the candidate, has not made an application or representation to which subsection (1) applies.

## **7 Training course approved under Act, s 26**

The nomination must contain a statement that the candidate has, within 6 months before the nomination day for the election, successfully completed a training course approved under section 26(2) of the Act.

### **253 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, as numbered by this Act, definitions *agent*, *candidate*, *candidate's disclosure period*, *electoral expenditure*, *gifts register*, *group of candidates*, *group's disclosure period*, *political activity* and *third party*—  
*omit.*

(2) Schedule 2, as numbered by this Act—  
*insert—*

***agent***—

- (a) of a group of candidates—means the agent for the group recorded in a register of group agents under section 43; or
- (b) of a registered political party—means the party's agent under the *Electoral Act 1992*.

***candidate***—

- (a) means a person whose nomination as a candidate for an election has been certified by the returning officer under section 27(3)(a); and
- (b) for part 4, division 2, subdivision 3 and parts 6 and 9—includes another person who—



- (i) is an elected or appointed councillor at any time during the disclosure period mentioned in section 106A for a candidate; or
- (ii) has announced or otherwise publicly indicated an intention to be a candidate in the election; or
- (iii) has otherwise indicated the person's intention to be a candidate in the election, including, for example, by accepting a gift made for the purpose of the election.

***dedicated account*** means—

- (a) for a candidate in an election—an account the candidate must operate under section 126; or
- (b) for a group of candidates for an election—an account the group must operate under section 127.

***disclosure period***, for an election, for part 6—

- (a) for a candidate in the election—see section 106A(1); or
- (b) for a group of candidates in the election or a third party to which section 118A or 125A applies for the election—see section 106A(3).

***disposition of property*** means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including, for example—

- (a) the allotment of shares in a company; and
- (b) the creation of a trust in property; and

- (c) the grant or creation of a lease, mortgage, charge, servitude, licence, power, partnership or interest in property; and
- (d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in property; and
- (e) the exercise by a person of a general power of appointment of property in favour of another person; and
- (f) any transaction entered into by a person with intent to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

***electoral expenditure***, for part 6, see section 123.

***fundraising contribution***, for part 6, see section 107A.

***group campaign activity*** see section 183(2).

***group of candidates*** means members of a group for which a record of membership has been given to the electoral commission under section 41(2).

***recipient***, of a gift or loan, for part 6, see section 106.

***silent elector*** means a person—

- (a) to whom the *Electoral Act 1992*, section 58(5) applies; or
- (b) whose address has been excluded from an electoral roll under an arrangement under the *Electoral Act 1992*, section 62 because of the *Commonwealth Electoral Act 1918* (Cwlth), section 104.

***source***, for part 6—

- (a) of a gift—see section 121A(1); or

(b) of a loan—see section 121A(2).

*third party*, for an election, for part 6, see section 106.

(3) Schedule 2, as numbered by this Act—

*insert—*

*close associate*, for schedule 1, see schedule 1, section 2.

*contractual arrangement*, for schedule 1, see schedule 1, section 1.

*contractual process*, for schedule 1, see schedule 1, section 1.

(3A) Schedule 2, as numbered by this Act, definition *disclosure date*, ‘date’—

*omit, insert—*

*deadline*

## Part 5                      Amendment of Referendums Act 1997

### 254    Act amended

This part amends the *Referendums Act 1997*.

### 255    Amendment of s 96AC (Application of division 1)

Section 96AC(2), definition *division*, after ‘schedule’—

*insert—*

2



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information under schedule 3 for 10 years after—

- (a) for information considered by the committee—the date the information was most recently considered by the committee before the commencement; or
  - (b) for other information—the date the information was brought into existence.
- (3) This section does not apply to the information if the information is officially published by decision of the Brisbane City Council after the commencement.
- (4) In this section—

*committee* means the Establishment and Coordination Committee under the *City of Brisbane Act 2010* and includes the Establishment and Coordination Committee, as constituted from time to time before 1 July 2010, under a local law of the Brisbane City Council.

*former*, for a provision, means as in force before the commencement.

## 259 Amendment of sch 3 (Exempt information)

Schedule 3, section 4A—

*omit.*