

175W. Investigations etc.

- (1) In this section “**authorised officer**” means a person authorised by the Electoral Commissioner under subsection (2).
- (2) The Electoral Commissioner may, by instrument in writing authorise a person, or a person included in a class of persons, to perform functions under this section.
- (3) An authorised officer may, for the purpose of finding out whether a person has complied with this Part, serve a notice on the person requiring the person —
 - (a) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (b) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.
- (4) Where an authorised officer has reasonable grounds to believe that a person is capable of producing documents or other things or giving evidence relating to a contravention, or possible contravention, of section 175U, or relating to matters that are set out in, or are required to be set out in, a return under this Part, the authorised officer may serve a notice on the person requiring the person —
 - (a) to produce, within the period and in the manner specified in the notice, the documents or other things referred to in the notice; or
 - (b) to appear, at a time and place specified in the notice, before the authorised officer to give evidence, either orally or in writing, and to produce the documents or other things referred to in the notice.
- (5) An authorised officer may require any evidence that is to be given in compliance with a notice under subsection (3) or (4) to be given on oath or affirmation and for that purpose the authorised officer may administer an oath or affirmation.
- (6) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under subsection (3) or (4) to the extent that the person is capable of complying with the notice.

Penalty: \$1 500.
- (7) A person shall not, in purported compliance with a notice under subsection (3) or (4), give evidence that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: \$1 500.
- (8) Where —
 - (a) a police officer has reasonable grounds for suspecting that there may be, at any time within the next following 24 hours, upon any land or upon or in any premises, vessel, aircraft or vehicle, a document or other thing that may afford evidence relating to a contravention of section 175U; and
 - (b) the police officer has reasonable grounds to believe that, if a notice under this section were issued for the production of the document or other thing, the document or other thing might be concealed, lost, mutilated or destroyed,

the police officer may make an application to a Judge for the issue of a warrant under subsection (9).

- (9) Subject to subsection (10), where an application under subsection (8) is made by a police officer to a Judge, the Judge may issue a warrant authorising the police officer or any other person named in the warrant, with such assistance as he thinks necessary and if necessary by force —
 - (a) to enter upon the land or upon or into the premises, vessel, aircraft or vehicle;
 - (b) to search the land, premises, vessels, aircraft or vehicle for documents or other things that may afford evidence relating to a contravention of section 175U, being documents or other things of a kind described in the warrant; and
 - (c) to seize any documents or other things of the kind referred to in paragraph (b).
- (10) A Judge shall not issue a warrant under subsection (9) unless —
 - (a) an affidavit has been given to the Judge setting out the grounds on which the issue of the warrant is being sought;
 - (b) the police officer applying for the warrant or some other person has given to the Judge, either orally or by affidavit, such further information (if any) as the Judge requires concerning the grounds on which the issue of the warrant is being sought; and
 - (c) the Judge is satisfied that there are reasonable grounds for issuing the warrant.
- (11) Where a Judge issues a warrant under subsection (9), the Judge shall state on the affidavit given under subsection (10)(a) which of the grounds specified in that affidavit the Judge has relied on to justify the issue of the warrant and particulars of any other grounds relied on by the Judge to justify the issue of the warrant.
- (12) A warrant issued under subsection (9) shall —
 - (a) include a statement of the purpose for which the warrant is issued, which shall include a reference to the contravention of section 175U in relation to which the warrant is issued;
 - (b) state whether entry is authorised to be made at any time of the day or night or during specified hours of the day or night;
 - (c) include a description of the kind of documents or other things authorised to be seized; and
 - (d) specify a date, not being later than one month after the date of issue of the warrant, upon which the warrant ceases to have effect.
- (13) Where a document or other thing is seized by a person pursuant to a warrant issued under subsection (9) —
 - (a) the person may retain the document or other thing so long as is reasonably necessary for the purposes of the investigation to which the document or other thing is relevant; and
 - (b) when the retention of the document or other thing by the person ceases to be reasonably necessary for those purposes, the person shall cause the document or other thing to be delivered to the person who

appears to the first-mentioned person to be entitled to possession of the document or other thing.

- (14) In performing functions under this section the Electoral Commissioner and any authorised officer shall ensure, as far as practicable, that there is no duplication of functions performed or being performed under section 316 of the *Commonwealth Electoral Act 1918*.

[Section 175W inserted by No. 75 of 1992 s. 4 (as amended by No. 43 of 1996 s. 26).]