

Queensland



ELECTORAL AMENDMENT BILL 1999

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1999

A BILL

FOR

An Act to amend the *Electoral Act 1992*

The Parliament of Queensland enacts—

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Short title

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Clause 1. This Act may be cited as the *Electoral Amendment Act 1999*.

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Act amended

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Clause 2. This Act amends the *Electoral Act 1992*.

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Replacement of s 161 (Author of election matter must be named)

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Clause 3. Section 161—

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omit, insert—

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‘Definitions for div 2

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‘**160A.** In this division—

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“**electoral advertisement**” means an advertisement containing election matter.

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“**executive officer**”, of a political party, means a person who is concerned with, or takes part in, the party’s management, whether or not the person is a director or manager or the person’s position is given the name of executive officer.

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“**how-to-vote card**” means any card, handbill, pamphlet or notice that—

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(a) is, or includes, a representation or partial representation or purported representation or purported partial representation of a ballot paper for use in an election; or

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

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“**truth-in-advertising provision**” means section 161, 163, 163A or 163B.

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‘Authoriser of election matter must be named

‘161.(1) A person must not, during the election period for an election, publish or permit or authorise another person to publish an advertisement, handbill, pamphlet or notice containing election matter or a how-to-vote card (a **“card”**) unless the particulars required by subsection (2) appear, or are stated—

(a) for a printed advertisement, handbill, pamphlet, notice or card—prominently at the end of each page of the advertisement, handbill, pamphlet, notice or card in print not smaller than 12 point; or

(b) otherwise—at its end.

Maximum penalty—

(a) for an individual—40 penalty units;

(b) for a corporation—400 penalty units.

‘(2) The particulars are—

(a) the name and address (other than a post office box) of the person (the **“authoriser”**) who authorised the advertisement, handbill, pamphlet, notice or card; and

(b) if the authoriser is a member of a political party, the name of the party; and

(c) if the printed advertisement, handbill, pamphlet, notice or card is printed, the name and address of the printer who printed the advertisement, handbill, pamphlet, notice or card.

‘(3) In this section—

“publish” includes print, distribute and broadcast.’.

Insertion of new ss163A–163D

Clause **4.** Part 9, division 2, after section 163—

insert—

‘False electoral advertisements

‘163A.(1) A person must not, during the election period for an election,

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publish or permit or authorise another person to publish an electoral advertisement containing a statement that is false or misleading in a material particular.	1 2 3
Maximum penalty—	4
(a) for an individual—40 penalty units;	5
(b) for a corporation—400 penalty units.	6
‘(2) A person does not contravene subsection (1) if the person—	7
(a) took no part in deciding the contents of the electoral advertisement; or	8 9
(b) could not reasonably be expected to have known the electoral advertisement was false or misleading in a material particular.	10 11
‘(3) In this section—	12
“publish” includes print, distribute and broadcast.	13
 ‘False how-to-vote card	 14
‘163B.(1) A person must not, during the election period for an election, publish or permit or authorise another person to publish a how-to-vote card (a “card”)—	15 16 17
(a) that is false or misleading in a material particular; or	18
(b) that is represented as—	19
(i) the card of a candidate in the election or the candidate’s political party; or	20 21
(ii) the candidate’s or party’s statement of the way the candidate or party has allocated their voting preferences;	22 23
if the representation is false or misleading in a material particular.	24
Maximum penalty—	25
(a) for an individual—40 penalty units;	26
(b) for a corporation—400 penalty units.	27
‘(2) A person does not contravene subsection (1) if the person—	28
(a) took no part in deciding the contents of the card; or	29

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(b) could not reasonably be expected to have known—	1
(i) for an offence under subsection (1)(a)—the card was false or misleading in a material particular; or	2 3
(ii) for an offence under subsection (1)(b)—the representation was false or misleading in a material particular.	4 5
‘(3) In this section—	6
“publish” includes print, distribute and broadcast.	7
 ‘Executive officers of political party must ensure party complies with truth-in-advertising provisions	 8 9
‘163C.(1) The executive officers of a political party must ensure the political party complies with the truth-in-advertising provisions.	10 11
‘(2) If a person acting for a political party does or authorises anything that contravenes a truth-in-advertising provision, each executive officer of the party also contravenes the provision.	12 13 14
Maximum penalty—the penalty for the contravention of the provision by an individual.	15 16
‘(3) However, it is a defence for an executive officer to prove—	17
(a) if the officer was in a position to influence the conduct of the party in relation to the offence—the officer exercised reasonable diligence to ensure the party complied with the provision; or	18 19 20
(b) the officer was not in a position to influence the conduct of the party in relation to the offence.	21 22
‘(4) Also, sections 163A(2) and 163B(2) do not apply to an executive officer who contravenes the relevant truth-in-advertising provision.	23 24
 ‘Lodging how-to-vote cards	 25
‘163D.(1) This section applies if a candidate issues a how-to-vote card for an election.	26 27
‘(2) The candidate may lodge a sample of the how-to-vote card with the commission not later than the close of business on the day before the polling day for the election.	28 29 30

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‘(3) The commission must register the sample how-to-vote card in a register of sample how-to-vote cards it is to keep for the purpose.

‘(4) A sample how-to-vote card registered under this section is evidence in any proceeding—

(a) that it is the how-to-vote card of the candidate who lodged it; and

(b) of the matters contained in it.

‘(5) The commission must ensure the register is made available for public inspection, without fee, at its office during the commission’s normal business hours.’.

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